

**Sec. 4.04 Mobile Home Commission.**

Provisions relating to the Town's Mobile Home Commission are found at Chapter 10 of this Code.

**Sec. 4.05 Dunn Area Cable Regulatory Commission.**

Provisions relating to the Dunn Area Cable Regulatory Commission are found at Chapter 11 of this Code.

**Sec. 4.06 Police Department.**

A Town Police Department is hereby established. The Police Department shall consist of such law enforcement officers and/or others as the Town Board determines to be necessary. The Town Board may provide for law enforcement in the Town by contract with any person or entity.

**Sec. 4.07 Municipal Court.**

- (1) **Municipal Court.** A Municipal Court for the Town of Dunn is hereby established.
- (2) **Municipal Court Procedures.** The municipal court's procedures shall be consistent with Wisconsin law.
- (3) **Municipal Court Sessions.** The municipal judge shall determine when the municipal court will be open.
- (4) **Term.** The municipal judge shall be elected for a two-year term.
- (5) **Municipal Court Contempt Authority.** The municipal judge may impose a forfeiture for contempt or, upon nonpayment of the forfeiture and applicable assessments, a jail sentence. The municipal judge may impose the maximum forfeiture and maximum jail sentence allowed by Wisconsin law.

TOWN OF DUNN

ORDINANCE NO. 4.07a

AN ORDINANCE TO CREATE SUBSECTION 4.07(6)  
OF THE CODE OF ORDINANCES,  
TOWN OF DUNN,  
COUNTY OF DANE,  
STATE OF WISCONSIN,

TO ESTABLISH MUNICIPAL COURT COSTS

The Town Board of the Town of Dunn, Dane County, Wisconsin, do ordain as follows:

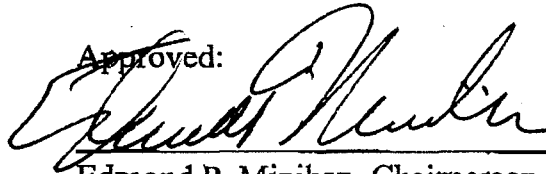
*Section 1:* Subsection 4.07(6) of the Code of Ordinances, Town of Dunn, Dane County, Wisconsin, is hereby created to provide as follows:

- (6) **Municipal Court Costs.** Municipal court costs shall be the maximum amount permitted by law.

*Section 2:* This ordinance shall take effect the day after passage and posting pursuant to law.


The above and foregoing ordinance was duly adopted by the Town Board of the Town of Dunn at its meeting held on August 18, 2003.

Approved:



Edmond P. Minihan, Chairperson

Attest:

  
Rosalind Gausman, Clerk



**ORDINANCE NO. 4.08  
TOWN OF DUNN  
DANE COUNTY, WISCONSIN**

**AN ORDINANCE CREATING SECTION 4.08 OF THE TOWN CODE OF ORDINANCES  
RELATING TO TOWN FENCE VIEWING**

WHEREAS, pursuant to Wis. Stat. Chapter 90, the Town Supervisors of the Town of Dunn shall be fence viewers; and

WHEREAS, the Town intends to specify the rate of pay for fees and expenses that fence viewers may collect for their services.

NOW, THEREFORE, pursuant to the Wisconsin Statutes, including Wis. Stat. Chapter 90 and § 60.22, the Town Board of the Town of Dunn hereby ordains as follows:

*Section 1. Creation of Section 4.08.* Section 4.08 of the Town Code of Ordinances is hereby created to provide as follows:

Sec. 4.08 Town Fence Viewers

- (a) Town Fence Viewers. The Town Supervisors of the Town of Dunn shall act as "fence viewers" and shall comply with the provisions of Wis. Stat. Chapter 90.
- (b) Fees and Expenses. The Town Board shall, by resolution, set the rate of pay for the following fees and expenses for which a fence viewer is entitled under Wis. Stat. Chapter 90: daily employment; mileage; service of notice or process; and folios written. The fees and expenses shall be paid by the parties to the controversy as required by Wis. Stat. § 90.15.

*Section 2. Effective Date.* This ordinance shall take effect the day after passage and posting or publication pursuant to law.

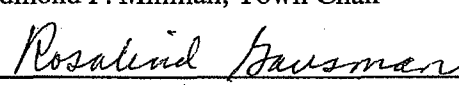
The above and foregoing ordinance was adopted by the Town Board of the Town of Dunn at its meeting held on May 17, 2004.

TOWN OF DUNN

By 

Edmond P. Minihan, Town Chair

ATTEST:

  
Rosalind Gausman, Town Clerk Treasurer

Approved: 5-17-04

Posted: 5-31-04

**RESOLUTION NO. 2004-08**

**TOWN OF DUNN  
DANE COUNTY, WISCONSIN**

**A RESOLUTION SETTING THE RATE OF PAY FOR FEES AND EXPENSES  
FOR WHICH A FENCE VIEWER IS ENTITLED  
FOR SERVICES RENDERED UNDER WIS. STAT. CHAPTER 90**

WHEREAS, Wis. Stat. § 90.15 authorizes the Town Board to set the rate of pay for fees and expenses for which a fence viewer is entitled; and

WHEREAS, the Town Board has determined that the fees set forth in this resolution are reasonable and further the health, safety, and welfare of the Town and its residents.

NOW, THEREFORE, pursuant to the Wisconsin Statutes, including Wis. Stat. §§ 60.22 and 90.15, the Town Board of the Town of Dunn resolves that the rate of pay to which a fence viewer is entitled for services rendered under Wis. Stat. Chapter 90 is as follows:

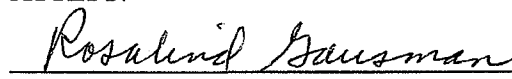
1. Per diem for daily employment: \$25/day.
2. Mileage: The per mile rate shall be the same as the federal mileage rate.
3. Service of notice of process: The actual cost of service paid by the town for the service of any notices shall be reimbursed to the town according to the Order of the fence viewers.
4. Folios written: \$20.
5. Actual recording costs to record order and decision with the Dane County Register of Deeds.

The above and foregoing resolution was adopted by the Town Board of the Town of Dunn at its meeting held on May 17, 2004.

TOWN OF DUNN

By   
Edmond P. Minihan, Town Chair

ATTEST:

  
Rosalind Gausman, Town Clerk Treasurer

Posted: May 31, 2004

ORDINANCE 4.09  
TOWN OF DUNN

AN ORDINANCE CREATING CHAPTER 4.09 OF THE GENERAL CODE OF ORDINANCES TO  
APPOINT ALTERNATE MEMBERS FOR BOARD OF REVIEW

SECTION I – TITLE AND PURPOSE

This ordinance is entitled the Town of Dunn Ordinance to Appoint Alternate Members for Board of Review. The purpose of this ordinance is to provide, upon lawful removal of named members, alternate persons to serve as replacements to the Board of Review for the Town of Dunn.

SECTION II – AUTHORITY

The Town Board of the Town of Dunn, Dane County, Wisconsin, has the specific authority under s. [70.47 \(1\)](#) and [\(6m\) \(c\)](#), Wis. stats., to remove members from and to appoint alternate members to the Board of Review for the Town of Dunn.

SECTION III – ADOPTION OF AN ORDINANCE

This ordinance, adopted by a majority of the town board on a roll call vote with a quorum present and voting and proper notice having been given, provides for the removal of members of the Board of Review for the Town of Dunn and the appointment of alternate members.

SECTION IV – MANNER OF APPOINTMENT

The Town Board of the Town of Dunn, Dane County, Wisconsin, by this ordinance, establishes and shall maintain a public list of names of persons eligible and appointed by the town board to serve as alternate members of the board of review. The list shall be arranged and maintained by the town clerk in a priority order of probable and likely service as an alternate. The town clerk shall notify any named member who has been lawfully removed under s. [70.47 \(6m\) \(a\)](#) or [\(b\)](#), Wis. stats., and shall then notify the alternate member of his or her appointment to replace a named member of the board of review. The alternate, once notified, if he or she approves the appointment, and if the appointment would not violate s. [19.59](#), Wis. stats., shall then take the oath of office and act as a member of the board of review under s. [70.47 \(6m\) \(c\)](#), Wis. stats.

SECTION V – APPOINTMENTS

The following electors of the Town of Dunn are named as alternate members of the board of review, to serve in the order indicated:

Alternate 1: Rosalind Gausman

Alternate 2: Stanley Solheim

Alternate 3: Tracy Wiklund

Note: The town board may name as many alternates as it deems necessary to meet the statutory requirement that no less than 3 board of review members are needed to make a final determination of an objection to a property assessment.

SECTION VI – EFFECTIVE DATE

This ordinance is effective on publication or posting.

The town clerk shall properly post or publish this ordinance as required under s. [60.80](#), Wis. stats.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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Edmond P. Minihan, Town Chairman

Attested:

\_\_\_\_\_  
Cathy Hasslinger, Clerk Treasurer

TOWN OF DUNN  
ORDINANCE NO. 4-2 (A)

Amending Town of Dunn Ordinance No. 4-2, entitled, AN ORDINANCE OF THE TOWN OF DUNN RELATING TO TOWN PLANNING.

The Town Board of the Town of Dunn pursuant to its authority under Sections 60.26, 61.35 and 62.23 Wis. Stats. does hereby amend the Town of Dunn Ordinance No. 4-2, entitled, AN ORDINANCE OF THE TOWN OF DUNN RELATING TO TOWN PLANNING. and does ordain as follows:

The entire Ordinance is hereby repealed and recreated as follows:

Section 1: Plan Commission

(1) CREATION: Pursuant to Section 60.26, 61.35 and 62.23 of the Wisconsin Statutes, there is hereby created a "Plan Commission" for the Town of Dunn, with the powers, duties and qualifications as set forth in this Ordinance and in Section 62.23 of the Wisconsin Statutes.

(2) MEMBERSHIP: The Plan Commission shall at all times consist of seven (7) members composed of six (6) Citizens of the Town and one (1) member of the Town Board. In addition, the Town Board may appoint an alternate member to serve in the event of an absence of a regular member. At no time may more than seven (7) members preside at a meeting.

(3) APPOINTMENT: The members shall be appointed by the Town Board.

(4) TERM: The six (6) Citizen members and one alternate member shall be appointed for terms of three years as current terms expire. The board member shall serve for a term of two years or for the balance or his/her term as a member of the board when appointed, whichever is shorter. The board member shall serve only so long as he/she is a member of the board. Whenever a vacancy shall occur in the term of any citizen or board member, the Town Board shall appoint a citizen to fill the vacancy of any citizen member or board member to fill the vacancy of any such board member. Persons appointed to fill vacancies shall serve for the unexpired term of the member whom they have replaced.

(5) OFFICERS: The members of the Plan Commission shall elect a Chairman and Secretary from among its membership.


(6) POWERS: The Plan Commission shall have the power and authority to employ experts (other than legal counsel) and a staff, and to pay for their services and such other expenses as may be necessary and proper, not exceeding, in all, the appropriation that may be made for such Commission by the Town Board, or placed at its disposal through gift, and subject to any ordinance or resolution enacted by the Town Board of the Town of Dunn.

Section 2: Effective Date

This ordinance shall take effect the day after passage and posting or publication pursuant to law.

The above and foregoing ordinance was adopted by the Town Board of the Town of Dunn at its meeting held on March 19, 2018.

TOWN OF DUNN:

By   
Edmond P. Minihan, Chairman

ATTESTED:   
Cathy Hasslinger, Clerk Treasurer

Approved: \_\_\_\_\_

Published: \_\_\_\_\_

TOWN OF DUNN, DANE COUNTY, WISCONSIN

ORDINANCE NO. 4-3 amended  
RELATING TO THE TOWN OF DUNN  
RURAL PRESERVATION PROGRAM

The Town Board of Supervisors of the Town of Dunn, Dane County, Wisconsin, DO  
ORDAIN as follows:

SECTION I. An ordinance to create the Town of Dunn Land Trust Commission and to establish the Town of Dunn Rural Preservation Program pursuant to the laws of the State of Wisconsin, specifically including Sections 60.10(2)(c) and (e), 60.10(3)(a), 60.22(3), 61.34(1), 61.34(3m) and 700.40 of the Wisconsin Statutes is hereby created to read as follows:

I. DEFINITIONS. In this Ordinance:

- A. *Board* means the Town of Dunn Board of Supervisors.
- B. *Conservation easement* means a holder's nonpossessory interest in real property within the Town of Dunn imposing any limitation or affirmative obligation the purpose of which includes protecting viable farm operations and farmland to maintain the rural character of the Town of Dunn, permanently preserving scenic vistas and environmentally significant areas, including wetlands, lakes, streams and woodlots, creating and preserving "buffer zones" around significant environmental areas and agricultural areas, protecting the Town of Dunn from encroachment of neighboring cities and villages, restricting land divisions, retaining or protecting natural, scenic or open space values of real property, assuring the availability of real property for agricultural, forest, recreational or open space use, protecting natural resources, maintaining or enhancing air or water quality, preserving the historical, architectural, archaeological or cultural aspects of real property.
- C. *Commission* means the Town of Dunn Land Trust Commission.
- D. *Conservation interest* means a holder's interest in a conservation easement, a third-party right of enforcement in a conservation easement or fee title interest in real property.

- E. *Nonprofit conservation organization* means a nonprofit corporation, a charitable trust or other nonprofit association whose purposes include the acquisition of property for conservation purposes and that is described in Section 501(c)(3) of the Internal Revenue Code and is exempt from federal income tax under Section 501(a) of the Internal Revenue Code.

## II. LAND TRUST COMMISSION

- A. *Creation.* There is hereby created the Town of Dunn Land Trust Commission (hereinafter the "Commission").
- B. *Duties.* The commission shall be responsible for general supervision of the Open Space Program as set forth in this Ordinance, including the following:
1. The Commission shall maintain contact with public and private agencies to maximize the resources and coordinate efforts to preserve the rural character of the Town.
  2. The Commission shall determine the interest of owners of land within the Town at least annually, to donate or sell interests in real property for the purpose of the rural preservation program.
  3. The Commission may recommend selection criteria and may recommend the acquisition of interests in specific parcels of real property to be acquired by the Town for rural preservation purposes.
  4. The Commission may recommend changes to the Open Space Program and suggestions as to how the Open Space Fund acquisition program may be integrated with the Town of Dunn's Land Use Plan and Open Space Plan and other local and regional land use plans.
  5. The Commission may conduct public meetings or public hearings as it determines necessary or convenient to its work.
- C. *Membership.* The commission shall consist of seven (7) members consisting of:
1. A representative of a Dane County nonprofit conservation organization, as defined in Section 23.0955, Wis. Stats., to be designated by the Board, after consideration of the recommendation of the governing



body of the nonprofit conservation organization, to serve a three-year term, expiring on the third anniversary after the appointment.

2. The Commission Chair and four members nominated by the Town Chair, and with the advice and consent of the Board, appointed for staggered terms expiring on June 1 following the third anniversary of their appointment, subject to the following:
  - a) The Commission Chair and at least three members shall be electors of the Town.
  - b) Notwithstanding the foregoing, two of the initial members appointed under this subparagraph iii shall be designated to serve for terms expiring on June 1 following the first anniversary of their appointment and two of such initial members shall be designated to serve for terms expiring on June 1 following the second anniversary of their appointment.
  - c) To the extent practicable, include persons with backgrounds and experience in agriculture, finance, conservation or planning.

D. *Officers.* The Commission shall have the following officers:

1. The Chair shall preside at all meetings of the Commission. In his or her absence, the Commission shall designate a member to serve as presiding officer of its meeting.
2. A Secretary shall be elected by a majority vote of the Commission at the first meeting of the Commission following June 1 of each year to serve for a term expiring on June 1 of the following year. The Secretary shall maintain records of the Commission's work, including minutes of all meetings of the Commission.
3. The Commission may establish any additional officers it determines necessary or convenient to the operation of the Commission.

E. *Rules of Procedure.* The Commission may adopt rules of procedure governing its deliberations. In the absence of any other such rules, the Commission shall conduct its proceedings in accordance with Robert's Rules of Order, latest revised edition.

III. RURAL PRESERVATION PROGRAM EXPENDITURES. The Board is authorized to acquire conservation interests in real property or to make payments to nonprofit conservation organizations for the purpose of rural preservation as provided herein.

- A. *Conservation Easement Purchases.* The Board may, subject to subsection D, expend funds for costs associated with the purchase or acceptance of donated holders' interests or third party rights of enforcement in conservation easements as defined, respectively, in Secs. 700.40(1)(b) and 700.40(1)(c) of the Wisconsin Statutes.
- B. *Land Purchases.* The Board may, subject to subsection D, expend funds for the purchase of land for the purpose of rural preservation.
- C. *Payments to Nonprofit Organizations.* The Board may, subject to subsection D, appropriate money for payment to a nonprofit conservation organization for the conservation of natural resources within the Town or beneficial to the Town through the acquisition of conservation interests, provided that the recipient organization submits and the Board approves a detailed plan for the work to be done as provided for in Section 60.23(6) of the Wisconsin Statutes. The Board may attach such conditions and restrictions on the appropriation as the Board considers necessary and appropriate to protect the Town's interests in rural preservation.
- D. The Town Board shall refer to the Commission, for its consideration and recommendation before final action is taken by the Board, the expenditure of funds under subsections A, B or C. Unless such recommendation is made within 30 days, or such longer period as may be stipulated by the Board, the Board may take final action without it.
- E. *Voluntary Conveyances.* The Board may acquire conservation interests only from willing owners and may not exercise its power of eminent domain to acquire such interests.

- F. *Indirect Costs.* In addition to the purchase price therefor, the Board may expend funds for the payment of indirect costs associated with the conduct of the program, including costs of administration and acquisition of conservation interests, including but not limited to survey costs, title evidence, attorneys' fees, appraisers' fees, environmental assessments, transfer taxes and recording fees.

#### IV. PROCEDURE FOR ACQUISITION OF CONSERVATION INTERESTS

- A. The Board may conduct public meetings or public hearings as it determines necessary or convenient to consideration of Rural Preservation Program expenditures.
- B. Prior to purchasing any conservation interest, the Board shall cause an appraisal to be prepared by a qualified appraiser setting forth the fair market value of the interest proposed to be purchased.

#### V. ALIENATION OF ACQUIRED INTERESTS. Except where the intention to reconvey a conservation interest is expressly provided for in the Board's authorization to acquire such interest, no conservation interest acquired by the Town under the provisions of this Ordinance shall thereafter be alienated, unless all of the following conditions have been met:

- A. The Board or the Commission has conducted a public hearing for the purpose of considering the proposed alienation;
- B. The Town Board has referred to the Commission, for its consideration and recommendation before final action is taken by the Board, the proposed alienation. Unless such recommendation is made within 30 days, or such longer period as may be stipulated by the Board, the Board may take final action without it;
- C. An advisory referendum on the proposed alienation is approved by a majority of the electors of the Town voting on the measure.
- D. A resolution in support of the proposed alienation is adopted by an affirmative vote of two-thirds of the members of the Board; and
- E. A resolution in support of the proposed alienation is adopted by a majority of the members of the governing body of any public agency or nonprofit

conservation organization which jointly undertook the acquisition of the conservation interest proposed to be alienated.

- VI. CONFLICT OF INTEREST. No person may participate in any deliberation of the Commission or of the Board in the consideration or determination of any expenditure under this Ordinance in which the person, a member of the person's family, or an organization with whom the person is affiliated has a financial interest.
- VII. AMENDMENT OR REPEAL. This Ordinance may be amended or repealed only by affirmative vote of the Board following a public hearing.
- VIII. SEVERABILITY. Should any provision of this Ordinance be adjudged invalid by a court of competent jurisdiction, such adjudication shall not affect the validity of any other provision of this Ordinance.

**ORDINANCE 4-4**  
**An Ordinance to Extend Town Officer Terms**  
**In Response to Election Law Changes**

Whereas, the term of elected town officers have previously begun on the second Tuesday in April;

Whereas town officers elected in April 2013 and thereafter will now have their terms of office commence on the third Tuesday in April due to recent state election law changes;

Whereas this law change results in a week long "gap" between the end of the current terms of office for those town officers elected in 2011 and the start of the new terms of office for those officers elected in April 2013 and April 2015;

Whereas, 2011 Wis. Act 115 provides that a town board may enact an ordinance providing that the terms of any elective officers in the town who were elected or appointed to serve for terms expiring on the second Tuesday in April 2013 may be extended to the third Tuesday in April 2013, and those expiring the second Tuesday of April in 2015 may be extended to the third Tuesday in April 2015;

Now Therefore, be it hereby ordained by the Town Board of the Town of Dunn, Dane, County, that the terms of elected town officers which shall expire on the second Tuesday of April 2013 and 2015 shall be extended to expire on the third Tuesday of April 2013 and 2015 respectively.

This ordinance shall be effective upon publication or posting by the Town Clerk as required, pursuant to s. 60.80, Wis. Stat.

Adopted this 18th day of March 2013.

By the Town Board of the Town of Dunn, Dane County, Wisconsin:

\_\_\_\_\_  
Town Chair

Attest:

\_\_\_\_\_  
Town Clerk Treasurer/ Business Manager

## **Chapter 6**

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# **Town Records and Property**

### 6.01 Confidentiality of Income and Expense Records

**ORDINANCE NO. 2005-1**

**TOWN OF DUNN  
DANE COUNTY, WISCONSIN**

**CHAPTER 6  
TOWN RECORDS AND PROPERTY  
Section 6.1**

**CONFIDENTIALITY OF INCOME AND EXPENSE RECORDS**

STATE OF WISCONSIN

Town of Dunn

County of Dane

**SECTION 6.1.1 TITLE/PURPOSE**

This ordinance is entitled the Town of Dunn Ordinance Relating to Confidentiality of Income and Expense Records. The purpose of this ordinance is to provide confidentiality of record of taxpayers who provide income and expense record information to the town assessor under s. 70.47(7)(af), Wis. stats., and to exempt that information from being subject to the right of inspection or copying as a public record under s. 19.35(1), Wis. stats.

**SECTION 6.1.2 AUTHORITY**

The town board of the Town of Dunn, Dane County, Wisconsin has the specific authority under s. 70.47 (7) (af), Wis. stats., to provide confidentiality to taxpayers of certain income and expense records provided to the town assessor by these taxpayers for purposes of valuation of real property in the town of Dunn, owned by those taxpayers.

**SECTION 6.1.3 ADOPTION OF ORDINANCE**

The town board, by this ordinance, adopted on proper notice, with a quorum and a roll call vote by a majority of the town board present and voting, provides for the confidentiality of information regarding income and expenses under s. 70.47 (7) (af), Wis. stats., that is provided to the town assessor and, unless a court determines that the information is inaccurate, the information provided to the assessor is not subject to the right of inspection or copying as a public record under s. 19.35 (1), Wis. stats.

**SECTION 6.1.4 ADOPTION BY REFERENCE/CONFIDENTIALITY REQUIREMENT**

This ordinance adopts by reference s. 70.47 (7) (af), Wis. stats. Income and expense information provided by a property owner to the town assessor for the purposes of establishing and valuation for assessment purposes by the income method of valuation shall

be confidential and not a public record open to inspection or copying under s. 19.35 (1), Wis. stats.

#### SECTION 6.1.5 EXCEPTIONS TO CONFIDENTIALITY

A town officer in the Town of Dunn may make public disclosure or allow access to information of income and expense information provided by a property owner to the town assessor for the purposes of establishing and valuation for assessment purposes by the income method of valuation in his or her possession as provided below:

- A. The town assessor shall have access to such information in the performance of his or her duties.
- B. The board of review may review the income and expense information when needed, in its opinion, to decide upon a contested assessment.
- C. Any person or body who has the right or whose duty in his or her office is to review such information shall have access to such information.
- D. A town officer who is complying with a court order may release the information in accordance with the court's order.
- E. If the information provided has been determined by a court to be inaccurate, the information is open and public.
- F. If the property owner has provided written approval for public disclosure or limited disclosure to that person, and the town board of the Town of Dunn has approved the disclosure the information is open and public to the extent approved.

#### SECTION 6.1.6 PENALTY PROVISIONS

Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this ordinance shall, upon conviction, pay a forfeiture of not less than \$20.00 nor more than \$1,000.00, plus the applicable surcharges, assessments, and costs for each violation. Each day a violation exists or continues shall be considered a separate offense under this ordinance. In addition, the town board may seek injunctive relief from a court of record to enjoin further violations.

#### SECTION 6.1.7 SEVERABILITY

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

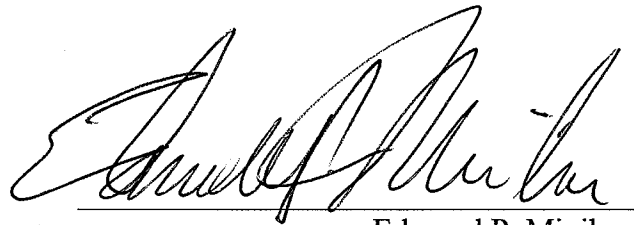


SECTION 6.1.8 EFFECTIVE DATE

This ordinance shall take effect immediately upon publication.

The town clerk shall properly post or publish this ordinance as required under s. 60.80, Wis. stats.

Adopted this 15<sup>th</sup> day of August 2005.



Edmond P. Minihan  
Town Chairman



Rosalind Gausman  
Town Clerk Treasurer

Posted: August 16, 2005

# **Chapter 7**

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## **Fiscal Management**

7-1 Town Assumption of Responsibility of Treasurer

TOWN OF DUNN  
ORDINANCE NO. 7-1

AN ORDINANCE ASSUMING RESPONSIBILITY OF TREASURER

SECTION 1. Authority

WHEREAS, Subsection (2) of Section 70.67 of the Wisconsin Statutes provides that the Treasurer of each town shall be exempt from filing the bond or bonds provided under Section 70.67(1) upon the condition that the governing body thereof shall by ordinance obligate such municipality to pay, in case the treasurer thereof shall fail to do so, all taxes required by law to be paid by such Treasurer to the County Treasurer.

SECTION 2. Exemption from bond.

NOW THEREFORE, the Town Board of the Town of Dunn, Dane County, Wisconsin, does hereby order:

THAT the Treasurer of the Town of Dunn is exempted from giving the bond specified in s.70.67(2) of the Wisconsin Statutes.

THAT the town hereby obligates itself to pay (in case its Treasurer fails so to do) all state and county taxes which the Treasurer is required to pay to the County Treasurer.

## **Chapter 8**

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# **Personnel Management**

8-1 Prohibiting Receipt of Gifts or Gratuities

TOWN OF DUNN

ORDINANCE #8-1

**ORDINANCE PROHIBITING RECEIPT OF GIFTS OR GRATUITIES**

Section 1: Title

This ordinance is entitled the "Town of Dunn Ordinance Prohibiting Receipt of Gifts or Gratuities".

Section 2: Authority

The Town Board of the Town of Dunn has the specific authority, pursuant to Sec. 19.59, 60.22, 60.32, 60.321, 60.37, 111.31, 11.322 and 111.345 (1988-1989) Wis. Stats., and has the authority by its village powers, if adopted, pursuant to Sec. 60.10 and 60.22, (1988-1989) Wis. Stats., to establish certain qualification, duties, powers and terms of employment for certain Town of Dunn employees and Town of Dunn officers and to established written personnel policy beyond any existing employee contracts or labor agreements for the Town of Dunn.

Section 3: Coverage

It shall be unlawful for any public employee or public official to receive or offer to receive, either directly or indirectly, any gift, gratuity, or anything of value which he is not authorized to receive from any person, if such person:

- a) Has or is seeking to obtain contractual or other business or financial relationships with such public employee's employer or the governmental body of the public official; or
- b) conducts operations or activities which are regulated by such public employee's employer or the governmental body of a public official; or
- c) has interests which may be substantially affected by such public employee's employer or the governmental body of the public official.

The receipt of any gift, gratuity, or anything of value as denoted above is contrary to the public policy of the Town of Dunn.

Section 4: Separability

Any provision of this ordinance adjudged by the courts to be invalid or unconstitutional shall not affect the validity of the other provisions hereof.

**TOWN OF DUNN, DANE COUNTY WI  
CHAPTER 10.1  
HOUSING AND ECONOMIC DEVELOPMENT  
MOBILE HOME ORDINANCE**

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**TOWN OF DUNN, DANE COUNTY WI**  
**CHAPTER 10.1**  
**MOBILE HOME ORDINANCE**

**10.1.1: Authority**

Pursuant to Section 66.0435 of the Wisconsin State Statutes, the Town Board of the Town of Dunn, Dane County, Wisconsin, does hereby ordain as follows:

**10.1.2: Purpose**

The purpose of this Ordinance is to regulate the operation of mobile home parks and to oversee the establishment, construction, improvement, modification, enlargement, or reconstruction (collectively “construction”) of manufactured or mobile home parks or units in the Town to assess if the operation of, and the location of the mobile home and method of construction, will promote the public health, safety, and general welfare of the Town, preserve agricultural land and productivity, and comply with the goals and policies set forth in the Town of Dunn Comprehensive Land Use Plan.

**10.1.3: Definitions**

Whenever used in this ordinance, the words and phrases which follow shall be construed as indicated unless a different meaning expressly appears from the context:

- (a) *Agent*: The individual designated by the licensee who is responsible for the day-to-day operations of the mobile home park and compliance with this Ordinance.
- (b) *Anchoring Equipment*: Straps, cables, turnbuckles, and chains, including tensioning devices, which are used with ties to secure a mobile home to ground anchors.
- (c) *Anchoring Systems*: A combination of ties, anchoring equipment, and ground anchors that will, when properly designed and installed, resist overturning and lateral movement of the mobile home from wind force.
- (d) *Dependent Manufactured or Mobile Home*: A manufactured or mobile home which does not have a flush toilet, lavatory, bath, or kitchen sink.
- (e) *Ground Anchor*: Any device at the unit site designed to transfer anchoring loads to the ground.
- (f) *Licensee or Operator*: Any individual, firm, trust, partnership, association, corporation, or limited liability company licensed to operate and maintain a mobile home park under this ordinance.
- (g) *Manufactured Home*: A structure that is designed to be used as a dwelling with or without a permanent foundation and that is certified by the federal department of housing and urban development as complying with the standards established under 42 USC 5401-5425, 101.91(2) Wis. Stats., and:
  - (1) It is designed to be used as a dwelling, and
  - (2) When placed on-site:
    - i. It is set upon an enclosed permanent foundation upon land which is owned by the manufactured homeowner, and
    - ii. It is off its wheels, and
    - iii. Is properly connected to utilities, and
    - iv. Is installed in accordance with the manufacturer's instructions or a plan certified by a registered architect or engineer to ensure proper support for the home, and
  - (3) No manufactured home which bears a label certifying approval under 42 USC 5401-5425, 101.91(2) Wis. Stats., shall be required to comply with any building, plumbing, heating or electrical code or any construction standards other than those promulgated under those laws.

In all other respects, manufactured homes are subject to the same standards as site-built homes.

- (h) *Mobile Home*: A vehicle manufactured or assembled before June 15, 1976, designed to be towed as a single unit or in sections upon a highway by a motor vehicle and equipped and used, or intended to be used, primarily for human habitation, with walls of rigid construction, which has an overall length in excess of 45 feet. "Mobile home" includes the mobile home structure, its plumbing, heating, air conditioning and electrical systems, and all appliances and all other equipment carrying a manufacturer's warranty, 101.91 Wis. Stats.
- (i) *Mobile Home Park*: A plot or plots of ground upon which 3 or more units, occupied or intended for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation.
- (j) *Occupant*: A person residing in a mobile or manufactured home.
- (k) *Park*: A manufactured or mobile home park.
- (l) *Person*: An individual, partnership, firm, corporation, association, trust, whether owner, lessee, licensee or their agent, heir or assignee.
- (m) *Site*: A plot of ground designed for the accommodation of one mobile or manufactured home.
- (n) *Staging Area*: A designated safe area used for temporary (not to exceed seven (7) days) parking without hook-up of any type in preparation for entrance or exit from a mobile home park.
- (o) *Storm Shelter*: Designated space for residents of a mobile home park to take shelter during severe weather that is underground or a reinforced concrete structure suitable for human habitation for periods of up to 4 hours. Storm shelters shall have potable water available and a bathroom facility.
- (a) *Tie*: A strap, cable, or securing device used to connect the mobile home to ground anchors.
- (p) *Unit*: A single mobile home or manufactured home.

#### **10.1.4: License Required for Mobile Home Park**

It shall be unlawful for any person or organization to establish, operate, maintain, or permit to be established, operated, or maintained upon any property owned, leased, or controlled by him or her, a mobile home park within the Town of Dunn without a valid, unsuspended, and unexpired license for each such park from the Town Board. In accordance with 66.0435(3), Wis Stats., the license fee for a mobile home park shall be \$100.00 per year for each 50 sites or fraction thereof.

#### **10.1.5: License Required for Manufactured or Mobile Homes Outside of Mobile Home Parks**

Except as otherwise expressly authorized by ordinance or statute, it shall be unlawful for any person to establish or maintain, or permit to be established or maintained, a manufactured or mobile home as a dwelling in the Town of Dunn outside a licensed mobile home park without having a valid, unsuspended, and unexpired license for such unit from the Town Board. The license fee for a manufactured or mobile home outside of a park shall be \$25.00 per year.

#### **10.1.6: Building Permit Required for Manufactured or Mobile Homes**

- (a) Except as otherwise expressly authorized by ordinance or statute, it shall be unlawful for any person to place a manufactured or mobile home as a dwelling in the Town of Dunn without first having secured a building permit for such manufactured or mobile home from the Town.
- (b) Building permit procedures shall be completed in accordance with Town of Dunn Ordinance, 13.1.
- (c) The Town shall issue a building permit for a manufactured or mobile home only after the owner of the property where the manufactured or mobile home is to be located has filed proof that:
  - (1) A manufactured or mobile home license has been obtained;



- (2) Installation of the manufactured or mobile home will comply with all zoning ordinances;
- (3) The manufactured or mobile home will be installed in accordance with the manufacturer's instructions, or a plan certified by a registered architect or engineer, to ensure proper support for the home;
- (4) The manufactured or mobile home will be served by a public sanitary sewer or a permitted private sanitary sewer system;
- (5) The manufactured or mobile home will be served by a permitted well or public water system.

**10.1.7: Procedure to Obtain or Renew Mobile Home Park License**

- (a) *Application:* Application for a mobile home park shall be filed with the Town Clerk. Initial or renewal applications must be received a minimum of thirty (30) days prior to the effective date of operation or expiration of the existing license. The application shall be in writing, signed by the applicant, and shall contain the following information:
  - (1) The name, address and contact information of the applicant/licensee, including names of officers of the entity if the licensee is an entity;
  - (2) The location and legal description of the park.
  - (3) A complete site plan of the park.
  - (4) The name and contact information of the agent designated by the applicant/licensee.
  - (5) Proof of insurance as required by Section 10.1.10 of this Ordinance;
  - (6) Plans and specifications showing the following:
    - i. The area and extent of the proposed mobile home park;
    - ii. The location of all proposed mobile home sites;
    - iii. The location of all service buildings required by Section 10.1.11 of this Ordinance;
    - iv. The location of all sewer and water pipes and connections if the park is to serve non-dependent mobile home units.
    - v. All roadways and driveways;
    - vi. The water supply system; and
    - vii. The electrical system.
    - viii. A written explanation of the manner in which sewage will be disposed of and in which garbage will be collected and disposed of.
- (b) *Review:* Upon complete application, the Town Clerk shall examine the application and plans for conformity with the requirements of this Ordinance and with the requirements of any other ordinances, statutes or administrative rules and regulations which may be applicable to mobile home parks.
- (c) *Action:* After review of the application, the Town Clerk shall refer the application to the Town Board for consideration with a recommendation of approval, conditional approval, or rejection. The Town Board shall then approve, conditionally approve, or reject the application. One copy of the plan shall be returned to the applicant/licensee with the date and action endorsed thereon and if approved conditionally or rejected, the conditions for approval or reasons for rejection shall be endorsed thereon or attached thereto.
- (d) *Issuance:* When the application has been approved by the Town Board, when any applicable approval conditions have been satisfied, and when payment of the license fee has been received, the Town Clerk shall issue a mobile home park license to the applicant/licensee.
- (e) *Term of License:* A mobile home park license shall expire one year after its issuance unless sooner suspended or revoked.

### **10.1.8: License Transfer or Change of Designated Agent for Mobile Home Park**

- (a) *Transfer of Mobile Home Park License:* Upon application and approval for a transfer of mobile home park license, the Town Clerk shall issue a transfer upon payment of the required \$10.00 fee.
- (b) *Change of Agent:* If the licensee changes agent, a new agent designation shall be filed with the Town Clerk, the lessor of a minimum of thirty (30) days prior to the effective date of transfer or within seven (7) days of when the licensee becomes aware an agent ceasing to be an agent. The designation shall be in writing, signed by the licensee, and shall contain the name, address and contact information of the agent. The fee for designating an agent shall be \$10.00.

### **10.1.9: Procedure to Obtain or Renew Manufactured or Mobile Home License Outside of Mobile Home Park**

- (a) The Town Board shall issue a license for a manufactured or mobile home outside a mobile home park only after the applicant (owner of the property where the manufactured or mobile home is to be located) has filed proof of the following:
  - (1) Proof the manufactured or mobile home meets all requirements of building, plumbing, health, sanitary, electrical, and zoning codes or ordinances, or that the mobile home is a structure which has been certified and labeled as a manufactured home under 42 USC 5401-5426 or 101.91-101.96, Wis. Stats.
  - (2) Has a hookup to public sanitary sewer or to a permitted private sanitary sewer system;
  - (3) Has availability of drinking water from a well hooked up to the mobile home;
  - (4) The annual license fee of \$25.00 (or \$20.00 for a six-month temporary permit) has been paid.
- (b) If applying for a temporary (six-month) permit, it has been assured that the manufactured or mobile home shall serve as a temporary residence during construction of a permanent residence at the same site. For such a temporary permit, the Town Board may relax the requirements in (1), (2), (3) above, if it is satisfied that the applicant has made alternative arrangements that adequately protect public health, safety, and welfare.
- (c) The term of a license issued under this Ordinance shall be one year (or six months for a temporary permit).

### **10.1.10: Surety Bond and Liability Insurance Required for Mobile Home Parks**

- (a) No park license shall be issued until the applicant/licensee has posted a surety bond in the sum of \$20.00 per site to guarantee the collection and payment of the monthly parking permit fees required by Section 10.1.12.
- (b) No license shall be issued until the applicant/licensee has provided proof of liability insurance in the amount of \$1,000,000.00. The proof of liability insurance shall also be posted in a location in the park that may be readily seen by residents at all times.

### **10.1.11: Service Buildings**

Every mobile home park occupied wholly or in part by dependent manufactured or mobile homes shall provide a service building or buildings with toilets, lavatories, showers, service sinks and laundry facilities.

### **10.1.12: Monthly Parking Permit Fees**

- (a) *Monthly Parking Permit Fees Required:* In addition to the license fee, the Town of Dunn shall collect a monthly parking permit fee from each occupied manufactured or mobile home occupying space within the Town of Dunn. The monthly parking permit fee shall be computed as follows:
  - (1) The Town Assessor shall determine the total fair market value of each occupied unit which is

subject to the monthly parking permit fee. The fair market value, minus the tax-exempt household furnishings thus established, shall be equalized to the general level of assessment on other real and personal property in the Town of Dunn. The value of each occupied mobile home thus determined shall be multiplied by the tax rate established on the preceding January 1 assessment of general property. The parking permit fee shall be reduced by the credit allowed under section 79.10, Wis. Stats. The total annual parking permit fee thus computed shall be divided by 12 and shall represent the monthly mobile home parking permit fee. The fee shall be applicable to occupied units moving into the Town of Dunn at any time.

- (2) *For Units Located Within a Mobile Home Park:* It shall be the full and complete responsibility of each licensee of a mobile home park to collect the proper fee from the owner or occupant of each occupied unit within the park. The licensee shall pay such parking permit fees to the Town Treasurer on or before January 10 and on or before July 10 and shall transmit to the Town Clerk all fees owed for the six months ending on the last day of the month preceding the month when the transmission is required.
  - (3) *For Manufactured or Mobile Homes Located Outside a Mobile Home Park:* The owner of the land on which the manufactured or mobile home is located shall pay a monthly parking permit fee. The owner of the land may collect the fee from the owner of the manufactured or mobile home. The owner of the land shall pay such parking permit fees to the Town Treasurer on or before January 10 and on or before July 10 and shall transmit to the Town Clerk all fees owed for the six months ending on the last day of the month preceding the month when the transmission is required.
  - (4) The Town shall retain 10% of the monthly parking permit fees collected in each month to cover the cost of administration and shall pay to the school district in which the park or unit is located, within twenty (20) days after the end of each month, such proportion of the remainder of the fees collected in the preceding month as the ratio of the most recent property tax levy for school purposes bears to the total tax levy for all purposes in the Town of Dunn.
- (b) *Notification of Changes to Occupied Units:* The agent of a mobile home park shall notify the Town Clerk and the Town Assessor of each increase or decrease in the number of occupied mobile homes situated in the park within five (5) days of any change. The additional occupied units shall be reported on forms prescribed by the Wisconsin Department of Revenue. As soon as the Assessor receives the notice of such addition, s/he shall determine its fair market value and notify the Town Clerk of the determination. The Town Clerk shall equalize the fair market value established by the Town Assessor and shall apply the tax rate for that year, divide the annual parking permit fee thus determined by 12 and notify the park licensee of the monthly fee to be collected from the unit.
- (1) A new fee rate and a new valuation shall be established each January and shall continue for that calendar year. The valuation established shall be subject to review as are other values established under Chapter 70 of the Wisconsin Statutes.
- (c) *Failure to Pay:* Failure to pay the monthly parking permit fee in timely fashion shall be treated in all respects like a default in payment of personal property tax and shall be subject to all procedures and penalties applicable thereto under Chapters 70 and 74 of the Wisconsin Statutes.
- (d) *Exemption from Monthly Parking Fee:* The agent of a mobile home park shall not be required to collect the monthly parking fee for any space occupied by a unit accompanied by an automobile for an accumulating period of not more than 60 days in any twelve months if the occupants of the mobile home are tourists or vacationers. Exemption certificates in duplicate shall be accepted by the Treasurer from the qualified tourists or vacationers in lieu of parking permit fees.

- (1) The monthly parking permit fee shall not apply where a mobile home park is owned and operated by the county or state under the provisions of Sections 59.06 or 70.11(1) of the Wisconsin Statutes.

**10.1.13: Mobile Home Park Management and Upkeep of Sites**

- (a) Each mobile home park shall have an agent on-site at regularly scheduled times for a minimum of 5 hours per week for 50 units.
- (b) A copy of the park license and certificate of liability insurance as required in 10.1.10 of this Ordinance shall be visibly accessible at all times to the residents at a known location such as an office door or window.
- (c) The name, address, and contact information shall also be posted with the insurance information required in Section 10.1.10 on a window or door that is visible from the outside 24 hours a day, 7 days a week. Such information shall be updated within one week of any changes to such information.
- (d) The agent of any mobile home park shall:
  - (1) Keep a register of all occupants, open at all times to inspection by federal, state, and local officers; which shall show for all occupants:
    - i. Names and addresses;
    - ii. Number of adults and children of school age;
    - iii. State of legal residence;
    - iv. Move-in and move-out dates of all occupants;
    - v. Dates of entrance and departure of all mobile homes;
    - vi. Make, model, year and serial number or license numbers of each mobile home and towing or other motor vehicles and state, territory, or country which issued such licenses;
    - vii. States issuing such licenses; and
    - viii. Number of dogs.
  - (2) Maintain the park in a clean, orderly, and sanitary condition at all times.
  - (3) Ensure that the provisions of this ordinance are complied with and enforced and report promptly to the proper authorities any violation of this ordinance or any other violations of law which may come to his or her attention.
  - (4) Collect the monthly parking permit fee, as required in 10.1.12 of this Ordinance, and keep a true and accurate record showing the names of the persons paying the said fee and the amount paid.
  - (5) In accordance with 10.1.12 of this Ordinance, transmit the monthly parking fees to the Town Treasurer;
  - (6) Maintain a staging area within the mobile home park.
  - (7) Cessation of Operation: A mobile home park operator cannot cease operation without providing either 6 months written notice to all Mobile Home Park residents affected by cessation and to the Town or written approval of all residents occupying the sites being eliminated.
  - (8) Reduction of Number of Sites: A mobile home park operator shall not reduce the number of sites without either agreement of any residents occupying the sites to be eliminated, or by providing 6 months written notice to the Town and to all residents occupying sites being eliminated.
- (e) Wrecked, damaged or dilapidated mobile homes shall not be kept or stored in a mobile home park or

upon any premises in the Town. Such mobile homes are hereby declared to be a public nuisance. Whenever the Town so determines, it shall notify the licensee or landowner of the mobile home in writing that such public nuisance exists and shall order such home removed from the park or site or repaired to a safe, sanitary and wholesome condition of occupancy within a reasonable time, but not less than thirty (30) days.

#### **10.1.14: Anchoring Systems and Storm Shelter Required**

- (a) All manufactured or mobile homes in the Town require anchoring systems to be installed in compliance with the standards of 24 CFR Part 3285 and shall be safe for winds up to at least 80 miles per hour.
- (b) For manufactured or mobile homes located within a mobile home park:
  - (1) The mobile home park shall provide each site with a ground anchoring system.
  - (2) The occupant of a mobile home within a mobile home park shall provide the remainder of the anchoring system.
- (c) A copy of 24 CFR Part 3285 shall be kept on file at the office of the Town Clerk and shall be made available to the public for inspection and copying upon request.
- (d) Licensee shall provide a storm shelter for residents of Mobile Home Parks with 50 or more units. The shelter shall be located such that residents can travel to the shelter in 5 minutes or less. Storm shelter space shall be a minimum of 8 square feet of shelter space per mobile home unit in the Mobile Home Park. The shelter may be in a municipal building, basement of a nearby private structure, or an on-site shelter. The shelter must be available to residents seeking shelter in the event of severe weather including tornado watches and warnings, severe thunderstorm warnings, severe heat warnings, severe winter storm warnings.

#### **10.1.15: Suspension or Revocation of License**

- (a) *Complaints*: Upon the filing of a verified complaint by any police, health, or fire officer or by any resident with the Town Clerk alleging that any licensee or their agent licensed under this Ordinance has violated any provision of this Ordinance the Town Board shall issue a summons commanding the licensee or their agent to appear before them on a day and at a place in such summons named, not less than 5 nor more than 30 days from its date, and show cause why the license should not be suspended. The summons and a copy of the complaint shall be served at least 5 days before the date set for the appearance and may be served either personally or upon the agent of the licensee in charge of the mobile home park. Said complaint shall set forth each alleged offense, the date, time and place of each offense alleged and the facts constituting each offense alleged. The Clerk shall give the complainant written notice of the time and date set for the hearing.
- (b) *Failure to Appear for Hearing*: If the licensee does not appear as required by the summons, the allegations set forth in the complaint shall be deemed to be true and the Town Board may dismiss the complaint or suspend or revoke the license. Notice of the Board's action shall be given to the licensee.
- (c) *Hearing Procedure*: If the licensee appears at the hearing and denies the allegations set forth in the complaint, each party may present testimony and evidence. The complainant shall be the first to proceed and the licensee, who may be represented by counsel, shall then have the opportunity to be heard in person and to present witnesses and testimony on its behalf. Both the complainant and the licensee shall have the right to cross-examine adverse witnesses and to compel the attendance of witnesses by subpoena which shall be issued by the Town Chair upon request.
- (d) *Prerogative of the Board*: If the Town Board determines the allegations of the complaint to be true,



it may suspend or revoke the license. If the Board determines that the allegations are untrue or if true are not grounds for revocation it shall dismiss the complaint.

- (e) Reinstatement of a Suspended or Revoked License: A suspended or revoked license may be reinstated or conditionally reinstated upon appeal to the Town Board showing that past violations have been resolved, providing assurance that future violations will not occur, and by paying a new license fee in accordance with 10.1.4. Reinstatement of a suspended or revoked license may occur immediately following suspension or revocation. Operating a Mobile Home Park without a valid license is grounds for automatic suspension and requires an appeal to the Town Board showing that past violations have been resolved, providing assurance that future violations will not occur and by paying a forfeiture in accordance with 10.1.16.

**10.1.16: Penalties for Violation**

Any person violating any provision of this ordinance, upon conviction thereof, shall forfeit not less than \$100.00 nor more than \$300.00 and the costs of prosecution. Each day of violation shall constitute a separate offense.

After providing the owner of a manufactured or mobile home due notice and an opportunity to be heard, the Town Board may remove an offending unit and charge the cost of removal to the owner of the land where the mobile home is located. The Town may recover the costs of removal from sale of the mobile home if such costs remain unpaid for a period of sixty (60) days, provided the property interests in the mobile home of any non-offending parties are protected.

**10.1.17: Separability**

If any section, subsection, sentence, clause, phrase or portion of this ordinance for any reason is held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**10.1.18: Effective Date**

This Ordinance shall take effect the day after passage and posting or publication pursuant to law. The above and foregoing Ordinance was adopted by the Town Board of the Town of Dunn at its meeting held on July 18, 2022.

**TOWN OF DUNN**

By:   
Steve Greb, Town Chair

Attest:   
Cathy Hasslinger, Town Clerk Treasurer

TOWN OF DUNN

ORDINANCE #11-1

**AN ORDINANCE REGULATING THE DISPENSING  
OF FERMENTED MALT BEVERAGES**

Section 1

No fermented malt beverages shall be sold, dispensed, given away or furnished in the Town of Dunn, Dane County, Wisconsin, to any person under the age of twenty-one (21) years, unless accompanied by his or her parent, guardian or adult spouse.

Section 2

Any person violating any provisions of this ordinance shall, upon conviction thereof, forfeit a sum of money not to exceed Two Hundred Dollars (\$200.00), besides costs, for each and every offense, and in default of payment thereof be imprisoned in the County Jail until said forfeiture and costs are paid but not to exceed sixty (60) days. In the event that any person shall be convicted of a second offense under the provisions of this ordinance such offender, in addition to the penalties herein provided, shall forthwith forfeit any licenses issued to such person by the said Town of Dunn for sale of fermented malt beverages and intoxicating liquor without further notice, and no license shall thereafter be granted to such person for a period of one year from the date of such forfeiture.

TOWN OF DUNN

ORDINANCE #11-2

**AN ORDINANCE REGULATING LOCATION OF WELLS AND  
SEWAGE DISPOSAL SYSTEMS ON PREMISES  
NOT SERVED BY PUBLIC SEWER**

Section 1

The Town Building Inspector is hereby designated as the official to enforce the provisions of this ordinance and of all other ordinances, laws and orders of the State of Wisconsin which relate to wells and building construction of septic tanks and sewage disposal systems on lots not served by a public sewer, and for these purposes he shall have the right at all reasonable time to enter buildings and premises.

Section 2

The location of wells and septic tanks and sewage disposal systems in respect to the relative location of the same, to the building premises and the lot upon which all of the same are located, shall conform to the Rules Governing Subdivisions Not Served by Public Sewers, as established and promulgated by the Wisconsin State Board of Health as are in force and effect as of the date of this ordinance, and the same are hereby adopted and by reference made a part of this ordinance as though herein specifically set forth at length.

Section 3

The Town Building Inspector shall approve a plot to be submitted by the lot owner showing to scale of one inch representing twenty feet, the location of wells, septic tanks, grease traps and sewage disposal drainage bed; the same shall be in conformity with any preplanned locations as shown on the subdivisions plats wherein located.

Section 4

On completion of the work on the premises and before such work is covered up, the person doing such work shall notify the Town Building Inspector, and he shall thereupon inspect the same and, when found to be in compliance with the foregoing rules, shall thereupon issue a certificate of compliance.

Section 5



A fee of \$2.00 shall be charged for each such installation of wells, septic tanks and sewage disposal systems inspected and for which a certificate is required to be issued.

Section 6

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any of the provisions of this ordinance shall, upon conviction, forfeit a sum not to exceed \$25.00, besides costs and in default of payment thereof, be imprisoned in the county jail until said forfeiture and costs are paid, but not to exceed 10 days. Each day that a violation continues to exist shall constitute a separate offense.

Section 7

This ordinance;

A certified copy shall be placed on record in the Dane County Register of Deed's office.

Section 8

This ordinance shall be irrevocable with respect to lots in any subdivision accepted by the State Board of Health on the basis of preplanned location of wells and sewage disposal facilities.

TOWN OF DUNN

ORDINANCE #11-3

**AN ORDINANCE REGULATING, CONTROLLING AND LICENSING JUNK YARDS  
IN THE TOWN OF DUNN, DANE COUNTY, WISCONSIN**

Section 1: Purpose

There is hereby created a town ordinance for the Town of Dunn, regulating, controlling and licensing junk yards in said town.

Section 2: Authority

The Town Board of the Town of Dunn has specific statutory authority, powers and duties, pursuant to the specific statutory sections noted in this ordinance and/or by its adoption of village powers under Sec. 60.10, (1988-1989) Wis. Stats., to regulate, control, license, register or permit in the Town of Dunn persons engaged in certain uses, activities, businesses and operations at certain locations in the Town of Dunn, to assess these persons with appropriate fees for the licenses, registrations or permits as noted herein and to enforce, by revocation or penalty, the provisions of these ordinances and the provisions of the licenses, registrations and permits.

Section 3: Coverage

a) No person, firm, partnership or corporation shall accumulate or store any junked automobiles or parts thereof within the corporate limits of said town without having first been issued a permit therefore by the Town Board of said Town of Dunn, said permit to be in writing and executed by the Town Chairman and Town Clerk and pursuant to the authority of the Town Board.

b) No accumulation or storage of such material shall be allowed within two thousand feet of the corporate limits of any village or within seven hundred and fifty feet of the center line of any state trunk or federal highway, except upon permit issued by permission of the Town Board.

c) No accumulation or storage of such material shall be allowed within five hundred feet of the center line of any town or county highway.

d) All such junked automobiles or parts thereof stored in such duly licensed junk yards shall be stored so as leave at least sixteen (16) foot laneways between each two rows of such stored vehicles or parts thereof.

Section 4: Permit

a) The annual license fee for permits to store such material shall not be less than \$10.00 nor more than \$50.00 in the discretion of the town board, but any annual license fee shall be the same for all permits granted within each year.

b) No annual permits issued shall be assignable or transferable without the approval of the Town Board.

c) Any and all permits granted shall first comply with the Dane County Zoning Ordinance.

d) Such permit shall be revoked at any time, or revocable, by such town board after a hearing at which it has been found that the permit holder has failed or refused to comply with this ordinance.

Section 5: Penalties

Any firm, partnership, person or corporation violating any of the provisions hereof shall upon conviction forfeit not less than \$10.00, nor more than \$50.00 for each offense, and in default of payment of said forfeiture shall be imprisoned in the county jail for a period not to exceed 30 days. Each day that junk, as herein defined, shall be stored contrary to the provisions hereof shall constitute a separate and distinct offense.

Section 6: Separability

Any provision of this ordinance adjudged by the courts to be invalid or unconstitutional shall not affect the validity of the provisions hereof.

TOWN OF DUNN

ORDINANCE #11-4

**AN ORDINANCE REGULATING THE ASSEMBLY OF PERSONS  
IN THE TOWN OF DUNN, DANE COUNTY, WISCONSIN**

Section 1: Title/Purpose

This ordinance is entitled the "Town of Dunn Ordinance Regulating The Assembly of Persons". The purpose of this ordinance is to regulate the assembly of persons in the Town of Dunn, Dane County, Wisconsin, by providing standards of conduct, proper protection, order, safety, health and welfare of persons assembled and the persons or property within said Town of Dunn, and it is enacted in the public interest and pursuant to the powers granted town governments by the State of Wisconsin.

Section 2: Authority

The Town Board of the Town of Dunn has the specific statutory authority, powers and duties, pursuant to the specific statutory sections noted in this ordinance and/or by its adoption of village powers under Sec. 60.10, (1988-1989) Wis. Stats., to regulate, control license, register or permit in the Town of Dunn persons engaged in certain uses, these activities, businesses and operations at certain locations in the Town of Dunn, to assess these persons with appropriate fees for the licenses, registrations or permits as noted herein and to enforce, by revocation or penalty, the provisions of these ordinances and the provisions of the licenses, registrations and permits.

Section 3: Adoption of Ordinance

The Town Board of the Town of Dunn has, by adoption of this ordinance, confirmed the specific statutory authority, powers and duties noted in the specific sections of this ordinance and has established by these sections and this ordinance license, registration and permit ordinances to regulate and control, by ordinance, persons engaged in certain uses, activities, businesses and operations in the Town of Dunn, to regulate by these licenses, registrations and permits, the persons engaged in these uses, activities, businesses and operations at certain locations within the Town of Dunn, to assess these persons with appropriate fees for the licenses, registrations or permits and to enforce, by revocation or penalty, the provisions of these ordinances and the provisions of the licenses, registrations and permits.

Section 4: Coverage

This ordinance is applicable to the regulation of the assembly of persons that at any given time exceeds four thousand (4,000) persons in any one (1) place or area or any area contiguous thereto. This ordinance shall not apply to the assembly of persons the duration of which, including the necessary time to assemble and disperse, is not longer than one (1) calendar day, or twelve (12) consecutive hours, if extending

into two (2) calendar days and in addition thereto does not allow of provide for the lodging or camping of a part of those persons so assembling at or near the place of assembly.

Section 5: Definitions

The following word or words when used in this ordinance shall have the following meaning:

(1) The word "person" shall be construed to include an individual, partnership, firm, company, corporation, whether tenant, owner, lessee, licensee, or their agent or assign.

(2) The word "Town" shall be construed to mean the Town of Dunn, Dane County, Wisconsin.

(3) The words "Town Board" shall be construed to mean the Town Board of the Town of Dunn, Dane County, Wisconsin.

(4) The word "Clerk" shall be construed to mean the Clerk of the Town of Dunn, Dane County, Wisconsin.

Section 6: Permit Required

No person shall use, allow, lease, let or permit any property situated in the Town of Dunn, Dane County, Wisconsin, to be used for the assembly of four thousand (4,000) persons, or more, in accordance with the provisions of Section 1.02 above, without first obtaining from the Town Board a written permit authorizing said assembly.

Section 7: Application For Permit

Application for such permit shall be addressed to the Town Board and filed with the Clerk at least thirty (30) days prior to the date of the contemplated assembly. Said application shall be in writing, whether printed or typewritten, dated and signed by the sponsor or sponsors of the assembly or event, and all the owners of the lands or premises where said assembly will be held. the signatures of all applicants shall be verified and the seal of the verifying official shall be affixed thereto.

(1) The application shall include without exception the following:

(a) The names, addresses and occupations of all persons sponsoring the assembly or event, and if said sponsor or sponsors are a corporation, association, company, or group, the names and addresses of all officers, directors, or members thereof, together with the name and address of an agent who shall reside in Dane County, Wisconsin, who shall be authorized to and shall agree in writing to accept notices and legal documents with respect to any suits, legal actions, or violations of any laws, regulations, or ordinances.

(b) The complete legal description of the land or lands to be used for such event or assembly, together with the number of acres proposed to be used therefore; the zoning classification of said lands; the number of acres of woodlands, open lands, and marsh or wet lands.

(c) The location of or proximity of any lakes, ponds or streams.

(d) The date or dates of the assembly or event, and the hours of the day or night that same shall remain open for participation or activity.

(e) The names and addresses of all persons having an ownership interest in the lands proposed to be used for such assembly or event and if any ownership interest shall be held by a corporation, association, company, or group, the names and addresses of all the officers, directors, or members thereof.

(f) An estimate of the minimum number of persons expected to assemble or attend such event, together with an estimate of the minimum number of motor vehicles, including automobiles, cycles, and buses, that may be using the premises or area during such assembly on any one (1) day and or collectively.

(g) A statement as to the nature and/or activity of the assembly or event; whether an admission fee will be charged and the amount of such fee, if any; whether any persons will be lodging or staying on the premises overnight or during nighttime hours; whether food and lodging will be provided for any of the persons assembled on the premises, and what beverages, if any, will be dispensed in the area.

(h) A statement of what buildings or structures will be erected on the premises or moved onto same prior to or during the assembly or event.

(i) A statement disclosing the facilities to be used to charge and control admissions to the assembly or event, and if an advance sale of admissions will be or has been made, the number and extent of same, including the states and countries in which same has been or will be offered for sale.

(j) A statement disclosing the barriers or fences erected or to be erected, that will safeguard any and all adjacent property from the overflow, encroachment or trespass of the persons assembled.

(2) The following documents shall be filed with the application:

(a) A scale map or maps of the assembly area showing the present public roads now serving the proposed site; the present buildings located thereon; all adjacent residences within 1,000 feet from the boundaries of the described lands in the application; the woodlands, open lands, wet lands or marshes and lakes, ponds and streams; proposed overnight camping, lodging or bivouac area, together with the number of acres therefor; proposed motor vehicle parking area, together with the number of acres therefor, and the illumination or lighting to be provided therefor: the specific location and width of all means and land strips for ingress and egress to the parking areas and other necessary parts of the assembly area requiring vehicular travel, together with the illumination or lighting to be provided therefor; the location of all water wells and toilet facilities; the location of the proposed buildings or structures to be erected for the purpose of the assembly or event and the nature or use of each building.

(b) A plan and/or drawing showing the method to be used for collection and disposal of human waste, sewage, garbage and trash, and the equipment and facilities that are available and will be provided therefor, including a copy of the contract or contracts with any private or public firm or corporation that has been retained or will be retained to provide equipment or services therefor.

(c) A plan or drawing showing the system and method to be used for the supply, storage and distribution of water.

(d) A plan showing the telephone communication

facilities to be provided and the type and number of any radio or short wave device to be used in connection therewith, along with the facilities for sending and receiving mail or postal material.

(e) A plan showing the location of any sound amplifier, loud-speaker, or sound equipment, together with a statement disclosing the power or strength of such equipment.

(f) A plan showing the location of first aid stations, emergency helicopter landing area, if any, and ambulance facilities, if any, along with a statement of the names and addresses of medical doctors that will be available, on call, for emergency treatment, if necessary.

(g) A plan showing the precautions to be used for fire protection, the equipment provided therefor and the location of same on the premises.

(h) A plan or drawing showing the location of electrical facilities and the lighting system to be used on the premises.

(i) A statement specifying the number and experience of police that will be provided and be on duty, who shall be wearing their usual and normal police uniform.

(j) A statement showing the precautions to be used to prevent the sale, distribution and use of narcotics, marijuana, opium, mescaline or any other unlawful substance or liquid.

(k) The names and addresses of any entertainer, or group of entertainers, that will appear at such assembly or event.

(l) A statement describing the precautions to be used to prevent any immoral or indecent conduct on the part of the entertainers or persons attending said assembly or event.

(m) A verified statement signed by the sponsor, or its designated resident agent, and the owner of the premises, that they will individually and collectively endeavor to prevent and will not foster or encourage the violation of any laws of the United States or State of Wisconsin or any ordinance of the County of Dane or Town, and that they will immediately report any such violation to the proper authorities; and further that they will be present at the assembly and will investigate same daily and continually, either personally or by designated responsible agent, who shall also sign such verified statement and be likewise responsibly committed thereto.

(n) A verified statement that the applicant will immediately by verified statement submit in writing to the Clerk and addressed to the Town Board any change in plans, estimates, facts or statements made in the application, that have subsequent to the filing of the application made the statements or plans submitted therein to be misleading or untrue.

(o) A verified statement disclosing the nature and extent of the advertising or publicizing of the assembly or the event, together with the names of the magazines or publications in which same has been or will be, to the knowledge of the applicant, advertised or publicized.

(p) A verified statement by the applicant that trained and experienced uniformed police will be provided or allowed on the entire premises in the number and tour of duty as determined by the Town Board, who shall at all times wear their usual uniform and equipment for ordinary police duty.

(q) A verified statement signed by the sponsor, its designated resident agent and the owner or owners of the

premises, that they will, individually or collectively, provide adequate and proper health and sanitation facilities, including portable water and proper healthful food; adequate and capable police protection and traffic patrol; readily available adequate first aid facilities, ambulance service and medical personnel; proper garbage and sewage disposal on a daily basis; proper illumination and lighting facilities; and that they will hold the said town harmless from any and all costs that it may have to pay on behalf of the persons attending said assembly, damages caused thereby, or resulting therefrom, including judgements, settlements of controversies, court costs and attorneys' fees, thereby holding said Town harmless from any expense whatsoever in regard thereto.

(r) A surety bond by a responsible bonding company acceptable to the Town in the penal sum of \$1,000,000.00, specifically stating that it will pay said Town the sum or sums in legal currency of the United States of America expended or incurred by said Town for police protection, traffic control, fire protection, ambulance service, transportation and communication expense, sewer and garbage collection and disposal, food and water provided, medical expense, poor relief or welfare granted, judgments obtained against said Town, costs of repairing any road, highway or other Town property to restore same to the condition in which it was prior to the holding of the event or assembly of persons thereto, and all court costs, legal expenses and attorneys' fees incurred in the enforcement of this ordinance or resulting from the assembly or event. Said bond shall remain in full force and effect until released by order of the Town Board, but not longer than six (6) years from the date of the last day of the assembly of persons attending said event.

Section 8: Standards Provided By Sponsors/Owners Of Land

(1) The premises described in the application shall be of sufficient size and terrain to accommodate the anticipated attendance or the attendance that could be reasonably expected to attend same as determined by the Town Board.

(2) The existing public roads shall be adequate to accommodate the local residents and the people that can be reasonably expected to assemble or attend the event.

(3) The applicants and owners of lands, and or directors and officers of same, shall be of good moral character and citizens of the United States of America.

(4) The assembly or event shall not pollute the air, streams, ponds or lakes in the area, and shall not deny the adjacent land owners or residents of the Town the free and unrestricted use of their homes and property.

(5) The Town Board shall be reasonably assured that such assembly or event will not create a nuisance in the area resulting from, but not limited to, the use of sound equipment and amplifiers, lights or odors, and the collection of human waste, sewage, trash or human conduct, such as morals and decency.

(6) Adequate parking shall be provided for all motor vehicles, so that no vehicle shall be parked, except in cases of emergency, within the right of way of any public highway in the vicinity of the assembly.



(7) The sponsors shall provide a register of all persons that remain on the premises for camping or overnight attendance, where the assembly or event is held, which shall contain the name, age and address of each and every person and the date that they expect to leave the premises permanently. Such persons shall be camped, billeted, or bivouaced in a separate designated exclusive area and the motor vehicles of said persons shall be parked in a separate designated exclusive area for parking.

(8) The area shall be zoned by the County of Dane, State of Wisconsin, so as to permit the assembly or event.

(9) All buildings and structures erected shall be constructed in accordance with the building ordinance of the Town and the regulations of the Industrial Commission of the State of Wisconsin and the laws of this state.

(10) All water and food used or dispensed on the premises shall comply with the standards relative thereto as provided by rules and regulations of the Department of Health and Social Services, State of Wisconsin, and all sanitary facilities shall comply therewith.

Section 9: Permits And Recommendations Required

The applicant shall provide the Town and file with the Clerk the following:

(1) Written permit or letter from the Dane County Zoning Director permitting or stating that the proposed assembly or event is not contrary to the Dane County Zoning Ordinance.

(2) Written permit or letter from the Dane County Traffic Department stating that the proposed assembly will not create a traffic problem beyond the ability of said department to control, or the recommendation of said department as to the necessary additional personnel and equipment to properly control the traffic situation that may be created thereby.

(3) Written permit or letter from the Wisconsin State Patrol stating that the proposed assembly will not create a traffic problem beyond the ability of said department to control, or the recommendation of said department as to the necessary additional personnel and equipment to properly control the traffic situation that may be created thereby.

(4) Written permit or letter from the Wisconsin Department of Natural Resources stating that the proposed assembly is not contrary to the regulations or laws of the State of Wisconsin that are applicable to said department, or stating the conditions that must be met in order to comply therewith.

(5) Written permit or letter from the Wisconsin Department of Health and Social Services stating that the proposed assembly is not contrary to the regulations of said department or laws of the State of Wisconsin that are enforceable by said department or stating the conditions that shall be met in order to comply therewith.

(6) Written statement from the Town Building Inspector that building permits have been issued for the construction of proposed buildings and structure to be erected on the premises.

(7) Any provision or requirement of this section that, because of the nature of the proposed assembly or event may be unnecessary, unreasonable, or unobtainable, may be waived by the Town Board.

Section 10: Permit Fees

The applicant shall pay to the Town the sum of \$100.00 as and for a fee for said permit, which shall be paid and submitted with the application therefor, but shall be returned to the applicant if a permit is not issued.

Section 11: Denial of Permit

The Town Board may deny the issuance of a permit for the proposed assembly or event if any of the provisions of this ordinance are not complied with by the applicant or in their good judgment that the holding of the event or assembly, as and where proposed, could not be accomplished in good order or properly controlled and that the health, safety, and welfare of all persons involved may not be able to reasonably protected and guaranteed.

Section 12: Right of Injunctive Relief

The Town Board or the Town may maintain and prosecute an action at law in the name of said Town in any court of competent jurisdiction to compel compliance with this ordinance or enjoin the sponsors or owners of the premises from holding said assembly or event.

Section 13: Penalties

Any person violating any provisions of this ordinance, including the officers, directors, or members of any corporation, firm, association, or group, shall upon conviction thereof forfeit a sum not less than \$100.00 nor more than \$500.00 and upon failure to pay same shall be imprisoned in the Dane County jail not more than six (6) months or until such forfeiture is paid.

Section 14: Lien Against Lands of Owner

Any person, by contract or otherwise, that allows any assembly of persons upon lands owned or controlled by said person without obtaining a permit therefor or contrary to the provisions of this ordinance, shall be liable to the Town for any and all damages to the Town as specified and enumerated in Section 7(2)(r) - surety bond, together with the costs and attorneys' fees of prosecution thereof. A bill of costs and damages shall be submitted to the person owning said lands for payment thereof by the Clerk, after order therefore by the Town Board, and if said amount or amounts are not paid within thirty (30) days from the submitting of same, said amount shall be placed on the next succeeding tax roll as a special assessment against said lands.

Section 15: Separability

Any provision of this ordinance adjudged by the courts to be invalid or unconstitutional shall not affect the validity of the other provisions hereof.

TOWN OF DUNN

ORDINANCE #11-5

**AN ORDINANCE REGULATING MASSAGE ESTABLISHMENTS**

Section 1: Regulation of Massage Establishments, Massage Technicians and Employees

- (1) It shall be unlawful for any person, corporation or other legal entity to suffer, cause or permit the operation of a massage establishment or for a person to operate as a massage technician, agent, manager or employee, except in strict compliance with this ordinance.
- (2) DEFINITIONS. For the purposes of this section:
  - (a) "Massage" means any process of procedure consisting of rubbing, stroking, kneading or tapping, by physical or mechanical means, upon the external parts or tissues of the body of another for a consideration.
  - (b) Sexual or genital parts shall include the genitals, pubic area, buttocks, anus, or perineum of any person, or the vulva or breasts of a female.
  - (c) "Massage establishment" means a place of business wherein private massage is practiced, used or made available as a principal use of the premises.
  - (d) "Massage technician" means a person who practices, administers or uses massage for a consideration, who holds a valid license, under this section.
  - (e) "Patron" means any person who receives a massage under such circumstances that it is reasonably expected that he or she will pay money or give any consideration therefore.
  - (f) "Operator" means any person, association, firm, partnership or corporation licensed by the town to operate a massage establishment.
  - (g) "Manager" means the operator or an agent licensed under this section who shall not be licensed as a massage technician.
  - (h) "Waiting area" means an area adjacent to the main entrance that is separate from any area where massages are given.
  - (i) "Massage room" means the area where private massage is performed.
- (3) MESSAGE ESTABLISHMENT LICENSE.
  - (a) No person, corporation, or other legal entity shall suffer, cause or permit the conduct of a massage

establishment without having first obtained a license therefore from the Town Board. A separate license shall be acquired for each such establishment.

- (b) No license shall be granted for any establishment, the main entrance to which is within seventy-five (75) feet of the main entrance to a residence or of the common entry hall to residences, not for any room or rooms in any hotel or motel.
- (c) Applications shall be made in writing on forms supplied by the Town Clerk, If application is made for a location not previously license, the town Clerk shall, by regular mail, notify all property owners and registered electors within two hundred fifty (250) feet of the proposed location of at least ten (10) days before the hearing on the granting of such license.
- (d) All applications shall include:
  - 1. A non-refundable fee of One Hundred Fifty (\$150.00) Dollars;
  - 2. The location and mailing address of the proposed establishment;
  - 3. For an individual or for each person of a partnership or joint venture or agent of a corporation:
    - a. Name and present address;
    - b. The two immediately previous addresses, and dates of residence at each;
    - c. Height, weight, color of hair and eyes, Social Security number, written proof of age, full set of fingerprints and two photographs not less than thirty (30) days old, and at least 2" x 2";
    - d. The business or occupation for the two (2) years immediately preceding the date of application;
    - e. Whether a similar license had been revoked or suspended and, if so, the reason therefore and the location thereof;
    - f. Whether convicted of any crime or ordinance violation other than traffic offenses within the past three (3) years and, if so, a listing of the same and locations thereof;
  - 4. If the applicant is a corporation, the names and addresses of each officer and director and of the stockholders of such corporation, together with the extent of the ownership of each, and a statement whether such officer, director or stockholder holds office or stock in any other corporation conducting a similar business in the State of Wisconsin. Such application shall be made by an agent registered as such who shall have been a resident of the Town of Dunn for at least ninety (90) days;

5. All phone numbers of the proposed establishment;
  6. The names, addresses and phone numbers of all persons employed by the applicant at the proposed establishment at the time of application;
  7. Certification of compliance of the proposed premises with the Building Ordinance, or in the alternative, applicant shall file a bond assuring that any work required to be done to bring the premises into compliance therewith shall be accomplished prior to the opening of business. Compliance with such ordinance and with the standards contained herein for health and sanitary operation and the acquisition of a health permit shall be conditions precedent to the opening of business;
  8. The application shall contain a statement signed by the applicant and each individual of a partnership or joint venture that all the information contained therein is true and correct;
- (e) The issuance of this license shall allow for the licensing of up to three (3) additional managers for each establishment.
- (4) MESSAGE TECHNICIAN'S AND MANAGER'S LICENSE.
- (a) No person shall act or operate for a consideration as a massage technician or manager without having first obtained a permit to so do.
  - (b) Application for permits shall be in writing on forms supplied by the Town Clerk and shall include:
    1. A non-refundable fee of Fifty (\$50) Dollars;
    2. Applicant's full name and present address, Social Security number, written proof of age in excess of Eighteen (18) years, height, weight, color of hair and eyes, full set of fingerprints and two photographs not less than thirty (30) days old and at least 2" by 2";
    3. Applicant's two previous addresses and dates of residence at each;
    4. The applicant's business, occupation or employment during the two years immediately preceding date of application;
    5. Whether the applicant has had a similar permit revoked or suspended and, if so, the reason therefor and the location thereof;
    6. Whether the applicant has had a similar permit revoked or suspended and, if so, the reason therefor and the location thereof;
    7. For technicians only, a certificate from a licensed physician that the applicant has been examined and found to be free of communicable diseases and showing that such examination occurred less than thirty (30) days prior to the date of application;

8. The name and address of the licensed massage establishment by which the applicant is employed;
9. A statement signed by the applicant that all information contained therein is true and correct;

(5) GRANTING OF LICENSES.

- (a) Licenses may be granted by the Town Board after a hearing at which the applicant may be heard at applicant's option. At least ten (10) days' notice of such hearing shall be given to the applicant.
- (b) The Town Board shall grant a License within thirty (30) days of application unless it is shown, for a massage establishment License, that the operation as proposed by the applicant does not comply with all applicable State laws and town and county ordinances, and for all licenses that the applicant or any partner or any officer, director or stock holder of a corporate applicant has been convicted in a Court of competent jurisdiction of any offense under Ch. 944, Wis. Stats., or involving substances included in Sub. II of Ch. 161, Wis. Stats., or of an offense against the person or property of another within the past three (3) years, that the information required on the application is incomplete or that any applicant has knowingly or with the intent to deceive made any false, misleading or fraudulent statement of fact in the application or any other document required by the Town in conjunction therewith, or that the applicant has not resided in the Town for at least ninety (90) days prior to date of application.
- (c) In the event of denial, the applicant shall receive written notification thereof setting forth the reasons for the denial within ten (10) days after such denial;
- (d) Licenses granted by the Town Board shall expire one (1) year from the date of granting. Reapplication therefore shall be not less than sixty (60) days prior to such expiration date and shall be the sole responsibility of the applicant.
- (e) No License shall be transferred between locations or persons and no massage establishment license shall be sold or be subject to transfer of corporate assets or change of corporate officers or directors.
- (f) The Massage technician's License does not entitle the holder to operate or manage a massage establishment.

(6) REGULATIONS OF OPERATIONS AND LICENSES.

- (a) Each establishment shall at all times maintain and comply with the following regulations:
  1. General Regulations:
    - a. The establishment shall comply with all Town ordinances;
    - b. Only one non-flashing business sign clearly identifying the establishment as a massage

- establishment shall be posted at the main entrance. No description of services shall be permitted on such sign;
- c. No establishment shall be open for business between the hours of 10:00 P.M. and 8:00 A.M.;
  - d. Only massage technicians licensed pursuant to this section shall be employed as massage technicians by the establishment;
  - e. The practice of all massage technicians employed by the establishment shall be limited to the licensed premises;
  - f. No person under the age of eighteen (18) years shall be permitted on the premises;
  - g. No intoxicating beverages or substance included in Sub. II of Ch. 161, Wis. Stats., shall be permitted in the licensed establishment. Food shall be permitted only when there is no charge therefor and when a food preparation area, including sink with hot and cold running water, is a part of the establishment;
  - h. The establishment shall provide a waiting area for patrons separate from any area wherein massages are given. There shall be direct access to this area from the main entrance or from the hallway connected only to the main entrance;
  - i. The operator or a licensed manager shall be present on the premises at all times during hours of operation and shall be responsible for the operation of the establishment;
  - j. The establishment shall permit inspections of the premises at any time during business hours by Building Inspectors, Health Inspectors, or personnel of any law enforcement agency;
  - k. The establishment shall keep current records of the names and addresses of its massage technicians, agents, managers and employees and the date of employment and termination of each. Such records shall be open to inspection by any of the personnel listed in Paragraph j. above.;
  - l. The establishment shall report any change of fact required on the application form and all personnel changes to the Town clerk within ten (10) days after such change.
- (b) Each technician shall at all times comply with the following regulations:
1. The technician shall practice only on the premises of a licensed massage establishment;

2. The technician shall massage only patrons over the age of eighteen (18) years:
3. No technician shall administer a massage;
  - a. If said technician believes, knows, or should know that he or she is not free of any contagious or communicable disease or infection;
  - b. To any massage patron exhibiting any skin fungus, skin infection, skin inflammation or skin eruption;
4. The technician shall report any change of fact required in the application form to the Town clerk within ten (10) days after such change.
5.
  - a. It shall be unlawful for any person, in a massage parlor, to place his or her hand or hands upon, to touch with any part of his or her body, to fondle in any manner, or to massage, a sexual or genital part of any other person.
  - b. It shall be unlawful for any person, in a massage parlor, to expose his or her sexual or genital parts, or any portion thereof, to any other person. It shall also be unlawful for any person in a massage parlor, to expose the sexual or genital parts, or any portion thereof, of any other person.
  - c. It shall be unlawful for any person, while in the presence of any other person in a massage parlor, to fail to conceal with a fully opaque covering, the sexual or genital parts of his or her body.
  - d. It shall be unlawful for any person owning, operating or managing a massage parlor, knowingly to cause, allow or permit in or about such massage parlor, any agent, employee, or any other person under his control or supervision to perform such acts prohibited in subsections (a), (b), or (c) of this section.

(7) **REVOCATION OR SUSPENSION OF LICENSE.**

- (a) Grounds. The license granted herein may be revoked or suspended for up to six (6) months by the Town Board.
  1. If the applicant has made or recorded any statement required by this section knowing it to be false or fraudulent or intentionally deceptive;
  2. For the violation of any provision of this section, except for establishment license matters involving violations of Town ordinances, in which case the license shall be revoked after the second conviction thereof in any license year;
  3. If a technician's or manager's license, after one conviction of any offense under Chap. 944, Wis.



Stats., or of an offense involving substances included in Sub. II of Chap. 161, Wis. Stats., or of an offense against the person or property of a patron whether such occurred on or off the premises of the establishment;

4. If an establishment License, after one conviction of any establishment personnel of an offense under Ch. 944, Wis. Stats., or of an offense against the person or property of a patron or of an offense involving substances in Sub. II of Ch. 161, Wis. Stats., where there is shown the participation or knowledge of any other establishment personnel or of any individual within the business structure of the applicant;

(b) Notice and Hearing. No license shall be revoked or suspended by the Town Board except upon due notice and a hearing to determine whether grounds for such action exist. The notice shall be in writing and shall state the grounds of the Complaint against the licensee. The notice shall be served upon the licensee at least fifteen (15) days prior to the date of the hearing and shall state the time and place thereof. The licensee shall be entitled to be heard, to be represented, to cross-examine opposing witnesses, and to present witnesses in his or her own behalf under the subpoena of the Town Board, if such is required. The hearing shall be stenographically recorded and a copy of the transcript shall be available to the licensee at the expense of the licensee. The Town Board shall decide the matter and shall prepare a written decision which shall be filed with the Town Clerk and a copy thereof mailed to the licensee within twenty (20) days after the hearing.

(8) **EXCEPTIONS.** This section shall not apply to the following classes of individuals while engaged in the duties of their respective professions;

- (a) Physicians, surgeons, chiropractors, osteopaths, masseurs, or physical therapists licensed or registered to practice their respective professions under the laws of the State of Wisconsin, or nurses registered under the laws of the State of Wisconsin, acting under their direction and control.
- (b) Barber shops and beauty parlors, barbers and beauticians licensed under the laws of the State of Wisconsin, provided that such massage as is practiced is limited to the head and scalp.
- (c) Accredited high schools and colleges and coaches and trainers therein while acting within the scope of their employment.

(9) **OPERATION WITHOUT A LICENSE A PUBLIC NUISANCE.** The operation of a massage establishment without a license or the activity of an individual as a massage technician

without a license is deemed a public nuisance and may be enjoined by the Town.

(10) PENALTY. Any person violating this section shall be subject to a forfeiture of not less than One Hundred (\$100.00) Dollars nor more than Five Hundred (\$500.00) Dollars. Each day of violation shall constitute a separate offense.

(11) SEVERABILITY. The provisions of any part of this Ordinance are severable. If any provision or subsection hereof of the application thereof to any person or circumstances, is held invalid, the other provisions, subsections and applications of such ordinance to other persons or circumstances shall not be affected thereby. It is declared to be in the intent of this ordinance that the same would have been adopted had such invalid provisions, if any, not been included herein.

**ORDINANCE NO. (2006) 11.6**

**TOWN OF DUNN  
DANE COUNTY, WISCONSIN**

**AN ORDINANCE TO REPEAL AND RECREATE  
CHAPTER 11.6 OF THE TOWN CODE OF ORDINANCES  
RELATING TO LICENSING OF DOGS AND REGULATION OF ANIMALS**

The Town Board of the Town of Dunn, Dane County, Wisconsin, do ordain as follows:

1. Chapter 11.6 of the Town Code of Ordinances is repealed and recreated to provide as set forth in Exhibit A attached hereto and incorporated herein.
2. This ordinance shall take effect the day after passage and posting or publication pursuant to law.

*The foregoing ordinance was duly adopted by the Town Board of the Town of Dunn at a meeting held on October 16, 2006.*

TOWN OF DUNN

By \_\_\_\_\_  
Edmond P. Minihan, Town Chair

ATTEST:

\_\_\_\_\_  
Rosalind Gausman, Town Clerk/Treasurer

APPROVED: 10/16/2006

POSTED: 10/18/2006

# Chapter 11.6                      Exhibit A

## **Licensing of Dogs and Regulation of Animals**

11.6-1-1	Dog Licenses Required; Definitions
11.6-1-2	Rabies Vaccination Required for License
11.6-1-3	Dog License Tax and Multiple Dog Licenses
11.6-1-4	Late Fees
11.6-1-5	Rabies Quarantine
11.6-1-6	Restrictions on Keeping of Dogs, Cats, Fowl and Other Animals
11.6-1-7	Impoundment of Animals
11.6-1-8	Dogs and Cats Restricted on Cemeteries
11.6-1-9	Duty of Owner in Case of Dog or Cat Bite
11.6-1-10	Injury to Property by Animals
11.6-1-11	Barking Dogs and Crying Cats
11.6-1-12	Sale of Rabbits, Chicks or Artificially Colored Animals
11.6-1-13	Providing Proper Food and Drink to Confined Animals
11.6-1-14	Providing Proper Shelter
11.6-1-15	Neglected or Abandoned Animals
11.6-1-16	Cruelty to Animals and Birds Prohibited
11.6-1-17	Limitation on Number of Dogs and Cats
11.6-1-18	Penalties
11.6-1-19	Enforcement

### **Sec. 11.6-1-1 Dog License Required; Definitions.**

(a) **License Required.** It shall be unlawful for any person in the Town of Dunn to own, harbor or keep any dog more than five (5) months of age on January 1 of any year, or five (5) months of age within the license year, without complying with the provisions of this Chapter and Sec. 174.05 through Sec. 174.10, Wisconsin Statutes, relating to the listing, licensing and tagging of the same.

(b) **Definitions.** Terms used in this Chapter are defined as follows:

- (1) "Owner" shall mean any person owning, harboring or keeping a dog or any person occupying any premises on which a dog remains or to which it customarily returns daily for a period of ten (10) days.
- (2) "At large" means to be off the premises of the owner and not under the control of some person either by leash or otherwise, but a dog within an automobile of its owner, or in an automobile of any other person with the consent of the owner of said dog, shall be deemed to be upon the owner's premises.
- (3) "Dog" shall mean any canine, regardless of age or sex.
- (4) "Cat" shall mean any feline, regardless of age or sex.
- (5) "Neutered" as used herein as describing a dog shall mean a dog having nonfunctional reproductive organs.
- (6) "Animal" means mammals, reptiles and birds.

- (7) "Cruel" means causing unnecessary and excessive pain or suffering or unjustifiable injury or death.
- (8) "Law Enforcement Officer" or "Officer" has that meaning as appears in Sec. 967.02(5), Wis. Stats., and includes a humane officer appointed under Sec. 173.03, Wis. Stats., but does not include a conservation warden appointed under Sec. 23.10, Wis. Stats.
- (9) "Farm Animal" means any warm-blooded animal normally raised on farms in the United States and used for food or fiber.
- (10) "Pet" means an animal kept and treated as a pet.
- (11) "Department" means the State of Wisconsin Department of Agriculture, Trade and Consumer Protection.

## **Sec. 11.6-1-2 Rabies Vaccination Required for License.**

(a) **Rabies Vaccination.** The owner of a dog shall have the dog vaccinated against rabies by a veterinarian at no later than five (5) months of age and re-vaccinated within one (1) year after the initial vaccination. If the owner obtains the dog or brings the dog into the Town of Dunn after the dog has reached five (5) months of age, the owner shall have the dog vaccinated against rabies within thirty (30) days after the dog is obtained or brought into the Town unless the dog has been vaccinated as evidenced by a current certificate of rabies vaccination from the State of Wisconsin or another state. The owner of a dog shall have the dog revaccinated against rabies by a veterinarian before the date of that immunization expires as stated on the certificate of vaccination or, if no date is specified, within three (3) years after the previous vaccination. The certificate of vaccination shall meet the requirements of Sec. 95.21(2), Wis. Stats.

(b) **Issuance of Certificate of Rabies Vaccination.** A veterinarian who vaccinates a dog against rabies shall complete and issue to the owner a certificate of rabies vaccination bearing a serial number and in the form approved by the Department identifying the Town of Dunn as the municipality where the dog is required to be licensed and stating the owner's name and address, the name, sex, spayed or unspayed, neutered or unneutered, breed and color of the dog, the date of the vaccination, the type of rabies vaccination administered and the manufacturer's serial number, and the date that the immunization expires as specified for that type of vaccine by the Center for Disease Control of the U.S. Department of Health and Human Services.

(c) **Copies of Certificate.** The veterinarian shall keep a copy of each certificate of rabies vaccination in a file maintained for this purpose until the date that the immunization expires or until the dog is revaccinated, whichever occurs first.

(d) **Rabies Vaccination Tag.** After issuing the certificate of rabies vaccination, the veterinarian shall deliver to the owner a rabies vaccination tag of durable material bearing the same serial number as the certificate, the year the vaccination was given and the name, address and telephone number of the veterinarian.

(e) **Tag to be Attached.** The owner shall attach the rabies vaccination tag or a substitute tag to a collar and a collar with the tag attached shall be kept on the dog at all times, but this requirement does not apply to a dog during competition or training, to a dog while hunting, to a dog securely confined indoors or to a dog securely confined in a fenced area. The substitute tag shall be of a durable material and contain the same information as the rabies vaccination tag. The requirements of this paragraph do not apply to a dog which is not required to be vaccinated under Subsection (a).

(f) **Duplicate Tag.** The veterinarian may furnish a new rabies vaccination tag with a new serial number to an owner in place of the original tag upon presentation of the certificate of rabies vaccination. The veterinarian shall then indicate the new tag number on the certificate and keep a record in the file.

(g) **Cost.** The owner shall pay the cost of the rabies vaccination and the cost associated with the issuance of a certificate of rabies vaccination and the delivery of a rabies vaccination tag.

### **Sec. 11.6-1-3 Dog License Tax and Multiple Dog Licenses.**

#### **(a) Dog Licenses.**

(1) The owner of any dog more than five (5) months of age on January 1 of any year, or five (5) months of age within the license year, shall annually, or on or before the date the dog becomes five (5) months of age, pay a dog license tax and obtain a license.

(2) The minimum dog license tax under this Section shall be the state and county-established fee for a spayed female dog or a neutered male dog, upon presentation of evidence that the dog is neutered or spayed, and the state and county-established fee for an unspayed female dog or an unneutered male dog, plus a Town administrative fee to be set by resolution of the Town Board in its discretion. The Town administrative fee shall be greater for unneutered male dogs and unspayed female dogs than for neutered male dogs and spayed female dogs. The license year shall commence January 1 and end December 31.

(3) Upon payment of the required dog license tax and upon presentation of evidence that the dog is currently immunized against rabies, as required by Section 11.6-1-2 of this

Chapter, the Town Clerk/Treasurer or the Deputy Town Clerk/Treasurer shall complete and issue to the owner a license for such dog containing all information required by state law. The Town Clerk/Treasurer or the Deputy Town Clerk/Treasurer shall also deliver to the owner, at the time of issuance of the dog license, a tag of durable material bearing the same serial number as the license, the name of the county in which issued and the license year.

(4) The owner shall securely attach the tag to a collar and the collar with the tag attached shall be kept on the dog for which the license is issued at all times, but this requirement does not apply to a dog during competition or training, to a dog while

hunting, to a dog securely confined indoors or to a dog securely confined in a fenced area.

(5) The fact that a dog is without a tag attached to the dog by means of a collar shall be presumptive evidence that the dog is unlicensed. Any law enforcement officer shall seize, impound or restrain any dog for which a license is required which is found without such tag attached. Each day that any dog within the Town continues to be unlicensed constitutes a separate offense for which a separate penalty applies.

(6) Notwithstanding the foregoing, every dog specifically trained as a service dog, such as, but not limited to, leading blind or deaf persons or providing support for mobility-impaired persons, is exempt from the dog license tax, and every person owning such a dog shall receive annually a free dog license from the Town Clerk/Treasurer or his/her deputy upon application therefore.

**(b) Multiple Dog Licenses.**

(1) Subject to Section 11.6-1-17, any person who keeps more than one dog may, instead of the license tax for each dog required by this Chapter, apply to the Town Clerk/Treasurer or the Deputy Town Clerk/Treasurer for a multiple dog license for the keeping of the dogs. Such person shall pay for the license year a license tax of \$35 for 12 or fewer dogs and an additional \$3 for each dog in excess of 12. Upon payment of the required multiple dog license tax and upon presentation of evidence that all dogs over 5 months of age are currently immunized against rabies, the Town Clerk/Treasurer or the Deputy Town Clerk/Treasurer shall issue the multiple dog license and a number of tags equal to the number of dogs authorized to be kept by the person.

(2) Multiple dog license tags shall be made in a form so that they may be readily distinguishable from the individual license tags for the same year. The owner or keeper of dogs for which a multiple dog license has been issued shall keep at all times a multiple dog license tag attached to the collar of each dog over 5 months old kept by the owner or keeper under a multiple dog license, but this requirement does not apply to a dog during competition or training, to a dog securely confined indoors, to a dog while hunting, or to a dog securely confined in a fenced area. An owner or keeper may transfer a multiple dog license tag from a dog that the owner or keeper no longer owns or keeps to another dog if the other dog is currently immunized against rabies. The rabies vaccination tag or substitute tag shall remain attached to the dog for which it is issued at all times, but this requirement does not apply to a dog during competition or training, to a dog securely confined indoors, to a dog while hunting, or to a dog securely confined in a fenced area. No dog bearing a multiple dog license tag shall be permitted to stray or to be taken anywhere outside the limits of the owner's or keeper's premises unless the dog is in leash or temporarily out for the purposes of hunting, breeding, trial, training, or competition.

**Sec. 11.6-1-4 Late Fees.**

The Town Clerk/Treasurer shall assess and collect a late fee of Five Dollars (\$5.00) from every owner of a dog five (5) months of age or over if the owner failed to obtain a dog license prior to April 1 of each year, or if the owner failed to obtain a dog license within

thirty (30) days of acquiring ownership of a licensable dog, or if the owner failed to obtain a dog license on or before the dog reached licensable age. Said late fee shall be charged in addition to the required dog license fee, plus the Town administrative fee.

## **Sec. 11.6-1-5 Rabies Quarantine.**

(a) **Dogs and Cats Confined.** If a district or neighborhood is quarantined for rabies, all dogs and cats within the district or neighborhood shall be kept securely confined, tied, leashed or muzzled. Any dog or cat not confined, tied, leashed or muzzled is declared a public nuisance and may be impounded. All law enforcement officers shall cooperate in the enforcement of the quarantine. The Town Clerk/Treasurer shall promptly post in at least three (3) public places in the Town notices of quarantine.

(b) **Exemption of Vaccinated Dog or Cat from Quarantine.** A dog or cat which is immunized currently against rabies, as evidenced by a valid certificate of rabies vaccination or other evidence, is exempt from the quarantine provisions of Subsection (a) if a rabies vaccination tag or substitute tag is attached to the dog's or cat's collar.

(c) **Quarantine or Sacrifice of an Animal Suspected of Biting a Person or Being Infected or Exposed to Rabies.**

(1) ***Quarantine or Sacrifice of Dog or Cat.*** A law enforcement officer shall order a dog or cat quarantined if the officer has reason to believe that the animal bit a person, is infected with rabies or has been in contact with a rabid animal. If a quarantine cannot be imposed because the dog or cat cannot be captured, the officer may kill the animal. The officer may kill a dog or cat only as a last resort or if the owner agrees. The officer shall attempt to kill the animal in a humane manner and in a manner which avoids damage to the animal's head.

(2) ***Sacrifice of Other Animals.*** A law enforcement officer may order killed or may kill an animal other than a dog or cat if the officer has reason to believe that the animal bit a person or is infected with rabies.

(d) **Quarantine of Dog or Cat.**

(1) ***Delivery to Isolation Facility or Quarantine on Premises of Owner.*** A law enforcement officer who orders a dog or cat to be quarantined shall deliver the animal or shall order the animal delivered to an isolation facility as soon as possible but no later than twenty-four (24) hours after the original order is issued or the officer may order the animal to be quarantined on the premises of the owner if the animal is immunized currently against rabies as evidenced by a valid certificate of rabies vaccination or other evidence.

(2) ***Health Risk to Humans.*** If a dog or cat is ordered to be quarantined because there is reason to believe that the animal bit a person, the custodian of an isolation facility or the owner shall keep the animal under strict isolation under the supervision of a veterinarian for at least ten (10) days after the incident occurred. In this paragraph, "supervision of a veterinarian" includes, at a minimum, examination of the animal on



the first day of isolation, on the last day of isolation and on one (1) intervening day. If the observation period is not extended and if the veterinarian certifies that the dog or cat has not exhibited any signs of rabies, the animal may be released from quarantine at the end of the observation period.

(3) ***Risk to Animal Health.***

a. If a dog or cat is ordered to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal and if the dog or cat is not currently immunized against rabies, the custodian of an isolation facility or the owner shall keep the animal leashed or confined for one hundred eighty (180) days. The owner shall have the animal vaccinated against rabies between one hundred fifty-five (155) and one hundred sixty-five (165) days after the exposure to a rabid animal.

b. If a dog or cat is ordered to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal but if the dog or cat is immunized against rabies, the custodian of an isolation facility or the owner shall keep the animal leashed or confined for sixty (60) days. The owner shall have the animal revaccinated against rabies as soon as possible after exposure to a rabid animal.

(4) ***Sacrifice of a Dog or Cat Exhibiting Symptoms of Rabies.*** If a veterinarian determines that a dog or cat exhibits symptoms of rabies during the original or extended observation period, the veterinarian shall notify the owner and the officer who ordered the animal quarantined and the officer or veterinarian shall kill the animal in a humane manner and in a manner which avoids damage to the animal's head. If the dog or cat is suspected to have bitten a person, the veterinarian shall notify the person or the person's physician.

(e) **Delivery of Carcass; Preparation; Examination by Laboratory of Hygiene.** A law enforcement officer who kills an animal shall deliver the carcass to a veterinarian or local health department. The veterinarian or local health department shall prepare the carcass, properly prepare and package the head of the animal in a manner to minimize deterioration, arrange for delivery by the most expeditious means feasible of the head of the animal to the State Laboratory of Hygiene and dispose of or arrange for the disposal of the remainder of the carcass in a manner which minimizes risk or exposure to any rabies virus. The Laboratory of Hygiene shall examine the specimen and determine if the animal was infected with rabies. The State Laboratory of Hygiene shall notify the Department, the veterinarian or local health department which prepared the carcass and, if the animal is suspected to have bitten a person, that person or the person's physician.

(f) **Cooperation of Veterinarian.** Any practicing veterinarian who is requested to be involved in the rabies control program by an officer is encouraged to cooperate in a professional capacity with the Department, the Laboratory of Hygiene, the local health department, the officer involved and, if the animal is suspected to have bitten a person, the person's physician.

(g) **Responsibility for Quarantine and Laboratory Expenses.** The owner of an animal is responsible for any expenses incurred in connection with keeping the animal in an isolation facility, supervision and examination of the animal by a veterinarian, preparation of the carcass for laboratory examination and the fee for the laboratory examination. If the owner is unknown, the county is responsible for these expenses.

## **Sec. 11.6-1-6 Restrictions on Keeping of Dogs, Cats, Fowl and Other**

### **Animals.**

(a) **Restrictions.** It shall be unlawful for any person within the Town of Dunn to own, harbor or keep any dog or cat which:

- (1) Habitually pursues any vehicle upon any public street, alley or highway in the Town.
- (2) Assaults or attacks any person or destroys property.
- (3) Is at large within the limits of the Town.
- (4) Habitually barks or howls or cries to the annoyance of any person or persons. (See Section 11.6-1-11.)
- (5) Kills, wounds or worries any domestic animal.
- (6) Is known by such person to be infected with rabies or to have been bitten by an animal known to have been infected with rabies.
- (7) In the case of a dog, is unlicensed.

(b) **Vicious Dogs and Animals.**

- (1) For purposes of enforcing this Section, a dog shall be deemed as being of a vicious disposition if, within any twelve (12) month period, it bites two (2) or more persons or inflicts serious injury to one (1) person in unprovoked circumstances off the owner's premises. Any vicious dog which is found off the premises of its owner may be seized by any law enforcement officer and, upon delivery to the proper authorities, may, upon establishment to the satisfaction of a court of competent jurisdiction of the vicious character of said dog, by testimony under oath reduced to writing, be killed by the police authorities.
- (2) No person shall harbor or permit to remain on his premises any animal that is habitually inclined toward attacking persons or animals, destroying property, barking excessively or making excessive noises or running after automobiles.

(c) **Animals Running at Large.**

(1) No person having in his possession or ownership any animal or fowl shall allow the same to run at large within the Town. The owner of any animal, whether licensed or unlicensed, shall keep his animal tied or enclosed in a proper enclosure so as not to allow said animal to interfere with the passing public or neighbors. Any animal running at large shall be seized and impounded by a law enforcement officer.

(2) A dog or animal shall be considered to be running at large if it is off the premises of its owner and not under the control of the owner or some other person.

(d) **Owner's Liability for Damage Caused by Dogs; Penalties.** The provisions of Sec. 174.02, Wis. Stats., relating to the owner's liability for damage caused by dogs together with the penalties therein set forth are hereby adopted and incorporated herein by reference.

(e) **Animal Feces.** The owner or person in charge of any dog or other animal shall not permit solid fecal matter of such animal to deposit on any street, alley or other public or private property, unless such matter is immediately removed there from by said owner or person in charge. This Section shall not apply to a person who is visually or physically handicapped.

## **Sec. 11.6-1-7 Impoundment of Animals.**

(a) **Animal Control Agency.**

(1) The Town of Dunn may contract with or enter into an agreement with such person, persons, organization or corporation to provide for the operation of an animal shelter, impoundment of stray animals, confinement of certain animals, disposition of impoundment animals and for assisting in the administration of rabies vaccination programs.

(2) The Town of Dunn does hereby delegate any such animal control agency the authority to act pursuant to the provisions of this Section.

(b) **Impounding of Animals.** In addition to any penalty hereinafter provided for a violation of this Chapter, any law enforcement officer may impound any dog, cat or other animal which habitually pursues any vehicle upon any street, alley or highway of this Town, assaults or attacks any person, is at large within the Town, habitually barks, cries or howls, kills, wounds or worries any domestic animal or is infected with rabies. In order for an animal to be impounded, the impounding office must see or hear the violation of this Section or have in his/her possession a signed statement of a complaining witness made under oath alleging the facts regarding the violation and containing an agreement to reimburse the Town for any damages it sustains for improper or illegal seizure.

**(c) Claiming Animal; Disposal of Unclaimed Animals.** After seizure of animals under this

Section by a law enforcement officer, the animal shall be impounded. The officer shall notify the owner, personally or through the U.S. Mail, if such owner be known to the officer or can be ascertained with reasonable effort, but if such owner be unknown or unascertainable, the officer shall post written notice in three (3) public places in the Town,

giving a description of the animal, stating where it is impounded and the conditions for its release, after the officer has taken such animal into his/her possession. If within seven (7) days after such notice the owner does not claim such animal, the officer may dispose of the

animal in a proper and humane manner; provided, if an animal before being impounded has

bitten a person, the animal shall be retained in the animal shelter for fourteen (14) days for

observation purposes. Within such times, the owner may reclaim the animal upon payment

of impoundment fees, such fees to be established by resolution of the Town Board. No animal shall be released from the animal shelter without being properly licensed if so required by state law or Town Ordinance.

**(d) Sale of Impounded Animals.** If the owner does not reclaim the animal within seven (7) days, the animal may be sold or released to any person, if all of the following apply:

1. The person provides his or her name and address.
2. If licensure is required by statute or ordinance, the animal is licensed or assurance of licensure is given by evidence of pre-payment.
3. If vaccination is required by statute or ordinance, the animal is vaccinated or assurance of vaccination is given by evidence of pre-payment.
4. Any charges imposed by the Town or its contracting agent for custody, care, vaccination and treatment are paid or waived.

**(e) Town Not Liable for Impounding Animals.** The Town and/or its animal control agency shall not be liable for the death of any animal which has been impounded or disposed of pursuant to this Section.

### **Sec. 11.6-1-8 Dogs and Cats Restricted on Cemeteries.**

No dog or cat shall be permitted in any public cemetery. Every dog specifically trained as a service dog, such as, but not limited to, leading blind or deaf persons or providing support for mobility-impaired persons, shall be exempt from this Section.

### **Sec. 11.6-1-9 Duty of Owner in Case of Dog or Cat Bite.**

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

### **Sec. 11.6-1-10 Injury to Property by Animals.**

It shall be unlawful for any person owning or possessing an animal, dog or cat to permit such animal, dog or cat to go upon any parkway or private lands or premises without the permission of the owner of such premises and break, bruise, tear up, crush or injure any lawn, flower bed, plant, shrub, tree or garden in any manner whatsoever, or to defecate thereon.

### **Sec. 11.6-1-11 Barking Dogs and Crying Cats.**

(a) It shall be unlawful for any person knowingly to keep or harbor any dog which habitually barks, howls or yelps, or any cat which habitually cries or howls to the great discomfort of the peace and quiet of the neighborhood or in such manner as to materially disturb or annoy persons in the neighborhood who are of ordinary sensibilities. Such dogs and cats are hereby declared to be a public nuisance. A dog or cat is considered to be in violation of this Section when three (3) formal, written complaints of documented violations are filed with the Town within any one (1) month period.

(b) No person shall be found to be in violation of this section unless first notified in writing, at least ten (10) days prior to the issuance of any citation or summons, of the fact of the complaints of documented noise.

### **Sec. 11.6-1-12 Sale of Rabbits, Chicks or Artificially Colored Animals.**

(a) No person may sell, offer for sale, raffle, give as a prize or premium, use as an advertising device or display living chicks, ducklings, other fowl or rabbits that have been dyed or otherwise colored artificially.

(b) (1) No person may sell, offer for sale, barter or give away living chicks, ducklings or other fowl unless the person provides proper brooder facilities for the care of such chicks, ducklings or other fowl during the time they are in such person's possession.

(2) No retailer, as defined in Sec. 100.30(2)(e), Wis. Stats., may sell, offer for sale, barter or give away living baby rabbits, baby chicks, ducklings or other fowl under two (2) months of age, in any quantity less than six (6), unless in the business of selling these animals is for agricultural, wildlife or scientific purposes.

### **Sec. 11.6-1-13 Providing Proper Food and Drink to Confined Animals.**

(a) No person owning or responsible for confining or impounding any animal may fail to supply the animal with a sufficient supply of food and water as prescribed in this Section.

(b) The food shall be sufficient to maintain all animals in good health.

(c) If potable water is not accessible to the animals at all times, it shall be provided daily and in sufficient quantity for the health of the animal.

### **Sec. 11.6-1-14 Providing Proper Shelter.**

(a) **Proper Shelter.** No person owning or responsible for confining or impounding any animal may fail to supply the animal with proper shelter as prescribed in this Section. In the case of farm animals, nothing in this Section shall be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practices in the particular county where the animal or shelter is located.

(b) **Indoor Standards.** Minimum indoor standards of shelter shall include:

(1) **Ambient Temperatures.** The ambient temperature shall be compatible with the health of the animal.

(2) **Ventilation.** Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animals at all times.

(c) **Outdoor Standards.** Minimum outdoor standards of shelter shall include:

(1) **Shelter from Sunlight.** When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. As used in this paragraph, "caged" does

not include farm fencing used to confine farm animals.

(2) ***Shelter from Inclement Weather.***

a. Animals generally. Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided as necessary for the health of the animal.

b. Dogs. If a dog is tied or confined unattended outdoors under weather conditions which adversely affect the health of the dog, a shelter of suitable size to accommodate the dog shall be provided.

(d) **Space Standards.** Minimum space requirements for both indoor and outdoor enclosures shall include:

(1) ***Structural Strength.*** The housing facilities shall be structurally sound and maintained

in good repair to protect the animals from injury and to contain the animals.

(2) ***Space Requirements.*** Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of debility, stress or abnormal behavior patterns.

(e) **Sanitation Standards.** Minimum standards of sanitation for both indoor and outdoor enclosures shall include periodic cleaning to remove excreta and other waste materials, dirt and trash so as to minimize health hazards.

## **Sec. 11.6-1-15 Neglected or Abandoned Animals.**

(a) **Neglected or Abandoned Animals.**

(1) No person may abandon any animal.

(2) Any law enforcement officer may remove, shelter and care for an animal found to be

cruelly exposed to the weather, starved or denied adequate water, neglected, abandoned or otherwise treated in a cruel manner and may deliver such animal to another person to be sheltered, cared for and given medical attention, if necessary. In all cases the owner, if known, shall be immediately notified and such officer, or other person, having possession of the animal shall have a lien thereon for its care, keeping and medical attention and the expense of the owner.

(3) If the owner or custodian is unknown and cannot, with reasonable effort, be ascertained or does not, within five (5) days after notice, redeem the animal by paying the expenses incurred, it may be treated as a stray and dealt with as such.

(4) Whenever in the opinion of any such officer an animal is hopelessly injured or diseased so as to be beyond the probability of recovery, it shall be lawful for such officer to kill such animal and the owner thereof shall not recover damages for the killing of such

animal unless he shall prove that such killing was unwarranted.

(5) Section 173.10, Wis. Stats., Investigation of Cruelty Complaints, and Sec. 173.24, Wis. Stats., Reimbursement for Expenses, are hereby adopted by reference and made a part of this Chapter.

(b) **Injured Animals.** No person who owns, harbors or keeps any animal shall fail to provide proper medical attention to such animal when and if such animal becomes sick or injured. In the event the owner of such animal cannot be located, the Town or any animal control agency with whom the Town has an agreement or contract shall have the authority to take custody of such animal for the purpose of providing medical treatment, and the owner thereof shall reimburse the person or organization for the costs of such treatment.

## **Sec. 11.6-1-16 Cruelty to Animals and Birds Prohibited.**

(a) **Acts of Cruelty Prohibited.** No person except a law enforcement officer in the pursuit of his/her duties shall, within the Town, shoot or kill or commit an act of cruelty to any animal or bird or disturb any bird's nests or bird's eggs.

(b) **Leading Animal from Motor Vehicle.** No person shall lead any animal upon a Town street from a motor vehicle or from a trailer or semi-trailer drawn by a motor vehicle.

(c) **Use of Poisonous and Controlled Substances.** No person may expose any domestic animal owned by another to any known poisonous substance, any controlled substance included in schedule I, II, III, IV or V of Chapter 961 of the Wisconsin Statutes, or any controlled substance analog of a controlled substance included in schedule I or II of Chapter 961, whether mixed with meat or other food or not, so that the substance is liable to be eaten by such animal or for the purpose of harming the animal. This section shall not apply to poison used on one's own premises and designed for the purpose of rodent and pest extermination, nor to the use of a controlled substance in bona fide experiments carried on for scientific research or in accepted veterinary practice.

(d) **Use of Certain Devices Prohibited.** No person may directly or indirectly, or by aiding, abetting or permitting the doing thereof, either put, place, fasten, use or fix upon or to any animal used or readied for use for a work purpose or for use in an exhibition, competition, rodeo, circus or other performance, any of the following devices: a bristle bur, tack bur or like device; or a poling device used to train a horse to jump which is charged with electricity or to which have been affixed nails, tacks or other sharp points.



(e) **Shooting at Caged or Staked Animals.** (1) No person may shoot, kill, or wound with a firearm, or with any deadly weapon, any animal that is tied, staked out, caged or otherwise intentionally confined in an artificial enclosure, regardless of size.

(2)(a) Whoever is concerned in the commission of a violation of this section is a principal and may be charged with and convicted of the violation although he or she did not directly commit it and although the person who directly committed it has not been convicted of the violation.

(b) A person is concerned in the commission of a violation of this section under par. (a) if the person does any of the following:

1. Instigates, promotes, aids, or abets the violation as a principal, agent, employee, participant, or spectator.
2. Participates in any earnings from the commission of the violation.
3. Intentionally maintains or allows any place to be used for the commission of the violation.

(3) This section does not apply to any of the following animals:

(a) A captive wild bird that is shot, killed, or wounded on a bird hunting preserve licensed under Sec. 169.19, Wis. Stats.

(b) Farm-raised deer, as defined in Sec. 95.001 (1) (ag), Wis. Stats.

(c) Animals that are treated in accordance with normally acceptable husbandry practices.

## **Sec. 11.6-1-17 Limitation on Number of Dogs and Cats.**

(a) **Purpose.** The keeping of a large number of dogs and cats within the Town for a considerable period of time detracts from and, in many instances, is detrimental to, healthful and comfortable life in such areas. The keeping of a large number of dogs and cats is, therefore, declared a public nuisance.

(b) **Number Limited.**

(1) No person or family shall own, harbor or keep in its possession more than five (5) dogs and five (5) cats in any residential unit, except that a litter of pups or kittens or a portion of a litter may be kept for not more than ten (10) weeks from birth.

(2) The above limitation may be waived by the Town Board under extraordinary circumstances. Such application for waiver shall be submitted to the Town Clerk/Treasurer.

(c) **Exception.** The limitations identified in paragraph (b)(1) shall not apply to a kennel legally operating under the Dane County Zoning Code.

**ORDINANCE NO. 11.6-1-18 & 19**

**TOWN OF DUNN  
DANE COUNTY, WISCONSIN**

**AN ORDINANCE TO AMEND AND ADD TO  
CHAPTER 11.6 OF THE TOWN CODE OF ORDINANCES  
RELATING TO LICENSING OF DOGS AND REGULATION OF ANIMALS**

The Town Board of the Town of Dunn, Dane County, Wisconsin, do ordain as follows:

1. Section 11.6-1-18 of the Town Code of Ordinances is amended to add language as follows:

**Sec. 11.6-1-18 Penalties.**

(a) Each day that a violation of this Chapter occurs shall be considered as a separate offense.

(b) (1) Anyone who violates Sections 11.6-1-1, 11.6-1-2, 11.6-1-3, 11.6-1-4 and 11.6-1-5 of this Code of Ordinances or Chapter 174, Wis. Stats., shall be subject to a forfeiture of not less than Twenty-five Dollars (\$25.00) and not more than Two Hundred Dollars (\$200.00) for the first offense and not less than One Hundred dollars (\$100.00) and not more than Four Hundred Dollars (\$400.00) for any subsequent offenses.

(2) An owner who refuses to comply with an order issued under Section 11.6-1-5 to deliver an animal to an officer, isolation facility or veterinarian or who does not comply with the conditions of an order that an animal be quarantined shall be fined not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) or imprisoned not more than sixty (60) days or both.

(c) Any person who violates Sections 11.6-1-6 through 11.6-1-12 of this Code of Ordinances shall be subject to a forfeiture of not less than Twenty-five Dollars (\$25.00) and not more than One Hundred Dollars (\$100.00) for the first violation and not less than Fifty Dollars (\$50.00) and not more than Two Hundred Dollars (\$200.00) for subsequent violations.

2. Section 11.6-1-19 of the Town Code of Ordinances is amended to add language as follows:

**Sec. 11.6-1-19 Enforcement.**

(a) The Town or a law enforcement officer have the discretion to enforce the provisions of this Chapter without the citizen complaint procedure under paragraph (b) being invoked.

(b) In the event a person complains to a Town official or law enforcement officer that another person is violating or has violated any provision of this Chapter, the Town may enforce any provision of this Chapter against the person violating such sections, provided the following conditions are satisfied:

(1) The complainant shall file with the Town Clerk a written statement describing in detail the violation.

(2) The complainant shall agree to provide such testimony or other evidence as may be necessary for the Town to enforce this Chapter.

(3) The complainant shall agree in writing with the Town that, in the event it is subsequently determined that there has been no Chapter violation, the complainant shall reimburse the Town for all costs and expenses incurred, including reasonable attorneys' fees and court costs, in attempting to enforce this Chapter. The Town shall require the complainant to make a deposit with the Town Clerk of at least One Hundred Dollars (\$100.00) to cover the Town's anticipated costs and expenses as a condition precedent to any such enforcement action.

3. This ordinance shall take effect the day after passage and posting or publication pursuant to law.

*The foregoing ordinance was duly adopted by the Town Board of the Town of Dunn at a meeting held on October 16, 2006.*

TOWN OF DUNN

By \_\_\_\_\_  
Edmond P. Minihan, Town Chair

ATTEST:

\_\_\_\_\_  
Rosalind Gausman, Town Clerk/Treasurer

APPROVED: 10/16/2006  
PUBLISHED: 10/27/2006

TOWN OF DUNN

ORDINANCE #11-7

**ORDINANCE CONTROLLING SALES OF  
CARRY-OUT SALES OF BEER AND LIQUOR**

Section 1: Restrictions Applicable to Opening and Closing  
Hours for Sale of Fermented Malt Beverages for  
Class A Licenses

No person shall sell or keep for sale or permit to be sold or kept for sale in or about any premises for which a Class A license has been issued any fermented malt beverage except in original unopened packages, containers or bottles, not to be consumed in or about the premises where sold. No fermented malt beverages shall be sold upon any premises for which a Class A license has been issued between the hours of 9:00 p.m. and 8:00 a.m. Further, between 9:00 p.m. and 8:00 a.m., no seller shall permit nor shall any person carry-out or remove from the Class A licensed premises any fermented malt beverages in an original unopened package, container or bottle or for consumption away from the premises.

Section 2: Restrictions Applicable to Sale or Carry-out of  
Fermented Malt Beverage from Class B Licenses

Between 9:00 p.m. and 8:00 a.m., no seller shall permit nor shall any person carry-out or remove from the Class B licensed premises any fermented malt beverage in an original or unopened package, container or bottle for consumption away from the premises.

Section 3: Restrictions Applicable to Sale or Carry-out of  
Fermented Malt Beverage from Class B Liquor  
Licenses

No intoxicating liquor or fermented malt beverage in an original unopened package, container or bottle or for consumption away from the premises shall be sold or permitted to be sold between the hours of 9:00 p.m. and 8:00 a.m. Provided further, that between the hours of 9:00 p.m. and 8:00 a.m., no seller shall permit nor shall any person carry-out or remove from the Class B licensed premises, intoxicating liquor or fermented malt beverage in an original unopened package, container or bottle or for consumption away from the premises.

Section 4: Penalties

Any person that violates any of the provisions of this ordinance shall upon conviction thereof forfeit a sum of not more than

\$500.00 and upon failure to pay said forfeiture imposed shall be imprisoned in the county jail nor more than thirty days.

TOWN OF DUNN

ORDINANCE # 11-8

**BROADBAND COMMUNICATIONS**

Section 1: Title

This ordinance shall be known and may be cited as the "Broadband Communications Ordinance."

Section 2: Cable Regulatory Commission

(1) DUNN AREA CABLE REGULATORY COMMISSION ESTABLISHED.

(A) The Dunn Area Cable Regulatory Commission is hereby established. The Commission shall be composed of [three (3)/five (5)] citizens, appointed by the Board for a term of three (3) years; except the first appointees shall be appointed [two (2)/one (1)] for a term of three (3) years, [two (2)/one (1)] for a term of two (2) years, and one (1) for a period of one (1) year.

(B) The Board shall give public notice of its intentions to appoint the Dunn Area Cable Regulatory Commission before any citizens are appointed or reappointed. The Board shall consider any applicants who are citizens as well as such other citizens as may come to its attention as being qualified, and every effort shall be made to make said Commission as broadly representative of the citizens of the Town as possible. No person shall be appointed if any conflict of interest exists due to his or her association with any company or activity involving the operation of a Broadband Communications Network, radio or television station, or the manufacture or sale of any equipment used in or associated with any such activities. Commission members must be subscribers if service is available in the areas in which they live.

(2) DUTIES OF THE COMMISSION. The administrative and monitoring responsibilities of the Town with respect to any broadband communications system within the Town shall be exercised and performed by the Dunn Area Cable Regulatory Commission. The duties of the Commission shall be to:

(A) Resolve after investigation disputes or disagreements between any subscriber and a Grantee which the subscriber and Grantee are unable to resolve.

- (B) Review and audit the reports submitted to the Town by Grantees.
- (C) Review the regulations proposed by any Grantee pursuant to Section 10 of this ordinance.
- (D) Insure that all required reports are completed and filed pursuant to the terms of the ordinance.
- (E) Assure that all rates, schedules and rules pertinent to the operation of any Broadband Communications Network are made available for inspection by the public at reasonable hours and upon reasonable request.
- (F) Confer with and advice Grantees on the interconnection of the Town's cable systems with other cable and communication systems and to serve as a coordinator for any such interconnections.
- (G) Assist the Board in the solicitation of applications for Special Use Permits.
- (H) Review requests for rate changes filed by any Grantee and to recommend the action which should be taken on such requests to the Board.
- (I) To negotiate Special Use Permit Agreements with any applicant who is granted a Special Use Permit.
- (J) Advise Grantees and the educational and governmental access channel users of the educational and governmental program needs of the Town.
- (K) Report to the Board on the degree to which Grantee make their public access channels available to all residents of the Town on a nondiscriminatory basis.
- (L) Report to the Board on any instance in which a public access channel is not maintained free of program censorship and control.
- (M) Make recommendations to Grantees on the procedural aspects of the public access and educational access channels.
- (N) Conduct such inspections of any broadband communications system as may be necessary to support its review functions.
- (O) To prepare production and programming budgets for public access and government access channels.



- (P) To meet and coordinate activities with the cable regulatory commissions of any other municipality which serves as the head end or origination point for service in the Town.
  - (Q) Perform such other duties and services as the Board may assign to it from time to time.
- (3) The Commission shall adopt such rules and regulations as are necessary to insure that due notice is given to all parties concerning any hearing on any complaint to said Commission and that hearings are held promptly after reasonable notice to all parties.
  - (4) The Commission shall have the power to elect its own officers and to schedule its own public meetings.
  - (5) The Commission shall have the authority to submit proposed rules and regulations for the conduct of its business to the Town Board for approval, and upon approval, shall have the right to hold hearings and make recommendations concerning the coordination and use of municipal, public and of education access channels.
  - (6) All departments of the Town government shall cooperate with the Commission, to implement the discharge of its duties and responsibilities, as contemplated by this ordinance. To this end, department heads are directed to cooperate fully with the Commission and to make available for its use any information pertaining to broadband communications systems within the Town as it may require.
  - (7) The Commission shall keep the Town Board informed on all matters pertaining to construction, operation, and maintenance of broadband communications systems within the Town.
  - (8) The Town Attorney or his designated assistant shall provide legal counsel to the Commission with approval of the Town Board.
  - (9) REGULATORY PROCEDURES.
    - (A) The Commission shall first consider any inquiry or proceeding requiring Board action to be taken in regard to any broadband communications system, Special Use Permit, or Special Use Permit Agreement upon the application or request of the Board of any Grantee, or of any other party, and shall submit its recommendations to the Board within sixty (60) days of the receipt of such request if possible. Any action by the Board on any Commission recommendation shall be

taken only after thirty (30) days notice of said proposed action, inquiry, or proceeding is published in a daily or weekly newspaper of general circulation serving the Town and a copy of said notice is served upon the Grantee. The Grantee shall have an opportunity to respond at the hearing and/or in writing.

Members of the public shall have an opportunity to respond or comment in writing on the proposed action and appear at said proceeding or hearing; however, such hearing or proceeding shall be set not later than ninety (90) days after notice to the Grantee and the Board shall act upon this proceeding within one hundred eighty (180) days of the notice of hearing unless such time is extended by agreement between the Town and the Grantee.

- (B) The public notice required by this subsection shall state clearly the action or proposed action to be taken, the time provided for response, including response by the public, the person or persons in authority to whom such responses shall be addressed and such other procedures as may be specified by the Board. If a hearing is to be held, the public notice shall give the date, location and time of such hearing. The Grantee is a necessary party to any hearing conducted in regard to its operation.
- (C) The thirty (30) day notice period required by this subsection may be waived upon mutual agreement of the Board and the Grantee in those situations where significant financial harm would occur to the Grantee or the public would be deprived of important services. In the event that the notice period is waived, a public notice shall be published as required by paragraph (A) describing the action taken and the reason or reasons for waiving the notice period.

Section 3: Special Use Permit

- (1) SPECIAL USE PERMIT REQUIRED. No person, corporation, partnership, or legal entity of any sort shall construct, erect, operate, modify, or maintain any towers, antennas, poles, cables, electronic equipment or any other facilities necessary for the operation of a Broadband Communications Network, in, upon, along, above, over, or under any street, right-of-way, or site which has been or may hereafter be dedicated and open to public use within the Town without a permit authorizing such use issued in accordance with the provisions of this ordinance.

- (2) REVIEW OF QUALIFICATIONS. A special use permit to operate a Broadband Communications Network under the provisions of this ordinance may be granted, in the sole discretion of the Board, after review and approval of the legal, character, financial, and technical qualifications of any applicant, of the services which the applicant is offering to provide, and of the proposed fees, rates, and charges for such services.
- (3) PROCEDURE. The Board shall establish procedures leading to a determination of whether or not a special use permit will be issued to any applicant which procedures shall include a public hearing at which the public and the applicant are afforded an opportunity to appear and be heard on all matters concerning the application.
- (4) QUINQUENNIAL REVIEW. On or about the fifth and tenth anniversaries of the issue date of any Special Use Permit, the Board shall schedule at least one public hearing for the purpose of reviewing the performance, plans, and prospects of the Grantee and to determine whether the Grantee is providing a level, quality, and variety of services which is, at least, the equivalent of those offered in other comparable communities served by the Grantee or other cable television companies. The Grantee shall furnish such records, documents, and information as the Board may require for the purpose of such review. After such public hearing, or hearings as the case may be, the Board shall confer with the Grantee to determine what, if any, modifications should be made to the Special Use Permit Agreement imposing additional obligations upon the Grantee or relaxing any of the requirements set forth therein. If, after such hearings and conferences, the Board determines that any proposed modification will not reduce the service or quality of service provided by the Grantee, but will improve such service and be within the best interests of the Town, it may after affording interested parties an opportunity to be heard, direct the Grantee to make reasonable modifications in the operation of its system and service area and may, with the consent of the Grantee, supplement, amend, modify or extend the Special Use Permit Agreement.
- (5) REVIEW OF PERFORMANCE PRIOR TO REISSUE.
  - (A) Notification of Intent to Reapply. At least two (2) years prior to the expiration of its Special Use Permit, a Grantee shall file a statement indicating whether it intends to apply for renewal thereof with the Town Clerk.
  - (B) Public Hearings. Upon receipt of notice that a Grantee intends to apply for a renewal of its Special Use Permit, the Board shall schedule at least one public

hearing for the purpose of reviewing the performance of the Grantee during the term of its permit. The Grantee shall furnish such records, documents, and information as the Board may require for the purpose of such review.

- (C) Determination on Reissue. The Board shall, within one hundred eighty (180) days of the conclusion of such hearings determine whether or not it will renew the Special Use Permit of the Grantee. In making said determination, the Board shall consider the technical, financial and programming performance of the Grantee, the network extensions of the Grantee, and whether or not the Grantee has performed in accordance with any and all applications, promises, and agreements submitted, made, or entered into by it.
- (6) PERMIT NONEXCLUSIVE. Special Use Permits granted pursuant to the provisions of this ordinance shall not be exclusive and the Board may grant a Special Use Permit to any person, corporation, partnership, or legal entity whenever, in its sole discretion, it determines that it would be beneficial to the Town so to do.
- (7) AUTHORITY GRANTED.
- (A) Subject to the terms, conditions, and limitations hereinafter set forth, a Special Use Permit shall give the Grantee the right and privilege to construct, erect, operate, modify and maintain, in, upon, along, above, over, and under streets, rights-of-way and public sites which have been or may hereafter be dedicated and open to public use within the Town, towers, antennas, poles, cables and electronic equipment and such other network appurtenances as may be necessary for the operation of a Broadband Communications Network within the Town. No privilege or exemption, other than those specifically prescribed herein, is intended or to be inferred from the granting of any Special Use Permit.
- (B) Neither a Special Use Permit nor anything contained in this ordinance shall relieve a Grantee of any obligation to obtain conduit or pole-use agreements from any utility or other company, or to obtain easements wherever necessary for the provision of its cable communication service; or shall impart to the Grantee any property interest in, on, or to Town property.
- (8) TRANSFER RESTRICTIONS.

- (A) Each Special Use permit granted shall be a privilege to be held by the Grantee for the benefit of the public and shall not be leased, sublet, or mortgaged in any manner (except as hereinafter provided), nor shall title thereto either legal or equitable, or any right, interest, or property therein, pass to or vest in any person either by act of the Grantee or by operation of law without the prior consent of the Board expressed by written resolution and then only under such terms and conditions as the Board may establish.
- (B) The prior consent of the Board, expressed by written resolution, shall be required where any person, corporation, partnership, or legal entity of any sort not specifically named in the application for a Special Use Permit or in the Special Use Permit Agreement acquires any ownership interest in or rights to participate in the profits or losses of, or the right to manage or control the business of the Grantee in any way other than by inheritance or by gift from an immediate member of the transferee's family.
- (C) A Grantee shall promptly notify the Board of any actual or proposed change in, or transfer of, or acquisition by any other party, of control of the Grantee or of its broadband communications system. Within sixty (60) days after receiving said notice, the Board shall hold a public hearing on the matter and within ninety (90) days shall make its determination. For the purpose of determining whether it will consent to any change, transfer, or acquisition of control, the Board shall inquire into the qualification of the new party or parties, and the Grantee shall assist the Board in any such inquiry.

Consent shall not be withheld where the Grantee demonstrates to the satisfaction of the Board that the proposed transfer will not adversely affect the operation and maintenance of the Broadband Communications Network or the quality and level of services provided to subscribers, provided however, that no rate increase may be based, in whole or in part, upon any increase in the value of the Broadband Communications Network which results, directly or indirectly, from any consideration paid for such transfer.

- (D) Every change, transfer or acquisition of control of a Grantee or of its broadband communications system with respect to which the consent of the Board is required shall make the Special use Permit subject to revocation unless and until the Board shall have consented

thereto. In the event that the Board denies consent, and such change, transfer, or acquisition has been effected, the Board may revoke the Special Use Permit unless control of the Grantee or ownership of its facilities is restored to its status prior to the change or to a status acceptable to the Board.

- (E) Upon the foreclosure or other judicial sale of all or a substantial part of the Broadband Communications Network or upon the termination of any lease covering all or a substantial part of said system, the Grantee shall notify the Board of such fact, and such notification shall be treated as a notification that a change in control of the Grantee has taken place, and the provisions of paragraphs (B), (C) and (D) above shall apply.
- (F) The consent or approval of the Board to any assignment, lease, transfer, sublease, or mortgage of a Special Use Permit shall not constitute a waiver or release of the rights of the Town in and to any street, right-of-way or other public site.
- (G) Nothing in this section shall be deemed to prohibit a mortgage or pledge of the Broadband Communications Network equipment or any part thereof or a leasing by a Grantee from another person of said broadband communications equipment or a part thereof for financing purposes or otherwise. Any such mortgage, pledge, or lease shall be subject and subordinate to the rights of the Town under this Ordinance.
- (H) The granting or waiving of any consent required by this section on one or more occasions shall not render any subsequent consent unnecessary.

**Section 4: Application for Special Use Permit**

- (1) APPLICATION. Any person desiring a Special Use Permit shall file five (5) copies of an application therefor with the Town Clerk. The application shall be in writing and shall contain specifically, and in sequence, the following:
  - (A) Name and Address of Applicant. The name and business address of the applicant, date of application and signature of applicant or appropriate corporate officer.
  - (B) Description of Proposed Operation. A general description of the applicant's proposed operation, including but not limited to: business hours; operating staff; maintenance procedure beyond those required in

this ordinance; management and marketing staff complement operation for public access.

- (C) Description of Service Area. A specific description of the area which the applicant proposes to serve together with a schedule of the time or times within which its services will be made available to subscribers throughout that area.
- (D) Signal Carriage. A specific description of the television, radio and the broadband communication services to be provided, including both off-the-air and locally originated signals.
- (E) Special Services. A specific description of the programming assistance it will make available to users of the municipal, public, and educational access channels.
- (F) Programming Assistance. A description of the programming assistance it will make available to users of the municipal, public, and educational access channels.
- (G) Interconnection With Other System. A description of any proposed interconnection with other systems, the services such interconnections will provide, and the terms and conditions required with respect thereto.
- (H) Schedule of Charges. A Proposed Schedule of Charges setting forth all fees, rates, and charges to subscribers for all services or equipment which will be provided if a permit is granted.
- (I) Corporate Organization. A statement detailing the organization of any corporate applicant, including the names and current addresses of its officers, directors, and shareholders.
- (J) Company Relationships. A statement describing any inter and intra company relationships of the applicant, including parent, subsidiary or affiliated companies, interlocking directorships and overlapping officers.
- (K) Agreements and Understandings. A specific description of all agreements and understandings, whether written or oral, existing between the applicant and any other person, partnership, corporation or legal entity concerning the ownership, control or operation of the proposed broadband communication network.
- (L) Financial Statement. If applicant is a corporation,

audited financial statements for the two (2) previous fiscal years. If applicant is a partnership, copies of the "U.S. Partnership Return of Income" (IRS Form 1065) for the two (2) previous fiscal years and a current verified financial statement for each partner. If applicant is sole proprietorship, copies of the "U.S. Individual Income Tax Return" (IRS Form 1040) for the two (2) previous fiscal years and a current, verified, financial statement.

- (M) Financial Projection. A ten (10) year operation proforma which includes initial and continuing plant investments, annual profit and loss projections, and detailed income and expense projections.
- (N) Financial Support. Financing commitments from an established financial institution addressed both to the applicant and to the Town, advising that the applicant's financial ability and planned operation have been analyzed by the institution and that the financing institution will make construction funds available to applicant if it is awarded a permit. If the planned operation is to be internally financed, verification of the fact that the funds necessary to construct the system are on deposit and available to the Grantee shall be provided.
- (O) Technical Description. A technical description of the type of system proposed by the applicant, including but not limited to, system configuration, system capacity, and two-way capabilities.
- (P) Existing Franchises. A list of all other cable television or broadband communication franchises or permits held by the applicant indicating the name and addresses of each issuer, when each was issued, and when each system was constructed.
- (Q) Convictions. A statement as to whether the applicant or any of its members, officers, directors or shareholders has in the past ten (10) years been convicted of or has charges pending for the commission of any crime other than a routine traffic offense and the disposition of each such case.
- (R) Actions By Regulatory Agencies. A statement as to whether the applicant or any of its officers, directors, or shareholders has in the past ten (10) years been charged with the violation of any law, rule, or regulation by a federal, state, or local regulatory body. Such statement shall also include the specific nature of the charge and the disposition of each such



case.

- (S) Operating Experience. A statement detailing the prior cable television experience of the applicant and of the officers, managers, and staff which will be associated with the proposed operation.
- (2) SUPPLEMENTAL INFORMATION. The Board may require an applicant to submit such supplemental, additional, or other information which it may deem necessary in connection with its review of any application. Any additional or supplemental information that an applicant would like the Board to consider may be submitted with its application, but it must be separately bound and submitted. Five copies of any supplemental or additional information shall be furnished by the applicant.
- (3) PERMIT RENEWAL INFORMATION. If the application is for renewal of a Special Use Permit, it must include the following items in addition to the information required in Section 4(1):
  - (A) A summary of the technical, financial and programming and extension history of the network since its original Special Use Permit was granted.
  - (B) A description and timetable outlining all proposed changes, expansion, improvements in the services, programming or technical specifications of its system during the renewal period.

Section 5: Effectuation of Permit

- (1) A Special use Permit shall not become effective unless and until the applicant:
  - (A) Enters a Special Use Permit Agreement with the Town wherein the applicant agrees to provide the services offered in its proposal in accordance with the terms and conditions of the proposal and the provisions of this ordinance.
  - (B) Furnishes the security required by Section 6.
  - (C) Furnishes insurance policies, or certified copies thereof, which afford the coverage required in Section 7(2), together with proof of premium payment.
  - (D) Reimburses the Town for any consulting fees, legal fees, and any other fees, costs, and expenses paid or incurred by the Town arising out of or in any way related to the application, review, and issuance of its

Special Use Permit.

- (2) In the event that an applicant fails to satisfy each of the requirements of Section 5(1) within thirty (30) days after the date upon which its application for a Special Use permit is approved, the applicant shall acquire no rights, privileges or authority under this ordinance but shall forfeit, as liquidated damages, the full amount of the proposal bond or certified check submitted with its application.

Section 6: Security for Performance

- (1) SECURITY REQUIRED. At the time the Special Use Permit Agreement is entered, each Grantee shall furnish security to the Town in the form of a bond, certificate of deposit, irrevocable letter of credit, or certified check. The amount of the security shall be determined and set by the Town Board at the time that it approves the application for a Special Use Permit.
- (A) The security shall guarantee: that the Broadband Communications Network will be constructed and cable communications services provided within the area and time periods set forth in the Special Use Permit Agreement; that the Grantee will perform as agreed therein; and that the Grantee will comply with all statutes, ordinances, and regulations applicable to the construction, maintenance, and operation of its Broadband Communications Network.
- (B) The security posted shall be in such form as is acceptable to the Town Board. When a certificate of deposit or certified check is posted as security, the instrument must be negotiable by the Town. When a letter of credit posted as security, the Town must be the beneficiary.
- (C) In the event that the security furnished by the Grantee is effective for a term which is less than the duration of its Special Use Permit, the Grantee shall, not less than sixty (60) days prior to the expiration of the security, furnish other security in equal amount so that security in the required amount is maintained on the deposit with the Town throughout the term of the Special Use Permit.
- (2) APPLICATION AND RELEASE OF SECURITY.
- (A) In the event that a Grantee fails to institute service within the time periods set forth in its Special use Permit Agreement, the full amount of the security shall

be forfeited to the Town as liquidated damages unless the Town Board has extended the time for performance.

- (B) In the event that a Grantee fails to remedy any breach or violation of its Special Use Permit Agreement other than a failure to perform timely, the Town may do so and deduct all costs and expenses arising out of or in any way related to doing so, together with any damages proximately caused by such breach or violation, from the security.
- (C) Unless the security has been forfeited or applied to remedy some breach or default on the part of the Grantee, it will be released upon expiration of the Special Use Permit.

Section 7: Indemnification and Insurance

- (1) INDEMNITY. Each Grantee shall be required to indemnify and save the Town, its officers, agents, servants and employees harmless from any and all claims, actions, and demands whatsoever, whether tortious, contractual, constitutional, legal or equitable in nature, for damages, losses, expenses, or any other legal or equitable relief and from any award, order, judgment, or execution which results therefrom, arising out of or in any way related to its Special Use Permit; its Special Use Permit Agreement; the construction, installation, operation and maintenance of its Broadband Communications Network whether or not the act or omission complained of was or is authorized, allowed, or prohibited by this Ordinance, its Special use Permit, or its Special Use Permit Agreement; negligence on the part of the Grantee, its members, contractors or subcontractors, or on the part of its or their agents, servants, or employees; violation of any federal, state, or local statute, ordinance, or regulation; violation or infringement of any copyright, trademark, franchise or similar right, statute, or law; any breach of the right of privacy; or any unfair competition, including reasonable attorneys' fees. This section is intended to and shall require indemnification from liability arising from or in any way related to the negligence of the Town or of its officers, agents, servants and employees.
- (2) INSURANCE.
  - (A) Each Grantee shall be required to obtain and maintain in full force and effect throughout the term of its Special Use Permit, comprehensive liability insurance against claims, losses, or damages for personal injuries, death, property damage, breach of contract or warranty, trespass, or violation of civil rights, arising out of or in any way related to the

construction, installation, operation and maintenance of its Broadband Communications Network. Such policy or policies shall name the Town and its agents, servants, and employees as additional assureds, shall be issued by a company which has been approved by the Town Board, shall be in a form which has been approved by the Town Attorney, shall provide coverage in the amount of \$1,000,000 for each occurrence, shall contain an endorsement extending coverage to any liability assumed by the Grantee under the terms of its Special Use Permit Agreement, and shall contain an endorsement which provides that the policy will not be changed or cancelled, nor the coverage reduced until thirty (30) days after receipt by the Town Clerk by registered U.S. mail of two (2) copies of a written notice of such intent to modify, cancel or reduce coverage.

- (B) The insurance policy or policies obtained pursuant to the terms of this section, or certified copies of such policy or policies, and of any renewal or replacement policy, together with proof of premium payment, must be filed with the Town Clerk.
  - (C) If the Grantee demonstrates to the satisfaction of the Town Board that any of the risks described in this section are uninsurable or that the amount of the premium required to obtain insurance coverage for any such risk is unreasonable, the Town Board may, in its sole discretion and upon such terms and conditions as it may establish, waive the requirement of insuring any such risk.
- (3) **RIGHT TO CONTROL DEFENSE.** A Grantee shall have the duty to defend all claims or suits seeking any legal or equitable relief from which the Town is entitled to be indemnified even if any of the allegations of such claim or suit are groundless, false, or fraudulent. So long as the Grantee or its insurer, as the case may be, does not challenge the right of the Town to be indemnified and does not seek contribution from the Town, it shall have: the right to select and employ the attorneys who shall appear and defend the claim or suit on behalf of the Town at its expense; and the sole authority to direct the defense of any such claims or suit and to make such compromises and settlements thereof as it, in its sole discretion, deems expedient.

Section 8: Fees, Rates, and Charges for Service

- (1) **RATES TO BE FAIR AND REASONABLE.** The fees, rates, and charges for services or equipment furnished by any Grantee to its subscribers shall be fair and reasonable.

- (2) LIMITED TO APPROVED SCHEDULE OF CHARGES.
- (A) Approval Required. Approval of the Town Board shall be a condition precedent to the imposition or collection of any fees, rates or charges for services or equipment furnished to subscribers by any Grantee.
  - (B) Initial Rates. The initial fees, rates, and charges which any Grantee may impose shall be limited to those set forth in the schedule of charges submitted with its application for a special use permit.
  - (C) No Consideration Beyond Schedule. No Grantee shall receive or seek any consideration whatsoever from its subscribers for or in connection with its services other than the fees, rates, and charges set forth in the then current schedule of charges filed with an approved by the Town Board.
  - (D) New Services. If a Grantee desires to provide services which were not included in its application it may do so but, the imposition of any charges for such services shall be subject to and contingent upon approval by the Town Board.
- (3) SPECIAL RATES. Nothing contained in this section shall prohibit a Grantee from reducing or waiving charges in conjunction with promotional campaigns for the purpose of attracting subscribers, or from offering incentives for annual payments.
- (4) DISCONNECT CHARGES PROHIBITED. No fee shall be charged for disconnecting the service of any subscriber.
- (5) SCHOOLS AND MUNICIPAL BUILDINGS. Each Grantee shall provide without, charge, one outlet to each municipally owned building, fire station, police station, library, public and parochial school situated within 300 feet of its cable. If more than one outlet is required at any such location or if the building is passed by the Grantee's cable but is situated more than 300 feet from it, the Grantee shall provide the additional outlets or provide its service but may, at its option, charge the actual cost for any additional labor or materials. Each Grantee shall provide its basic service to any such building within its service area without charge.
- (6) SUBSCRIBER REFUNDS. If any subscriber terminates service within thirty (30) days of becoming a subscriber, because the Grantee fails to render service to such subscriber of the type and quality required, terminates service to the subscriber without good cause, or ceases to operate its

Broadband Communications Network for any reason except termination or expiration of its permit, then, in any of such events, the Grantee shall refund to such subscriber an amount equal to the installation and connection charge paid by such subscriber and shall also refund the monthly charge unless service has been rendered for fifteen (15) days.

- (7) SEPARATE CHARGE FOR CONVERTERS PROHIBITED. In the event that a converter, coaxial switch, or any other device is required to permit subscribers to receive any service, the Grantee shall furnish such device to its subscribers without any separate or special charge therefor.
- (8) TERMINATION OF SERVICE FOR NONPAYMENT.
- (A) If any subscriber fails to pay any monthly subscriber fees or any other properly imposed fee or charge when due, the Grantee may disconnect the subscriber's service. Such disconnection shall not be effected until forty (40) days after the date such delinquent fee or charge was due. Where the statement for services sent to the subscriber includes a notice that the Grantee will disconnect service if payment is not made when due, additional notice need not be given to a subscriber whose account is delinquent prior to disconnection. If such a notice is not included in the statement, disconnection shall not be effectuated until ten (10) days after written notice of the intent to disconnect has been given to the subscriber by the US Certified Mail, with return receipt requested. After disconnection, the Grantee shall promptly reinstate the subscriber's service, upon payment of any delinquent charges of any reconnection charges authorized in the then current schedule of approved charges, and advance payment for the next month of service.
- (B) Upon termination of service to any subscriber, the Grantee shall promptly remove all of its facilities and equipment from the premises of such subscriber upon his written request. The service will be disconnected at the poles if above ground or at the connection box if under ground so that such disconnection shall be outside rather than inside the home. For multiple family dwellings, such disconnection shall be made in the basement or other appropriate service area outside the living area itself. Any such removal shall be at not cost to the subscriber.
- (10) RATE CHANGES.
- (A) A Grantee may decrease rates to subscribers at any time. Not rate increase or new or additional charge,

not shown on the then current schedule of charges shall be imposed or collected by any Grantee unless an until it has been approved by the Town Board.

- (B) A Grantee may not file any application for any increase in or for the imposition of new fees, rates or charges until one year after the date upon which it commences service within the Town except to seek relief from the imposition of any federal, state or local taxes, copyright or other legally imposed fees not contemplated in the original rate determinations.
- (C) Any rate increase must be fair and reasonable and calculated to offset necessary costs reasonably incurred for provision of services, including a fair rate of return on the original capital investment of the Grantee plus subsequent capital expenditures decreased by depreciation calculated in accordance with generally accepted accounting practices but without regard for any increased costs or expenses which may result, in whole or in part, directly or indirectly, from any transfer described in Section 3(8) or from any increase in the value of the Broadband Communications Network which may result from the consideration paid for any such transfer.
- (D) The Board shall not approve any rate increase or the imposition of any new or additional charges for the services of a Grantee until a public hearing has been held which affords all interested members of the public and the Grantee an opportunity to be heard. Notice of such hearing shall be published in a newspaper of general circulation serving the Town and shall be posted at least thirty (30) days before the hearing. At such hearing, the Grantee shall be required to make such showing as the Board may require to substantiate the necessity and reasonableness of the rate change or charges requested.
- (E) Approval by the Board of any rate change or of the imposition of any new or additional subscriber charges shall be expressed through the adoption of a resolution amending or supplementing the Grantee's approved schedule of charges.

**Section 9: Time for Performance**

- (1) PERMITS, CONTRACTS, AND EASEMENTS. Within ten (10) days of the date of its Special use Permit Agreement, a Grantee shall register with the Federal Communications Commission; and within ninety (90) days thereof the Grantee shall obtain such certification, licenses, permits, pole attachment

contracts, conduit use contracts and easements as may be required for the operation of its Broadband Communications Network within the Town.

- (2) CONSTRUCTION. A Grantee shall initiate construction and installation of its Broadband Communications Network within forty-five (45) days of the effective date of its Special Use Permit. Such construction shall be pursued with reasonable diligence and shall be completed in the Grantee's initial service area within eighteen (18) months.
- (3) OPERATION. Within six (6) months of the effective date of its Special Use Permit, a Grantee shall commence operation and offer basic service to not less than one-half of the dwelling units within its initial service area. Full service shall be offered throughout the initial service area within eighteen (18) months of the effective date of the Special Use Permit.
- (4) DELAYS AND EXTENSIONS OF TIME. The Town Board may, in its sole discretion, extend the time within which a Grantee is required to perform any required act provided that the Grantee has acted in good faith, has made reasonable efforts to perform within the required time and demonstrates to the satisfaction of the Town Board, that the delay, interruption, or inability to perform timely is due to: inability, because of circumstances beyond its control, to obtain any required pole attachment, contract, conduit use contract, or easement; governmental or regulatory prohibitions; labor strikes; war; national emergencies; or fire.

Section 10: Required Services

- (1) NUMBER OF STATIONS. Each Grantee shall provide a broadband communications system which has a capacity of at least 26 downstream and 10 upstream television channels fully two-way active with emergency stand-by power and 20 FM radio stations. At the time any Grantee commences operation, no less than 20 television channels shall be activated.
- (2) MINIMUM BASIC SERVICES. The minimum basic services provided by any Grantee shall include:
  - (A) Government Access Channel. Each Grantee shall provide at least one fully operational channel available for continuous and unrestricted government use without charge.
    - (1) The government access channel shall permit the continual transmission of automated print messages concerning, but not limited to, emergency and



public services, street closing, voter information, government activities and meeting. The Grantee shall provide and install a character generator at the Town Hall which will permit such messages to be updated by the Town at any time.

- (2) This channel shall also be used by the Grantee to broadcast live, whenever technically possible or by video tape when not, all meetings of the Dunn Town Board; and unless the Grantee is unable to obtain authorization for such programming, the meetings of the Dane County Board, the Madison Common Council, and the McFarland, Stoughton, and Oregon Boards of Education.
- (3) When this channel is not in governmental use, it may be the sole discretion of the Town Board, be used as an additional public access or educational access channel.

(B) Public and Educational Access Channel. Each Grantee shall provide at least one fully operational public and educational access channel which will be available, without charge, for continuous and unrestricted use on a first-come, first-serve nondiscriminatory basis to the Dunn Community and school districts serving the Town. This channel shall also be made available to the public and school districts for cable casting of programs prepared on videotape for presentation.

- (1) Each Grantee shall provide, at no cost to public access users, production facilities for live presentations and equipment for cable casting color video tape.
- (2) Within six (6) months after the date its Special Use Permit becomes effective, the Grantee shall complete a set of rules for the use of the public access channel which shall be promptly forwarded to the Town Board for review and approval. The rules shall, at a minimum:
  - a. Provide for access on a first-come first-served, non-discriminatory basis for all residents of the Town;
  - b. Prohibit advertising for commercial or political purposes, as defined by the FCC;
  - c. Prohibit any presentation or lottery information, or obscene or indecent material, provided that in said rules the definition of

obscene or indecent material shall conform to any such definition contained in any Ordinance of the Town which is currently in effect or which is subsequently passed by the Town Board;

- d. Provide for public inspection of the log of requests for access time, which shall be retained for the duration of this Agreement;
- e. Contain procedures by which individuals or groups who violate any rule may be prevented from further access to the channel; and
- f. Provide for free use of reasonable amounts of channel time, equipment, and technical support.

(3) When this channel is not in use by the general public or school district, it may, in the sole discretion of the Town Board, be used by the Grantee.

- (C) Time and Weather Channel. A channel which provides time and both audio and visual weather programming including, but not limited to, the National Oceanic Atmospheric Administration Weather Service, local time and temperature information, and automatically updated weather forecasts.
- (D) Madison Stations. Four channels which carry all programming of: MWTW, Channel 15, Madison, NBC; WKOW, Channel 27, Madison, ABC; WHA, Channel 21, Madison, PBS; and of WISC Channel 3, Madison, CBS.
- (E) Video Program Guide. A channel which carries programming information for the Dunn Cable Television Network.
- (F) Late Night Programming. Whatever broadcast stations are available pursuant to the late night signal rules of the FCC.
- (G) Additional Signals. In the event that the signal carriage rules of the FCC are changed, the Grantee shall add to its program complement such broadcast channels or signals as are available or are carried by comparable systems in the Dane County area.

(3) PRODUCTION FACILITIES.

- (A) Studio or Mobile Facilities Required.

1. Each Grantee shall provide a television studio which shall be available for the origination and transmission of local programming; or such mobile television production equipment as may be necessary to originate live programming within the Town.
2. Where the Grantee provides a television studio, the studio shall be designed, constructed, and equipped to enable full color local origination, color video taping, taped or filmed programming, and editing of video tape and movie film. If the head end facilities of the Broadband Communications Network are situated within the Town, the studio shall be located within the Town, the studio shall be located within the Town. If the head end facilities are situated in another community whose Broadband Communications Network facilities are integrated with those serving the Town, the studio may, subject to the provisions of subsection 4 of this section, be located in such other community.
3. Where the Grantee does not provide a television studio, it shall provide mobile facilities, which include: a full color mobile unit; two color cameras; a switcher/audio control console; a color video cassette recorder; and all associated monitors, microphones, transmission facilities, and cable.
4. Where a Grantee does not provide either a mobile production unit or a television studio situated within the Town at the time it commences operation:
  - A. It shall be required to do so within five years of the effective date of its Special Use Permit unless the Grantee demonstrates to the satisfaction of the Town Board that neither is warranted or unless the Special Use Permit Agreement contains provisions specifying the time, terms, and conditions under which such facilities will be made available.
  - B. The Grantee shall provide the Town with such color television cameras, color video cassette recorders and editing equipment, and associated monitors, lighting, microphones, and related equipment as may be necessary to

permit the full color video taping of programs or activities within the Town for broadcast over the Government access or public access channels.

- (B) Production Costs. The portable and studio television production equipment and editing facilities of each Grantee shall be available for use, free of charge, by those persons and organizations which provide technical personnel who have completed the Madison Community Access Center or comparable training class and have demonstrated their capabilities and knowledge of proper use of the equipment to the Grantee. If the user does not have or provide qualified technical personnel, the Grantee shall provide such personnel and may charge the user the actual cost which it incurs in doing so, or less, at the option of the Grantee. Each Grantee shall make all reasonable efforts to obtain, train, and make qualified technical personnel available without cost or at the lowest possible cost to users.
- (C) Maintenance. Each Grantee shall, at its expense, keep all of its portable and studio television production equipment and editing facilities in good working order and repair.
- (D) Technical Assistance. Each Grantee shall provide reasonable technical and programming assistance to all persons, and organizations utilizing the public, educational, and government access channels for programming.
- (4) ADDITIONAL ACCESS CHANNELS. Whenever its public access channels or educational access channels or government access channels are in use during eighty percent (80%) of the weekdays (Monday through Friday) for eighty percent (80%) of the time during any consecutive three-hour period for six (6) consecutive weeks, a Grantee shall make an additional channel of like type available within six (6) months. The Grantee may make a one-time charge for time and materials for this service. Such additional channel shall be operated on the same basis and in accordance with the same rules as all other access channels.

Section 11: Service Areas

- (1) DESCRIBED IN SPECIAL USE PERMIT AGREEMENT. The service area of each Grantee shall be described and the time within which its services will be made available to subscribers throughout that area shall be set forth in its Special Use Permit Agreement.

(2) EXTENSION OF SERVICES.

(A) Required Extensions.

1. Each Special Use Permit Agreement shall set forth the terms and conditions under which a Grantee shall be required to extend its services to subscribers within or adjacent to its service area.
2. Upon receipt of an application signed by forty (40) or more persons who reside within any area of the Town which is outside of but adjacent to a then existing broadband communications service area and which has a density of at least twenty (20) subscribers per linear mile, the Town Board may require a Grantee to prepare a report, which shall include a cost analysis, on the feasibility of extending its cable communications service to such area. The Grantee shall extend its service to such area if, after reviewing such report and affording interested parties an opportunity to be heard, the Town Board determines that the extension of service to such area is feasible and within the best interests of the Town.

(B) Extension Beyond Town Boundaries.

1. Nonresident Service. Except as hereinafter provided or as otherwise provided in its Special Use Permit Agreement, a Grantee shall not extend its network beyond the boundaries of the Town until its services have been made available throughout the Town. A Grantee may request that the Town Board waive this restriction. Such a request shall be in writing and shall include a feasibility study and cost analysis of the proposed extension. If, after reviewing such report and affording interested parties an opportunity to be heard, the Town Board determines that the extension of service beyond the boundaries of the Town is feasible and within the best interests of the Town, it may, in its sole discretion, waive this restriction in whole or in part.
2. Government and Education Bodies. Notwithstanding the provisions of the preceding paragraph, a Grantee may, upon obtaining any required authorizations, extend its network beyond the boundaries of the Town to provide program origination from: the University of Wisconsin-

Madison; the City-County Building, Madison, Wisconsin; the Madison Public Library, Madison, Wisconsin; the main office of the Madison Metropolitan School District; the site of the meetings of the Oregon Board of Education; the site of the meetings of the McFarland Board of Education; the site of the meetings of the Stoughton Board of Education; the Oregon, Stoughton, and McFarland fire and emergency medical services stations; and such other locations as may be suggested from time to time, by the Town Board.

3. Interconnection. Nothing in this section is intended to or shall be construed as prohibiting the Grantee from interconnecting its network with other similar networks within or outside of the boundaries of the Town, provided, however, that until such time as the services of the Grantee has been made available throughout its service area, any revenues derived by a Grantee from such interconnection shall be included in annual gross receipt for the purpose of determining the annual payment required by Section 18(3) unless otherwise expressly provided in the Special Use Permit Agreement.

Section 12: Minimum Technical Requirements and Equipment

(1) GENERAL REQUIREMENTS.

- (A) Each Broadband Communications Network shall be so engineered, installed, maintained operated and equipped so as to at all times meet the technical standards which are the then current "state of the art" of the cable communications industry. Each Grantee shall also, at all times, meet the technical standards established by the FCC, including specifications for frequency boundaries, visual carriers, frequency levels, aural carrier frequency levels, channel frequency response, terminal isolation, and system radiation, and all other standards which the FCC may set.
- (B) Each Broadband Communications System shall be engineered and equipped so as to possess a capacity of thirty-six (36) channels.
- (C) The facilities used by any Grantee, including studio, mobile and local origination programming equipment, shall be capable of producing and distributing color TV signals and when the signals the Grantee distributes

are received in color they shall be distributed in color.

- (D) Each Broadband Communications System shall be engineered and installed with the capacity for two-way communications.
  - (E) Each Broadband Communications System shall utilize a dual trunk with a "mid-band split," providing a frequency range of 54 to 300 MHz in the main trunk and of 168 to 300 MHz in the second trunk.
  - (F) Converters utilized in any Broadband Communications System shall be capable of delivering thirty-six (36) channels.
- (2) ADDRESSABLE CONVERTERS. Each Grantee shall utilize addressable converters and supply the head end computer equipment necessary to assure remotely controlled computer access to its Broadband Communications Network. The system shall also afford subscribers selective access to the system on a per program basis unless the Grantee demonstrates to the satisfaction of the Town Board that such service is not economically feasible.
  - (3) EMERGENCY ALTER OVERRIDE. Each Grantee shall incorporate into its facilities the capability for an emergency override audio alert whereby a designee of the Board, in times of crisis, may introduce an audio message on all appropriate Broadband Communications Network channels simultaneously. The Grantee shall provide, in a location to be designated by the Board, all equipment necessary for use of such emergency audio alert system.
  - (4) SHIELDING. Each Grantee shall keep its cable and other equipment shielded in such a manner that there will be no interference with signals received by private receivers.

Section 13: Conditions of Street Occupancy

- (1) METHOD OF INSTALLATION. All transmission and distribution structures, lines and equipment erected by any Grantee within the Town shall be located so as not to interfere with the proper use of the streets, alleys and other public ways and places, and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways and places, and not to interfere with existing public utility installations. All installations shall be underground in those areas of the Town where either of the public utilities providing telephone or electric service are underground at the time of installation. In areas where

both telephone and electric utility distributions facilities are above ground at the time of installation, the Grantee may install its facilities above ground, but in such case the Grantee, to the maximum extent possible and subject to approval by the affected public utility, shall place its facilities on the poles of said public utilities. If, subsequently, said telephone or electric utility facilities go underground, the facilities of the Grantee shall go underground simultaneously.

- (2) **CHANGES REQUIRED BY PUBLIC IMPROVEMENTS.** If, at any time during the period of a Special Use Permit, it becomes necessary to remove, relay, relocate, or disconnect any equipment, poles, wires, cables or underground fixtures, to enable the Town to alter or change the grade or location of any street or to install, construct, or maintain any sanitary sewer, storm sewer, water lines, drainage ways, or any other type of public improvement or structure, the Grantee shall, upon reasonable notice, do so at its expense and in each instance comply with the requirements of the Town.
- (3) **NOTICE OF REQUIRED DETOURS.** A Grantee shall notify the Town of its proposed work schedule at least seven days prior to commencing any construction or excavation which will require traffic to be rerouted.
- (4) **EXCAVATION PERMITS.** No Grantee shall open or disturb the surface of any street, sidewalk, driveway, or public place for any purpose without first having obtained any required excavation permits.
- (5) **FACILITIES NOT TO BE HAZARDOUS OR TO INTERFERE.** All wires, conduits, cables and other property and facilities of any Grantee shall be so located, constructed, installed and maintained as not to endanger or unnecessarily interfere with the usual and customary trade, traffic and travel upon the streets and public places of the Town. A Grantee shall not place poles, conduits, wires or other facilities above or below ground in a manner which results in the public utility facility violating any applicable safety statute, ordinance or administrative regulation. All buried cables, poles, or other fixtures placed in a street shall be placed in the right-of-way between the roadway and the property as specified by the Town.
- (6) **NOTICE OF TOWN IMPROVEMENTS.** The Town shall give a Grantee reasonable notice of its plans for any construction or repair of municipal improvements which may affect the Grantee's facilities. The notice shall describe the nature and character of the construction, the places where it is to occur, the extent and work schedule for the project. The



notice shall give the Grantee sufficient time to move, remove, relocate or install such facilities to maintain or expand its service.

- (7) **REQUESTS FOR REMOVAL OR CHANGE.** A Grantee shall, on the request of any person holding a moving permit, temporarily move or remove its wires or facilities to permit the moving of a building. The expense of such temporary move or removal, shall be paid by the person requesting the same and the Grantee may, at its option, require payment in advance. A Grantee shall be given not less than ten (10) days advance notice to arrange such temporary moves or removal.
- (8) **AUTHORITY TO TRIM TREES.** A Grantee shall have the authority to trim trees upon and overhanging streets, rights-of-way, and other public sites within the Town so as to prevent branches from coming in contact with its wires and cables. No trees shall be trimmed until the Grantee has obtained the approval of the Town Board. The Grantee may contract for such services but any firm or individual so retained shall obtain Town approval prior to commencing such activity.
- (9) **RESTORATION OF SURFACES.** In the event that a Grantee disturbs any street, driveway, lawn, or other surface, it shall, at its own expense and in a manner approved by the Town Board or the property owner, replace and restore such surface to as good a condition as it was in before it was disturbed. In the event a Grantee fails to so replace or restore such surface the Town may do so at the sole expense of the Grantee. The Grantee shall reimburse the Town for any such replacement or restoration upon demand.
- (10) **FACILITY MAPS TO BE FURNISHED AND AVAILABLE.** Each Grantee shall furnish the Town with current, detailed, plans, records and maps showing the exact location and placement of all transmission lines, facilities, and equipment installed over, under, or upon any streets, rights-of-way, or other public sites within the Town. Three copies thereof and of any amendments, revisions, or supplements thereto shall be filed with the Town Clerk; and another copy shall be made available for public inspection at the office of the Grantee during normal business hours. Such maps, plans and records shall be updated no less often than monthly.
- (11) **EMERGENCY REMOVAL OF FACILITIES.** If in case of fire, storm, accident, disaster, or other emergency it becomes necessary to cut, move, or remove, any facilities or equipment belonging to a Grantee, the Town may do so and any repairs necessitated thereby shall be made by the Grantee at its sole expense.

**Section 14: Construction Standards**

- (1) **QUALITY OF INSTALLATIONS AND FACILITIES.** All installations shall be of a permanent and durable nature and installed in accordance with good engineering practices and comply with all existing and future ordinances, resolutions, regulations, and orders of the Town so as not to interfere in any manner with the rights of the public or individual property owners. The system shall not interfere with the travel and use of public places or facilities by the public, and during the construction, repair, or removal thereof, shall not obstruct or impede traffic.
- (2) **COMPLIANCE WITH SAFETY CODES.** The construction practices of any Grantee and of its agents, servants, employees, contractors and subcontractors shall comply with and all work shall be performed in accordance with all applicable state, federal and local statutes, ordinances, rules and regulations including, but not limited to, the Wisconsin Safe Place Statute, the Construction Safety Act of 1969, the Occupational Safety Act of 1969, and the Occupational Safety and Health Act of 1970.
- (3) **COMPLIANCE WITH ELECTRICAL CODES.** All electronic equipment shall be installed in accordance with the applicable sections of the current edition of the National Electric Safety Code and all state and local codes.
- (4) **ANTENNAS AND TOWERS.** Antenna supporting structures shall be designed for the proper loading zone as specified in Electronics Industry Association's R.S.-22A Specification. All installations greater than fifty (50) feet in height shall be approved by a professional engineer licensed in this State.
- (5) **COMPLIANCE WITH AVIATION REQUIREMENTS.** Antenna supporting structures shall be painted, lighted, erected and maintained in accordance with all applicable rules and regulations of the Federal Aviation Agency, the Wisconsin Department of Transportation governing the erection and operation of supporting structures or television towers, and all other applicable local or state codes and regulations.

**Section 15: Operation of Broadband Communications Network**

- (1) **OPERATIONS TO BE IN ACCORDANCE WITH RULES.** Each Grantee shall maintain and operate its Broadband Communications Network in accordance with the rules and regulations of the Federal Communications Commission, the State of Wisconsin, and the Town of Dunn.
- (2) **OFFICE AND PHONE.** Each Grantee shall maintain public access

production facilities and an office easily accessible to citizens of the Town which shall be open during all normal business hours, shall have a listed local telephone number, and shall be so operated that complaints and requests for repairs or adjustments may be received at all times.

- (3) **SUBSCRIBER'S ANTENNAS.** No Grantee shall require the removal, or offer to remove, or provide any inducement for removal of a potential or existing subscriber's antenna as a condition of provision of service.
- (4) **SALE OR SERVICE OF TELEVISION RECEIVERS.** During the period of any Special Use Permit, neither a Grantee nor any of its members, affiliates, subsidiaries, parent organizations, officers, directors, or shareholders shall directly or indirectly, engage in the retail sale, renting, leasing, or repairing of radio or television receivers or their appurtenances within the limits of the Town; nor shall it require any subscriber to utilize the services of any specific television or radio service business for the repair or maintenance of the subscriber's radio or television receiver.
- (5) **ANTENNA SWITCH.** A Grantee shall, upon request from any subscriber, install a switching device upon the subscriber's television receiver which permits the subscriber to disconnect the receiver from the Grantee's cable system and to utilize the subscriber's antenna for the reception of over-the-air television signals. A Grantee shall not charge a subscriber any fee for the installation of such device if installed at the time of the original installation required for basic service. Thereafter, the actual cost of installing such device may, at the option of the Grantee, be charged to the subscriber.

Section 16: Service Standards

- (1) **QUALITY OF SERVICE.** Each Grantee shall operate and maintain its Broadband Communications Network so that all subscribers shall receive signals of good technical quality and the full range of available services.
- (2) **RESPONSE TIME AND REBATE.** Each Grantee shall promptly and satisfactorily investigate any complaints as to the quality of its signal or services and make such adjustments as may be required to correct situations disclosed by such investigations seven (7) days a week. In the event that a Grantee is unable to restore any loss of service within forty-eight (48) hours, the Grantee shall credit one-thirtieth (1/30) of the subscriber's monthly service charges to each affected subscriber for each twenty-four (24) hour period that subscriber is without service following

the

loss

report of the of service to the Grantee.

- (3) **SERVICE INTERRUPTIONS AND NOTIFICATIONS.** Whenever it is necessary to interrupt service over a Broadband Communications Network for the purpose of maintenance, alteration or repair, the Grantee shall do so at such times as will cause the least amount of inconvenience to subscribers, and unless such interruption is unforeseen and immediately necessary, shall give reasonable advance notice of such interruption to all affected subscribers. Such notice may be given over the Broadband Communications Network. If a Grantee fails to resume service within thirty-six (36) hours of any such interruption, it shall credit one-thirtieth (1/30) of its monthly service charges to each affected subscriber for each twenty-four (24) hour period that the subscriber is without service.
- (4) **UPGRADING OF FACILITIES, EQUIPMENT AND SERVICE.** Each Grantee shall, from time to time, reasonably upgrade its facilities, equipment and service so that its Broadband Communications Network is so engineered, installed, maintained, operated and equipped as to, at all times, meet the technical standards which are the then current "state of the art" of the cable communications industry. Each Grantee shall also meet, at all times, the technical standards established by the FCC, including specifications for frequency boundaries, visual carriers, frequency levels, aural carrier frequency levels, channel frequency response, terminal isolation, and system radiation, and all other standards set by the FCC.
- (5) **SERVICE RECORDS.** Each Grantee shall maintain a record of the response time and length of service interruption, for all complaints and service interruptions received or experienced during each five-year period of its Special Use Permit. Such records shall be kept at the office of the Grantee and shall be made available for inspection by representatives of the Town, during normal business hours. At the end of each five-year period the Grantee shall offer to turn such records over to the Town and if the Board refuses to take them, the Grantee may have them destroyed.

Section 17: Books, Records and Reports of Grantees

- (1) All books and records of any Grantee concerning its operations within the Town including but not limited to its income tax returns and financial records shall be made available for inspection and audit by the Commission or its designated agent within thirty (30) days after any request for such inspection or audit is made.
- (2) Each Grantee shall keep and maintain all records required by

the FCC.

- (3) Copies of all petitions, applications and communications submitted by Grantee to the Federal Communications Commission, Securities and Exchange Commission, or any other federal or state regulatory commission or agency having jurisdiction in respect to any matter affecting the operation of its broadband communications system shall also be submitted simultaneously and filed with the Town.
- (4) Each Grantee shall keep and maintain a complete record of all persons or groups requesting or utilizing time on its access channels.
- (5) All records required by this section shall be kept on file by the Grantee for the duration of its Special Use Permit and shall be made available for inspection upon request of the Town Board.

Section 18: Permit Fees and Required Payments

- (1) FILING FEE. An applicant for a special use permit shall pay a filing fee of \$250 to the Town at the time its application is filed.
- (2) EXPENSES INCURRED BY TOWN. Each applicant for a Special use Permit shall be required to pay any consulting fees, legal fees, and any other fees, costs, or expenses incurred by the Town arising out of or in any way related to its application and to the formulation of its Special use Permit Agreement if the application is approved. To guarantee payment of such expenses, each applicant shall deposit the sum of \$1,500 with the Town Clerk at the time its application is filed. If such expenses are paid timely, the deposit will be refunded at the time that the Special Use Permit is issued or thirty days after the application is rejected. If an applicant fails to pay or to reimburse the Town for payment of such expenses within 14 days of the date that the Town submits its bills therefor, the Town may deduct the amount of such expenses from the deposit.
- (3) ANNUAL COST OFFSET AND PROGRAMMING ASSISTANCE PAYMENT.
  - (A) Payment Required. Each Grantee shall pay an amount equal to three percent (3%) of its annual gross receipts to the Town each year to offset any costs and expenses incurred by the Town which arise from or are in any way related to the construction, operation, supervision, or regulation of broadband communications networks or to municipal, public, or educational access channels including, but not limited to, acquisition of equipment, training of personnel, development and

presentation or programming, provision of services, aiding in the provision of educational services, and affording access to said channels at minimal cost to the citizens.

- (B) Gross Receipts Defined. The term "annual gross receipts" shall include all revenues received by a Grantee from and in connection with the provision of its broadband communications services, disconnect and reconnect fees, fees for cable benefits including public access and origination channels, and other special fees associated with services provided on its Broadband Communications Network. The term shall not include revenues derived from sales taxes and other taxes collected by the Grantee.
- (C) Time of Payment. The amount of the payment shall be computed semi-annually as of the last day of June and of December. Within thirty (30) days of the expiration of each such month, the Grantee shall file a financial statement showing in detail its gross receipts during the preceding semi-annual period. Payment shall be due and made at the time each such statement is filed. Within three (3) months following the conclusion of each fiscal year of the Grantee, the Grantee shall also file an annual report prepared and audited by a certified public accountant showing the gross receipts and all charges, deductions, and computations utilized in determining the amount of the payment due to the Town.
- (D) Interest. In the event that any payment or part thereof, is not made within thirty (30) days of the close of the semi-annual period for which it is due, interest shall accrue on the unpaid balance at the current prime rate plus five percent per annum from the last day of the semi-annual period for which such payment was due.
- (E) Rate Reduction. In the event that any court or administrative agency, whether state or federal, determines, for any reason, that the annual charge imposed by this section or any part thereof is invalid or unconstitutional or that any payment required herein is unlawful or uncollectible, or in the event that any legislation, regulation, or administrative agency prohibits the imposition or collection of such charge, then upon the happening of any such event, the Grantee shall reduce all rates set forth in its then applicable schedule of charges by three percent (3%).
- (F) Charge Not A Tax Payment. The payment required by this

subsection shall be in addition to any other payment owed to the Town by a Grantee and is not intended to be nor shall it be construed as a payment of or in lieu of property taxes, income taxes, or any other local, county, state or federal taxes.

- (G) Rights of Recomputation. Acceptance of any payment by the Town shall not be construed as a release or as an accord and satisfaction of any claim which the Town may have for further or additional sums due under the provisions of this section or any other section of this Ordinance.

Section 19: Revocation of Special Use Permit

- (1) GROUND FOR REVOCATION. The Town Board may revoke any Special Use Permit and rescind all rights and privileges associated therewith in the following circumstances:
- (A) If the Grantee defaults in the performance of any of its obligations under the Special Use Permit Agreement and fails to cure the default within thirty (30) days after written notice of the default is given by the Town.
  - (B) If the Grantee fails to provide or maintain in full force and effect, the insurance coverage required by Section 7(2).
  - (C) Any violation of the transfer restrictions imposed by Section 3(8).
  - (D) If the Grantee fails to comply with any ordinance, state or federal statute, or any rule or regulation applicable to the construction, operation, or maintenance of its Broadband Communications Network.
  - (E) If a petition, which affects the operation of the system, is filed by or against the Grantee under the Bankruptcy Act, or any other insolvency or creditors' rights law, state or federal, and the Grantee shall fail to have it dismissed within six (6) months of the date of filing.
  - (F) If a receiver, trustee or liquidator is appointed for all or part of the assets of the Grantee.
  - (G) If the Grantee makes an assignment for the benefit of creditors.
  - (H) If any court of competent jurisdiction, the FCC, or any

state regulatory body by rule, decision or other action determines that any material provision of the Special Use Permit Agreement or of this Ordinance is invalid or unenforceable.

- (I) If the Grantee violates any order or ruling of any regulatory body having jurisdiction over the Grantee unless the Grantee is lawfully contesting the legality or applicability of such order or ruling.
- (J) If the FCC or State of Wisconsin denies the Grantee permission to operate the broadband communications system for which the Special Use Permit was granted or if such permission is revoked at any time.

(2) REVOCATION PERMIT.

- (A) The Board may revoke a Special Use Permit upon the occurrence of any one or more events enumerated in Section 19(1). In all such cases, however, the Grantee shall have the right to request a hearing at which it may be represented by counsel.
- (B) Notice. Prior to revoking any Special Use Permit the Board shall notify the Grantee, in writing, of the facts which constitute cause for revocation. The Grantee shall have thirty (30) days from the date of such notice to remedy the violation or default or to request a hearing with respect to the proposed revocation. If the Grantee fails to remedy the violation or default or to request a revocation hearing within such thirty (30) days, the Board may revoke the Special Use Permit.
- (C) Request for Hearing. A Grantee may obtain a revocation hearing by filing a written request for a hearing with the Town Clerk. The request shall identify the Grantee and shall set forth the Grantee's response to the grounds for revocation specified in the notification and any other matter which the Grantee deems relevant to a full consideration of the issues.
- (D) Revocation Hearing. The Board shall set a date for a public hearing which shall not be less than ten (10) days nor more than twenty-one (21) days following the filing of the Grantee's request for hearing. At the hearing, the proponent of the revocation shall present its testimony and the evidence first. The Grantee, who may be represented by counsel, shall then have the opportunity to be heard in person and to present witnesses and testimony on its behalf. Both the



proponent of the revocation and the Grantee shall have the right to cross-examine adverse witnesses and to compel the attendance of witnesses by subpoenas which shall be issued by the Town Chairman upon request.

- (E) Sanctions. If grounds for the revocation of the Special Use Permit exist, the Board may pass a resolution imposing a lesser penalty or sanction, upon the Grantee provided that such lesser penalty or sanction is agreed to by the Grantee.
- (F) Findings Required. The Board shall reduce its finding and determinations to writing and shall file them with the Town Clerk within ten (10) days of the hearing. The Clerk shall forward a copy thereof to the proponent of the revocation action and to the Grantee by certified mail with return receipt requested.

Section 20: Purchase Rights of the Town

(1) TRANSFER OF INTEREST.

- (A) Upon the receipt of an application to transfer a Special Use Permit or upon the receipt of an application for consent to any transfer described in Section 3(8), the Town shall have the right to purchase the interest in the Broadband Communication Network which is to be transferred for the fair market value thereof.
- (B) The fair market value of the interest being transferred shall be the amount offered for such interest by the person, corporation or entity seeking to acquire such interest provided the offer was made in good faith, reflects an arm's length transaction, and is not the result of any collusion.
- (C) The Grantee shall file and executed copy of the offer to purchase the interest proposed to be transferred with the application for consent to such transfer. The Town Board shall have forty-five (45) days, commencing upon the date of such filing, to notify the Grantee in writing of its intention to purchase such interest. If the Town does not timely elect to purchase such interest, or elects not to purchase such interest. If the Town does not timely elect to purchase such interest, or elects not to purchase such interest, or is unable to obtain any authorization or financing necessary to purchase such interest within a reasonable time, the Grantee may sell such interest to the person, corporation, or entity which submitted the offer for the exact price and upon the exact terms and conditions

set forth in the offer; and, in such event, the Town shall not unreasonable withhold its approval of the requested transfer of the Special Use Permit or interest in the Broadband Communications Network so long as:

- (i) the proposed transferee meets all requirements of this ordinance regarding the ownership and operation of a Broadband Communications Network; and
- (ii) the Offer to Purchase was made in good faith, reflects an arm's length transaction and was not the result of collusion; and,
- (iii) the proposed transfer will not adversely affect the operation and maintenance of the Broadband Communications Network or the quality and level of service provided to the subscribers.

(2) EXPIRATION OR REVOCATION OF PERMIT.

- (A) In the event that a Grantee elects not to apply for renewal of its Special Use Permit; or in the event such renewal is denied for good reason or in the event that its Special Use Permit is revoked and the permit is issued to a new grantee, the Town or the new grantee, whichever is applicable, shall have the right to purchase the Broadband Communications Network for the fair market value thereof.
- (B) If the market cannot be agreed upon by the Grantee and the Town or the new grantee, as the case may be, it shall be determined by a panel of arbitrators consisting of three persons. The Grantee and the Town Board or the new grantee, as the case may be, shall each appoint an arbitrator of their choice to such panel and the two arbitrators so chosen shall select the third member of the panel. The arbitration procedure shall be in accordance with the provisions of Chapter 298 of the Wisconsin Statutes and the amount which the arbitration panel determines to be the fair market value of the system shall be the price at which the Town or the new grantee may purchase the system. In determining the fair market value of the interest being transferred, the arbitrators shall include the depreciated value of the real property, plant, equipment and facilities of the Broadband Communications Network reduced by the amount of any lien, encumbrance, or obligations which the Town may assume and agree to pay; shall include the value of any

subscriber contracts; but shall not include any amount for good will or for the value of the Special Use Permit or of any right or privilege created by this Ordinance. The expense of the arbitration proceeding shall be shared equally by the Town or new grantee and the Grantee.

- (C) Payment for the Broadband Communications Network shall be made within one hundred twenty (120) days after the date that the fair market value of the system is determined by negotiation or arbitration.

Section 21: Protection of Individual Rights

- (1) **DISCRIMINATORY PRACTICES PROHIBITED.** No grantee shall deny service, deny access, or otherwise discriminate against subscribers, programmers, or the general public on the basis of race, color, religion, national origin, creed, or sex.
- (2) **EMPLOYMENT PRACTICES OF GRANTEES.** In the carrying out of the construction, maintenance and operation of its Broadband Communications System, a Grantee may not discriminate against any employee or applicant because of race, creed, color, religion, sex, or national origin. Grantee shall strictly adhere to the equal employment opportunity requirements of the FCC as expressed in Sections 76.13(a)(8) and 76.311 of Chapter 1 of Title 47 of the Code of Federal Regulations. Grantees shall comply at all times with all other applicable federal, state, town and county laws, and all executive and administrative orders relating to non-discrimination in employment.
- (3) **CABLE MONITORING.** Neither a Grantee nor any governmental bureau, department, unit, agency or entity, at the federal, state, county, or local level, nor any other person or entity, shall monitor, or arrange for the monitoring of, any cable, line, signal input device, or subscriber outlet or receiver for any purpose whatsoever except to the extent necessary to provide the services subscribed for.
- (4) **RIGHT OF PRIVACY.** No Grantee shall transmit any signal to or from any dwelling or other building without the express authorization of the owner of said dwelling or building, provided that where the owner has leased such dwelling or building or a portion thereof, authorization shall be obtained from the lessee and not from the owner.
- (5) **RIGHTS OF TENANTS.**
  - (A) An owner or operator of an apartment building, condominium, nursing home, hospital, mobile home park or any other multiple dwelling unit or rental facility

shall not interfere with or charge any fee for the installation of cable facilities for the use of a lessee, tenant, or resident of said property of premises, except that such owner or operator may require:

1. Installation to conform to reasonable conditions necessary to protect safety, appearance and function of the premises;
  2. A Grantee, occupant or tenant to pay the installation, operation or removal of such facilities;
  3. A Grantee, occupant or tenant to agree to indemnify the owner or operator for any damages caused by the installation, operation or removal of such facilities.
- (B) It shall be unlawful for any Grantee to make or offer to make, or for any such owner or operator to demand or receive any payment for permitting a Grantee to install the facilities or equipment necessary to connect such premises to the broadband communications system.
- (C) No such owner or operator may discriminate in the amount of rent charged to tenants or occupants who receive cable services and to those who do not.
- (D) No Grantee shall take any actions which would diminish or interfere with the privilege of any owner, tenant, or other occupant of any such building to use or avail themselves of master or individual antenna equipment.
- (6) SALE OF SUBSCRIBER LISTS PROHIBITED. No Grantee shall sell, or otherwise make available, lists of the names and addresses of its subscribers, to any person, agency, or entity, for any purpose whatsoever.

Section 22: Compliance to Laws and Public Regulations.

Each Grantee shall at all times during the term of its Special Use Permit be subject to and comply with: any and all ordinances which the Town has adopted or shall hereafter adopt; and all state and federal statutes, rules and regulations applicable to the cable communications services provided by the Grantee. In the event any valid statute, rule, or regulation adopted by any state or federal governing authority, including, but not limited to the Federal Communications Commission, contravenes any provision of this ordinance, then such provision shall be supersede by and to the extent that it is in conflict with and contrary to, such statute, rule, or regulation.

Section 23: Rights of the Town

- (1) **RIGHT TO AMEND ORDINANCE.** The Board may from time to time, add to, modify or delete provisions of this ordinance as it shall deem necessary in the exercise of its regulatory powers provided that such additions or revisions are reasonable and do not place an undue financial burden on the Grantee. Such additions or revisions shall be made only after a public hearing for which the Grantee shall have received written notice at least thirty (30) days prior to such hearing. If any court of competent jurisdiction, the FCC, or any state regulatory body by rules, decision, or other action determines that any material provision of the franchise documents, including this ordinance, is invalid or unenforceable, such material provision may be amended as herein provided.
- (2) **RIGHT TO CONDEMN.** Nothing herein shall be deemed or construed to impair or affect the right of the Town to acquire any property of a Grantee through the exercise of the right of eminent domain when the exercise of such right is necessary or convenient to the performance of Town services. Property acquired through the exercise of the right of eminent domain shall be at a fair and just value, which shall not include any amount for the Special Use Permit or for any of the rights or privileges granted therein.
- (3) **RIGHT TO INTERVENE.** The Town shall have the right to intervene in any suit or proceeding to which the Grantee is a party.
- (4) **RIGHT TO EXERCISE GOVERNMENTAL POWERS.** Neither the granting of any franchise nor any provision governing the franchise shall constitute a waiver or bar to the exercise of any governmental right or power of the Town.
- (5) **RIGHT TO INSPECT AND COPY RECORDS.** The Town shall have the right to inspect and copy, during normal business hours and upon reasonable notice, the contracts, engineering plans, accounting, financial data, and service records relating to the property and the operations of any Grantee and to all records it is required to keep under the provisions of this Ordinance. Nothing contained herein shall prevent the Grantee from enjoining the Town from reviewing documents relating to proprietary interests not related to its operation under this ordinance in the Town's regulatory program.
- (6) **RIGHT TO INSPECT AND TEST.** The Town shall have the right to inspect any construction or installation work performed by a Grantee, its agents, servants, employees, contractors, or

subcontractors pursuant to its Special Use Permit Agreement of this ordinance to determine whether it complies with the terms thereof and shall have the right to perform, from time to time such tests and inspections, as may be necessary to assure continuing compliance.

- (7) USE OF FACILITIES. The Town shall have the right to install and maintain, free of charges, wires, fixtures, or equipment upon the poles or within the conduits of any Grantee provided such installation and maintenance will not interfere with the services of the Grantee.

Section 24: Protection of Grantee's Equipment

- (1) TAMPERING WITH EQUIPMENT PROHIBITED. No person shall intentionally damage or cause to be damaged any wire, cable, conduit, apparatus, equipment or facilities belonging to any Grantee, or tap, tamper with, or connect any wire or device to any wire, cable, conduit, apparatus, equipment, or facilities, belonging to any Grantee with the intention of obtaining a signal or impulse therefrom without the written consent of the Grantee.
- (2) REMOVAL OF EQUIPMENT PROHIBITED. No person shall move, remove, disconnect, interfere with, or render inoperable any wire, cable, conduit, apparatus, equipment, or facilities belonging to any Grantee without the written consent of the Grantee.
- (3) EXCEPTIONS.
- (A) This section shall not prohibit a public utility from removing, disconnecting, or otherwise rendering inoperable, any apparatus or equipment attached to or in any way connected to its facilities if done for reasonable cause.
- (B) This section shall not prohibit the Town from moving, removing, disconnecting, or otherwise rendering inoperable any equipment, apparatus, or facilities belonging to a Grantee when it is necessary to do so because of fire, storm, accident, disaster, or other emergency.

Section 25: Penalties for Violations

Any person, firm, or corporation violating the provisions of sections 3(1), 13, 14, 21, 22 or 24 of this ordinance shall, upon conviction thereof, be subject to a forfeiture of up to \$500 for each violation. Each violation and each day on which a violation occurs or continues shall constitute a separate offense.

Section 26: Severability

The provisions of this ordinance are severable. If any provision of the ordinance is invalid, or if its application to any person or circumstance is invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application.

Section 27: Effective Date

This ordinance shall take effect on the day after its publication as provided by law.

Section 28: Definitions

In Chapter 15, the following terms, words, and phrases shall have the designated meaning unless a different meaning is expressly provided or clearly indicated by the context:

- (1) ADDITIONAL SERVICE. Any service provided to a subscriber by a Grantee other than its basic service for which a special charge is made.
- (2) ACCESS CHANNELS. The channels which a Grantee is required to provide by section 10(2) of this ordinance.
- (3) ANNUAL GROSS SUBSCRIBER REVENUES. All revenues received by a Grantee, its affiliates or subsidiaries, from and in connection with the provision of the services, disconnect and reconnect fees, fees for regular cable benefits including access and origination channels, and other special fees associated with regular subscriber services on a Broadband Communications Network in the Town of Dunn, Wisconsin. The term does not include leased channel revenues.
- (4) BASIC SERVICES. The simultaneous delivery by a Grantee to its subscribers of all broadcast and nonbroadcast channels which it is required to provide by its Special Use Permit Agreement and which is included in the regular monthly charge paid by all subscribers.
- (5) BOARD. The Dunn Town Board.
- (6) BROADBAND COMMUNICATIONS NETWORK (BCN). Any network of cables, optical, electrical, or electronic equipment, including cable television systems, used for the transmission of electrical signals of television, radio and other intelligences, either analogue or digital, for sale or use by the inhabitants of the Town.
- (7) BCN CHANNEL CAPACITY. The highest total number of cable

television channels on which television signals from separate sources may be delivered downstream simultaneously to every subscriber in the network. The network may have additional channel capacity for specialized or discrete purposes, but the technical performance specified shall not materially degraded thereby.

- (8) CHANNELS. A group of frequencies in the electromagnetic spectrum capable of carrying an audio-data or audio-visual television signal. Each channel is a block of frequencies containing 6 MHz bandwidth.
- (9) CONVERTER. Any electronic device which converts signals to a frequency not susceptible to interference within the television receiver of a subscriber and by an appropriate channel selector also permits a subscriber to view all signals delivered at designated dial locations.
- (10) COMMENCE OPERATION. That point in time when sufficient distribution facilities have been installed so as to permit immediate subscription by and network service to at least seventy-five percent (75%) of the dwelling units located within the initial service area of a Grantee.
- (11) COMMISSION. The Dunn Area Cable Regulatory Commission.
- (12) DOWNSTREAM. The direction of the transmission over the BCN from the head end or hub to a subscriber's terminal.
- (13) EDUCATIONAL ACCESS CHANNEL. The channel which the Grantee is required to provide by section 1(2)(B) of this ordinance.
- (14) FCC. The Federal Communications Commission and any legally appointed or elected successor.
- (15) FULL NETWORK SERVICE. All basic services and additional services offered by a Grantee.
- (16) GRANTEE. Any person, corporation, partnership or entity of any sort to whom a Special Use Permit has been issued pursuant to this ordinance.
- (17) HEAD END. The land, electronic processing equipment, antennas, tower, building and other appurtenances normally associated with and located at the starting point of a BCN.k.
- (18) MONITOR. To observe a one-way or two-way communication signal without the express prior consent of the subscriber receiving or sending said communication signal, whether said signal is observed by visual or electronic means, for any purpose whatsoever.



- (19) MUNICIPAL ACCESS CHANNEL OR GOVERNMENT ACCESS CHANNEL. That channel which the Grantee is required to provide by section 10(2)(A) of this ordinance.
- (20) PUBLIC ACCESS CHANNEL. That channel which the Grantee is required to provide by section 10(2)(B) of this ordinance.
- (21) PUBLIC NOTICE. The publication of a proposed action, inquiry, or proceeding in a daily or weekly newspaper of general circulation serving the Town at least fourteen (14) days prior to such action, inquiry, or proceeding.
- (22) REASONABLE NOTICE. Notice of any contemplated action given at least forty-eight (48) hours prior to such actin.
- (23) SERVICE AREA. That geographical area within the legal limits of the Town specified in the Special Use Permit Agreement throughout which a Grantee is authorized and required to provide its services.
- (24) STATE. The State of Wisconsin.
- (25) STREET. Any street, roadway, highway, avenue, lane, alley, court, place, square, curb, sidewalk, easement, right-of-way, or other public way in the Town which has been or may hereafter be dedicated and open to public use.
- (26) SUBSCRIBER. Any person, firm, company, corporation, or association receiving either basic service or additional service from a Grantee under the schedule of charges filed with and approved by the Town.
- (27) THE GRANTEE'S SYSTEM; THE SYSTEM; OR THE BROADBAND COMMUNICATIONS SYSTEM. Any broadband communications system constructed or operated by a Grantee pursuant to a Special Use Permit Agreement issued by the Town.
- (28) TOWN. The Town of Dunn, its officers and employees unless otherwise specifically designated, the area within the territorial limits of the Town, and such territory presently outside the Town limits over which the Town may assume jurisdiction or control by virtue of any boundary adjustment.
- (29) UPSTREAM. The direction of transmission over the BCN from a subscriber terminal to the network head end or hub.
- (30) USER. A person utilizing a channel for purposes of production or transmission of material, as contrasted with receipt thereof, in a subscriber capacity.

The Town of Dunn does hereby amend and waive certain provisions (listed below) of the Broadband Communications Ordinance Chapter 11-8 for the exclusive proposed service area of the U.S. Cable of Viking (page 5-10 Section 4(C) Application).

Page

- 9 Section 4(1)(D) Refer to Page 15-23 Section 10(1) Amended.
- 9 Section 4(1)(L)f Delete Sentence beginning, "If  
Line 3 applicant..."
- 10 Section 4(1)(M)f Delete
- 10 Section 4(L)(N) Acceptance of letter from U.S.  
Cable Corporation dated March 18, 1981.  
(Waiver)
- 11 Section 5 Refer to Page 15-40 Section 18(2)  
Amended.
- 13 Section 6(3) SECURITY FOR PERFORMANCE--The grantee shall furnish security in the form of a bond, certificate of deposit, certified check or an irrevocable letter of credit in the amount of Twenty Thousand Dollars (\$20,000) to the Town, provided, however, that when full service is available throughout the Grantee's service area, the security may be reduced to Ten Thousand Dollars (\$10,000). The security shall be in such form as is acceptable to the Town Board and shall guarantee; that the Broadband Communications Network will be constructed and cable communication services provided within the time period set forth in this agreement; that the grantee will perform as agreed herein; and that the grantee will comply with all statutes, ordinances, and regulations applicable to the construction, maintenance, and operation of its Broadband Communications Network. This security shall be in effect for the remainder of the special use permit period. (Eight years from date of execution of ordinance.)
- 16 Section 8(9)(A) Delete Sentence beginning, "No rate..."  
  
Insert sentence, "When the subscriber count equals or exceeds 55 percent of

the living units representing potential subscribers, then grantee shall agree and by its acceptance of the ordinance, specifically agrees to be subject to the town or other regulatory bodies having competent jurisdiction to fix just, reasonable and compensatory rates. Until that time, the grantee shall be allowed to establish its own rates for all services."

17 Section 8(10)(B)(C) Delete

18 Section 9(2)(3) Delete

18 Section 9(2) Insert, "Construction. Construction will start within forty-five (45) days after such permits, licenses and so forth have been obtained. Such construction shall be pursued, with reasonable diligence and shall be completed in Grantee's indicated service area within twelve (12) months of the effective date of the Special Use Permit."

18 Section 9(3) Insert, "Operation. Within five (5) months after construction completed grantee shall commence operations and offer basic service to not less than one-half of the dwelling units within its initial service area. Full service shall be offered throughout the initial service area within twelve (12) months of the effective date of the special-use permits."

18 Section 10(1) Delete

Insert, "Refer to Insert #1 of Application for services at date of application."

18 Section 10(2) Delete

20 Section 10(3) Delete

22 Section 10(4) Delete

23 Section 11(2)(A) Delete

Insert, "Extensions of the present cable television line shall be required only where the extensions will provide a density ratio of 40-subscribers per mile and/or 50-homes per mile. As the density ratio is less

extensions shall be required only as the monthly rates paid by subscribers to the extension will increase to such sum as will provide a return to cable system equivalent to the total rates which would be received at the ratio of 40-subscribers per mile.

EXAMPLE: Assuming an extension of one mile with 20 subscribers instead of 40, the 20-subscribers would each pay a monthly rate of \$16.00 where the standard rate is \$8.00

- 24 Section 12(C) Delete
- 25 Section 12(D) Delete
- 25 Section 12(E) Delete
- 25 Section 12(2) Delete
- 25 Section 12(3) Delete
- 28 Section 15(2) Delete

Insert, "Viking CATV Associates office is presently located at 5007 Monona Drive, Monona, WI 53716, phone number 222-7317."

- 29 Section 16(2) Delete, "forty-eight (48)"

Insert, "seventy-two (72)"

- 31 Section 18(2) Delete

Insert, "US Cable Corporation will reimburse the Town of Dunn for all reasonable and administrative and legal expenses incurred but not to exceed seven hundred dollars (\$700)."

- 32 Section 18(3)(C) Delete

Insert, "US Cable remits payments quarterly within 60-days of each quarter."

- 32 Section 18(3)(D) Delete

- 32 Section 18(3)(E) Delete

Insert, "Covenant Not to Sue. The Grantee covenants that neither it nor any of its members will ever institute or participate in, directly or indirectly, any action or

suit, at law or in equity, or institute, prosecute, or submit any claim, demand, action or cause, against the town or any of its elected, appointed or hired officials, officers, agents, servants and employees, or any of their successors, to restrain or enjoin, the collection of any payment required by the Broadband Communications Ordinance, to recover any such payment once made, or to obtain a declaration that such payment is, for any reason, excessive, unreasonable, unwarranted, illegal, or uncollectible."

40 Section 24

Delete

Insert,

Section 24:      Protection of Grantee's  
                                 Equipment

- (1) UNAUTHORIZED CONNECTIONS OR MODIFICATIONS. It shall be unlawful for any firm, person, group, company, corporation or governmental agency, without the express written consent of the Grantee to make any connection, extension or division whether physically, accoustically, inductively, electronically, or otherwise with or to any segment of a franchised Broadband Telecommunications Network for any purpose whatsoever.
- (2) REMOVAL OR DESTRUCTION PROHIBITED. It shall be unlawful for any firm, person, group, company, corporation, or governmental agency to willfully interfere, tamper, remove, or obstruct or damage any part, segment or content of a franchising Broadband Telecommunications Network for any purpose whatsoever, without the written permission of Grantee.
- (3) VIOLATION. Any firm, person, group, company, corporation or governmental agency or body convicted of a violation of this section shall for each offense forfeit a sum of not less than one-hundred dollars (\$100) nor more than five-hundred dollars (\$500) together with the cost of such prosecution. Violation of this section shall be

considered a separate offense for each twenty-four (24) hour period the violation continues following notification or discovery.

- (4) EXCEPTIONS. This section shall not prohibit a public utility from removing, disconnecting, or otherwise rendering inoperable any equipment, apparatus, or facilities belonging to a Grantee when it is necessary to do so because of fire, storm, accident, disaster, or other emergency within the limits of the law."

TOWN OF DUNN

ORDINANCE #11-9

**ORDINANCE PROHIBITING ISSUANCE  
OF ALCOHOL BEVERAGE LICENSES FOR  
NONPAYMENT OF TAXES, ASSESSMENTS AND CLAIMS**

Section 1:      License Restrictions (Delinquent taxes,  
assessments, etc...)

- (A) PREMISES. No initial or renewal alcohol beverage license shall be granted for any premises for which taxes, assessments or other claims to the Town are delinquent and unpaid.
- (B) PERSONS. No initial or renewal alcohol license shall be granted to any person:
  - (1) Delinquent in payment of any taxes, assessments or other claims owed to the Town of Dunn.
  - (2) Delinquent in payment of a forfeiture resulting from a violation of any ordinance of the Town of Dunn.
  - (3) Delinquent in payment to the State of any state taxes owed.

TOWN OF DUNN

ORDINANCE NO. 11-10A

**REPEALING AN ORDINANCE REGULATING EARTH-MOVING ACTIVITIES AND  
ESTABLISHING PERMIT REQUIREMENTS FOR EARTH-MOVING ACTIVITIES  
IN THE TOWN OF DUNN, DANE COUNTY, WISCONSIN**

WHEREAS, the Town Board of the Town of Dunn finds that Dane County Code of Ordinances Chapter 14: Manure Management, Erosion Control and Stormwater Management is more up-to-date better regulates earth moving activities than Town Ordinance 11-10;

NOW, THEREFORE, the Town Board of the Town of Dunn, Dane County, Wisconsin does ordain as follows:

1. The ordinance entitled, "An Ordinance Regulating Earth-Moving Activities and Establishing Permit Requirements for Earth-Moving Activities in the Town of Dunn, Dane County, Wisconsin" is hereby repealed.

APPROVED:



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Edmond P. Minihan  
Town Chairman

ATTEST:



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Cathy Hassinger  
Town Clerk

REPEALED: 5-15-2017

POSTED: 5-16-2017



TOWN OF DUNN

ORDINANCE 11-11

**AN ORDINANCE CREATING SECTION 11 OF CHAPTER 11  
OF THE GENERAL CODE OF ORDINANCES**

Section 1:        Purpose

This ordinance allows for issuance on a provisional basis of a license to those applying for an operators (bartenders) license for service or sale of alcoholic beverages. A provisional license may only be issued to those persons that have not completed a responsible beverage service course and exhibited proof of compliance with that training standard set forth in current Wisconsin Statute 125.17(6). A provisional license allows time to obtain training required for working without supervision of another licensed person in Class A or B business or organization.

Section 2:        Eligibility

Each applicant must be at least 18 years of age, and have completed an application form supplied by the clerk in order to be considered for approval. All arrests and convictions of the applicant shall be disclosed on the application or attached sheet. The applicant for a provisional license must present, with the application, proof that the applicant is enrolled in a training course under Section 125.17(6) (a) of Wisconsin Statutes.

Section 3:        Term

The provisional license shall be effective until a certificate or other proof of compliance with training requirements is presented to the Clerk. In no case will the provisional license be effective more than 60 days after issuance. The issuance date, final date of validity, or both shall be placed on the license form when issued.

Section 4:        Issuance

Upon written application for a provisional license, the clerk shall conduct a record check for past crimes or arrests. If the applicant has no past crimes or arrests as verified by a record check, the clerk is authorized to issue a provisional license to the applicant. In the event there is a past record of crimes or arrests relating to intoxicants the application will be denied, with the right to appeal the denial to the Town Board. In the event a person requests issuance of a provisional license extension, the clerk is authorized to issue a renewal of the provisional license extension, the clerk is authorized to issue a renewal of the provisional license upon payment of the proper fee.

Section 5:        Fee

The sum of \$15.00 is required to be paid by or for the applicant prior to license issuance. The fee for extension of a provisional license shall be \$15.00. This fee shall not exceed \$15.00 unless state law and this ordinance are amended.

Section 6:        Revocation

In the event, following issuance, it is discovered a part of the license application was false that, in the clerk's judgment, might have affected the original decision on whether or not to issue the license, including but not limited to past crimes or arrests, then the clerk may revoke said license. Upon making such a decision, the clerk shall mail or have a written notice delivered to the license holder, notifying the person of the action taken, the reason(s) for such action, and the right to have a license review hearing before the Town Board, upon the applicant's written request. When a request for a hearing is made, the board shall follow general procedures as set forth in Section 125.12, of the Wisconsin Statutes, although no complaint is required. The clerk shall notify the licensee of the board time scheduled for hearing the matter, by mail or delivery. Any mail notice in this ordinance is sufficient if mailed by first class to the last known address of the licensee, in an envelope containing the return address of the town or clerk. No request for a license hearing is valid when received past the final day the provisional license would have been effective.

TOWN OF DUNN

ORDINANCE NO. 11-12

**AN ORDINANCE REGULATING THE INSTALLATION  
AND MAINTENANCE OF HOLDING TANKS IN THE TOWN OF DUNN,  
DANE COUNTY, WISCONSIN**

Section 1

Holding tanks shall be prohibited as private sewage-systems for new construction in the Town of Dunn, except as herein authorized. Holding tanks shall be permitted if it is the only reasonable means of providing sewage service for the property.

Section 2

No person, firm or corporation shall construct or use a sewage holding tank within the Town of Dunn without first having obtained a permit therefor from the Town Board of the Town of Dunn.

Section 3

No person, firm or corporation shall be issued a permit for a sewage holding tank in the Town of Dunn unless that person, firm or corporation shall have:

- (a) Obtained any and all necessary state, county and local permits.
- (b) Complied with all applicable State, County and local laws, regulations and ordinances.
- (c) Paid all permit fees.

Section 4

Any person, firm or corporation who wishes to construct or use a sewage holding tank within the Town of Dunn shall prior to such construction or use complete and file a sewage holding tank application form with the Town Clerk. The application fee shall be \$25.00 and shall be paid at the time the application is filed with the Town Clerk.

Section 5

Any person, firm or corporation who is denied the right to install or use a holding tank by virtue of this ordinance may

appeal to the Town Board. Such appeal shall be made within 30 days of the date of denial. Following a public hearing, notice of which shall be given as a Class 1 notice, the Town Board may grant variances only in cases where all of the following are present:

- (a) Unnecessary hardship not due to the fault or omission of the applicant or owner of the lands, and
- (b) The installation of a holding tank will not pollute either ground water, subsoil water or create other pollution problems, and
- (c) Where no private sewage system other than a holding tank is feasible for a particular site.

#### Section 6

Upon the public hearing, the Town Board shall review and consider the variance application and file its decision thereon with the Town Clerk and give written notice thereof to the applicant within sixty days of the date the variance request is filed with the Town Clerk. The Town Clerk shall inform the Department of Industry Labor and Human Relations in writing of each variance granted.

#### Section 7

Any permit issued under this ordinance shall be subject to and conditioned upon the entering into and signing if a recordable agreement between all the applicants and the Town of Dunn regarding the holding tank, which agreement may include provisions regarding a bond for the property, and other requirements as determined reasonable and necessary by the Town Board.

#### Section 8

If the Town Board denies the variance application, the applicant may appeal such decision to the Circuit Court for Dane County by writ of certiorari. Such appeal shall be filed with the Clerk of Circuit Court within thirty days of the date of notice of the Town Board's action to the applicant.

#### Section 9

The Court shall direct that the variance be granted only if it finds the action of the Town Board to be arbitrary, unreasonable or discriminatory.

#### Section 10

When a public sewer service becomes available for a parcel with a permit hereunder or another form of private sewage system is permitted for such land, the waste facility shall be

disconnected from the holding tank and shall be connected to the public sewer or other form of private sewage system, and the holding tank shall be abandoned in accordance with applicable laws, regulations and ordinances, including, but not limited to, regulations of the Wisconsin Department of Industry, Labor and Human Relations. To the extent permitted by law and to avoid unnecessary hardship, the Town Board may permit exceptions to this requirement.

#### Section 11

Any permit issued under this ordinance shall be considered in effect for an indefinite period, subject to continued compliance with the conditions of the permit. Such permit shall also be subject to commencement of substantial construction of the holding tank within six months from the issuance of a permit. In the event such substantial construction shall not be commenced within such six month period, said permit shall expire, unless prior to such expiration, the permit holder shall have applied to and obtained an extension of such period from the Town Board for good cause shown.

#### Section 12

Invalidation of any part of this ordinance by a court shall not invalidate the balance thereof.

TOWN OF DUNN

ORDINANCE #11-13

**AN ORDINANCE PROVIDING PENALTIES FOR  
VIOLATING REGULATIONS REGARDING THE  
INSTALLATION AND MAINTENANCE OF HOLDING  
TANKS IN THE TOWN OF DUNN, DANE COUNTY, WISCONSIN**

The penalties for a violation of Ordinance No. 11-12, Town of Dunn, Dane County, Wisconsin, entitled An Ordinance Regulating the Installation and Maintenance of Holding Tanks in the Town of Dunn, Dane County, Wisconsin, shall be a forfeiture of \$100.00 for each violation. Each day of non-compliance shall constitute a separate violation. Further, the Town may seek a restraining Order, or any other appropriate equitable relief under the circumstances, plus the recovery of all costs of prosecution, including actual and reasonable attorney's fees.

TOWN OF DUNN

ORDINANCE #11-15

**AN ORDINANCE REPEALING AND RECREATING THE ORDINANCE  
ENTITLED "STORAGE OF JUNKED AUTOMOBILES"**

The Town Board of the Town of Dunn, Dane County, Wisconsin,  
does ordain:

- 1) That Ordinance No. 5 entitled "Storage of Junked  
Automobiles" be and the same hereby is repealed; and
- 2) That Chapter 11-15 of the General Code of Ordinances,  
entitled, "Ordinance Regulating Storage and Disposal of  
Junk/Debris in the Town of Dunn, Dane County, Wisconsin", be and  
the same is hereby recreated to read as follows:

TOWN OF DUNN

ORDINANCE #11-15

**ORDINANCE REGULATING STORAGE AND DISPOSAL OF  
JUNK/DEBRIS IN THE TOWN OF DUNN,  
DANE COUNTY, WISCONSIN**

Section 1: Title

This ordinance is entitled the "Ordinance Regulating Storage and Disposal of Junk/Debris".

Section 2: Authority

The Town Board of the Town of Dunn has the specific statutory authority, powers and duties, pursuant to the specific statutory sections noted in this ordinance and/or by its adoption of village powers under Sec. 60.10, (1988-1989) Wis. Stats., to regulate, control, license, register or permit in the Town of Dunn persons engaged in certain uses, activities, businesses and operations at certain locations in the Town of Dunn, to assess these persons with appropriate fees for the licenses, registrations or permits as noted herein and to enforce, by revocation or penalty, the provisions of these ordinances and the provisions of the licenses, registrations and permits.

Section 3: Adoption of Ordinance

The Town Board of the Town of Dunn has, by adoption of this ordinance confirmed the specific statutory authority, powers and duties noted in the specific sections of this ordinance and has established by these sections and this ordinance license, registration and permit ordinances to regulate and control, by ordinance, persons engaged in these uses, activities, businesses and operations at certain locations within the Town of Dunn, to assess these persons with appropriate fees for the licenses, registrations or permits and to enforce, by revocation or penalty, the provisions of these ordinances and the provisions of the licenses, registrations and permits.

Section 4: Definitions

The following word or words when used in this ordinance shall have the following meaning:

a) "Disposal" (of Waste) means the discharge, deposit, injection, spilling, dumping, leaking or placing of waste into land, air or water. Disposal of waste does not include generation, transportation, storage, treatment or recycling waste.



b) "Junk" means any old or scrap metal, metal alloy, synthetic or organic material, or waste, or any junked, ruined, dismantled or wrecked motor vehicle or machinery, or part thereof.

c) "Storage" (Waste) means the holding of waste for a temporary period, at the end of which period the waste is to be treated or disposed. For purposes of the ordinance, the temporary period shall not exceed five (5) days.

d) "Waste" means any solid waste, including construction waste, demolition waste, ash, sludge, refuse, rubbish, garbage and discarded recyclable materials. It also includes hazardous waste and nuclear waste or any by-product defined in Sec. 140.52, (1988-1989) Wis. Stats.

#### Section 5: Storage of Junked Automobiles

No person, firm or corporation which owns, controls, or occupies any real estate within the Town of Dunn shall permit disassembled, inoperable, unlicensed or junked vehicles to be stored or allowed to remain open to view, upon public or private property within the Town for a period in excess of five days, unless it is in connection with an automobile sales or repair business operated within a properly zoned area. Each day during which the provisions of this section are violated shall constitute a separate offense. For purposes of this section, racing cars and equipment shall be deemed unlicensed vehicles.

Every person, pursuant to Sec. 60.10, 84.31 and 175.25, (1988-1989) Wis. Stats., and this ordinance, in the Town of Dunn who shall accumulate or store junked automobiles or parts thereof within five hundred (500) feet of the center line of any Town road or within seven hundred fifty (750) feet of the center line of any county trunk, state trunk or federal highway located in the Town of Dunn shall seek and obtain a junkyard permit from the Town of Dunn.

Any person, firm, partnership or corporation now engaged in the business of accumulating or storing and leaving accumulated or stored junked automobiles or parts thereof, outside of any building on real estate within the corporate limits of the town, or within 750 feet of the center line of any state trunk or federal highway in any town may, upon application therefor to the Town Board, upon showing such facts, be granted a permit for such place of accumulation or storage; any person, firm, partnership or corporation succeeding a business now engaged in the accumulation or storage and leaving accumulated and stored junked automobiles, or parts thereof, outside of any building on real estate as hereinbefore provided may likewise be granted such permit.

#### Section 6: Waste Disposal

1) **Dumping of Rubbish Regulated.**

A) PROPERTY OWNERS NOT TO PERMIT DUMPING WITHOUT PERMIT. No person, firm or corporation owning, controlling or occupying real estate within the Town shall permit or allow the dumping of garbage, ashes, rubbish, miscellaneous wastes, manure, or other substances upon said real estate without first having been granted a permit therefor by the Town Board.

B) DUMPING PROHIBITED UNLESS AUTHORIZED. No person, firm or corporation shall dump or deposit anywhere within the Town of Dunn any garbage, ashes, rubbish, miscellaneous wastes, manure or other substances except in such places as may be authorized by the Town Board by permit.

C) DUMPING: OWNER'S CONSENT REQUIRED. No person shall dump or deposit any garbage, ashes, rubbish, miscellaneous wastes, manure or other substances upon private property unless the written consent of the owner or his/her authorized agent shall first be obtained and filed with the Town Board.

2) **Littering Prohibited.** No person shall throw or deposit any glass, can plastic or metal container, paper, refuse, waste, filth or other litter upon the streets, alleys, highways, public parks, or other public or private property within the town other than in proper receptacles intended therefor.

3) **Placing Trash for Pickup Regulated.** No person, firm or corporation shall place garbage cans, garbage bags, or other trash or recycling receptacles along any street, alley, highway, or other roadway within the Town; provided that this subsection shall not apply to the placement of such receptacles within 24 hours of a regularly scheduled time for garbage removal.

4) **Storage of Junk, Etc... Prohibited.** No person, firm or corporation shall store junk or discarded property including trucks, tractors, refrigerators, furnaces, washing machines, appliances, stoves, machinery or machinery parts, wood, bricks, cement blocks, other unsightly debris, or other items no longer used for their original purpose, except in an enclosure which houses such property from public view or upon permit issued by the Town Board.

Section 7: Exemptions

This ordinance is not to be interpreted to prevent normal functions of active farm operations so long as junk, as herein defined, is stored more than 500 feet from any roadway within the Town of Dunn and is out of public view.

Section 8: Permits

The permit issued by the Town Board shall be signed by the chairman and the clerk thereof and shall specify the quantity and

manner of storing such junk. Such permit shall be revocable at any time by the Town Board after a hearing at which it has been found that the permit holder has failed or refused to comply with the ordinances or restrictions providing regulations for the storage of such junked automobiles or parts thereof. Such hearing may be held by the Town Board of the Town of Dunn upon its own motion, or upon the complaint in writing, duly signed and verified by a complainant. Such complaint shall state the nature of the alleged failure to comply with such ordinance or regulation. A copy of the complaint together with a notice of the hearing shall be served upon the permit holder not less than 10 days previous to the date of hearing.

Section 9: Penalties

Any person, firm, partnership or corporation violating any of the provisions hereof shall upon conviction be fined not less than \$10, nor more than \$50 for each offense, and in default of payment of said fine shall be imprisoned in the county jail for a period not exceeding 30 days. Each day that junk, as herein defined, shall be stored or disposed of contrary to the provisions hereof shall constitute a separate and distinct offense.

Section 10: Effective Date

This ordinance shall take effect upon passage and publication.

Section 11: Severance Clause

The provisions of this ordinance are declared to be severable, and if any section, sentence, clause or phrase of this ordinance shall for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this ordinance; they shall remain in effect, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any part.

Adopted by a resolution of the Board at a regular meeting thereof held on \_\_\_\_\_th day of \_\_\_\_\_, \_\_\_\_\_.

TOWN BOARD OF THE TOWN OF DUNN,  
DANE COUNTY, WISCONSIN:

ATTEST:

\_\_\_\_\_, Town Clerk

\_\_\_\_\_  
Chairman  
\_\_\_\_\_

Posted:  
Effective Date:

Supervisor

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Supervisor

**Sec. 11.17 State Alcohol Beverages Statutes Adopted.**

The provisions of Chapter 125 of the Wisconsin Statutes that the Town may adopt are hereby adopted by reference and incorporated herein as if fully set forth. Any act required to be performed or prohibited by any provision incorporated herein is required or prohibited by this Section. Any future amendments to said Chapter that the Town may adopt are hereby adopted and incorporated herein as of the effective dates of those amendments.

11-17

ORDINANCE NO. 11-17 a  
TOWN OF DUNN  
DANE COUNTY, WISCONSIN

AN ORDINANCE ESTABLISHING THE OPERATOR'S LICENSE FEE

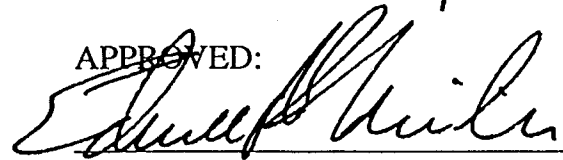
The Town Board of the Town of Dunn, Dane County, Wisconsin, do ordain as follows:

*Section 1:* Pursuant to Sec. 11.17 of the Code of Ordinances and section 125.17(3), Wis. Stats., the fee for an operator's license shall be twenty-five dollars (\$25.00).


*Section 2:* This ordinance shall take effect the day after passage and posting pursuant to law.

The foregoing ordinance was duly adopted by the Town Board of the Town of Dunn, Dane County, Wisconsin, at a meeting held on April 22, 2002.

APPROVED:

  
\_\_\_\_\_  
Edmond P. Minihan, Town Chair

ATTEST:

  
\_\_\_\_\_  
Rosalind Gausman, Town Clerk/Treasurer

4-22-02 APPROVED

4-26-02 POSTED

ORDINANCE NO. 11-18

TOWN OF DUNN  
DANE COUNTY, WISCONSIN

AN ORDINANCE CREATING SECTION 11.18.1 OF THE  
TOWN CODE OF ORDINANCES RELATING TO  
AMUSEMENT DEVICES

Pursuant to Wis. Stat. §§ 60.22, 60.23(10), and 61.34, the Town Board of the Town of Dunn, Dane County, Wisconsin hereby ordains as follows:

*Section 1:* Creation of Section 11.18.1 Section 11.18.1 of the Town Code of Ordinances, is created to provide as follows:

**Sec. 11.18.1 Amusement Device License**

- (a) **Definition.** "Amusement device" means any table, platform, mechanical device or apparatus operated or intended to be operated for amusement, pleasure, test or skill, competition or sport, the use or operation of which is conditioned upon payment of a consideration either by insertion of a coin or token in a slot or otherwise. Such amusement device shall include, but not be limited to: devices commonly known as baseball, football, basketball, hockey, pinball, shuffleboard, ray guns, or miniature bowling games; bowling alleys; coin-operated music machines; bumper games, ski-ball games; electronic video games; and billiard tables and pool tables (whether coin-operated or not). Such definition does not include a mechanical, children's amusement riding device.
- (b) **Amusement Device License.** No person, firm or corporation shall operate or keep an amusement device as defined in Subsection (a) in a commercial facility without having obtained a license from the Town Board. Application shall be made to the Clerk/Treasurer on the form provided by the Clerk/Treasurer, accompanied by a fee of Ten Dollars (\$10.00) for each amusement device. The term of the license shall not exceed one year and the license shall expire each year on June 30<sup>th</sup>. The Town Board may suspend or revoke, for cause, a license issued under this Section.

*Section 2:* Effective Date. This ordinance shall take effect the day after passage and posting or publication pursuant to law.

ORDINANCE NO. 11.19

TOWN OF DUNN  
DANE COUNTY, WISCONSIN

AN ORDINANCE CREATING SECTION 11.19.1 OF THE  
TOWN CODE OF ORDINANCES, RELATING TO  
CIGARETTE LICENSES

Pursuant to Wis. Stat. §§ 60.22, 61.34, and 134.65, The Town Board of the Town of Dunn, Dane County, Wisconsin hereby ordains as follows:

*Section 1:* Creation of Section 11.19.1 Section 11.19.1 of the Town Code of Ordinances, is created to provide as follows:

**Sec. 11.19.1 Cigarette Licenses.**

- (a) **License Required.** No person, firm or corporation shall, in any manner, or upon any pretense, directly or indirectly, upon any premises, or by any device, sell, expose for sale, possess with the intent to sell, exchange, barter, dispose of or give away, any cigarettes or tobacco products, without first obtaining a license from the Town Clerk/Treasurer as provided in this Section.
- (b) **Application for License; Fee.** Every person, firm or corporation desiring a license under this Section shall: (1) file with the Town Clerk/Treasurer a properly completed written application signed by the applicant, stating the name of the applicant, specifically describing the premises where such business is to be conducted, and stating whether the cigarettes or tobacco products will be sold, exchanged, bartered, disposed of, or given away over the counter, in a vending machine or both; (2) pay the Town Clerk/Treasurer a license fee of One Hundred Dollars (\$100.00).
- (c) **Issuance, Term, and Conditions of License.** Upon the filing of a properly completed written application and the payment of the required license fee, a license shall be issued by the Town Clerk/Treasurer. Each license shall be issued on the first day of July in each year, or thereafter whenever applied for and issued, and shall continue in force from date of issuance until the succeeding June 30<sup>th</sup> unless sooner revoked. A license shall not be transferred from one person to another or from one premises to another. Every license holder shall keep complete and accurate records of all purchases and receipts of cigarettes and tobacco products. Such records shall be preserved on the licensed premises for 2 years in such a manner as to insure permanency and accessibility for inspection and shall be subject to inspection at all reasonable hours by authorized state or local law enforcement officials.

*Section 2:* Effective Date. This ordinance shall take effect the day after passage and posting or publication pursuant to law.



BASE CHARGE  
\$100.00

## Chapter 11.20 Direct Sellers

- 11-20-1 Registration Required
- 11-20-2 Definitions
- 11-20-3 Exemptions
- 11-20-4 Registration
- 11-20-5 Investigation
- 11-20-6 Appeal
- 11-20-7 Regulation of Direct Sellers
- 11-20-8 Revocation of Registration
- 11-20-9 Effective Date

### Sec. 11-20-1 Registration Required.

It shall be unlawful for any direct seller to engage in direct sales within the Town of Dunn without being registered for that purpose as provided herein.

### Sec. 11-20-2 Definitions.

In this Chapter:

- (a) **Direct Seller** means any individual who, for him/herself, or for a partnership, association or corporation, sells goods, or takes sales orders for the later delivery of goods, at any location other than the permanent business place or residence of said individual, partnership, association or corporation, and shall include, but not be limited to, peddlers, solicitors and transient merchants. The sale of goods includes donations required by the direct seller for the retention of goods by a donor or prospective customer.
- (b) **Permanent Merchant** means a direct seller who, for at least one (1) year prior to the consideration of the application of this Chapter to said merchant:
  - (1) Has continuously operated an established place of business in this Town; or
  - (2) Has continuously resided in this Town and now does business from his/her residence.
- (c) **Goods** shall include personal property of any kind and shall include goods provided incidental to services offered or sold.
- (d) **Charitable Organization** shall include any benevolent, philanthropic, patriotic or eleemosynary person, partnership, association or corporation, or one purporting to be such, and religious organizations, including Boy Scouts, Girl Scouts, 4-H Clubs and school organizations.
- (e) **Clerk/Treasurer** shall mean the Town Clerk/Treasurer.
- (f) **Person** shall mean all humans of any age or sex, partnerships, corporations, associations, groups, organizations and any other description of a collection of human beings working in concert or for the same purpose or objective.

### **Sec. 11-20-3 Exemptions.**

The following shall be exempt from all provisions of this Chapter:

- (a) Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes;
- (b) Any person selling goods at wholesale to dealers in such goods;
- (c) Any person selling agricultural products which such person has grown;
- (d) Any permanent merchant or employee thereof who takes orders away from the established place of business for goods regularly offered for sale by such merchant within this county and who delivers such goods in their regular course of business;
- (e) Any person who has an established place of business within the School district where the goods being sold are offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested a home visit by, said person;
- (f) Any person who has had, or one who represents a company which has had, a prior business transaction, such as a prior sale or credit arrangement, with the prospective customer;
- (g) Any person selling or offering for sale a service unconnected with the sale or offering for sale of goods;
- (h) Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law;
- (i) Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of said organization, provided that there is submitted to the Town Clerk/Treasurer proof that such charitable organization is registered under Sec. 440.41, Wis. Stats., or which is exempt from that statute's registration requirements, shall be required to register under this Chapter;
- (j) Any person who claims to be a permanent merchant, but against whom complaint has been made to the Town Clerk/Treasurer that such person is a transient merchant, provided that there is submitted to the Town Clerk/Treasurer proof that such person has leased for at least one (1) year, or purchased, the premises from which he/she is conducting business, or proof that such person has conducted such business in this Town for at least one (1) year prior to the date complaint was made.

### **Sec. 11-20-4 Registration.**

(a) Applicants for registration must complete and return to the Town Clerk/Treasurer a registration form furnished by the town Clerk/Treasurer which shall require the following information:

- (1) Name, permanent address and telephone number, and temporary address, if any;
- (2) Height, weight, color of hair and eyes, and date of birth;
- (3) Name, address and telephone number of the person, firm, association or corporation that the direct seller represents or is employed by, or whose merchandise is being sold;
- (4) Temporary address and telephone number from which business will be conducted, if any;
- (5) Nature of business to be conducted and a brief description of the goods offered and any services offered;
- (6) Proposed method of delivery of goods, if applicable;

(7) Make, model and license number of any vehicle to be used by applicant in the conduct of his/her business;

(8) Last cities, villages, town, not to exceed three (3), where applicant conducted similar business just prior to making this registration;

(9) Place where applicant can be contacted for at least seven (7) days after leaving this Town;

(10) Statement as to whether applicant has been convicted of any crime or ordinance violation related to applicant's transient merchant business within the last five (5) years, the nature of the offense and the place of conviction.

(b) **Documentation.** Applicants shall present to the Town Clerk/Treasurer for examination:

(1) A driver's license or some other proof of identity as may be reasonably required;

(2) A state certificate of examination and approval from the sealer of weights and measurers where applicant's business requires use of weighing and measuring devices approved by state authorities;

(3) A state health officer's certificate where applicant's business involves the handling of food or clothing and is required to be certified under state law; such certificate to state that applicant is apparently free from any contagious or infectious disease, dated not more than ninety (90) days prior to the date the application for license is made.

(c) **Registration Fee.**

(1) At the time the registration is returned, a fee shall be paid to the Town Clerk/Treasurer to cover the cost of processing said registration. Each and every member of a group must file a separate registration form. The fee for a direct seller's, solicitor's or canvasser's license shall be: Five Dollars (\$5.00) per day; Twenty Dollars (\$20.00) per week; Fifty Dollars (\$50.00) per month; Two Hundred Dollars (\$200.00) per year. Annual licenses issued on or after July 1 shall be issued for one-half (1/2) the required fee. Transient merchants/direct sellers may employ two (2) assistants without payment of an additional license fee, but such persons must comply with the other provisions of this Section.

(2) The applicant shall sign a statement appointing the Town Clerk/Treasurer his/her agent to accept service of process in any civil action brought against the applicant arising out of any sale or service performed by the applicant in connection with the direct sales activities of the applicant, in the event the applicant cannot, after reasonable effort, be served personally.

(3) Upon payment of said fee and the signing of said statement, the Town Clerk/Treasurer shall register the applicant as a direct seller and date the entry. Said registration shall be valid for a period of one (1) year from the date of entry, subject to subsequent refusal as provided in Section 11-20-5(b) below.

### **Sec. 11-20-5 Investigation.**

(a) Upon receipt of each application, the Town Clerk/Treasurer shall, in consultation with law enforcement officials, make and complete an investigation of the statements made in such registration.

(b) The Town Clerk/Treasurer shall refuse to register the applicant if it is determined, pursuant to the investigation above, that: the application contains any material omission or materially inaccurate statement; complaints of a material nature have been received against the applicant by authorities in the last cities, villages and towns, not exceeding three(3), in

which the applicant conducted similar business; the applicant was convicted of a crime, statutory violation or ordinance violation within the last five (5) years, the nature of which is directly related to the applicant's fitness to engage in direct selling; or the applicant failed to comply with any applicable provision of Section 11-20-4(b) above.

### **Sec. 11-20-6 Appeal.**

Any person denied registration may appeal the denial through the appeal procedure provided by ordinance or resolution of the Town Board or, if none has been adopted, under the provisions of Sections 68.07 through 68.16, Wis. Stats.

### **Sec. 11-20-7 Regulation of Direct Sellers.**

#### **(a) Prohibited Practices.**

(1) A direct seller shall be prohibited from: calling at any dwelling or other place between the hours of 9:00 p.m. and 8:00 a.m. except by appointment; calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors" or words of similar meaning; calling at the rear door of any dwelling place; or remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.

(2) A direct seller shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any goods offered for sale, the purpose of his/her visit, his/her identity or the identity of the organization he/she represents. A charitable organization direct seller shall specifically disclose what portion of the sale price of goods being offered will actually be used for the charitable purpose for which the organization is soliciting. Said portion shall be expressed as a percentage of the sale price of the goods.

(3) No direct seller shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.

(4) No direct seller shall make any loud noises or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside a one hundred (100) foot radius of the source.

(5) No direct seller shall allow rubbish or litter to accumulate in or around the area in which he/she is conducting business.

#### **(b) Disclosure Requirements.**

(1) After the initial greeting and before any other statement is made to a prospective customer, a direct seller shall expressly disclose his/her name, the name of the company or organization he/she is affiliated with, if any, and the identity of goods or services he/she offers to sell.

(2) If any sale of goods is made by a direct seller or any sales order for the later delivery of goods is taken by the seller, the buyer shall have the right to cancel said transaction if it involves the extension of credit or is a cash transaction of more than Twenty-five Dollars (\$25.00), in accordance with the procedure as set forth in Sec. 423.203, Wis. Stats.; the seller shall give the buyer two (2) copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of Sections 423.203(1)(a)(b) and (c), (2) and (3), Wis. Stats.

(3) If the direct seller takes a sales order for the later delivery of goods, he/she shall, at

the time the order is taken, provide the buyer with a written statement containing the terms of the agreement, the amount paid in advance, whether full, partial or no advance payment is made, the name, address and telephone number of the seller, the delivery or performance date and whether a guarantee or warranty is provided and, if so, the terms thereof.

**Sec. 11-20-8 Revocation of Registration.**

Registration may be revoked by the Town Clerk/Treasurer if the registrant made any material omission or materially inaccurate statement in the application for registration, made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales, violated any provision of this Chapter or was convicted of any crime or ordinance or statutory violation which is directly related to the registrant's fitness to engage in direct selling. The registrant may appeal such revocation pursuant to Section 11-20-6.

**Sec. 11-20-9 Effective date**

This ordinance shall take effect the day after passage and posting or publication pursuant to law.

The above and foregoing ordinance was adopted by the Town Board of the Town of Dunn at its meeting held on September 17, 2007.

TOWN OF DUNN

By Edmond P. Minihan  
Edmond P. Minihan, Chairman

ATTESTED: Rosalind Gausman  
Rosalind Gausman, Clerk Treasurer

Approved: 9/17/2007  
Posted: \_\_\_\_\_



ORDINANCE #11-21  
TOWN OF DUNN  
AN ORDINANCE CREATING CHAPTER 11-21 OF THE GENERAL CODE OF  
ORDINANCES TO REGULATE BLASTING WITHIN THE TOWN OF DUNN

The Town Board of the Town of Dunn, Dane County, Wisconsin does ordain that Chapter 11-21 of the General Code of Ordinances entitled "Town of Dunn Blasting Ordinance" be and the same is hereby created to read as follows:

Section I: Title

This ordinance shall be cited as the "Town of Dunn Blasting Ordinance" and hereinafter referred to as "this ordinance".

Section II: Authority

This ordinance is adopted to protect the public health, safety and welfare of residents of the Town of Dunn. This ordinance is authorized by the powers granted to the Town of Dunn by the Town's adoption of Village powers under sec. 60.10(2)(c), Wis. Stats., and is in accord with sec. 61.34 (1), Wis. Stats., and Wis. Admin. Code SPS 307.

Section III: Purpose and Intent

The purpose of this ordinance is to regulate the use of explosives in non-metallic mining operations and in demolition of structures that require, at a minimum, a class 3 blaster's license under Wis. Admin. Code SPS 305.20 and issued by the Wisconsin Department of Safety and Professional Services. This ordinance is intended to limit the adverse effects of blasting on persons or property outside any controlled blasting site area.

Section IV: Definitions

When used in this ordinance, the terms below shall be defined and limited as follows:

- (A) Affected building or structure. A building or structure within a distance extending 1,000 feet from the outer perimeter of a controlled blasting site area.
- (B) Airblast. An airborne shockwave resulting from the detonation of explosives.
- (C) Baseline Record. Pre-blasting test results, including well test results, of record that are measured after the longest period with no blasting activity.
- (D) Blast area. The area of the blast as determined by the blaster in charge within the influence of flying rock missiles, the emission of gases, and concussion as determined by the blaster in charge.

- (E) Blast site. The area where explosive materials are handled during the loading of blast holes, including 50 feet in all directions from the perimeter formed by the loaded blast holes and 50 feet in all directions along the full depth of the blast hole.
- (F) Blaster. Any individual holding, at a minimum, a valid class 3 blaster's license issued by the Wisconsin Department of Safety and Professional Services as defined in Wisconsin Administrative Code SPS 305.20(1)(b). The blaster shall also hold any other licenses required by law to conduct blasting and related activities in the Town. (Refer to Exhibit A: Wisconsin Administrative Code SPS 305.20)
- (G) Blaster in charge. The qualified person in charge of and responsible for loading and firing the blast.
- (H) Blasting. The use of explosives to loosen, penetrate, move or shatter masses of solid materials.
- (I) Controlled blasting site area. An area that surrounds a blast site for which the operator has a legal right and duty to take all reasonable means to assure the safety of persons and property, either because the operator owns the area, because the operator has leased or has some special agreement with the owner of that area, or because the operator or blaster owes a special duty to other persons or property under other applicable regulations or laws.
- (J) Ground vibration. A shaking of the ground caused by the elastic wave emanating from a blast.
- (K) "Nonmetallic mining" or "Nonmetallic mining operation." These terms as used in this ordinance can refer to any of the following:
  - (1) Extraction from the earth of mineral aggregates or nonmetallic minerals for off-site use or sale, including drilling and blasting as well as associated activities such as excavation, grading and dredging of such materials.
  - (2) Manufacturing or processing operations that may involve the use of equipment for the crushing, screening, separation, or blending of the mineral aggregates or nonmetallic minerals obtained by extraction from the mining site or with materials transferred from off-site.
  - (3) Manufacturing processes aimed at producing nonmetallic products or by products of such manufacturing processes for sale or use by the operator.
  - (4) Stockpiling of nonmetallic products for sale or use off-site and stockpiling of waste materials.
  - (5) Transport of the extracted nonmetallic materials, finished products or waste materials to or from the extraction site.
  - (6) Disposal of waste materials.



- (7) Reclamation of the extraction site.
- (L) Operator. The individual or business entity conducting blasting activities, applying for a permit to blast, or operating a non-metallic mining operation.
- (M) "Permit" or "Blasting Permit" or "Permit to Blast." A permit to engage in blasting or other activities authorized under this Ordinance.
- (N) Town. The Town of Dunn, Dane County, State of Wisconsin.
- (O) Town Board. The Town Board of the Town of Dunn.
- (P) Town Clerk. The Clerk/Treasurer of the Town of Dunn.

Section V: Applicability

No person, business or other entity may conduct blasting activities within the Town of Dunn, without first obtaining a valid permit in accordance with the requirements of this Ordinance and any other applicable state, federal or local law, statute or regulation.

- (A) This ordinance shall apply:
  - (1) To any person who blasts in the Town of Dunn in order to establish a footing, foundation, or other method of support for the construction, placement or erection a structure.
  - (2) To any person who conducts blasting in the Town of Dunn as part of a non-metallic mining operation.
  - (3) To any person who blasts in the Town of Dunn in order to demolish buildings or other structures when these projects require, at a minimum, a class 3 blaster's license under Wis. Admin. Code SPS 305.20 and issued by the Wisconsin Department of Safety and Professional Services.

Section VI: The Application

- (A) Applications for a permit to blast shall require an individual who holds a valid blaster's license issued by the Wisconsin Department of Safety and Professional Services with the proper classification to affix their signature accepting responsibility for the blasting activity and its compliance with local and state regulations.
- (B) Applications for a blasting permit may be submitted by and issued to a blasting business entity, provided that an individual who holds a valid blaster's license issued by the Wisconsin Department of Safety and Professional Services with the proper classification supervises the blasting activities.

- (C) Applications for a blasting permit shall require, all necessary Town, County and State permits and compliance with all Town, County and State regulations, including but not limited to, the requirements of this ordinance.
- (D) The applicant shall submit a completed application form together with all additional, required documentation to the Town Clerk.
- (E) The application shall include the following information on the form itself or on documents attached to the form:
  - (1) Applicant name including all individuals of a partnership, and officers of a corporation including a limited liability corporation, license number, address, contact phone numbers, and email address of the applicant.
  - (2) Signature indicating acceptance of responsibility for blasting activity, by an individual who holds a valid blaster's license issued by the Wisconsin Department of Safety and Professional Services with the proper classification. Name, address, license number, contact phone numbers, and email address of the blaster in charge of the blast, if different than the applicant.
  - (3) Name, address, contact phone numbers, and email address of any person (agent or employee) in charge of the operation who will respond to inquiries by the town.
  - (4) A map showing the location of the blasting site and a description of the operation at the site, including the location of all buildings located within 1,000 feet of the controlled blasting site, names, addresses and contact information of owners of those buildings.
  - (5) Proof of financial assurance. Applicant shall provide proof of financial assurance as more specifically set forth in the proof of insurance section in Section XIV of this Ordinance.
- (F) An application shall be regarded as "complete" only when all of the information requested in Section VII(E)(1-5) of this ordinance has been provided to the Town Clerk on the application form, or on attachments to the application form.

Section VII: Blasting Limits

- (A) Blasting operations including a blasting site located any distance from a residence, private well, or inhabited structure that is not owned or controlled by the Operator:
  - (1) Shall not exceed ground vibration resulting from Operator's blasting of 0.30 inches per second on at least 85% of its blasts within any single calendar year, measured at the residence or inhabited structure closest to the site of the blast which is not owned or controlled by the Operator, and, shall not exceed ground vibration resulting from Operator's blasting of 0.40 inches per second on any blast within any single calendar year, measured at the residence or inhabited structure closest to the site of the blast that is not owned or controlled by the Operator.

Notwithstanding any other provision in this subsection, the Operator shall not exceed the ground vibration limitation imposed by the Wisconsin Department of Safety and Professional Services in Figure 7.44 of Chapter SPS 307, or 0.65 inches per second, whichever is more restrictive, on any blast; and

- (2) Airblast resulting from Operator's blasting shall not exceed 123 dB on at least 85% of its blasts within and single calendar year, measured at the residence or inhabited structure closest to the site of the blast that is not owned or controlled by the Operator, and, airblast shall not exceed 128 dB on any blast within a single calendar year. Notwithstanding any other provision in this subsection, the Operator shall not exceed the airblast limitation imposed by the Wisconsin Department of Safety and Professional Services in Chapter SPS 307 on any blast.

#### Section VIII: Pre-blasting Survey

- (A) Prior to obtaining a blasting permit, the applicant shall notify, in writing, all residents or owners of buildings or other structures (including, but not limited to, wells) located within 1000 feet from the blasting site that the applicant intends to apply for a blasting permit from the Town of Dunn. The written notification shall include a statement indicating that, upon the written request, the applicant will perform a pre-blasting survey, which would provide a baseline record of the pre-existing condition of building or structures against which the effects of blasting can be assessed, and which would include both the interior and exterior of the buildings. The notice shall indicate that no survey will be done unless the resident or owner makes a written request for the pre-blast survey and a water quality test for existing wells. The resident or owner shall make any request for a pre-blast survey or water quality test to the applicant, in writing. The applicant shall conduct a pre-blast survey only of requested dwellings or structures and conduct water quality testing for existing wells at the applicant's expense.
- (B) If the resident or owner requests a copy of the well test, then, within 48 hours of the request, the operator shall provide the copy.
- (C) The Town reserves the right to require a baseline well pre-blast test and/or any post-blast well testing at any well being used, not owned by the operator, within 1000 feet of the blast site.
- (D) Any pre-blast water quality and sediment testing shall be conducted by an independent survey company and a laboratory approved by the State of Wisconsin or an organization selected by the applicant and acceptable to the Town. Reasonable and reasonably related costs of such independent survey shall be the sole responsibility of the Operator. A pre-blasting well test conducted after a period of at least 180 days with no blasting shall establish a baseline for well test values.

#### Section IX: Procedures

Upon receipt of a completed application form and the permit fee(s), the Town Clerk shall place the application on the agenda for the next meeting of the Town Board. The Town Board shall review the application. If it determines that the permit application is complete and the proposed

blasting activity will comply with all the applicable provisions of this ordinance, the Town Board may grant a blasting permit. If the Town Board determines that the application is incomplete or that the proposed blasting activity will not be conducted in conformity with the provisions of this ordinance or Wis. Administrative Code SPS 307, the Town Board may deny the permit.

Section X: Notification of Blasting

Notification must be given to the following persons and by the following means at least 24 hours prior to the initial blasting at a blast site as well as prior to all subsequent blasting events at the blast site:

- (A) At least 24 hours prior to initial blasting at a blast site, the Operator shall notify all residents or owners of affected buildings. The blaster shall make all reasonable efforts to ensure timely and effective notice that a blasting operation is to begin, using such means as a written notice, a phone call, email or verbally in person.
- (B) A resident call list shall be established for the purpose of notifying persons living in the vicinity of the blast site at least 24 hours prior to a blasting event. A resident shall be placed on this call list only upon request to be so listed and called. The call list must be maintained and used by the Operator prior to any blast.
- (C) Whenever blasting is being conducted in the vicinity of gas, electric, water, fire alarm, telephone, telegraph or steam utilities, these utilities shall be notified no less than 72 hours prior to commencing blasting.
- (D) Verbal (in person or by phone) or written (on hard copy or email) notice shall be given to the Town of Dunn at least 24 hours prior to the onset of any blasting event. If a schedule including dates and times of blasting events is known at the time of application, making that schedule part of the application may serve as written notice. If part of the application form, further notice shall be required only if there is deviation from the schedule.

Section XI: Blasting Schedule

All blasting and crushing operations shall be conducted between 8:00 am and 4:00 pm, Monday through Friday, unless the following condition applies:

The Town Board has granted a variance from blasting hours for a temporary or occasional event reasonably needed for business purposes. Extended hours on weekdays or the hours of 9:00 am to 2:00 pm on Saturdays may be granted by variance.

Section XII: Blasting Log

An accurate blasting log shall be prepared and maintained for each blast fired, and a true and complete copy of this log shall be kept by the Operator for a period of not less than 5 years and furnished to the Town of Dunn within 3 working days of a request for a copy of said log by the Town Clerk or Town Board. The Town of Dunn may require that the Operator furnish an analysis of any particular blasting log to be prepared by the Operator. Each blasting log shall include, but not be limited to, the following information:

- (A) Name, signature and license number of the blaster in charge of the blast.
- (B) Specific blast location, including address, bench and station number if applicable.
- (C) Type of blasting operation.
- (D) Date and time of the blast.
- (E) Weather conditions at the time of the blast.
- (F) Diagram of the blast layout and the delay pattern.
- (G) Number of holes.
- (H) Hole depth and diameter.
- (I) Spacing.
- (J) Burden.
- (K) Maximum holes per delay.
- (L) Maximum pounds of explosives per delay.
- (M) Number, type and length of stemming used between decks.
- (N) Total pounds and type of explosives used.
- (O) Distance to nearest inhabited building not owned by the Operator.
- (P) Type of initiation used.
- (Q) Seismographic and airblast records, which shall include all of the following:
  - 1. Type of instrument and last laboratory calibration date.
  - 2. Exact location of instrument and the date, time, and distance from the blast.
  - 3. Name of the person and firm taking the reading.
  - 4. Trigger levels for ground and air vibrations.
  - 5. The vibration and airblast levels recorded.

Section XIII: Monitoring

- (A) The Operator shall monitor all blasts at the closest location to the controlled blast area of any affected building or structure beyond the controlled blast area, provided, however, that the Operator may monitor at another location approximately the same distance from the perimeter of the controlled blast area, if the Operator is unable to obtain permission to conduct the monitoring from the owner of the preferred location.
- (B) The Town of Dunn by its Town Clerk or Town Board, may, at its discretion, require the relocation of the monitoring equipment to a more suitable site.

#### Section XIV: Financial Assurance

- (A) Each application for an explosives use permit as herein stated, or a renewal thereof, shall be accompanied by a Certificate of Insurance for a Commercial General Liability Policy against claims for bodily injury, death, or property damage arising out of the blasting operation. Said Policy of Insurance shall have limits of coverage of not less than five million (\$5,000,000.00) dollars in the aggregate and two and one-half million (\$2,500,000.00) dollars per occurrence.
- (B) Each insurance policy shall provide that it shall not be cancelled by the insurance company, except after not less than ninety (90) days' notice to the Town, in writing, by registered or certified mail. Not less than thirty (30) days prior to the expiration of the ninety (90) day notice of cancellation, the blaster must deliver to the Town a replacement insurance policy in absence of which all blasting shall cease. The liability insurance must be issued by a company licensed by the State of Wisconsin to issue the policy.

#### Section XV: Permit Durations, Renewals and Fees

- (A) A short-term permit may be issued for a single blasting event and shall be valid for 14 days from the effective date of the permit. The non-refundable fee for a temporary permit shall be as determined by the Town Board. No renewal of short-term permit will be granted within a calendar year. A regular permit is required if blasting exceeds 14 days. All provisions of this ordinance apply.
- (B) A regular permit shall be granted for a period of no more than 180 days. The non-refundable fee for a 180 day permit shall be as determined by the Town Board.
- (C) An application for a renewal of any existing regular permit shall be made at least 60 days prior to anticipated blasting and may be made 60 days prior to the expiration date of the existing permit. The Town Board, at its discretion, may meet to consider approval, denial, or alteration of a regular permit renewal.

#### Section XVI: Revocation and Suspension

- (A) The Town Board, on its own motion or following due review and investigation of a written complaint, may suspend or revoke the blasting permit for any violation of provisions or requirements of this ordinance or of other applicable State and Federal law.
- (B) In general, the Town Clerk shall provide the Operator with no less than 72 hours notice of a meeting where action to suspend or revoke the blasting permit is on the agenda. Written or verbal notice of the suspension, and of conditions that must be met to reinstate the permit, shall be promptly given to the Operator at the address contained in the application.

#### Section XVII: Penalties

In addition to reducing the permitted blasting level and the denial, suspension or revocation of a permit issued under this ordinance, any person who violates any provision of this ordinance shall

be subject to forfeiture in an amount not less than \$1,000 nor more than \$10,000 for each day of continued violation, plus the Town's legal costs, including but not limited to the cost of prosecution.

Section XVIII: Severability and Interpretation

- (A) Should any section, clause, provision or portion of this ordinance be adjudged unconstitutional or invalid, unlawful or unenforceable by a final order of a court of competent jurisdiction, including all applicable appeals, the remainder of this ordinance shall remain in full force and effect.
  
- (B) The provisions of this ordinance shall be liberally construed in favor of the Town of Dunn and shall not be construed to be a limitation or repeal of any other power now possessed or granted to the Town of Dunn.

Section XIX: No Liability for Damages

This ordinance shall not be construed as an assumption of liability by the Town of Dunn for damages because of injuries sustained or property destroyed by any person's failure to comply with the requirements set forth herein.

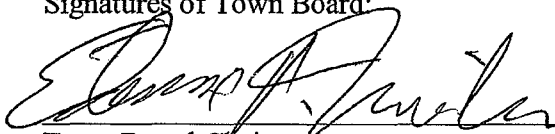
Section XX: Effective Date


This ordinance is effective on publication.

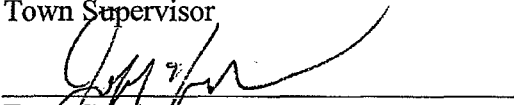
The Town Clerk shall properly publish this ordinance as required under Sec. 60.80 (2) of Wis. Statutes as a Class I Notice in a newspaper.

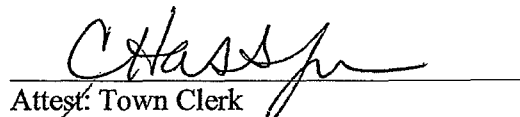
Adopted this 20<sup>th</sup> day of August, 2013.

Signatures of Town Board:

  
Town Board Chair

  
Town Supervisor

  
Town Supervisor

  
Attest: Town Clerk





ORDINANCE #11-22

TOWN OF DUNN

AN ORDINANCE CREATING CHAPTER 11-22 OF THE GENERAL CODE OF ORDINANCES TO REGULATE HIGHWAY ACCESS FOR SPECIAL EVENTS IN THE TOWN OF DUNN

The Town Board of the Town of Dunn, Dane County, Wisconsin does ordain that Chapter 11-22 of the General Code of Ordinances entitled "Town of Dunn Special Events Ordinance" be and the same is hereby created to read as follows:

Section I: Title

This ordinance shall be cited as the "Town of Dunn Special Events Ordinance" and hereinafter referred to as "this ordinance".

Section II: Authority

This ordinance is adopted to protect the public health, safety and welfare of residents of the Town of Dunn. This ordinance is authorized by the powers granted to the Town of Dunn by the Town's adoption of Village powers under sec. 60.10(2)(c), Wis. Stats., and is in accord with sec. 61.34(1), Wis. Stats., and Wis. Admin. Code SPS 307

Section III: Purpose and Intent

The Town of Dunn recognizes that Town streets and highways are primarily for the use of vehicular travel. It further recognizes a need to use these public streets and highways for processions, parades, runs, walks, bicycle races, marathons, etc., which do not substantially interfere with the public's right to travel on such streets and highways. This Chapter is intended to regulate and control non-vehicular use of the streets and highways and for protecting the general welfare and safety of the persons using the streets and highways within the Town.

Section IV: Definitions

When used in this ordinance, the terms below shall be defined and limited as follows:

- (A) Processions, parades, runs, walks, marathons, bicycle races, etc., mean their usual and customary usage.
- (B) "Highways" or "streets" have the meaning set forth in Sec. 340.01, Wis. Stats., and also include areas owned by the Town of Dunn which are used primarily for pedestrian or vehicular traffic.

Section V: Permit Requirements

- (A) Permit Required. No person shall form, direct, lead or participate in any procession, parade, run, walk, marathon, bicycle race, etc., on any street or highway under the jurisdiction of the Town unless a permit has been obtained in advance as provided in this Chapter.
- (B) Exemptions from Permit Requirement. A permit is not required for assembling or movement of a funeral procession or military convoy. Any parade, etc., sponsored by any agency of the federal or state government, acting in its governmental capacity within the scope of its authority, shall be required to obtain a permit, however shall be exempt from the parade permit fee and insurance requirements contained herein.
- (C) When Application Must Be Made. A written application for a permit for any above-described function on the streets and highways under the jurisdiction of the Town shall be made by one (1) of the organizers or officers to the Town Clerk on a form provided by said Clerk no less than forty-five (45) days prior to the usage.
- (D) Information Required in Application. The application shall set forth the following information regarding the proposed usage:
- (1) The name, address, telephone number, and email address of the individual or organization requesting use of Town roads or parks.
  - (2) A description of the event.
  - (3) The date when the usage is to be conducted and its duration.
  - (4) The number of participants expected for the event.
  - (5) A Certificate of Insurance in an amount of not less than One Hundred Thousand Dollars (\$100,000.00) for one (1) person and Five Hundred Thousand Dollars (\$500,000.00) for any one (1) accident and that shall be in force and effect at the time such usage is to take place. Said evidence of insurance shall include a certificate of insurance naming the Town of Dunn as an additional insured in connection with said usage.
  - (6) Confirmation from the Town Highway Foreman that the event will not involve lands or roads that are under construction.
  - (7) Written approval of the safety plan from the Dane County Sheriff's Department.
  - (8) If applicable, written approval from the Dane County Highway Department for permission to use County Highway MN, County Highway AB, County Highway B, and/or Highway 51.
  - (9) A safety plan that includes:

- a. Constant patrolling of the event to monitor problems
  - b. Provisions for bathrooms and water during the event
  - c. Written rules provided to all participants and the Town that require participants to keep roads open, allow automobile traffic to pass, respect private property, use only the provided bathroom facilities, and refrain from littering.
- (10) For road, bike, or foot events, a written traffic safety plan that:
- a. Includes a map of the event route or activity area.
  - b. Includes guards with safety vests, flags, and cell phone or radio stationed at each intersection and crossing.
  - c. An assurance that roads will not be closed at any time.
  - d. Includes traffic cones and warning signs placed at each intersection
  - e. Includes signs around the course at neighboring cross roads to inform traffic that an event is in progress and that extra caution is needed.

Section VI: Basis for Discretionary Denial of Permit

The application may be denied:

- (A) If it is for a usage that is to be held on a weekday during hours when and at places where, in addition to the proposed usage, the flow of vehicular traffic is usually delayed by its own volume.
- (B) If it is for a usage that is to be commenced between the hours of 9:00 p.m. and 9:00 a.m.
- (C) If sufficient supervision would not be provided as to reasonably assure the orderly conduct of the usage.
- (D) If the proposed route for conducting usage involves a street or highway under construction or detour route.
- (E) The policing of the usage will require so large a number of persons and vehicles, including ambulances, as to prevent adequate service of the needs of the rest of the municipality.
- (F) The usage will substantially hinder the movement of police and fire and other emergency vehicles as to create a substantial risk to persons and property.

- (G) The conduct of the usage will substantially interrupt the safe and orderly movement of other traffic contiguous to its route.
- (H) If participants are likely to engage in aggressive or destructive activity based on similar past events.

Section VII: Mandatory Denial of Permit

The application shall be denied:

- (A) If it is made less than forty-five (45) days in advance of the time the usage is scheduled to commence; or
- (B) If it is for a usage that is primarily for private or commercial economic gain; or
- (C) If it is for a usage which would involve violation of federal, state or local laws relating to use of highways or of other applicable regulations of the Town; or
- (D) If the granting of the permit would conflict with another permit already granted or for which application is already pending; or
- (E) If the application does not contain the information required by Section V(D) of this Ordinance; or
- (F) If more than one (1) assembly area or more than one (1) dispersal area is proposed; or
- (G) Failure to receive permit under Sec. 84.07(4), Wis. Stats.

Section VIII: Grant or Denial of Permit

- (A) **Time When Required.** The Town Clerk Treasurer shall act as promptly as he or she reasonably can on all applications for permits after consulting with other government agencies directly affected and after consulting with the applicant, if necessary. All applications filed forty-five (45) days or more in advance shall be granted or denied not less than fifteen (15) days before the date of the usage stated in the application. The Town Clerk Treasurer shall immediately, by the most reasonable means of communication, notify the applicant of such action and, if the application is denied, the reasons for denial of the permit.
- (B) **Modification of Requested Permit.** In lieu of denying a permit, the Town Clerk or Dane County Sheriff's Department may authorize the changing of assembly areas or dispersal areas or the conducting of the usage at a date or time or over a route different than as applied for in the permit. The applicant or permittee may accept such modification by immediately notifying the Town Clerk or Dane County Sheriff's Department in writing of such acceptance.

Section IX: Fee

- (A) There shall be paid at the time of filing the application a permit a fee according to the following: \$25 dollars for road events with less than 100 participants and a duration of 4 hours or less with no staging areas, \$100 for events exceeding 100 participants or exceeding 4 hours in duration, an additional \$100 per staging area in the town. The fee or a portion of the fee may be waived at the discretion of the Town Board.
- (B) Where the Town Clerk determines that the cost of municipal services incidental to the usage will be increased, the Town Clerk may require an increased permit fee in an amount equal to the increased costs to the Town.

Section X: Emergency Revocation

The Town Clerk or Dane County Sheriff's Department may revoke a permit already issued if the official deems that such action is justified by an actual or potential emergency due to weather, fire, riot, other catastrophe or likelihood of a breach of the peace or by a major change in the conditions forming the basis of the standards of issuance. In lieu of revoking a permit, an above-named official may require the permittee to file evidence of good and sufficient sureties, insurance in force or other evidence of adequate financial responsibility, running to the Town of Dunn and such third parties as may be injured or damaged, in an amount depending upon the likelihood of injury or damage as a direct and proximate result of the holding of the usage sufficient to indemnify the municipality and such third parties as may be injured or damaged thereby, caused by the permittee, its agents or participants.

Section XI: Compliance with Regulations

- (A) Permittee. A permittee under this Ordinance shall comply with all permit directions and conditions and with all applicable laws, ordinances and other regulations of the State and Town.
- (B) Participants. No person who leads or participates in any usage shall disobey or encourage others to disobey this Ordinance.

Section XX: Effective Date

This ordinance is effective on publication.

The Town Clerk shall properly publish this ordinance as required under Sec. 60.80 (2) of Wis. Statutes as a Class I Notice in a newspaper.

Adopted this 21st day of July, 2014.

By the Town Board of the Town of Dunn, Dane County, Wisconsin:

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Town Board Chair

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Attest: Town Clerk

Board of any decision by the Town of Dunn in connection with a permit application. An “aggrieved person” may challenge the decision on the grounds that the Town of Dunn incorrectly applied the standards under this Ordinance or violated sec. 93.30, Stats.

2. An “aggrieved person” under this section as defined in Sec. 93.90 (5) of Wis. Statutes means a person who applied to a political subdivision for approval of a livestock siting or expansion, a person who lives within 2 miles of the livestock facility that is proposed to be sited or expanded, or a person who owns land within 2 miles of a livestock facility that is proposed to be sited or expanded.
3. An “aggrieved person” may request review of any decision of the Livestock Facility Siting Administrator decision or action by the town board.
4. Any appeal brought under this section must be requested with 30 days of the town approval or disapproval or within 30 days after the decision on appeal before the town board committee.
5. Any appeal to the State Livestock Facility Siting Review Board shall comply with Sec. 93.90 of Wis. Statutes and administrative rules of said board.

**Section 18: Severability**

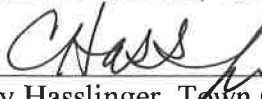
If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to that end, the provisions of this Ordinance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

**Section 19: Effective Date**

This Ordinance is effective the day after publication.

Adopted this 10th day of September 2019, by the Town of Dunn Town Board.

By:   
Edmond P. Minihan, Town Chair

Attest:   
Cathy Hasslinger, Town Clerk Treasurer

**ORDINANCE NO. 11-24**  
**REGULATING AND PERMITTING SHORT-TERM RENTALS**  
**TOWN OF DUNN in DANE COUNTY, WISCONSIN**

An Ordinance to Repeal Ordinance 11-24 and 11-24 (A) and Recreate 11-24 to provide for the regulation of Short-Term Rentals within the Town of Dunn.

**Sec. 11-24-1 Purpose**

The Purpose of this Chapter is to ensure that the quality of short-term rentals operating within the Town of Dunn is adequate for protecting public health, safety and general welfare, including establishing minimum standards of space for human occupancy and for adequate parking; determining the responsibilities of owners, and operators offering these properties for tourists or transient occupants, to protect the character and stability of all areas within the Town of Dunn; and to require a permit for short-term rental activity and provisions for the administration and enforcement thereof.

**Sec. 11-24-2 Definitions.**

- (a) For the purpose of administering and enforcing this section, the terms or words used herein shall be interpreted as follows:
- (1) Words in the present tense include the future.
  - (2) Words in the singular number include the plural number.
  - (3) Words in the plural number include the singular number.
- (b) The following definitions apply:
- (1) Clerk. The Town Clerk of the Town of Dunn or designee.
  - (2) Lodging marketplace. An entity that provides a platform through which an unaffiliated third party offers to rent a short-term rental to an occupant and collects the consideration for the rental from the occupant.
  - (3) Operate. Advertising, marketing, maintaining, managing, or renting residential dwellings as short-term rentals.
  - (4) Operator. The owner, lessee, or property manager of the residential dwelling that has been rented who is operating the short-term rental business including by interacting with guests in person, by phone, or digitally. An operator may not be a LLC, trust, nonprofit, or other corporate entity.
  - (5) Owner. The individual who or entity that owns the residential dwelling that has been rented.
  - (6) Primary residence. A residential dwelling that serves as an individual's true, fixed, and permanent home for at least 183 days in a calendar year and to which, whenever absent therefrom, that individual intends to return. Additional characteristics of a primary residence include, but are not limited to, where an individual receives government-issued mail, receives a Wisconsin lottery credit, claims residence for purposes of voter registration, claims as an address on Federal income tax forms, and lists as their address on



state issued identification cards and driver's license. An individual can have only one primary residence.

- (7) Property manager. Any individual that is not the property owner and is appointed to act as agent or provides property management services to one or more short term rentals.
- (8) Residential dwelling. Any building, structure, or part of the building or structure, that is used or intended to be used as a home, residence, or sleeping place by one individual or by 2 or more individuals maintaining a common household, to the exclusion of all others.
- (9) Short-term rental. A residential dwelling that is offered for rent for a fee and for fewer than 30 consecutive days, as provided in Wis. Stat. §66.0615(1)(dk), and that must obtain a tourist rooming house license or a bed and breakfast establishment license pursuant to Wis. Stat. §97.605(1).

### **Sec. 11-24-3 Short-Term Rental Permit Requirement.**

- (a) It shall be unlawful for any individual to operate or advertise a short-term rental more than 10 days each calendar year in the Town of Dunn without a permit issued by the Clerk.
- (b) Application. Any individual intending to advertise or operate a short-term rental more than 10 days in any calendar year shall submit an application in writing to the Clerk, prior to the first day of operation or advertisement as a short-term rental, along with a nonrefundable application fee as provided in par. (f).

(1) All applications shall include the following:

- i. The name and address of each individual with an ownership interest in the property.
- ii. The name and address of each individual with an ownership interest in the short-term rental business.
- iii. The name and address of the operator, who may also be an owner or lessee.
- iv. The address of the proposed short-term rental.
- v. Two separate items of documentation showing that the proposed short-term rental is the primary residence of the operator, or a statement that the short-term rental is not the operator's primary residence. Identifying documents must contain the operator's current and complete name, including both the given and family name, and a current and complete residential address, including a numbered street address and the name of the Town. Adequate identifying documents that contain the required information include the following:
  - 1. A current and valid operator's license issued under Wis. Stat. ch. 343.
  - 2. A current and valid identification card issued under Wis. Stat. §343.50.
  - 3. A residential lease.
  - 4. A bank statement.
  - 5. A paycheck or pay stub.
  - 6. A check or other document issued by a unit of government.

7. An identification card issued by a federally recognized Indian tribe in this state.
  8. Any other documentation deemed acceptable by the Clerk.
- vi. Whether the short-term rental will operate for stays of more than 6 but fewer than 30 consecutive days.
  - vii. Number of off-street parking spaces on the property designated by the operator for renter use.
  - viii. A site plan showing the location of the off-street parking spaces.
  - ix. The number of bedrooms within the residential dwelling and the number of bedrooms intended for use as a short-term rental.
  - x. Contact phone numbers and email addresses of each property owner and operator.
  - xi. A signed and notarized affidavit stipulating that for short-term rentals of 1 to 6 days duration, the property is and will remain the operator's primary residence during the period of the permit or that the short-term rental will be used solely for stays of more than 6 but fewer than 30 days.
- (c) Permit issuance. The Clerk shall grant a short-term rental permit upon verification of a complete short-term rental application and compliance with the regulations contained in sec. 11-24-4 relating to the operation of a short-term rental.
- (d) Transferability. Permits issued under this section shall not be assigned or transferred to other individuals.
- (e) Renewal. Short-term rental permits shall be renewed by January 1 of each year. Prior to receiving a renewed permit, the operator shall pay applicable fees, provide the Clerk with updated application information required under sec. 11-24-3(b) and submit a signed and notarized affidavit stipulating that for short-term rentals of 1 to 6 days duration, the property is and will remain the operator's primary residence during the period of the permit or that the short-term rental will be used solely for stays of more than 6 but fewer than 30 days.
- (f) Fees.
- (1) Except as provided in 11-24-3(f)(2), fees shall be in accordance with the Town of Dunn Fee Schedule.
  - (2) The fees for 2023 shall be as follows:
    - i. Annual permit fee: \$450.00.
    - ii. Reinstatement fee after revocation, inclusive of the annual permit fee: \$1,800.
- (g) Enforcement and violations. The Clerk or designee may issue citations for any violations of this chapter. Any individual who operates or advertises a short-term rental for 10 days or more in a calendar year without a permit or in violation of this section may be assessed a forfeiture of not less than three hundred dollars and nor more than one thousand dollars. Each day or portion thereof such violation continues shall be considered a separate offense. In addition to issuing citations, the Town may seek, obtain and enforce injunctive relief.
- (h) Denial and revocation. The Clerk may deny or revoke a permit issued hereunder for failure to comply or maintain compliance with or for violation of any applicable provisions of this chapter,

including providing false information on a permit application and advertising the short-term rental in violation of 11-24-4(g). Any such denial or revocation must be made in writing and must include the reasons for which it was made. A revocation shall result in a twelve-month prohibition on the issuance of a new short-term rental permit at the property. If a revocation decision is appealed, the permit remains valid during the pendency of the appeal.

- (i) Appeals. Any such denial or revocation may be appealed as provided under Wis. Stat. Ch. 68.

#### **Sec. 11-24-4 Operation of a Short-Term Rental.**

- (a) Room tax. The owner or operator of the short-term rental shall register with the Town Treasurer's office and shall pay room tax if required by Town ordinance.
- (b) Rental periods.
  - (1) If the short-term rental is not the operator's primary residence, or if the short-term rental is the operator's primary residence and more than two (2) bedrooms are offered for rent, the minimum stay shall be seven (7) consecutive days up to a maximum of 29 consecutive days, and may be operated for no more than 180 days in any consecutive 365-day period as provided in Wis. Stat. §66.1014(2)(d) or be a stay that is qualified for an exemption of these requirements under 11-24-4(b)(2). The 180 allowable days in any 365-day period must run consecutively and the operator must give the Clerk notice of the first day of the 180-day consecutive period prior to advertising or operating.
  - (2) If the short-term rental is the operator's primary residence and the operator is staying in the dwelling with guests during the entire rental period and the rental is limited to one (1) or two (2) bedrooms, then there is no requirement for the minimum duration of stay and no limit on the number of days the short-term rental may operate during the year.
- (c) Maximum occupancy. Maximum renter occupancy shall not exceed the lesser of two times the number of legal bedrooms to be rented in the residential dwelling or 12. Children under the age of 12 shall not count toward the maximum renter occupancy.
- (d) Parking. The operator shall designate off-street parking spaces for renters on the property and limit the number of renter vehicles, trailers, and recreational items not to exceed the number of parking spaces the operator provides. Parking space limit shall appear in all advertising for the short-term rental.
- (e) Registry. Each short-term rental shall keep a registry and make it available to law enforcement upon lawful order, stating the true name of the individual making the short-term rental reservation; the telephone number, mailing address, or email address of the individual making the short-term rental reservation; dates of stay and whether the operator was present or absent during the stay. The registry shall include all information from the current registry year and the year immediately prior.
- (f) Reports. The operator shall provide the Clerk with a report of short-term rental activity for each calendar quarter as follows: by February 1 for the quarter ending December 31, by May 1 for the quarter ending March 31, by August 1 for the quarter ending June 30, and by November 1 for the quarter ending September 30, which includes the dates of stay, number of guests for each stay, and whether the operator was present or absent during each date of the stay, and a listing of all websites and places where the operator has advertised the short-term rental. Failure of the operator to submit 2 such reports by required deadlines, or two incidents of inaccurate reporting in any one-year period shall be grounds for automatic revocation of a short-term rental permit.

(g) Advertisements. A short-term rental permit is required to be obtained no later than the tenth day of advertising or operating a short term rental. All advertisements of the short-term rental, including advertisements on the website of a lodging marketplace, must contain a valid short-term rental permit number, clearly state the minimum duration of stay, if any, and state the limit for renter parking spaces. Lodging marketplace calendars must block renters from making reservations that are not compliant with the minimum duration of stay requirements. Lodging marketplace calendars must block renters from making reservations outside of the allowable 180-day consecutive period, as noticed to the Clerk under Section 11-24-4(b)(1). Operators must ensure that lodging marketplaces disable any dynamic scheduling that fills gaps in the rental calendar with stays that do not meet the 7-day minimum. No advertisement can offer rental arrangements that are in violation of this chapter, are for less than the required minimum stay, or that instruct potential renters to contact the host to pursue a rental arrangement that is not in compliance with this ordinance.

#### **Sec. 11-24-5 Information Provided to Renters of Short-term Rentals**

Operators shall provide renters with the Town's short-term rental guidelines and standards provided by the Clerk.

#### **Sec. 11-24-6 Severability**

If any provision of this Chapter and its ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such a decision shall not affect the validity of any other provision of this Chapter or its ordinances. It is hereby declared to be the intention of the Town of Dunn that all provisions of this Chapter and its ordinances therein are separable. This Chapter shall not invalidate or interfere with any lawful private or other lawful public covenant or restriction on property which prohibits or restricts to a greater extent the uses described and licensed herein.

This ordinance is effective on publication. The town clerk shall properly post or publish this ordinance as required under s. 60.80, Wis. stats.

**ORDINANCE NO. 11-25(A) to REPEAL AND RECREATE ORDINANCE NO. 11-25  
TOWN OF DUNN in DANE COUNTY, WISCONSIN  
AN ORDINANCE FOR REGULATING SOLAR PANELS**

**Sec. 11-25-1 Finding, Purpose, and Authority**

- (a) Findings. The Town Board finds that solar energy is an abundant, renewable and non-polluting energy resource and that its conversion to electricity or heat will reduce dependence on non-renewable energy resources and decrease air and water pollution that results from the use of the currently prevalent non-renewable energy resources. The Town Board encourages the use of solar energy. It is important, however, that installation of solar energy facilities is accomplished in a safe, clean and orderly manner and with sensitivity to the rural, agricultural and scenic character of the Town of Dunn.
- (b) Purpose. The purpose of this Ordinance is to require the operator of a proposed System to be located in the Town of Dunn to obtain a license from the Town prior to beginning construction activities in order to protect public health and safety, to minimize or prevent potential adverse off-site impacts from on-site and off-site operations, to protect the conversion of prime soils on agricultural lands to non-farm uses, and to promote the general welfare of the people and communities within the Town of Dunn. This ordinance is enacted to provide for Town review of proposed solar energy facilities and to ensure such facilities are properly installed and are sited in a manner that will protect the natural beauty of the Town and its prime agricultural resources without significantly increasing the cost or efficiency of the proposed system or which permits an alternate system of comparable cost or efficiency.
- (c) Authority. This Ordinance is adopted under the powers granted to the Town of Dunn by Wis. Stat. §§ 60.10, 60.22(3), and 61.34, its authority under § 66.0401 and §66.0403, and other authority under the statutes, and its adoption of village powers under §60.10(2)(c). Any amendment, repeal or recreation of the statutes relating to this Ordinance made after the effective date of this Ordinance is incorporated into this Ordinance by reference on the effective date of the amendment, repeal, or recreation.
- (d) Interpretation. Wisconsin Courts have recognized that the evaluation of an application for local approval of a System requires a case-by-case approach, therefore each application shall be evaluated individually.

**Sec. 11-25-2 Applicability**

- (a) This Ordinance applies to all Systems with total solar panel surface area, including framing, of two-thousand (2,000) square feet or greater on properties two (2) acres or larger, or one-thousand (1,000) square feet or greater on properties smaller than two (2) acres. The requirement for a license may not be avoided by successive installations each of which are smaller than the thresholds established herein.
- (b) The term "property" under this Ordinance shall mean contiguous land under the control of a landowner (meaning an individual or entity having legal ownership of land. The term landowner may also include all forms of collective ownership including joint tenants, tenants in common,

and life tenants), whether or not separated by streets, highways, or railroad rights-of-way. This may not correspond with tax parcels. Only one solar license shall be granted per property.

- (c) This Ordinance shall not apply where solar panels and any accompanying equipment are mounted upon a principle structure or accessory structure where the accessory structure is erected primarily for purposes other than for the mounting of solar energy equipment.

#### **Sec. 11-25-3 Definitions**

- (a) "Construction activities" means initiation of any construction, land clearing, or land disturbance related to construction, installation, or operation of a solar energy system and includes.
- (b) "Solar energy system" or "System" has the meaning provided in Wis. Stat. 13.48(2)(h)1.g. and includes transmission facilities dedicated to the solar energy system.

#### **Sec. 11-25-4 License Required**

- (a) License Requirement. Except as provided in Section 11-25-6 (b), a person is prohibited from commencing construction activities on a System or operation of a System in the Town without first obtaining a license from the Town ("solar license"). The requirements for applying for a solar license is provided in Section 11-25-5 (a).
- (b) License Term. Any license issued shall be valid for the life of the System installed unless suspended or revoked under Section 11-25-8.
- (c) License Transfer. A solar license issued to the owner of property shall run with the land. A solar license issued to a tenant may be assigned or transferred without the express written consent of the Town to a new tenant, sublessee or property owner upon delivery to the Town of documentation that the transferee shall be bound by the obligations of the licensee under this ordinance.
- (d) License Revocation. A solar license may be suspended or revoked under the procedures in Section 11-25-8.

#### **Sec. 11-25-5 Requirements for Applying for a Solar license or Renewal of an Approval**

- (a) Application for a Solar License. The applicant shall submit an application that contains all required documentation required under Section 11-25-6 to the Town Clerk.
- (b) Review and Decision
  - (1) Preliminary Review. The Town Clerk shall review the application to determine if additional information or expertise is necessary to properly evaluate the application.
  - (2) Additional Information. The Town Clerk may request that the applicant submit additional information if it is determined that the application or request for renewal is incomplete, or if it is determined that additional information is needed to determine whether the requested

approval will meet the requirements of this Ordinance. The request shall state the reasons for the determination.

- (3) Proposed Decision. Upon completion of the Clerk's review of the application and a review of any report from retained experts, the Town Clerk shall issue a solar license, with or without conditions, or to deny the application or request.
- (4) Basis of Recommendation. The Town Clerk shall base the recommendation on a review of the application, any available retained experts' reports, and other relevant information at the discretion of the Town Clerk.
- (5) Determination and Appeal. The Town Clerk shall notify the applicant in writing of the determination and if the application is denied, such notice shall include the reasons therefor. The applicant may appeal the decision of the Town Clerk to the Town Board by filing a written request with the Town Clerk within 30 days of the written notice of denial.

#### **Sec. 11-25-6 Application**

- (a) Application Requirements. All applicants for a solar license shall submit a detailed site plan, including a map, with the applicant's application. The applicant shall also submit information about the owner of any lands upon which any part of the System will be located, the name, address, phone number, and email address of the operator, an operation plan detailing the construction, operations, and decommissioning phases over the life of the project, including estimated timelines for each. The applicant shall also provide information to permit the Clerk to make findings required under Section 11-25-7.

#### **Sec. 11-25-7 Criteria for Review.**

- (a) The license application shall be evaluated according to the criteria in sub. (c) and the purposes of this Ordinance. Pursuant to Section 11-25-1 (d) and Wisconsin law, evaluation of the criteria requires a case-by-case evaluation. Notwithstanding the forgoing, all System installations shall:
  - (1) have a post-construction vegetative ground cover with native, pollinator-friendly vegetation according to 11-25-7 (c) (11) to allow storm water infiltration;
  - (2) comply with local, state and federal environmental requirements including storm water management;
  - (3) include a decommissioning plan that is in recordable form to be recorded with the county register of deeds. The plan shall include the anticipated life of the project, the estimated decommissioning costs net of salvage value in current dollars, the method of ensuring that funds shall be available for decommissioning and restoration and the anticipated manner in which the project shall be decommissioned and the site restored.
  - (4) be accompanied by a form of surety, either through escrow account, bond or otherwise, to ensure removal of the solar energy system and all associated equipment and infrastructure when its usefulness or lifespan is exhausted, other technologies render the facilities obsolete or no longer cost effective, the owner or operator goes out of business or is

otherwise financially unable to maintain the facility, or removal is required and has not been performed by the property owner. The amount and form of surety must be one which is determined to be reasonable by the Town Clerk, but not to exceed 125 percent of the estimated future cost of removal and compliance with the additional requirements set forth herein. Municipally or state-owned solar energy systems may meet the surety requirement with a memorandum of understanding pledging responsibility for removal. The applicant shall submit a fully inclusive estimate of the costs associated with removal prepared by a qualified engineer. The amount shall include a mechanism for future value adjustment.

(b) Each of the criteria in sub. (c) shall be met and an affirmative finding of such satisfaction shall be made by the Town Clerk. If an affirmative finding cannot be made as to one or more criteria in sub. (c), the license shall nonetheless be granted unless denial is necessary to preserve or protect the public health or safety. Conditions of approval shall be imposed instead of denial if doing so would permit an affirmative finding to be made, or would substantially mitigate the effects of a negative finding as to any criterion in sub. (c). No condition may be imposed, however, unless the condition:

- (1) is necessary to preserve or protect the public health or safety;
- (2) does not significantly increase the cost of the system or significantly decrease its efficiency; or
- (3) allows for an alternative system of comparable cost and efficiency.

(c) The criteria to evaluate the application is as follows:

- (1) Whether the System will be appropriately buffered and screened from public view and the view of adjacent residences.
- (2) If the System is located outside of the Town's Limited Service Area, whether the System will sit on fewer than 5 or more total acres of Group I or Group II soils as defined by the Land Evaluation and Site Assessment (LESA) from the USDA and depicted on the Agricultural Land Evaluation map of the Town of Dunn Comprehensive Plan.
- (3) Whether the System and supporting infrastructure meets the siting standards of the Town of Dunn Comprehensive Plan and Town of Dunn Ordinance 13-3 Regulating Development Siting.
- (4) Whether the height of the solar energy system and associated structures do not exceed a height of 14 feet.
- (5) Whether the construction and operation of the System will avoid adverse impacts town roads.
- (6) Whether the effect of operations at the site, particularly construction activities and activities will refrain from causing excessive light to be shed from the site onto neighboring property, or adversely impact the use and enjoyment of neighboring property.



- (7) Whether night lighting will be limited to the level that is minimally necessary for security and worker safety.
- (8) Whether the operator will control off-site noise levels to the extent practicable to avoid adverse impacts on neighboring properties, particularly during construction activities.
- (9) Whether any hazardous chemicals or other materials will be absent from the site or be stored, used, and disposed of in accordance with applicable state and federal law.
- (10) Whether negative impacts on environmental, wildlife habitat, architectural, archeological, cultural, or other resources be avoided.
- (11) Whether native, pollinator-friendly vegetation is to be used as ground cover throughout the area covered by the System, or whether the System is to be used for agricultural activities and will avoid the large-scale removal of topsoil, mature trees, and woodlands.
- (12) Whether all utility wires associated with the System will be located underground, or are conduit at ground level, including all wires that transfer electricity from the System to another location.

#### **Sec. 11-25-8 Inspection, Enforcement Procedures, Penalties, and Fees**

- (a) Inspection. The Town Clerk, or a retained expert, or another authorized representative of the Town, may make inspections or undertake other investigations to determine the condition of a System in the Town to safeguard the health and safety of the public and to determine compliance with this Ordinance, upon showing proper identification and providing reasonable notice.
- (b) Violations. The following are violations under this Ordinance:
  - (1) Engaging in construction, installation, or operation of a System without a solar license granted by the Town or a developer agreement.
  - (2) Failure to comply with the terms of this Ordinance.
  - (3) Making an incorrect or false statement, including in the information and documentation submitted during the licensing process or during an inspection by the Town or its duly appointed representative, or a representative of another regulatory agency.
  - (4) Failure to comply with any conditions of an approval or license, or any agreements entered into as a condition of approving a license.
  - (5) Failure to take appropriate action in response to a notice of violation or citation, or other order issued by the Town.
- (c) Remedies. The Town may take any appropriate action or proceeding against any person in violation of this Ordinance, including the following:

- (1) Issue a stop work order.
- (2) Issue a notice of violation and order that specifies the action to be taken to remedy a situation.
- (3) Issue a citation.
- (4) Refer the matter to legal counsel for consideration and commencement of legal action, including the assessment of forfeitures under sub. (f) and injunctive relief.
- (5) Suspend or revoke the solar license under sub. (e) in the event there are repeated exceedances of the standards or conditions incorporated into a solar license or developer agreement.

(d) Hearings.

- (1) Any person affected by a notice, order, or action under sub. (c)(1) or (3), or upon denial of an application for a license or license renewal, may request a hearing on the matter before the Town Board, provided such person files with the Town Clerk a written petition requesting the hearing and setting forth his or her name, address, telephone number, and a brief statement of the reason for requesting the hearing. Such petition shall be filed within 30 days of the date the notice, order, or action under sub. (c) is served or within 30 days of the date of the approval or denial of a license or an application for a renewal. Upon receipt of the petition, the Town Clerk may set a time and place for a hearing before the Town Board and, if a hearing is scheduled, shall give the petitioner and other interested parties written notice thereof.
- (2) After a hearing under par. (1), the Town Board, by a majority vote of the members present, shall sustain, modify or withdraw the notice, order, or action under sub. (c), or grant or deny the license or license renewal, depending on its findings as to whether the provisions of this Ordinance have been complied with. The petitioner shall be notified within 10 days, in writing, of such findings.
- (3) The proceedings of the hearing, including the findings and decision of the Town Board and the reasons therefore, shall be summarized in writing and entered as a matter of public record in the office of the Town Clerk. Such record shall also include a copy of every notice and order issued in connection with the case.

(e) License Suspension or Revocation. After giving notice and holding a hearing, the Town Board may suspend or revoke a solar license for a violation under sub. (b).

(f) Penalties.

- (1) Any person or entity who violates this Ordinance may be assessed a forfeiture of not less than \$500 per violation nor more than \$5,000 per violation and/or be subject to injunctive relief. Each day a violation exists is a separate violation.

(2) Any person or entity who violates this Ordinance shall pay court costs and reasonable attorney's fees associated with a forfeiture assessed under sub. (f) (1) and for any action for injunctive relief sought by the Town. The remedies provided herein shall not be exclusive of other remedies.

(g) Non-Waiver. A failure by the Town to take action on any past violation(s) shall not constitute a waiver of the Town's right to take action on any present or future violation(s).

(h) Fees. Fees shall be in accordance with the Town of Dunn Fee Schedule.

**Sec. 11-25-9 Severability, Interpretation, and Abrogation**

(a) Severability.

(1) Should any section, clause, provision, standard, or portion of this Ordinance be adjudged unconstitutional or invalid, unlawful, or unenforceable by a final order of a court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

(2) If any application of this Ordinance to a particular parcel of land or System or project is adjudged unconstitutional or invalid by a final order of a court of competent jurisdiction, such judgment shall not be applicable to any other parcel of land not specifically included in said judgment, unless specifically required by the court.

(b) The provisions of this Ordinance shall be liberally construed in favor of the Town and shall not be construed to limit or repeal any other power now possessed by or granted to the Town.

(c) This Ordinance is not intended to repeal, annul or interfere with any easements, covenants, deed restrictions or agreements created prior to the effective date of this Ordinance.

**Sec. 11-25-10 Effective Date**

(a) Following passage by the Town Board, this Ordinance shall take effect the day after the date of publication or posting as provided by Wis. Stat. § 60.80.

Adopted this 20th day of December, 2022.

TOWN OF DUNN

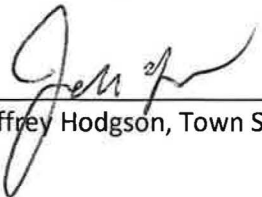
By



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Steven Greb, Town Chair

By



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Jeffrey Hodgson, Town Supervisor

Rosalind Gausman  
Rosalind Gausman, Town Supervisor

ATTEST:

Cathy Hasslinger  
Cathy Hasslinger, Town Clerk Treasurer/Business Manager

Approved:

Posted:

TOWN OF DUNN

ORDINANCE #12-1

**ORDINANCE GRANTING AUTHORITY TO PLAN COMMISSION  
TO APPROVE OR OBJECT TO CERTIFIED SURVEY MAPS,  
PRELIMINARY OR FINAL MAPS**

The Town Board of the Town of Dunn, Dane County, Wisconsin does ordain that the authority to approve or object to certified survey maps, preliminary or final plats under Chapter 236 of the Wisconsin Statutes be delegated to the Plan Commission for the Town of Dunn provided, however, that the final plats dedicating streets, highways or other land shall be approved by the Town Board.

TOWN OF DUNN

ORDINANCE #12-2

**PARKING CONTROL ORDINANCE**

Section 1:      Parking Restrictions

Parking of automobiles, trailers, motorcycles, bicycles or other vehicles shall not be allowed between the hours of six (6) P.M. and seven (7) A.M. on either side of McConnell Street along its entire length, including the Town of Dunn parking area and other property contained within Town of Dunn Outlot "B" located along McConnell Street.

Section 2:      Penalties

Any person violating any of the provisions of Section 1 of this ordinance shall be punished by a forfeiture not to exceed \$10 for the first offense and, for the second or each subsequent violation, imprisonment in the county jail for not to exceed one month unless forfeiture be sooner paid.

Each subsequent violation in any one year thereafter such person shall be punished by a fine not to exceed \$25 or, in the event the fine is not paid, by imprisonment in the county jail for not to exceed two months, unless the fine be sooner paid.

**ORDINANCE NO. 12-3 (1)**

**TOWN OF DUNN  
DANE COUNTY, WISCONSIN**

AN ORDINANCE TO REPEAL AND RECREATE THE TOWN OF DUNN CODE OF ORDINANCES CHAPTER 12-3, LAND DIVISION AND SUBDIVISION ORDINANCES

WHEREAS, the Town has completed a comprehensive review of its Land Division and Subdivision Ordinances contained in the Town Code of Ordinances ("Chapter 12-3 "); and

WHEREAS, an amendment to Chapter 12-3 has been prepared which is attached hereto and incorporated herein as Attachment A ("Ordinance 12-3(A)"), the Land Division Ordinance and Attachment B ("Ordinance 12-3(B)"), the Subdivision Ordinance; and

WHEREAS, the Ordinances were published online and introduced at the June 22, 2015 Town Board meeting; and

WHEREAS, subsequent to a posted notice, a public hearing was held on September 21, 2015 by the Town Board regarding the adoption of Ordinances 12-3(A) and 12-3(B); and

WHEREAS, the Town Plan Commission has met and recommended approval of Ordinances 12-3(A) and 12-3(B) to the Town Board, and the Town Board has considered the Town Plan Commission's action; and

WHEREAS, the Town Board believes that the adoption of Ordinances 12-3(A) and 12-3(B) will promote the public health, safety, and general welfare of the Town, and will encourage the most appropriate use of land throughout the Town.

NOW, THEREFORE, based on the above and pursuant to state statutes including sees. 60.22, 61.34(1), and 236.45, Wis. Stats., the Town Board of the Town of Dunn, Dane County, Wisconsin, does hereby ordain as follows:

*Section 1.* Chapter 12-3, Land Division and Subdivision Ordinance contained in the Town Code of Ordinances is hereby repealed and recreated as Ordinances 12-3(A) and 12-3(B) attached hereto and incorporated herein as Attachments A and B. In the event of a conflict between a provision contained in Ordinances 12-3(A) and 12-3(B) and an existing ordinance provision, the provision contained in the Ordinances 12-3(A) and 12-3(B) shall govern and prevail.

*Section 2.* If any section or part of this Ordinance is adjudged to be unconstitutional, unlawful, or invalid, by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

*Section 3.* This Ordinance shall become effective upon adoption and publication as provided by law.

The above and foregoing ordinance was duly adopted by the Town Board of the Town of Dunn, Dane County, Wisconsin at a meeting held on September 21, 2015.

APPROVED:

  
\_\_\_\_\_  
Edmond P. Minihan, Town Chairman

ATTEST:

  
\_\_\_\_\_  
Cathy Hasslinger, Town Clerk

Adopted:

Published:

Attachment A: Ordinance 12-3 (A), the Land Division Ordinance

Attachment B: Ordinance 12-3 (B), the Subdivision Ordinance



# ATTACHMENT A

## TOWN OF DUNN

### ORDINANCE #12-3 (A)

#### LAND DIVISION ORDINANCE

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#### Section 1: Definitions

The following words and phrases shall have the designated meaning unless a different meaning is expressly provided or the context clearly indicates a different meaning:

1. BOARD. The Dunn Town Board.
2. BASE FARM TRACT. Unplatted lands under contiguous ownership as of September 1, 1979, except lots determined to have been legally created prior to September 1, 1979, as documented by a parcel status determination approved by the Plan Commission. The size of the Base Farm Tract is determined by assessed acreage as of September 1, 1979 as documented by 1980 assessment records.
3. CERTIFIED SURVEY MAP. A map of land division meeting all of the requirements of Section 236.34 of the Wisconsin Statutes and in full compliance with the provisions of this ordinance.
4. CLERK. The Dunn Town Clerk.
5. CONDOMINIUM. Property subject to a condominium declaration established under Wis. Stats. Chapter 703.
6. CONTIGUOUS OWNERSHIP. All parcels under common ownership that share a common boundary. A public road, navigable waterway, or connection at only one point should not be considered to break up contiguity.
7. DRAINAGEWAY. A route or course along which water moves or may move to drain an area.

8. EASEMENT. The area of land set aside on or over or through which a liberty, privilege or advantage in land, distinct from ownership of the land, is granted to the public or some particular person or part of the public.
9. IMPROVEMENT, PUBLIC. Any sanitary sewer, storm sewer, open channel, water main, roadway, park, parkway, public access, sidewalk, pedestrian way, planting strip or other facility for which the Town may ultimately assume the responsibility for maintenance and operation.
10. LAND DIVIDER. Any person, firm, corporation, partnership, or entity of any sort, which divides or proposes to divide land in any manner which results in a land division.
11. LAND DIVISION. The division of a lot, parcel or tract of land where the act of division creates fewer than five lots, parcels or building sites.
12. LAND USE MANAGER. The Land Use Manager of the Town of Dunn.
13. LIMITED SERVICE AREA. Areas designated on the Town of Dunn Future Land Use Map as "Limited Service Area". This includes the Waubesa and Kegonsa Limited Service Areas. Historically, the Limited Service Areas are where only one or a few urban services, such as sanitary sewer service, are provided to accommodate special or unique facilities or institutional uses which are appropriately located outside urban service areas, or areas of existing development experiencing wastewater disposal or water supply problems.
14. LOT. A parcel of land defined by a Certified Survey Map or Plat.
15. PARCEL. Contiguous land under the control of a land divider whether or not separated by streets, highways, or railroad rights-of-way. May not correspond with tax parcels.
16. PARENT PARCEL. The original parcel which the land divider seeks to divide.
17. PLAN COMMISSION. The Dunn Plan Commission.
18. PUBLIC WAY. Any public road, street, highway, walkway, drainageway, or part thereof.
19. REPLAT. Process of changing, or the map or plat which changes, the boundaries of a recorded subdivision plat or a part thereof. The division of a block, lot or outlot within a recorded subdivision plat without changing the exterior boundaries of said block, lot or outlot is not a replat but is a land division.
20. RESIDENTIAL DWELLING UNIT. A single family dwelling or that part of a duplex, apartment, or other multiple family dwelling occupied by one family or one distinct set

of inhabitants.

21. RURAL CHARACTER. Patterns of land use and development:

- (A) In which open space, the natural landscape, and vegetation predominate over the built environment;
- (B) That provide visual landscapes that are traditionally found in rural areas and communities;
- (C) That are compatible with the use of the land by wildlife and for fish and wildlife habitat;
- (D) That reduce the inappropriate conversion of undeveloped land into sprawling, low-density development;
- (E) That generally do not require the extension of urban governmental services; and
- (F) That are consistent with the protection of natural surface water flows and groundwater and surface water recharge and discharge areas.

22. STREET. A public way for pedestrian and vehicular traffic whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, or however otherwise designated.

23. STRUCTURE. Anything which has the capacity to contain, used for the occupation or shelter of man or animal or for the storage, receiving, retaining or confining of personal property, the use of which requires temporary or permanent location on the ground or attachment to something having temporary or permanent location on the ground. The term does not include the facilities and appurtenances of public utilities other than buildings.

24. SUBDIVISION. The division of a lot, parcel or tract of land where the act of division:

- (A) Creates five or more lots, parcels or building sites; or
- (B) Creates five or more lots, parcels or building sites by successive divisions within a period of five years.

25. TAX PARCEL. A specific tract of real estate defined by a legal description and used for taxing purposes. Tax parcel boundaries may not correspond to Parcels as defined above.

26. TOWN. The Town of Dunn situated in Dane County, Wisconsin.

27. TOWN ATTORNEY. Any attorney engaged by the Town to perform legal work relating to this Ordinance.

Section 2:     Introduction

- (1) **AUTHORITY.** This ordinance is adopted pursuant to Wisconsin State Statutes, including but not limited to the Village Powers of the Town under Sections 60.10(2)(c), 60.22(3), 61.34(1) of the Wisconsin Statutes, the authority contained in Section 236.45 of the Wisconsin Statutes, and the purposes listed in Sections 236.01 and 236.45 of the Wisconsin Statutes.
- (2) **PURPOSE.**
  - (A) To guide the future growth and development of the Town consistent with the Town of Dunn’s current adopted Comprehensive Plan;
  - (B) To promote the public health, safety, and general welfare of the community;
  - (C) To preserve agricultural land and farming as a viable activity;
  - (D) To encourage the appropriate use of land throughout the Town;
  - (E) To guide the detailed analysis of development proposals so as to locate and coordinate appropriate areas for development and conservation;
  - (F) To preserve the rural character of the Town through the permanent preservation of meaningful open space and sensitive natural resources;
  - (G) To preserve prime agricultural land by clustering development on lands that have low agricultural potential;
  - (H) To provide buffering to reduce conflicts between residential development and non-residential uses;
  - (I) To protect and enable the restoration of environmentally sensitive areas and biological diversity, and maintain environmental corridors;
  - (J) To preserve archaeological sites, historic buildings and their settings;
  - (K) To provide for the most efficient use of public infrastructure and related public facilities;
  - (L) To provide for the most efficient use of lands deemed suitable for development.
- (3) **ABROGATION AND GREATER RESTRICTIONS.** It is not intended by this ordinance to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, agreements, rules, regulations or permits previously adopted or issued pursuant to laws. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall govern.
- (4) **INTERPRETATION.** In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Town and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.
- (5) **PLAN COMMISSION.** The authority to approve or object to certified surveys, is, to the extent necessary to implement the provisions of this ordinance delegated to the Plan Commission.

- (6) SEVERABILITY. The provisions of this ordinance are severable. If any provision of the ordinance is invalid or unconstitutional, or if its application to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this ordinance which can be given effect without the invalid or unconstitutional provision or application.
- (7) REPEAL. All other ordinances or parts of ordinances of the Town inconsistent or conflicting with this ordinance, to the extent of the inconsistency only, are hereby repealed.
- (8) TITLE. This ordinance shall be known as, referred to, or cited as the "Town of Dunn Land Division Ordinance."
- (9) EFFECTIVE DATE. This ordinance shall take effect on the day after its publication as provided by law.

Section 3: General Provisions

- (1) JURISDICTION. Jurisdiction of these regulations shall include all lands within the Town. The provisions of this ordinance as it applies to divisions of tracts of land into less than five (5) parcels shall not apply to:
  - (A) Transfers of interests in land by will or pursuant to court order;
  - (B) Leases for a term not to exceed ten years, mortgages or easements;
  - (C) The sale or exchange of parcels of land between owners of adjoining property via lot line adjustments if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes required by Chapter 236 of the Wisconsin Statutes or any other applicable laws or ordinances. Such lot line adjustments will not increase or decrease the allotted building sites on either property.
- (2) COMPLIANCE. No person shall divide any land located within the Town which results in a subdivision, land division, certified survey map or replat; and no such subdivision, land division, certified survey map or replat shall be entitled to be recorded; and no street be laid out or improvements placed therein without compliance with all requirements of this ordinance and the following:
  - (A) The Town of Dunn Comprehensive Plan
  - (B) All applicable provisions of the Dane County Code of Ordinances

- (C) The provisions of Wis. Stats. Chapter 236 and Wis. Stats. 80.08
  - (D) The rules of the Wisconsin Department of Safety and Professional Services, contained in Chapter SPS 383 and related chapters of the Wisconsin Administrative Code for land divisions not served by public sewer.
  - (E) The rules of the Wisconsin Department of Transportation, contained in Chapter TRANS 233 of the Wisconsin Administrative Code for subdivisions that abut a state trunk highway or connecting street.
  - (F) The rules of the Wisconsin Department of Natural Resources contained in Chapter NR 116 of the Wisconsin Administrative Code for the Floodplain Management Program.
  - (G) The rules of the Wisconsin Department of Natural Resources contained in Chapter NR 115 of the Wisconsin Administrative Code for shoreland protection .
  - (H) All other applicable rules contained in the Wisconsin Administrative Code not listed in this Subsection and
  - (I) All applicable Town of Dunn and Dane County ordinances and regulations, including subdivision, zoning, sanitary, building and official mapping ordinances.
- (3) CERTIFIED SURVEY. Any land division other than a subdivision, shall be surveyed with a certified survey map prepared by a licensed surveyor as provided in Sec. 236.34, Wis. Stats., and in accordance with the requirements of this ordinance.
- (4) NON COMPLIANCE. No person, partnership, firm, corporation, or entity of any sort shall be issued a building permit by the Town authorizing the building on, or improvement of, any parcel or lot within the jurisdiction of this ordinance not approved by the Plan Commission as of the effective date of this ordinance until the provisions and requirements of this ordinance have been fully met. The Plan Commission or Town Board may deny requests for building permits, rezoning or other approvals for any person, firm or corporation who fails to comply with the provisions of this ordinance.
- (5) APPLICABILITY TO CONDOMINIUMS. This ordinance is expressly applicable to condominium developments within the Town's jurisdiction, pursuant to Section 703.27(1), Wis. Stats. For purposes of this ordinance, a condominium unit and any associated limited common elements shall be deemed to be equivalent to a lot or parcel created by the act of land division or subdivision.
- (6) LOT LINE ADJUSTMENTS BY CSM. Where the sale or exchange of parcels involves only a change of lot lines and not the creation of additional buildable parcels, such lot line

adjustments executed by Certified Survey Map (“CSM”) must be considered at a Plan Commission meeting. The Plan Commission may approve or deny the CSM. The Plan Commission reserves the right to deny approval of any Certified Survey Map that violates or is not in the spirit of the land division policies, including the 2 acre lot size maximum. For example, if a Certified Survey Map is proposed that expands a lot from 2 acres to 4 acres, the Plan Commission may deny it based on the grounds that it is inconsistent with the 2 acre maximum lot size policy. Exceptions to this lot line adjustment policy could be granted if the Plan Commission determines that the lot line adjustment proposal is for agricultural or environmental purposes and preserves and protects agricultural activity and the Town’s rural character. Additionally, prior to approval by the Plan Commission of such a CSM, a notice of potential approval and copy of the CSM shall be provided via hand delivery or first class mail by the Land Use Manager to the owners of property located within 300 feet of the CSM property.

(7) SURVEY MONUMENTS. Before approval of any final certified survey map within the corporate limits of the Town, the land divider shall install survey monuments placed in accordance with the requirements of Section 236.15 of the Wisconsin Statutes and as may be required by the Plan Commission. The Plan Commission may waive the placing of monuments required under Section 236.15(b), (c) and (d), for a reasonable time on condition that the land divider execute a surety bond to ensure the placing of such monuments within the time required.

(8) LAND SUITABILITY. No land division shall be approved if the resulting lots are determined to be unsuitable for a developed use by the Plan Commission for reason of flooding or potential flooding, adverse soil or rock formations, severe erosion potential, unfavorable topography, inadequate drainage, inadequate water or sewage disposal capabilities, or any other condition which is potentially harmful to the health, safety, or welfare of the future residents of the proposed lot, adjacent lots, or of the community. A portion of a proposed lot may contain such conditions, provided the overall lot is not deemed unsuitable.

(A) Lands that are unsuitable for development include, but are not limited to:

1. All areas mapped as Floodplain by the Federal Emergency Management Agency (FEMA), Wisconsin Department of Natural Resources, or Dane County Zoning. When a proposed land division is located in an area where flooding or potential flooding may be a hazard, the Plan Commission may request technical assistance from any of these agencies in determining whether the land is suitable or unsuitable for the use proposed.
2. All wetlands as defined in NR 103.02(5) of the Wisconsin Administrative Code, including a 100 foot buffer (around wetlands with an area of 2

acres or greater). The 100-foot buffer shall be measured from the DNR Wetland Inventory where a wetland delineation is not available. The Town may require a wetland delineation to determine this buffer at the discretion of the Plan Commission. A variance from the 100-foot wetland buffer may be considered by the Town Board.

3. All areas within 75 feet of the ordinary high-water mark of navigable streams and lakes, as identified by Wisconsin Department of Natural Resources.
4. All areas having slopes 20 percent or greater.
5. Areas that provide habitat for threatened, endangered, or special concern species in the opinion of a natural resource specialist.
6. Burial sites and Indian mounds.
7. Drainageways that contain running water during spring runoff, or during storm events plus a 25 foot buffer from the edge of the drainageway.
8. For unsewered development, all soil types as shown on the operational soil survey maps prepared by the U.S. Department of Agriculture, Natural Resource Conservation Service, which have very severe limitations, unless in conformance with the applicable state administrative code and the Dane County Private Sewage System Ordinance.
9. Lands that are encumbered by a conservation easement which prohibits the land division or the type of development proposed.
10. Areas of archaeological, historical, or geological importance.
11. Lands within the Town's Environmental and Cultural Resource Protection Area, unless a variance has been granted to the applicant by the Plan Commission.
12. Areas of parcels that are outside the LSA, when a portion of the parcel is within the LSA. If a parcel includes an area exceeding 5,000 square feet within the LSA, then development and structures requiring sanitary service must be located within the LSA portion of the property and must connect to sewer service.

(B) The Plan Commission, when applying the provisions of this section, shall recite the particular reasons upon which it bases its conclusion that the land is not



suitable for a proposed use, and afford the land divider an opportunity to present evidence regarding such unsuitability if the land divider so desires. Thereafter, the Plan Commission may affirm, modify or withdraw its determination of unsuitability.

- (C) The land divider shall provide all necessary maps, data, and information for determining suitability.
- (10) VIOLATIONS. It shall be unlawful to build upon, rezone, divide, further divide, convey, record or monument any land in violation of this ordinance or of the Wisconsin Statutes. The Town may institute appropriate action or proceedings to enjoin violations of this ordinance or the applicable Wisconsin Statutes.
- (11) PENALTIES.
- (A) Any person, firm or corporation who fails to comply with the provisions of this ordinance shall, upon violation thereof, forfeit not less than One Hundred Dollars (\$100) nor more than One Thousand Dollars (\$1,000) and the costs of prosecution for each violation, including the Town's reasonable and actual attorney fees and disbursements incurred in the prosecution of such violations, and in default of payment of such forfeiture and costs shall be imprisoned in the County Jail until payment thereof, but not exceeding six (6) months. Each day a violation exists or continues shall constitute a separate offense.
  - (B) Recordation improperly made has penalties provided in Sec. 236.30, Wis. Stats.
  - (C) Conveyance of lots in unrecorded plats has penalties provided in Sec. 236.31, Wis. Stats.
  - (D) Monuments disturbed or not placed have penalties as provided for in Sec. 236.32, Wis. Stats.
  - (E) Assessor's plat made under Sec. 70.27 of the Wisconsin Statutes may be ordered by the Town at the expense of the land divider when a subdivision is created by successive land divisions.
- (12) APPEALS.
- (A) The following decisions of the Plan Commission may be appealed to the Town Board:
    1. Rejection of a certified survey map;
    2. Determination of available land divisions;
    3. Determination that land is unsuitable for land division.

- (B) A written Notice of Appeal must be filed with the Clerk within 14 days of the date of the Plan Commission action.
- (C) The Notice of Appeal shall state the action of the Plan Commission appealed from, shall specify the reasons stated by the Plan Commission for taking such actions, shall specify the reasons why the landowner believes said action was inappropriate; shall include an agreement to extend the time for acting on the certified survey, for a period of ninety (90) days from the date of the Plan Commission action; and shall state the names and addresses of the owners of all properties within 300 feet of the proposed land division.
- (D) The Clerk shall file the Notice of Appeal with the Board and shall schedule the appeal for consideration by the Board at a meeting, open to the public, within forty-five (45) days of the filing of the Notice of Appeal. The Clerk shall send notice of the time scheduled for the consideration of the appeal to the landowner and to all property owners within 300 feet of the proposed land division at least ten (10) days prior to the hearing of the appeal.
- (E) Within thirty (30) days of the appeal hearing, the Board shall affirm, modify, or reverse the action of the Plan Commission or shall refer the matter back to the Plan Commission for further consideration. Notice of the decision of the Board shall be sent to landowner and the Plan Commission.

Section 4: Land Division Allocation Policy

Areas outside of the Limited Service Area. Land Divisions outside of the Limited Service Area are governed by the following Land Division Allocation Policy.

- (1) No land located outside Limited Service Areas may be divided, except for development that is permitted per the standard of one (1) land division per 35 acres per Base Farm Tract. This policy shall be referred to as the Land Division Allocation Policy.
- (2) Divisions are calculated by dividing Base Farm Tract acreage by 35. The quotient is rounded down. (Example: a 102 acre Base Farm Tract, divided by 35 = 2.91. The 102-acre Base Farm Tract property is allocated two land divisions.).
- (3) Secondary farm residences approved by a Conditional Use Permit will count as a land division according to the Land Division Allocation Policy and the calculation in Section 4(2), even if these secondary farm residences are not divided from the Base Farm Tract. Secondary farm residences approved by a Conditional Use Permit are subject to the siting standards listed in Town of Dunn Ordinance 13-3 and the Town of Dunn Comprehensive Plan. Secondary farm residences may be subsequently divided from the

Base Farm Tract with a Certified Survey Map, subject to Section 4(4) and Section 4(14) below.

- (4) In addition to the land divisions allocated above, for parcels of at least 20 acres, a residential dwelling unit and outbuildings may be divided from the base farm tract, subject to Section 4(14) below, provided that a deed restriction is recorded on the base farm tract prohibiting residential development and stating that all land divisions on the property have been exhausted. In addition, the remaining land may be required to be rezoned to the FP-1 zoning category.

Exceptions to the 20 acre minimum requirement will be considered for parcels 5 acres or more but less than 20 acres only if the applicant demonstrates the agricultural viability of the remaining vacant land. Any exceptions granted are at the sole discretion of the Plan Commission.

- (5) Subject to Plan Commission approval, the land division permitted by the terms of Section 4(4) above may occur prior to the construction of a residential dwelling unit and outbuildings.
- (6) In order to prevent the occurrence of multiple divisions by successive landowners, the limitation of the Land Division Allocation Policy shall run with the land, shall be cumulative, and shall apply to those persons or entities owning land on September 1, 1979 and to their grantees, heirs, successors and assigns.
- (7) Parcels that were smaller than 35 acres as of September 1, 1979 are not permitted to be divided to create a new residential lot. However, a residential dwelling unit and outbuildings may be divided from the base farm tract as provided in Section 4(3) above.
- (8) Land sold to the State of Wisconsin Department of Natural Resources, Dane County Parks or other public agencies or non-profit organizations having land conservation as a primary mission will count as a land division unless an agreement was made with the Town not to count it. The Town will consider entering into such an agreement, at the discretion of the Plan Commission, only if the property sold is restricted by deed restriction, conservation easement, or other encumbrance acceptable to the Plan Commission to prohibit development.
- (9) When a property is divided, available land divisions remain with the Base Farm Tract unless they are transferred by an affidavit, approved by the Town Board, recorded at the Dane County Register of Deeds and filed with the Town Clerk.
- (10) Determination of available land divisions will be made by the Plan Commission.
- (11) When a Base Farm Tract exhausts all available land divisions under the Land Division

Allocation Policy, a deed restriction shall be recorded at the Dane County Register of Deeds and filed with the Town Clerk on the balance of the Base Farm Tract prohibiting further land divisions.

- (12) All land divisions will require a Certified Survey Map approved by the Plan Commission regardless of the size of the parcels involved.
- (13) Adding land to a non-dividable parcel does not make it dividable.
- (14) The maximum permitted size of a lot resulting from a land division shall be two (2) acres in order to minimize conversion of farmland to non-agricultural use.
- (15) The two-acre maximum land division size shall be enforced for a land division separating a residential dwelling unit and accessory buildings from the Base Farm Tract. Applicants may request an exception to the two acre maximum if additional acreage is needed to include the residential dwelling unit and usable residential and agricultural accessory buildings.
- (16) The Plan Commission may require newly created lots to be clustered with existing lots.
- (17) The Plan Commission may require a site plan when new lots or residential dwelling units are proposed.
- (18) Each lot resulting from a land division must front on an accessible public road for at least 66 feet. A public road is considered accessible if direct driveway access is permitted. If direct driveway access is not permitted, shared access may be permitted so long as the newly created lot has 66 feet of road frontage and a shared driveway agreement is recorded. For example: Lot A is proposed to have 66 feet of road frontage, but the Wisconsin Department of Transportation (DOT) will not permit direct driveway access from US 51 to Lot A. However, if the DOT will permit access to Lot A through a shared access on Lot B, then Lot A can meet the Town's road frontage requirement. This specific example would be subject to DOT approval for a shared access permit.
- (19) Any division that intends a building right to be transferred with the divided land requires Town approval in advance of the transaction. Parcels over 35 acres may be divided from the parent parcel without Town Approval, provided that:
  - a. Both the parcel being transferred and the remaining parcel must be at least 35 acres.
  - b. No building rights are transferred.

Areas within the Limited Service Area: Lands within the Limited Service Area may be divided if all of the following standards are all satisfied:

- (1) The entire parent parcel is located within the LSA boundary (if only a portion of the parent parcel is within the LSA boundary, it cannot be divided), and
- (2) The parent parcel has a minimum lot size of 40,000 square feet
- (3) All requirements of the county zoning, shoreland zoning, floodplain and both the County and Town subdivision ordinances, Town Comprehensive Plan and Future Land Use Map must be met.
- (4) The minimum size of the newly created lot is 20,000 square feet. For sewerred lots in the Limited Service Area only, the Plan Commission may in its sole discretion permit smaller size lots if the following criteria are met:
  - a. The minimum size of the parent parcel is 40,000 square feet, and
  - b. Only one land division per 20,000 square feet of the parent parcel is allowed, and
  - c. The size of the newly created lots will be compatible with the sizes of the already existing lots in the immediate area, and
  - d. All requirements of the county zoning, shoreland zoning, floodplain zoning ordinances and both the County and Town Subdivision and Land Division ordinances, Town Comprehensive Plan and Future Land Use Map are met, and
  - e. The size of the newly created lots will not be detrimental to the public health or welfare or public policies as expressed in the provisions of Ordinance #12-3 Land Division Ordinance.
- (5) Each lot resulting from a land division must front on an accessible public road for at least 66 feet. A public road is considered accessible if direct driveway access is permitted. If direct driveway access is not permitted, shared access may be permitted so long as the newly created lot has 66 feet of road frontage and a shared driveway agreement is recorded. For example: Lot A is proposed to have 66 feet of road frontage, but the Wisconsin Department of Transportation (DOT) will not permit direct driveway access from US 51 to Lot A. However, if the DOT will permit access to Lot A through a shared access on Lot B, then Lot A can meet the Town's road frontage requirement. This specific example would be subject to DOT approval for a shared access permit.

Section 5: Procedure

PRE-APPLICATION.

Prior to the filing of an application for the approval of a certified survey map, the landowner is encouraged to consult with the Plan Commission or Land Use staff to obtain their advice and assistance, to be informed of the existence and objectives of these regulations, of the Town of Dunn Comprehensive Plan requirements, any other applicable plans or requirements, and to be otherwise assisted in the submission of the application for planning the land division. The Plan Commission may require the landowner to furnish such maps or other information as will assist it during the pre-application phase. An individual is limited to two (2) pre-application meetings per 12 month period unless the Plan Commission, at their sole discretion, chooses to grant additional pre-application meetings.

#### APPLICATION.

- (1) APPLICATION FOR APPROVAL. The certified survey map shall be accompanied by a written application for approval. Where a change in zoning classification is being or will be requested in connection with the land division, an application for the appropriate rezone should accompany the land division application.
- (2) INFORMATION REQUIRED. The map shall show correctly on its face, in addition to the information required by Section 236.34 of the Wisconsin Statutes, the following:
  - (A) All existing building, watercourses, drainage ditches and other features pertinent to proper division including the locations of water wells, dry wells and drainfield vent pipes.
  - (B) Setbacks or building lines required by the Town Plan Commission.
  - (C) Date of the map.
  - (D) CERTIFICATES.
    - (1) The surveyor shall certify on the face of the map that he has fully complied with all the provisions of this Ordinance.
    - (2) Certificate of Approval. The following certificate of approval shall be typed, lettered or otherwise reproduced legibly on the face of the map:

Approved by the Town of Dunn Plan Commission at a meeting held the \_\_\_ day of \_\_\_\_\_ 20\_\_.

If land is dedicated to the public, this additional certificate shall

appear:

Land dedication accepted by the Dunn Town Board on the \_\_\_\_ day of \_\_\_\_\_ 20\_\_.

- (3) Dedication. Dedication of streets and other public areas shall require the owner's and the mortgagee's, if any, certificate in substantially the same form as required by Section 236.21(2)(a) of the Wisconsin Statutes.
- (E) **CRITICAL BUILDING LOCATIONS**. Any building or structure and its location on the lot shall be dimensioned to the nearest 0.1 foot where the location of such building or structure will be critical in relation to proposed property boundaries or to zoning requirements.
- (3) The Land Use Manager shall schedule a public hearing before the Plan Commission within ninety (90) days from the date a certified survey map is filed. Notices of the public hearing shall be mailed to the owners of all properties within the limits of the exterior boundaries of the proposed map and to the owners of all properties within a minimum of 300 feet of the exterior boundaries of the proposed map. Should the Plan Commission recommend denial of a certified survey map, the applicant may follow the appeal process in Section 3, paragraph 12.
- (4) If the Certified Survey Map includes a dedication of land to the public, The Town Clerk shall schedule a public hearing before the Town Board to take place within ninety (90) days from the date a certified survey map is filed to consider acceptance of the dedication to the public.
- (5) After the map has been approved by the Plan Commission and any fee imposed pursuant to Section 6 has been paid, and all other conditions of approval have been met, the landowner shall submit the map to the Clerk. The Clerk shall cause the certificate inscribed upon the map attesting to such approval to be duly executed and the map returned to the land divider for recording.
- (6) The land divider shall record the certified survey map with the Register of Deeds for Dane County within 12 months after it has been approved, and shall file a certified copy of the recorded map with the Clerk within ten (10) days after the map is recorded.

Section 6:     Fees

- (1) **GENERAL**. The land divider shall pay the Town all fees as herein required and at the times specified.

(2) CERTIFIED SURVEY REVIEW FEE.

- (A) The fees for a certified survey map shall be determined by the Town Board and listed in the Town's fee schedule.
- (B) A reapplication fee determined by the Town Board and listed in the Town's fee schedule shall be paid to the Treasurer at the time any certified survey which has previously been reviewed is submitted for approval.

The above and foregoing Ordinance was adopted by the Town Board of the Town of Dunn at a regular meeting held on XX XX, 2021.

APPROVED:

\_\_\_\_\_  
Edmond P. Minihan, Town Chairman

ATTEST:

\_\_\_\_\_  
Cathy Hasslinger, Town Clerk

Adopted:  
Published:



**ORDINANCE NO. 12-3 (2)**

**TOWN OF DUNN  
DANE COUNTY, WISCONSIN**

**AN ORDINANCE TO REPEAL AND RECREATE THE TOWN OF DUNN CODE OF  
ORDINANCES CHAPTER 12-3 (B), THE SUBDIVISION ORDINANCE**

WHEREAS, the Town has completed a comprehensive review of its Subdivision Ordinances contained in the Town Code of Ordinances ("Chapter 12-3 (B)"); and

WHEREAS, an amendment to Chapter 12-3 (B) has been prepared which is attached hereto and incorporated herein as Attachment A ("Ordinance 12-3(B)"), the Subdivision Ordinance; and

WHEREAS, the Ordinance was introduced at the April 16, 2018 Town Board meeting; and

WHEREAS, subsequent to a posted notice, a public hearing was held on September 21, 2015 by the Town Board regarding the adoption of Ordinances 12-3(A) and 12-3(B); and

WHEREAS, the Town Plan Commission has met and recommended approval of recreated Ordinance 12-3 (B) to the Town Board, and the Town Board has considered the Town Plan Commission's action; and

WHEREAS, the Town Board believes that the adoption of recreated Ordinance 12-3(B) will promote the public health, safety, and general welfare of the Town, and will encourage the most appropriate use of land throughout the Town.

NOW, THEREFORE, based on the above and pursuant to state statutes including sections 60.22, 61.34(1), and 236.45, Wis. Stats., the Town Board of the Town of Dunn, Dane County, Wisconsin, does hereby ordain as follows:

*Section 1.* Chapter 12-3 (B), the Subdivision Ordinance, contained in the Town Code of Ordinances is hereby repealed and recreated as Ordinance 12-3(B) attached hereto and incorporated herein as Attachments A. In the event of a conflict between a provision contained in Ordinance 12-3(B) and an existing ordinance provision, the provision contained in the Ordinance 12-3(B) shall govern and prevail.

*Section 2.* If any section or part of this Ordinance is adjudged to be unconstitutional, unlawful, or invalid, by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

*Section 3.* This Ordinance shall become effective upon adoption and publication as provided by law.

The above and foregoing ordinance was duly adopted by the Town Board of the Town of Dunn, Dane County, Wisconsin at a meeting held on \_\_\_\_\_.

APPROVED:

\_\_\_\_\_  
Edmond P. Minihan, Town Chairman

ATTEST:

\_\_\_\_\_  
Cathy Hasslinger, Town Clerk

Adopted:

Published:

Attachment A: Ordinance 12-3 (B), the Subdivision Ordinance

# ATTACHMENT A

## TOWN OF DUNN

### ORDINANCE #12-3 (B)

#### SUBDIVISION ORDINANCE

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#### Section 1: Definitions

The following words and phrases shall have the designated meaning unless a different meaning is expressly provided or the context clearly indicates a different meaning:

1. ASSESSOR. The assessor for the Town of Dunn
2. BOARD. The Dunn Town Board.
3. CERTIFIED SURVEY MAP. A map of land division meeting all of the requirements of Section 236.34 of the Wisconsin Statutes and in full compliance with the provisions of this ordinance.
4. CLERK. The Dunn Town Clerk.
5. CLUSTER DEVELOPMENT. A development pattern and technique wherein structures are

arranged in closely related groups to enable building at higher densities in certain areas while preserving natural features in others. A cluster development would normally incorporate private common open space areas and give emphasis to the pedestrian as opposed to the automobile in its design.

6. CONDOMINIUM. Property subject to a condominium declaration established under Wis. Stats. Chapter 703.
7. CONTIGUOUS OWNERSHIP. All parcels under common ownership that share a common boundary. A public road, navigable waterway, or connection at only one point should not be considered to break up contiguity.
8. DRAINAGEWAY. A route or course along which water moves or may move to drain an area.
9. EASEMENT. The area of land set aside or over or through which a liberty, privilege or advantage in land, distinct from ownership of the land, is granted to the public or some particular person or part of the public.
10. GOVERNMENTAL UNIT. Any municipality or the State of Wisconsin.
11. GREENWAY. An open area of land, the primary purpose of which is to carry storm water on the ground surface in lieu of an enclosed storm sewer. Greenways may serve multiple purposes in addition to their principal use including, but not limited to, vehicular, bicycle, and pedestrian traffic, sanitary sewers, water mains, storm sewers, storm water retention basis, park development and other related uses.
12. IMPROVEMENT, PUBLIC. Any sanitary sewer, storm sewer, open channel, water main, roadway, park, parkway, public access, sidewalk, pedestrian way, planting strip or other facility for which the Town may ultimately assume the responsibility for maintenance and operation.
13. LAND DIVISION. The division of a lot, parcel or tract of land where the act of division creates fewer than five lots, parcels or building sites. Any lands divisions within the Town of Dunn must be in accordance with the Land Division Ordinance, Chapter 12-3 (A).
14. LOT. A parcel of land defined by a Certified Survey Map or Plat.
15. NET ACREAGE. Total property acreage not including road ownership or other public right-of-way.
16. OFFICIAL MAP. A map indicating the location, width, and extent of existing and

proposed streets, highways, parkways, parks and playground as adopted and amended by the Town Board pursuant to Section 62.23(6) of the Wisconsin Statutes.

17. OUTLOT. A parcel of land, other than a lot, building site, or block, so designated on the plat or certified survey map.
18. PARCEL. Contiguous land under the control of a subdivider whether or not separated by streets, highways, or railroad rights-of-way. May not correspond with tax parcels.
19. PARENT PARCEL. The original parcel which the subdivider seeks to divide.
20. PLAN COMMISSION. The Dunn Plan Commission.
21. PLANNING DIRECTOR. The Town of Dunn Planning Director.
22. PLANNED UNIT DEVELOPMENT (PUD). Planned unit development. A form of land development permitted after following the procedures for creating a planned unit development district as provided in the Dane County Code of Ordinances section 10.153. The planned unit development district is designed to allow variation in the types and arrangements of land uses and structures in developments conceived and implemented as cohesive, unified projects.
23. PRELIMINARY PLAT. A map showing the salient features of a proposed subdivision, as described in Section 4, submitted to the Town for purpose of preliminary consideration prior to all final plats and, when required, prior to all land divisions.
24. PUBLIC WAY. Any public road, street, highway, walkway, drainageway, or part thereof.
25. REPLAT. Process of changing, or the map or plat which changes, the boundaries of a recorded subdivision plat or a part thereof. The division of a block, lot or outlot within a recorded subdivision plat without changing the exterior boundaries of said block, lot or outlot is not a replat but is a land division.
26. RESIDENTIAL DWELLING UNIT. A single family dwelling or that part of a duplex, apartment, or other multiple family dwelling occupied by one family or one distinct set of inhabitants.
27. STREET. A public way for pedestrian and vehicular traffic whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, or however otherwise designated.
28. STRUCTURE. Anything which has the capacity to contain, used for the occupation or shelter of man or animal or for the storage, receiving, retaining or confining of personal

property, the use of which requires temporary or permanent location on the ground or attachment to something having temporary or permanent location on the ground. The term does not include the facilities and appurtenances of public utilities other than buildings.

29. SUBDIVIDER. Any person, firm, corporation, partnership, or entity of any sort, which divides or proposes to divide land in any manner which results in a subdivision.

30. SUBDIVISION. The division of a lot, parcel or tract of land where the act of division:

(A) Creates five or more lots, parcels or building sites; or

(B) Creates five or more lots, parcels or building sites by successive divisions within a period of five years.

31. TAX PARCEL. A unit of land delineated for the sole purpose of creating a complete, accurate, and equitable unit of taxation in support of taxpayers contributing a fair share of support for the community services received. Tax parcel boundaries may not correspond to Parcels as defined above.

32. TOWN. The Town of Dunn situated in Dane County, Wisconsin.

33. TOWN ATTORNEY. Any attorney engaged by the Town to perform legal work relating to this Ordinance.

34. TOWN ENGINEER. Any registered professional engineer engaged by the Town to perform engineering work relating to this Ordinance.

Section 2: Introduction

(1) AUTHORITY. This ordinance is adopted pursuant to the Village Powers of the Town under Sections 60.10(2)(c), 60,22(3), 61.34(1) of the Wisconsin Statutes, the authority contained in Section 236.45 of the Wisconsin Statutes, and the purposes listed in Sections 236.01 and 236.45 of the Wisconsin Statutes.

(2) PURPOSE.

(A) To guide the future growth and development of the Town consistent with the Town of Dunn's current adopted Comprehensive Plan;

(B) To promote the public health, safety, and general welfare of the community;

(C) To preserve agricultural land and farming as a viable activity;

(D) To encourage the appropriate use of land throughout the Town;

(E) To guide the detailed analysis of development proposals so as to locate and coordinate appropriate areas for development and conservation;

- (F) To preserve the rural character of the Town through the permanent preservation of meaningful open space and sensitive natural resources;
  - (G) To preserve prime agricultural land by clustering development on lands that have low agricultural potential;
  - (H) To provide commonly-owned open space areas for passive and/or active recreational use by residents of the development and, where specified, the larger community;
  - (I) To provide buffering to reduce conflicts between residential development and non-residential uses;
  - (J) To protect and enable the restoration of environmentally sensitive areas and biological diversity, and maintain environmental corridors;
  - (K) To preserve archaeological sites, historic buildings and their settings;
  - (L) To provide for the most efficient use of public infrastructure and related public facilities;
  - (M) To provide for the most efficient use of lands deemed suitable for development.
- (3) **ABROGATION AND GREATER RESTRICTIONS.** It is not intended by this ordinance to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, agreements, rules, regulations or permits previously adopted or issued pursuant to laws. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall govern.
- (4) **INTERPRETATION.** In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Town and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.
- (5) **PLAN COMMISSION.** The authority to approve or object to preliminary or final plats, is, to the extent necessary to implement the provisions of this ordinance delegated to the Plan Commission, provided, however, that the final plats dedicating streets, highways, or other land shall be approved by the Town Board.
- (6) **SEVERABILITY.** The provisions of this ordinance are severable. If any provision of the ordinance is invalid or unconstitutional, or if its application to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this ordinance which can be given effect without the invalid or unconstitutional provision or application.
- (7) **REPEAL.** All other ordinances or parts of ordinances of the Town inconsistent or conflicting with this ordinance, to the extent of the inconsistency only, are hereby repealed.
- (8) **TITLE.** This ordinance shall be known as, referred to, or cited as the "Town of Dunn

Subdivision Ordinance."

- (9) EFFECTIVE DATE. This ordinance shall take effect on the day after its publication as provided by law.

Section 3: General Provisions

- (1) JURISDICTION. Jurisdiction of these regulations shall include all lands within the Town. The provisions of this ordinance as it applies to divisions of tracts of land into less than five (5) parcels shall not apply to:

- (A) Transfers of interests in land by will or pursuant to court order;
- (B) Leases for a term not to exceed ten years, mortgages or easements;
- (C) The sale or exchange of parcels of land between owners of adjoining property via lot line adjustments if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes required by Chapter 236 of the Wisconsin Statutes or any other applicable laws or ordinances. Such lot line adjustments will not increase or decrease the allotted building sites on either property.
- (D) Cemetery plats under section 157.07 of the Wisconsin Statutes.

- (2) COMPLIANCE. No person shall divide any land located within the Town which results in a subdivision, land division, certified survey map or replat; and no such subdivision, land division, certified survey map or replat shall be entitled to be recorded; and no street be laid out or improvements placed therein without compliance with all requirements of this ordinance and the following:

- (A) The Town of Dunn Comprehensive Plan
- (B) All applicable provisions of the Dane County Code of Ordinances
- (C) The provisions of Wis. Stats. Chapter 236 and Wis. Stats. § 80.08
- (D) The rules of the Wisconsin Department of Safety and Professional Services, contained in Chapter SPS 383 and related chapters of the Wisconsin Administrative Code for land divisions not served by public sewer.
- (E) The rules of the Division of Transportation Infrastructure Development, Wisconsin Department of Transportation, contained in Chapter TRANS 233 of the Wisconsin Administrative Code for subdivisions that abut a state trunk highway or connecting street.
- (F) The rules of the Wisconsin Department of Natural Resources contained in the Wis. Adm. Code for Floodplain Management Program.
- (G) The rules of the Wisconsin Department of Natural Resources contained in



Chapters NR 115 and 116 of the Wisconsin Administrative Code, for shoreland and wetland protection and floodplain management.

- (H) All other applicable rules contained in the Wisconsin Administrative Code not listed in this Subsection and
- (I) All applicable Town of Dunn and Dane County ordinances and regulations, including land division, subdivision, zoning, sanitary, building and official mapping ordinances.

(3) IMPROVEMENTS.

(A) Contract. Before any final plat map is inscribed by the clerk the subdivider shall enter a contract with the Town wherein the subdivider agrees to install all required improvements within eighteen (18) months of the of Town Board approval, or the approval shall lapse.

(B) Security Required.

1. At the time said contract is entered, the subdivider shall file a performance bond or irrevocable letter of credit with the Town in an amount equal to the estimated cost of the required improvements as determined by the subdivider's engineer and approved by the Town Engineer.
2. The security posted shall be in such form as is acceptable to the Town Board and approved by the Town Attorney. When a letter of credit is posted as security the Town must be the beneficiary.
3. The security deposit shall guarantee that all required improvements will be completed according to Town specifications by the subdivider or its contractors not later than eighteen (18) months from the date that the plat is recorded and shall be used, applied, or released pursuant to Section 11(2).

(4) RESERVATION AND DEDICATION OF LAND.

(A) Public Ways. Whenever a tract of land to be divided or subdivided embraces all or any part of an arterial street, drainageway or other public way, said public way shall be made a part of the plat and dedicated by the subdivider in the locations and dimensions indicated on said plan or map.

(5) CERTIFIED SURVEY. Any land division other than a subdivision, shall be surveyed with a certified survey map prepared by a licensed surveyor as provided in Sec. 236.34, Wis. Stats., and in accordance with the requirements of this ordinance and Town of Dunn

Ordinance #12-3 (A), the Land Division Ordinance.

- (6) NON COMPLIANCE. No person, partnership, firm, corporation, or entity of any sort shall be issued a building permit by the Town authorizing the building on, or improvement of, any land division, subdivision, or replat within the jurisdiction of this ordinance not approved by the Plan Commission as of the effective date of this ordinance until the provisions and requirements of this ordinance have been fully met. The Plan Commission or Town Board may deny requests for building permits, rezoning or other approvals for any person, firm or corporation who fails to comply with the provisions of this ordinance.
- (7) APPLICABILITY TO CONDOMINIUMS. This ordinance is expressly applicable to condominium developments within the Town's jurisdiction, pursuant to Section 703.27(1), Wis. Stats. For purposes of this ordinance, a condominium unit and any associated limited common elements shall be deemed to be equivalent to a lot or parcel created by the act of land division or subdivision.
- (8) SURVEY MONUMENTS. Before final approval of any plat or certified survey map within the corporate limits of the Town, the subdivider shall install survey monuments placed in accordance with the requirements of Section 236.15 of the Wisconsin Statutes and as may be required by the Town Engineer. The Town Board may waive the placing of monuments required under Section 236.15(b), (c) and (d), for a reasonable time on condition that the subdivider execute a surety bond to insure the placing of such monuments within the time required.
- (9) LAND SUITABILITY. No plat shall be approved if the resulting lots are determined to be unsuitable for a developed use by the Plan Commission for reason of flooding or potential flooding, adverse soil or rock formations, severe erosion potential, unfavorable topography, inadequate drainage, inadequate water or sewage disposal capabilities, or any other condition which is potentially harmful to the health, safety, or welfare of the future residents of the proposed lots, adjacent lots, or of the community. A portion of a proposed lot may contain such conditions, provided the overall lot is not deemed unsuitable.
  - (A) Lands that are unsuitable for development include, but are not limited to:
    - 1. All areas mapped as Floodplain by the Federal Emergency Management Agency (FEMA), Wisconsin Department of Natural Resources, or Dane County Zoning. When a proposed land division is located in an area where flooding or potential flooding may be a hazard, the Plan Commission may request technical assistance from any of these agencies in determining whether the land is suitable or unsuitable for the use proposed.

2. All wetlands as defined in NR 103.02(5) of the Wisconsin Administrative Code, including a 100 foot buffer (around wetlands with an area of 2 acres or greater). The applicant may petition the Plan Commission to waive the 100 foot buffer.
  3. All areas within 75 feet of the ordinary high-water mark of navigable streams and lakes, as identified by Wisconsin Department of Natural Resources.
  4. All areas having slopes 15 percent or greater.
  5. Areas that provide habitat for threatened, endangered, or special concern species in the opinion of a natural resource specialist.
  6. Burial sites and Indian mounds.
  7. Drainageways that contain running water during spring runoff, or during storm events plus a 25 foot buffer from the edge of the drainageway.
  8. Lands having bedrock within six (6) feet of the natural undisturbed surface.
  9. For unsewered development, all soil types as shown on the operational soil survey maps prepared by the U.S. Department of Agriculture, Natural Resource Conservation Service, which have very severe limitations, unless in conformance with the applicable state administrative code and the Dane County Private Sewage System Ordinance.
  10. Lands that are encumbered by a conservation easement which prohibits the land division or the type of development proposed.
  11. Areas of archaeological, historical, or geological importance.
- (B) The Plan Commission, when applying the provisions of this section, shall recite the particular reasons upon which it bases its conclusion that the land is not suitable for a proposed use, and afford the subdivider an opportunity to present evidence regarding such unsuitability if the subdivider so desires. Thereafter, the Plan Commission may affirm, modify or withdraw its determination of unsuitability.
- (C) The subdivider shall provide all necessary maps, data, and information for determining suitability.

- (10) **OUTLOTS.** No outlot in a subdivision may be used as a building site unless it is in compliance with all restrictions imposed by Chapter 236 of the Wisconsin Statutes and the provisions of this ordinance. No outlot in a subdivision may be used as a building site unless it is in compliance with all the provisions of this ordinance. An outlot may be conveyed whether or not it may be used as a building site.
- (11) **VIOLATIONS.** It shall be unlawful to build upon, rezone, divide, further divide, convey, record or monument any land in violation of this ordinance or of the Wisconsin Statutes. The Town may institute appropriate action or proceedings to enjoin violations of this ordinance or the applicable Wisconsin Statutes.
- (12) **PENALTIES.**
- (A) Any person, firm or corporation who fails to comply with the provisions of this ordinance shall, upon conviction thereof, forfeit not less than One Hundred Dollars (\$100) nor more than One Thousand Dollars (\$1,000) and the costs of prosecution for each violation, including the Town's reasonable and actual attorney fees and disbursements incurred in the prosecution of such violations, and in default of payment of such forfeiture and costs shall be imprisoned in the County Jail until payment thereof, but not exceeding six (6) months. Each day a violation exists or continues shall constitute a separate offense.
  - (B) Recordation improperly made has penalties provided in Sec. 236.30, Wis. Stats.
  - (C) Conveyance of lots in unrecorded plats has penalties provided in Sec. 236.31, Wis. Stats.
  - (D) Monuments disturbed or not placed have penalties as provided for in Sec. 236.32, Wis. Stats.
  - (E) Assessor's plat made under Sec. 70.27 of the Wisconsin Statutes may be ordered by the Town at the expense of the subdivider when a subdivision is created by successive land divisions.
- (13) **APPEALS.**
- (A) The following decisions of the Plan Commission may be appealed to the Town Board:
    - 1. Rejection of a preliminary plat;
    - 2. Rejection of a final plat;
    - 3. Determination that land is unsuitable for subdivision;

4. Determination that a change in a recorded plat and its exhibits is a major change;
  5. Rejection of a proposed change in a recorded plat and its exhibits.
- (B) A written Notice of Appeal must be filed with the Clerk within 14 days of the date of the Plan Commission action.
- (C) The Notice of Appeal shall state the action of the Plan Commission appealed from, shall specify the reasons stated by the Plan Commission for taking such actions, shall specify the reasons why the landowner believes said action was inappropriate; shall include an agreement to extend the time for acting on the certified survey, for a period of ninety (90) days from the date of the Plan Commission action; and shall state the names and addresses of the owners of all properties within 300 feet of the proposed land division.
- (D) The Clerk shall file the Notice of Appeal with the Board and shall schedule the appeal for consideration by the Board at a meeting, open to the public, within forty-five (45) days of the filing of the Notice of Appeal. The Clerk shall send notice of the time scheduled for the consideration of the appeal to the landowner and to all property owners within 300 feet of the proposed land division at least ten (10) days prior to the hearing of the appeal.
- (E) Within thirty (30) days of the appeal hearing, the Board shall affirm, modify, or reverse the action of the Plan Commission or shall refer the matter back to the Plan Commission for further consideration. Notice of the decision of the Board shall be sent to landowner and the Plan Commission.
- (F) The provisions of Chapter 68 of the Wisconsin Statutes shall not be applicable to any determination made pursuant to the provisions of this ordinance.
- (G) Any person aggrieved by an objection to a plat or a failure to approve a plat may, after review by the Board, appeal therefrom, as provided in Sections 236.13(5) and 62.23(7)(e)(10) to (15) of the Wisconsin Statutes.

#### Section 4: Procedure

- (1) PRE-APPLICATION. Prior to the filing of an application for the approval of a certified survey map or preliminary plat, the subdivider shall consult with the Planning Director to obtain their advice and assistance, to be informed of the presence and objectives of these regulations, of any applicable plans and of any plan implementation devices, and to be otherwise assisted in planning the subdivision or land divisions. The Planning Director may require the subdivider

to furnish such maps or other information as will assist it during the pre-application phase.

- (2) INITIAL APPLICATION. After the initial conference, the subdivider shall submit a series of maps and descriptive information to the Planning Director according to the following. Mapping for the initial application can be done in any combination of features as long as individual map components can be distinguished and the relationship between map components can be determined.
- (A) Inventory and mapping of existing resources including the following mapped at a scale of no less than one inch = 50 feet:
1. Topographic contours at 2-foot intervals.
  2. United States Department of Agriculture, Natural Resource Conservation Service soil type locations and identification of soil type characteristics such as agricultural capability, depth to bedrock and water table, and suitability for wastewater disposal systems. Type and stability of bedrock should also be noted, particularly in karst areas and areas with high potential for groundwater contamination due to fractured bedrock or the presence of arsenic and mercury.
  3. Hydrologic characteristics, including surface water bodies, floodplains, groundwater recharge and discharge areas, wetlands, natural swales, drainage ways, and steep slopes.
  4. Land cover on the site, according to general cover type (pasture, woodland, etc.), and stand-alone trees with a caliper of more than [24] inches measured four feet off the ground. The inventory shall include comments on the health and condition of the vegetation.
  5. Current and past land use, all buildings and structures on the land, cultivated areas, brownfields, waste sites, and history of waste disposal practices, paved areas, and all encumbrances, such as easements or covenants.
  6. Known critical habitat areas for rare, threatened or endangered species.
  7. Views of the site, including views onto the site from surrounding roads, public areas and elevated areas, including photographs with a map indicating the location where the photographs were taken.
  8. Unique geological resources, such as rock outcrops and glacial features.
  9. Cultural resources: brief description of historic character of buildings and

structures, historically important landscapes, and archeological features. This includes a review of existing inventories, including those the State Historical Society of Wisconsin maintains for historic buildings, archaeological sites, and burial sites.

- (B) Development yield analysis. The subdivider shall submit a table showing the maximum number of dwelling units that would be permitted under the Dane County zoning ordinance and Town Comprehensive Plan, consistent with the minimum lot size, lot widths, set backs, and other provisions of the zoning ordinance and compare it to the number of dwelling units proposed. Land that is undevelopable because of other laws and ordinances that prohibit development in certain areas (e.g. floodplains, wetlands, steep slopes, and drainage ways) shall be excluded from the development yield analysis.
- (C) Site analysis and concept plan. Using the inventory provided in section 2 (A), the development yield analysis provided in section 2 (B), and applying the standards specified in sections 8-12 of this ordinance, the subdivider shall submit a concept plan including at least the following information at a scale of no less than one inch = 50 feet:
  - 1. Open space areas indicating which areas are to remain undeveloped and trail location.
  - 2. Boundaries of areas to be developed and proposed general street and lot layout.
  - 3. Number and type (i.e., single-family, multi-family) of housing units proposed.
  - 4. Proposed methods for and location of water supply, stormwater management (e.g., best management practices), and sewage treatment.
  - 5. Inventory of preserved and disturbed natural features and prominent views.
  - 6. Preliminary development envelopes showing areas for lawns, pavement, buildings, and grading.
  - 7. Proposed methods for ownership and management of open space.
- (D) General location map. The subdivider shall submit a map showing the general outlines of existing buildings, land use, and natural features such as water bodies or wooded areas, roads and property boundaries within 500 feet of the tract. This information may be presented on an aerial photograph at a scale of no less than 1 inch: 400 feet.

(3) PRELIMINARY PLAT REVIEW.

- (A) Before submitting a final plat for approval, the subdivider shall prepare a preliminary plat and a written application for approval, and shall file five (5) copies of the plat and the application with the Planning Director. The subdivider shall also forward a copy to the local electric and telephone utilities. When the subdivider expects the Town to act as the transmitting authority in accordance with Section 236.12 Stat., the application shall state that the transmittal responsibility lies with the Town, shall contain a list of the other authorities to which the plat must be submitted, and shall be accompanied by such additional fees and copies of the plat as are necessary to be transmitted to such authorities.
- (B) The preliminary plat shall cover the entire area owned or controlled by the subdivider even if only a small portion thereof is proposed for development at the time, and shall be prepared in accordance with this ordinance. The Plan Commission may waive the requirement that the preliminary plat cover the entire area where it is unnecessary to fulfill the purpose of the ordinance and undue hardship would result from strict application thereof.
- (C) The Planning Director shall forward two copies of the preliminary plat to the Plan Commission which shall examine it for conformity with the requirements of this ordinance and with the requirements of any other ordinances, statutes or administrative rules and regulations, and for compliance with any applicable master plan.
- (D) Within 90 days of the receipt of the application, the Plan Commission shall take action to approve, approve conditionally, or reject the preliminary plat and shall state in writing any conditions of approval or reasons for rejection. The Plan Commission shall establish as a condition of approval that within a reasonable time limit the subdivider shall meet or enter an agreement to meet all other conditions of approval. One copy of the preliminary plat shall be returned to the subdivider, his surveyor, or engineer with the date and action attached hereto; and if approved conditionally or rejected, the conditions of approval or reasons for rejection shall be attached thereto. Unless the time is extended by written agreement between the subdivider and the Board, failure to complete the action herein required within ninety (90) days of filing of the preliminary plat shall constitute an approval of the preliminary plat.
- (E) Approval or conditional approval of a preliminary plat entitles the final plat to approval provided the final plat conforms substantially to the preliminary, including any conditions of that approval, and conforms to any applicable local



plans and ordinances. If the final plat is not submitted within thirty-six (36) months of the last required approval of the preliminary plat, any approving authority may refuse to approve the final plat regardless of prior action taken on the preliminary plat.

- (F) Whenever a proposal to replat or subdivide one or more recorded subdivisions, or any part of a recorded subdivision, is filed with the Plan Commission, it shall schedule and hold a public hearing on the proposed preliminary plat of the replat or resubdivision before taking action. The Plan Commission shall mail notices of the proposed replat or resubdivision and of the scheduled hearing thereon at least 10 days prior to the time of such hearing to the owners of all properties within 300 feet of the proposed replat or resubdivision.

(4) FINAL PLAT REVIEW.

- (A) The subdivider shall prepare and file seven (7) copies of the final plat together with a written application for approval with the Clerk within thirty-six (36) months of the approval of the preliminary plat.
- (B) The Clerk shall forward two (2) copies of the plat to the Plan Commission. The Plan Commission shall examine it for conformity with the preliminary plat and any conditions of approval, with the requirements of this ordinance, and with the requirements of any other ordinances, statutes, administrative rules and regulations, or local plans which may be applicable to it.
- (C) The Plan Commission shall approve or reject the final plat within 60 days of its submission, unless the time is extended by agreement with the subdivider or subdivider's agent. The shall establish as condition of final approval that within a reasonable time limit, the subdivider shall meet or enter and agreement to meet all requirements and conditions of approval. One copy of the plat shall then be returned to the subdivider, his surveyor, or engineer with the date and action attached thereto, and the conditions or requirements of approval or reasons for rejection shall be attached thereto. Unless the time is extended by written agreement between the subdivider and the Plan Commission, failure to complete the action required herein within sixty (60) days of filing the final plat shall constitute an approval of the final plat.
- (D) The final plat may, if permitted by the Plan Commission, include only that portion of the approved preliminary plat which the subdivider proposes to record at that time.
- (E) The final plat is entitled to approval provided that it conforms substantially to the preliminary plat as approved, including any conditions of that approval, and

conforms to any applicable local plans and ordinances. If the final plat is not submitted within thirty-six (36) months of the last required approval of the preliminary plat, the Plan Commission may reject the final plat regardless of any prior action on the preliminary plat.

- (F) After the final plat has been approved by the Board and the contract is entered and security filed in accordance with Section 3, Paragraph 3 (B) hereof, and all other conditions of approval have been met, the subdivider shall submit the final plat to the Clerk. The Clerk shall cause the certificate inscribed upon the plat attesting to such approval to be duly executed and the plat returned to the subdivider for recording.
  - (G) The subdivider shall file two (2) certified copies of the final plat with the Clerk within ten days after it has been recorded.
- (5) REPLATS.
- (A) When it is proposed to replat a recorded subdivision, or part thereof, so as to change its boundaries, or any part thereof, the person wishing to replat shall vacate or alter the recorded plat as provided in Section 236.40 through 236.44 of the Wisconsin Statutes and shall then proceed as specified in Sections 3 through 7.
  - (B) The Clerk shall schedule a public hearing before the Plan Commission when a preliminary plat of a replat is filed and shall cause notices of the proposed replat and public hearing to be mailed, at the subdivider's expense, to the owners of all properties within the limits of the exterior boundaries of the proposed replat and to the owners of all properties within 300 feet of the exterior boundaries of the proposed replat.
- (6) LAND DIVISIONS BY CERTIFIED SURVEY. Refer to Ordinance 12-3 (A), the Land Division Ordinance

Section 5: Preliminary Plat

- (1) GENERAL. A preliminary plat shall be required for all subdivisions and shall be based upon a survey by a land surveyor registered in this state. A preliminary plat shall be prepared on paper of good quality capable of clearly legible reproduction at a scale of not more than 100 feet to the inch and shall show correctly on its face the following information:
  - (A) Title under which the proposed subdivision is to be recorded.

- (B) Location of proposed subdivision by: government lot, quarter-quarter section, township, range, county, and state; and a location map showing the relationship between the plat and its surrounding area and to existing streets.
  - (C) Date, scale and north point.
  - (D) A description of the material of which the corner marker is composed.
  - (E) Names and addresses of the owner, subdivider, the surveyor, the engineer, and the professional land planner involved in the plat preparation.
  - (F) The entire area contiguous to the proposed plat owned or controlled by the subdivider shall be included on the preliminary plat even if only a portion of said area is proposed for immediate development. The Plan Commission may waive this requirement where it is unnecessary to fulfill the purposes and intent of this ordinance and undue hardship would result from strict application thereof.
  - (G) The present zoning and any proposed zoning change for the plat and all lands adjacent thereto.
- (2) PLAT DATA. All preliminary plats shall show the following:
- (A) Exact length and bearing of the exterior boundaries of the proposed subdivision referenced to a corner established in U.S. Public Land Survey and the total acreage encompassed thereby.
  - (B) Topographic data including contours at vertical intervals of not more than 2 feet. Elevation values shall be based on the National Geodetic Vertical Datum of 1929 (NGVD 29) or the North American Datum of 1988 (NAVD 88) or future adjustments to NAVD 88 as defined by the National Geodetic Survey and should also be so noted on the plat.
  - (C) Water elevations of adjoining lakes and streams at the date of the survey and approximate high and low water elevations, based upon or established by the best available data.
  - (D) Significant natural resource features on the site, i.e. wetlands, floodplains, watercourses, existing wooded areas, steep slopes, drainage ways, rare, threatened and endangered species, Town of Dunn environmental corridors, and other natural resource features, views and other prominent visual features.
  - (E) Location, right-of-way width and names of all existing streets, alleys or other public ways, easements, railroad and utility rights-of-way and all section and

quarter section lines within the exterior boundaries of the plat or immediately adjacent thereto.

- (F) Location and names of any adjacent subdivisions, parks and cemeteries, and owners of record of abutting unplatted lands.
  - (G) Burial sites categorized under Wis. Stat. § 157.70, Indian mounds, national and state register listed properties, and locally designated historic properties.
  - (H) Type, width and elevation of any existing street pavements within the exterior boundaries of the plat or immediately adjacent thereto together with any legally established centerline elevations, based upon or established by the best available data.
  - (I) Location, size and invert elevation of any existing sanitary sewers, culverts and drain pipes; the location of manholes, catchbasins, power and telephone poles; and the location and size of any existing gas mains or water wells within the exterior boundaries of the plat or immediately adjacent thereto. If no sewers or are located on or immediately adjacent to the tract, the nearest such sewers or water mains which might be extended to serve the tract shall be indicated by their direction and distance from the tract, size, and invert elevations.
  - (M) Existing zoning on and adjacent to the proposed subdivision.
  - (N) Corporate limit lines.
  - (Q) Depth to ground water throughout the proposed subdivision.
- (3) SUBDIVISION DESIGN FEATURES
- (A) Layout of proposed streets, showing right-of-way widths, types of improvements, street surface widths, and proposed street names.
  - (B) Locations and type of proposed public easements (i.e. drainage, utility, pedestrian, public access to waterways, etc.); and all conservation easements.
  - (C) Layout of proposed blocks and lots within the plat.
  - (D) Basic data regarding proposed and existing (if applicable) lots and blocks, including numbers, dimensions, area.
  - (E) Minimum front, side and rear yard building setback lines for all lots.

- (F) Indication of the use of any lot.
  - (G) Location and size of all proposed and existing sanitary sewer lines and water mains, proposed community sewer and water system, or individual on-site septic systems and potable water sources.
  - (H) Location and size of all proposed and existing storms sewers (lines, drain inlets, manholes), culverts, retention ponds, swales, infiltration practices and areas, and other stormwater facilities within the plat and to a distance of 100 feet beyond the site.
  - (I) Development envelopes showing areas for grading, lawns, pavement and buildings.
  - (J) Open space areas, other than pedestrian ways and utility easements, intended to be dedicated or reserved for public use, including the size of such area or areas in acres. Provide information on the conditions, if any, of the dedication or reservation.
  - (K) Management plan for restoration and long-term management of the open space areas.
- (4) TESTING.
- (A) The Town may require, and where sanitary sewers are unavailable shall require, that borings and soundings be made in specified areas to ascertain subsurface soil, rock and water conditions, including depth to bedrock and depth to ground water table.
  - (B) Where sanitary sewers are unavailable, the soil and percolation tests required by Wis. Adm. Code SPS 385 shall be performed and the results shall be submitted with the preliminary plat. After approval of the preliminary plat but prior to submitting an application for approval of the final plat, each individual lot shall be tested for percolation as specified in Wis. Adm. Code SPS 385 and the results of such tests shall be submitted to the Plan Commission.
- (5) PRELIMINARY CONSTRUCTION PLANS. The Plan Commission may require submission of a draft of protective covenants whereby the subdivider intends to regulate land use in the proposed subdivision and otherwise protect to proposed development.
- (A) Grading and Erosion Control Plan. A plan showing existing and proposed grades, drainage patterns, and stormwater facilities. The plan shall show the location and extent of grading activities in and adjacent to the plat, overall area of the

site in acres, total impervious surface area of project, total pervious area, stockpile locations, erosion and sediment control facilities, and a schedule for erosion and sediment control practices including site specific requirements to prevent erosion at the source. Major trees to be preserved, with a diameter of [24] inches or more measured twelve (12) inches above ground level, shall be shown on the preliminary grading and erosion control plan. Adequate measures for protecting major trees shall be shown on the plan.

- (B) Provisions for sewage disposal, water supply, stormwater management, and flood control.
- (6) AFFIDAVIT. The surveyor preparing the preliminary plat shall certify on the face of the plat that it is a correct representation of all existing land divisions and features and that he has fully complied with the provision of this ordinance.

Section 6: Final Plat

- (1) GENERAL. A final plat prepared by a land surveyor registered in this state shall be required for all subdivisions. It shall comply in all respects with the requirements of Section 236.20 of the Wisconsin Statutes.
- (2) INFORMATION REQUIRED. The plat shall show correctly on its face, in addition to the information required by Section 236.20 of the Wisconsin Statutes and Section 4 hereof, the following:
  - (A) Exact length and bearing of the center line of all streets.
  - (B) Exact street width along the line of any obliquely intersecting street.
  - (C) Railroad rights-of-way within and abutting the plat.
  - (D) Exact location and description of utility and drainage easements
  - (E) Setbacks or building lines required by the Town Plan Commission.
  - (F) Restrictive covenants, deed restrictions, conservation easements for the proposed subdivision shall be filed with the final plat.
  - (G) The legal instruments detailing the ownership of the common open space, as required in section 13, which shall be filed with the final plat.
  - (H) Special restrictions required by the Town Plan Commission relating to access control along public ways or to the provision of planting strips.

- (l) The rural fire number assigned to each lot.
- (3) DEED RESTRICTIONS. The Plan Commission may require that deed restrictions be filed with the final plat.
- (4) SURVEYING AND MONUMENTING. All final plats shall meet all the surveying and monumenting requirements of Section 236.15 of the Wisconsin Statutes.
- (5) CERTIFICATES. All final plats shall provide all the certificates required by Section 236.21 of the Wisconsin Statutes; and, in addition, the surveyor shall certify that he has fully complied with all the provisions of this Ordinance.
- (6) APPLICATION FOR APPROVAL. The plat shall be accompanied by a written application for approval on forms furnished by the Plan Commission, and, if they have not been previously submitted, the results of the soil and percolation tests required by Section 5 Paragraph 4(B).

Section 7: Development Yield

- (A) The development yield analysis in section 4, Paragraph 2 (B) shall establish the base development yield for the parcel.
- (B) The base development yield may be increased if the development complies with one or more of the following standards. Each standard provides a development yield bonus of 5% in addition to the base development yield. The maximum bonus permitted is 20%.
  - 1. Creating an endowment where the principal would generate sufficient annual interest to cover the conservation easement holder's yearly costs (taxes, insurance, maintenance, enforcement, etc.).
  - 2. Providing for access by the general public to trails, parks, or other recreational facilities, excluding golf courses.
  - 3. Providing affordable housing, to include a minimum of 25 percent of all units that would be affordable to moderate-income households, as defined by the U.S. Department of Housing and Urban Development.
  - 4. Reusing historical buildings and structures, including those sites inventoried by the State Historical Society of Wisconsin. The U.S. Secretary of the Interior's Standards for Rehabilitation of Historic Properties shall apply.

Section 8: Performance Standards

- (A) Conservation Target. Conservation subdivisions shall identify a conservation target or targets. This target shall be identified at the time of the initial application. Conservation targets may include, but are not limited to, forest stewardship, water quality preservation, farmland preservation, natural habitat restoration, viewshed preservation, or archaeological and historic properties preservation. The Plan Commission shall have the authority to specify which areas shall be preserved.
- (B) Residential Lot Requirements
1. Minimum Lot Size
    - Septic on-site: 1 acre.
    - Sewer: 1/4 acre.
  2. Lots shall be configured to minimize the amount of impervious surfaces. Maximum Lot Coverage: 35% (includes buildings and other impervious surfaces such as driveways and patios).
  3. Most lots shall take access from interior local streets. Existing farmsteads to be preserved will have a driveway as part of the historic landscape that does not access a local street but should be preserved.
  4. Lots shall be configured to minimize the amount of road length required for the subdivision.
  5. Development envelopes shall be configured to minimize loss of woodlands.
  6. If agricultural uses are being maintained, lots shall be configured in a manner that maximizes the usable area remaining for such agricultural uses with appropriate buffers between agricultural uses and residential structures.
  7. All lots within a neighborhood shall abut open space on at least one side. A local street may separate lots from the open space.
  8. Lots shall be oriented around one or more of the following:
    - i. A central green or square.
    - ii. A physical amenity such as a meadow, a stand of trees, or some other natural or restored feature.



9. Development envelopes should not be located on ridges, hilltops, along peripheral public roads or in other visually prominent areas.
10. Residential structures shall be oriented to maximize solar gain in the winter months to the extent practicable.
11. A 35 foot native vegetation buffer shall be maintained around open water areas, unless a specific common beach or grassed area is identified.
12. Stormwater Best Management Practices (BMPs)
  - i. Minimize the use of curb and gutter and maximize the use of open swales.
  - ii. Roof down spouts should drain to porous surfaces.
  - iii. Landscape plantings should be used to increase infiltration and decrease runoff.
  - iv. Natural open drainage systems shall be preserved.
  - v. Control peak rates of runoff for the 1, 2, 10, and 100-year 24-hour design storms to “predevelopment” levels.
  - vi. Maintain the post development stay-on volume to at 100% of the predevelopment stay-on volume for the one-year average annual rainfall period, as defined by WDNR.
  - vii. Provide at least 80% sediment control.

Section 9: Residential Cluster Siting Standards

- (A) All residential lots and dwellings shall be grouped into clusters. Each cluster shall contain no more than 15 dwelling units and no less than 5 units.
- (B) Residential clusters shall be located to minimize negative impacts on the natural, scenic and cultural resources of the site and minimize conflicts between incompatible uses.
- (C) Residential clusters shall avoid encroaching on rare plant communities, high quality sites, or endangered species identified by the Department of Natural Resources.
- (D) Whenever possible, open space shall connect with existing or potential open space lands on adjoining parcels and local or regional recreational trails.
- (E) Residential clusters should be sited to achieve the following goals, to the extent practicable.
  - i. Minimize impacts to prime farmland soils and large tracts of land in agricultural use, and avoid interference with normal agricultural practices.

- ii. Minimize disturbance to woodlands, wetlands, grasslands, and non-invasive mature trees.
- iii. Prevent downstream impacts due to runoff through adequate on-site storm water management practices.
- iv. Protect scenic views of open land from adjacent roads. Visual impact should be minimized through use of landscaping or other features.
- v. Protect archaeological sites and existing historic buildings or incorporate them through adaptive reuse.

(F) Landscaping around the cluster may be necessary to reduce off site views of residences.

Section 10: Open Space Design

- (A) Common Open Space. The minimum open space required shall be owned and maintained under one of the alternatives listed in Section 13, as approved by the Town. The uses within the open space shall be accessible to the residents of the development. These uses may also be available to the general public providing the proper approvals are received. The required open space shall be undivided and restricted in perpetuity from future development, as specified in Section 13.
- (B) Open space shall be designated as part of the development. The minimum required open space is 60 % of the gross acreage.
- (C) Open Space Conservation Ranking (in order of significance). The areas to be preserved shall be identified on a case-by-case basis in an effort to conserve and provide the best opportunities to restore and enlarge the best quality natural features of each particular site.
  - i. First priority will be given to intact natural communities, rare and endangered species, environmental corridors, natural and restored prairies, significant historic and archaeological properties, active agricultural operations and steep slopes.
  - ii. Second priority will be given to areas providing some plant and wildlife habitat and open space values.
  - iii. Third priority will be given to areas providing little habitat but providing viewshed, recreation, or a sense of open space.

- (D) The following areas or structures may be located within the open space area and shall be counted toward the overall open space percentage required:
- i. parking areas for access to and use of the open space developed at a scale limited to the potential users of the open space.
  - ii. privately-held buildings or structures provided they are accessory to the use of the open space.
  - iii. Shared septic systems and shared potable water systems.
- (E) Road rights of way shall not be counted towards the required minimum open space.
- (F) No more than 50 percent of the required open space may consist of water bodies, ponds, floodplain, or wetlands.
- (G) That portion of open space designed to provide plant and animal habitat shall be kept as intact as possible. Trails shall be designed to avoid fragmenting these areas.
- (H) Accessible open space in upland areas shall be available for recreational uses such as trails, play fields, or community gardens but should be designed in a manner that avoids adversely impacting archeological sites.
- (I) A pathway system connecting open space areas accessible to neighborhood residents, and connecting these areas to neighborhood streets and to planned or developed trails on adjacent parcels shall be identified in the plan.

Section 11: Street Standards

- (A) Neighborhood streets may take the form of a two-way street, a pair of one-way streets on either side of a landscaped median, or a one-way loop street around a small neighborhood green. Streets shall be developed according to the following standards that promote road safety, assure adequate access for fire and rescue vehicles, and promote adequate vehicular circulation:
- (B) The applicant must demonstrate that access to the development has the capacity to handle traffic generated by the proposed project, and will not endanger the safety of the general public.
- (C) Streets shall have the following design standards:
- i. Right-of-way widths. The right-of-way width for each road shall be wide enough to provide for all public services, including roadway drainage,

sidewalks, trails, and walkways, utilities, and snow storage. The minimum right-of-way shall be provided in accordance with the following:

<u>Right-of-Way</u>	<u>ADT less than 250</u>	<u>ADT over 250</u>
One-way roadway	20'	30'
Two-way roadway	40'	50'

ii. Travel land widths for local roads shall be determined by the expected average daily traffic (ADT) and shall be within the following ranges:

<u>Travel Lanes</u>	<u>ADT &lt; 100</u>	<u>100-250 ADT</u>	<u>&gt;250</u>
Two-way roadway*	18'-24'	20'-26'	22'-28'
One-way roadway*	11'-13'	11'-13'	11'-14'
(curbed sections**)	13'	13'	13'
Shoulder or gutter			
Pan width	2'-4'	2' - 4'	2' - 4'

\*Does not include shoulder or gutter pan.

\*\*Measured from curb face to curb face.

(D) Additional Standards:

- i. Design Speed: Maximum 25 miles per hour.
- ii. Vertical Curves: Minimum 50' (when grade difference less than 1%, no curve is needed).
- iii. Horizontal Curves: Minimum radius of 125'
- iv. Road Grades: Maximum grade 8%
- v. Super-elevation: Maximum e= 0.04 feet/feet
- vi. Pavement Strength: 7 ton minimum
- viii. Clear Zones:
  - Shoulder sections: 10' from edge of travel lane
  - Curbed sections: 2' from face of curb
- ix. Bridges: Width shall be traveled way, plus 2' each side. Design Loading for Structural Capacity HS-20, plus 5' sidewalk necessary to maintain pedestrian crossing.

- x. Cul-de-sacs should be designed as semi-circular and circular loop roads. Minimum 30' outside radius around a landscaped island with an minimum 10' radius. Open space internal to these road features can be counted toward the open space requirements.
  - xi. Sidewalks, trails, and other walkways. Minimum 5 feet width.
- (E) If determined necessary by the Tree Board, shade trees shall be planted on both sides of the street.
- (F) Street connections to adjacent parcels shall be provided in logical locations to avoid creating landlocked parcels and provide for connecting street patterns.
- (G) Where streets will connect with streets having differing standards, the street dimensions shall be the same as those of the connecting street. All street widenings shall occur at the nearest intersection.
- (H) The developed area should have sidewalks on at least one side of the street.

Section 12: Sewage and Water Facilities

- (A) Water for a conservation subdivision shall be provided by individual onsite wells or by one or more community wells meeting the permit requirements of the State of Wisconsin and Dane County. The use of shared or community wells is encouraged. Plans for shared or community wells should include a wellhead protection plan with separation distances for the zone of influence and sources of pollution.
- (B) All conservation subdivisions shall be provided with adequate sewage treatment facilities meeting the standards of the appropriate Sanitary District and the permit requirements of the Wisconsin Department of Commerce and the Department of Natural Resources. Where sewage treatment is not provided by a publicly owned wastewater treatment works, a common sewage treatment and disposal unit located on the common open space lands is encouraged.

Section 13: Ownership and Maintenance of Open Space and Common Facilities

- (A) The designated common open space and common facilities may be owned and managed by one or a combination of the following:
1. A homeowners' association.
  2. A condominium association established in accordance with the Condominium Ownership Act, Chapter 703 of the Wisconsin Statutes.

3. A nonprofit conservation organization.

4. The Town of Dunn or another governmental body empowered to hold an interest in real property.

5. An individual who will use the land for open space purposes as provided by a conservation easement.

(B) Homeowners' Association. A homeowners association shall be established if the common open space is proposed to be owned by a homeowners association. Membership in the association is mandatory for all purchasers of homes in the development and their successors. The homeowners' association bylaws, guaranteeing continuing maintenance of the open space and other common facilities, and the declaration of covenants, conditions and restrictions of the homeowners association shall be submitted for approval to the Town of Dunn as part of the information required for the preliminary plat. The homeowners' association bylaws or the declaration of covenants, conditions and restrictions of the homeowners association shall contain the following information:

1. The legal description of the common land;

2. A description of common facilities;

3. The restrictions placed upon the use and enjoyment of the lands or facilities;

4. Persons or entities entitled to enforce the restrictions;

5. A mechanism to assess and enforce the common expenses for the land or facilities including upkeep and maintenance expenses, real estate taxes and insurance premiums;

6. A mechanism for resolving disputes among the owners or association members;

7. The conditions and timing of the transfer of ownership and control of land facilities to the association;

8. Any other matter the developer deems appropriate.

(C) Condominium Associations. If the common open space and facilities is to be held under the Condominium Ownership Act, Chapter 703 of the Wisconsin Statutes, the condominium instruments shall identify the restrictions placed upon the use and

enjoyment of the common open space. All common open space shall be held as a “common element” as defined in section 703.0 1(2) of the Wisconsin Statutes.

(D) A Nonprofit Conservation Organization. If the common open space is to be held by a nonprofit conservation organization, the organization must be acceptable to the Town. The conveyance to the nonprofit conservation organization must contain appropriate provisions for reversion in the event that the organization becomes unwilling or unable to uphold the terms of the conveyance.

(E) Public Dedication of Open Space and Streets.

1. The Town may accept the dedication of fee title or dedication of a conservation easement to the common open space. The Town may accept the common open space provided:

- a. The common open space is accessible to the residents of the Town;
- b. The Town agrees to and has access to maintain the common open space..

(F) Individual Ownership. An individual may hold fee title to the land while a nonprofit or other qualified organization holds a conservation easement uses for the common open space.

(G) Maintenance Plan. Every conservation subdivision must include a plan that provides evidence of a means to properly manage the common open space in perpetuity and evidence of the long-term means to properly manage and maintain all common facilities, including any storm water facilities. The plan shall be approved by, the Town Board prior to final plat approval.

1. The plan shall accomplish the following:

- a. Designate the ownership of the open space and common facilities in accordance with section 13 (A).
- b. Establish necessary regular and periodic operation and maintenance responsibilities.
- c. Estimate staffing needs, insurance requirements, and other associated costs and define the means for funding the same on an on-going basis.
- d. Include a land stewardship plan specifically focusing on the long-term management of common open space lands. The land stewardship plan shall include a narrative describing:

- i. Existing conditions including all natural, cultural, historic, and scenic elements in the landscape.
- ii. The proposed end state for each common open space area; and the measures proposed for achieving the end state.
- iii. Proposed restoration measures, including: Measures for correcting increasingly destructive conditions, such as erosion; and measures for restoring historic features and habitats or ecosystems.
- iv. The operations needed for maintaining the stability of the resources, including: mowing schedules; weed control; planting schedules; clearing and cleanup; at the Town's discretion, the applicant may be required to place in escrow sufficient funds for the maintenance and operation costs of common facilities for a maximum of one year.

2. In the event that the organization established to own and maintain the open space and common facilities, or any successor organization, fails to maintain all or any portion of the common facilities in reasonable order and condition upon the residents and owners of the open space and common facilities, setting forth the manner in which the organization has failed to maintain the common facilities in reasonable condition. Such notice shall set forth the nature of corrections required and the time within which the corrections shall be made. Upon failure to comply within the time specified, the organization, or any successor organization, shall be considered in violation this Ordinance, in which case the bond, if any, may be forfeited, and any permits may be revoked or suspended. The Town may enter the premises and take corrective action.

a. The costs of corrective action by the Town shall be assessed ratably, in accordance with tax assessments, against the properties that have the right of enjoyment of the common facilities and shall become a lien on said properties. The Town, at the time of entering upon such common facilities for the purpose of maintenance, shall file a notice of such lien in the office of the County Register of Deeds upon the properties affected by such lien.

3. Management plans can be amended by the owner identified under section 13 (A) with the approval of the Town Board.

Section 14: Acceptance of Improvements

- (1) RESOLUTION. After the subdivider has installed all required improvements, he shall notify the Town Engineer in writing that the work is complete and ready for final inspection. Prior to acceptance of improvements by the Town, the subdivider shall



furnish to the Town Engineer such "as built" drawings as the Town Engineer requires to show the specifications of completed construction. The Town Engineer shall inspect the improvements and forward a letter to the subdivider indicating his approval or disapproval. When the improvements have been approved by the Town Engineer, the clerk will prepare a final billing for engineering, inspection, and legal fees and submit it to the subdivider for payment. In addition, the subdivider and all general contractors shall file lien waivers or affidavits, in a form acceptable to the Town and approved by the Town Attorney, evidencing that there are no claims, actions, or demands for damages, based upon contract or tort arising out of or in any way related to the project and that no monies are owed to any surveyor, mechanic, sub-contractor, materialman, or laborer. When the engineering, inspection, and legal fees have been paid and when the necessary lien waivers and affidavits have been filed, a resolution accepting the project will be adopted by the Town Board.

(2) RELEASE OF SECURITY.

- (A) The security furnished pursuant to Section 2(3) shall remain in full force for a period of one (1) year after the completion of the project and acceptance by the Board unless partially released as hereinafter provided. The security shall be held to guarantee the work performed pursuant to private contracts against defects in workmanship and materials. If any defect appears during the period of guarantee, the subdivider or its contractor shall, at its expense, install replacements or perform acceptable repairs. In the event that the subdivider fails to install the replacement or perform the repairs, the Town may do so and deduct the cost thereof from the security deposit. Unless defects have appeared and have not been repaired, the Town will release the security to the subdivider upon expiration of one (1) year guarantee period.
- (B) The Town may from time to time but not more often than monthly during the course of construction, partially release the security furnished pursuant to Section 2(3) when:
  - 1. The reduced security deposit will be sufficient to guarantee the work performed pursuant to private contracts against defects in material and workmanship or will be at least twenty-five percent (25%) of the total cost of improvements, whichever is greater; and
  - 2. Affidavits of lien waivers, in a form acceptable to the Town and approved by the Town Attorney, evidencing full payment for the subdivision improvements which have been completed, are submitted with the request for a partial security release; and
  - 3. An application for a partial security release has been filed with the Town

Engineer on or before the 10th day of the month.

Section 15: Signing of Plat

After entering the contract to provide all required improvements, after posting the security required by Section 2(3), after payment of any fee imposed pursuant to Section 2(4)(B) and of any area assessments, and after the subdivider has met all other requirements, the Clerk shall execute the certificate inscribed upon the face of the plat or certified survey attesting to the approval thereof and return it to the subdivider for recording.

Section 16: Building Permits

No building permits shall be issued for the construction or erection of any structure on any parcel created by any land division or subdivision or comprehensive development of land until all required improvements have been made and installed, and have been inspected and accepted in accordance with Section 14 of this Ordinance.

Section 17: Fees

- (1) GENERAL. The subdivider shall pay the Town all fees as hereinafter required and at the times specified.
- (2) PRELIMINARY PLAT AND CERTIFIED SURVEY REVIEW FEE.
  - (A) The subdivider shall pay a fee as specified in the Town of Dunn Fee Schedule to the Treasurer at the time the application for approval of any preliminary plat or certified survey is filed.
- (3) ENGINEERING, INSPECTION AND ATTORNEYS FEES.
  - (A) The subdivider shall pay all engineering, inspection, consulting and legal fees incurred by the Town for services performed by or on behalf of the Town in conjunction with the design, inspection and review of any preliminary plat, certified survey, final plat, comprehensive development plan, or contract, with the drafting of legal documents, and with such inspections as the Town Engineer deems necessary to assure that the construction of the required improvements is in compliance with the plans, specifications and ordinances of the Town of any other governmental authority. Consulting, engineering, inspection and legal fees shall be the actual costs to the Town on the basis of submitted invoices plus the hourly rate (salary + benefits) costs for time spent by any employees of the Town. Such fees may be billed monthly, or upon completion of the project as determined by the Board.

- (B) To guarantee payment of the engineering, inspection and attorneys fees, the subdivider shall deposit the required deposit fee established in the fee schedule with the Town Clerk at the time that the application for approval is first filed. If such fees are paid timely, the deposit will be refunded at the time that the final plat or certified survey is inscribed by the Town Clerk or thirty days after the preliminary plat, certified survey, or final plat is rejected. In the event that the subdivider fails to pay such fees within fourteen days of the time when the Town submits its bill therefore, the Town may deduct the amount of such fees from the deposit for fees or the security deposit.

The above and foregoing Ordinance was adopted by the Town Board of the Town of Dunn at a regular meeting held on \_\_\_\_\_.

APPROVED:

\_\_\_\_\_  
Edmond P. Minihan, Town Chairman

ATTEST:

\_\_\_\_\_  
Cathy Hasslinger, Town Clerk

Adopted:  
Published:

TOWN OF DUNN  
Ordinance No. 12-4

**ORDINANCE ESTABLISHING TEMPORARY MORATORIUM ON THE SITING AND  
CONSTRUCTION OF TELECOMMUNICATION FACILITIES**

The Town Board of Supervisors of the Town of Dunn, Dane County, Wisconsin does ordain as follows:

Section 1. Legislative Findings. The Town of Dunn ("Town") has experienced an increased interest in the siting and construction of towers and tower accessory structures for the provision of telecommunications services (together "Tower" or "Towers"). The Town Board does hereby declare that a temporary moratorium on the zoning approval of Towers is a necessary measure in order to permit the Town the time to develop the appropriate land use plans for the siting and construction of Towers. The Town Board specifically finds that the moratorium is necessary for the following reasons:

- a) To accommodate the communication needs of Town residents and businesses while protecting the public health, safety and general welfare;
- b) To assure an appropriate pattern of Town sitings;
- c) To facilitate the provision of wireless communication facilities through careful siting and design standards;
- d) To minimize adverse visual effects of Towers through careful siting and design standards;
- e) To preserve the Town's remaining agricultural land uses;
- f) To avoid potential damage to adjacent properties from the construction and operation of Towers through structural standards and setback requirements; and
- g) To maximize the use of existing Towers, buildings or structures to accommodate new wireless communication antennas in order to reduce the number of Towers needed to serve the industry.

Section 2. Authority. This Ordinance is adopted pursuant to Wisconsin Statutes including secs. 59.69, 60.10(2)(c), 60.22, 61.35, and 62.23, Wisc. Stats.

Section 3. Moratorium on Siting/Construction of Towers. Except as provided in this Ordinance, the Town Board does hereby declare a moratorium on approval of rezoning requests and on recommendations of approval of requests for conditional use permits, to allow the siting and construction of Towers. The temporary moratorium shall expire eight months after its effective date unless otherwise extended by the Town Board. During this temporary moratorium, the Town will take reasonable steps to allow Dane County to process applications and petitions, to the extent such steps are consistent with the intent of this temporary moratorium. The temporary moratorium shall not apply to:

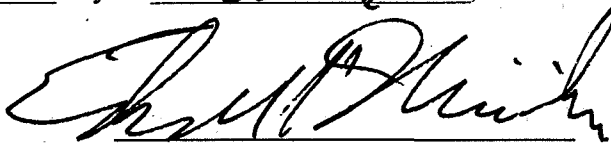
- (a) The placement of antennas on existing Towers;
- (b) The repair or replacement of an existing, permitted Tower, provided the repair or replacement does not increase the height or materially alter the existing accessory structure.

Section 4. Existing Rights. Nothing contained in this moratorium Ordinance is intended to impair or impede the rights of owners of existing Towers already located in the Town.

Section 5. Interpretation. This Ordinance shall be liberally construed to accomplish its intended purposes. Nothing contained in this Ordinance is intended to limit the continuation of lawful nonconforming uses or structures.

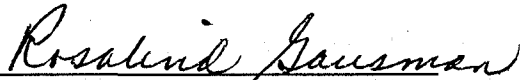
Section 6. Effective Date. This Ordinance shall take effect the day after passage and publication as required by law.

Dated this 21 day of November, 2000.



Town Chairperson

Attest:



Town Clerk

TOWN OF DUNN  
Ordinance No. 12.5

AN ORDINANCE RELATING TO CHANGES TO ZONING DISTRICT  
BOUNDARIES AND CONDITIONAL USE PERMITS REQUESTED TO  
ALLOW THE CONSTRUCTION AND OPERATION OF COMMUNICATION TOWERS

*The Town Board of Supervisors of the Town of Dunn, Dane County, Wisconsin, do ordain as follows:*

- 1) **Findings and Purposes.** The construction and operation of Communication Towers raises unique land use and aesthetic considerations. The growth of the personal wireless services industry has generated, and will continue to generate, numerous requests for the siting, construction and operation of Communication Towers in Dane County and in the Town of Dunn, requiring the Town to review and take action on requests for changes to zoning district boundaries and conditional use permits. The purposes of this ordinance are as follows:
  - a) To ensure that the Town will receive adequate information to properly evaluate applications for changes to zoning district boundaries and conditional use permits requested to allow the construction and operation of Communication Towers;
  - b) To create a process that will facilitate the orderly and efficient evaluation of and action on applications for changes to zoning district boundaries and conditional use permits requested to allow the construction and operation of Communication Towers, and that will off-set the cost of processing and evaluating such applications;
  - c) To accommodate the provision of personal wireless services, while protecting the public health, safety and general welfare;
  - d) To facilitate an appropriate pattern of Communication Tower sitings, and to encourage practices that reduce the proliferation, adverse aesthetic impacts, and other potential negative impacts associated with Communication Towers, through careful siting and design standards;
  - e) To preserve the Town's remaining agricultural land uses;
  - f) To avoid potential damage to adjacent properties from the construction and operation of Communication Towers;
  
- 2) **Authority.** This ordinance is enacted pursuant to the Town's authority under sec. 59.69(5)(e), Wis. Stats., sec. 10.255 of the Dane County Code of Ordinances, and sec. 60.10(2)(c), Wis. Stats.

3) **Definitions.**

- a) "*Communication Tower*" means any structure, whether free-standing or attached to an existing building or structure, that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures and the like.
- b) "*Search ring*" is that land area with optimal location and elevation for an antenna facility that a qualified engineer has determined is needed for the provision of wireless communication services.
- c) "*Fall-down radius*" is the distance that a qualified engineer has determined in the tower design that is needed in the event the tower was to collapse.

4) **Pre-Application Conference.** Individuals intending to apply for a change to zoning district boundaries or a conditional use permit are requested and encouraged to meet with the Town of Dunn Plan Commission before formally applying to Dane County for a zoning change or a conditional use permit. Applicants are requested to provide a map showing the applicant's proposed search ring and preliminary plans as to a Communication Tower site. The purpose of the pre-application conference is to discuss the best potential sites within the search ring, and to determine whether preferred locations exist within the search ring, before applicants make formal arrangements with landowners or make formal application for a zoning change or conditional use permit. The Plan Commission would not make final determinations on any issue at the pre-application conference.

5) **Application and Fees.** Before the Town of Dunn will evaluate a proposed change to a zoning district boundary or conditional use permit, the following must be submitted to the Town Clerk:

- a) An application fee of \$500;
- b) The name and address of the applicant and, if different, the owner and operator of the Communication Tower and antennas to be located on the Communication Towers;
- c) The name, address, and phone number of the applicant's primary contact person;
- d) The address and legal description of the proposed Communication Tower location;

- e) A textual and graphic depiction of the Proposed Communication Tower, and a description of the operation or use of the Communication Tower and site;
  - f) A detailed site plan, including all accessory structures and landscaping;
  - g) Written evidence of the applicant's legal interest in the site, such as a lease agreement or option;
  - h) Copies of all documents submitted to Dane County in support of the application;
  - i) All documents maintained by the applicant or the owner of the proposed Communication Tower or antennas relative to health hazards associated with the construction and operation of the Communication Tower or antennas;
  - j) A map showing the location of lands owned by the Town or school district, existing towers, and existing private structures (silos, church steeples, utility towers, etc.) within two miles of the proposed site, and an analysis of why those lands and/or structures cannot be used for the Communication Tower or antenna site;
  - k) The Plan Commission may require that the applicant pay for an independent engineering analysis, if such analysis has not already been required by and made available to the Town by Dane County, addressing the need for a Communication Tower at the proposed site, and such other related matters as requested by the Plan Commission;
  - l) The Plan Commission may require that the applicant provide information regarding the applicant's then current plans for future placement or construction of Communication Towers in the Town.
- 6) **Procedure.** The following procedures shall apply to an application for a change to a zoning district boundary or for a conditional use permit:
- a) The Plan Commission will hold a public hearing on the application, preceded by notice to Town of Dunn residents and the clerk of any town or municipality that reside or exist within two miles of the proposed Communication Tower. The public hearing shall not be held until the Town has received and reviewed the application report from Dane County.
  - b) The Plan Commission will make a recommendation to the Town Board.
  - c) Following receipt of the Plan Commission recommendation, the Town Board will act on the application.



7) **Changes to Zoning District Boundaries.**

- a) *Standards.* The Town shall consider the following standards and factors in determining whether to approve or disapprove a proposed change to zoning district boundaries to allow construction of a Communication Tower:
- i) Whether the proposed change in zoning is consistent with the Town of Dunn Land Use Plan;
  - ii) Whether the proposed Communication Tower is needed at the proposed site for the provision of wireless communication services;
  - iii) Whether a preferred site is available for antenna structures. The Town's preferred sites are as follows:
    - (1) Existing structures;
    - (2) Town or school district lands where new communication towers will not interfere with activities or aesthetics on the site;
    - (3) Private lands where communication towers will not interfere with activities or aesthetics on the site;
    - (4) New communication towers in residential areas only if such towers are uniquely designed to blend into the uses on the site and to be compatible with the surrounding area. Examples of such unique towers would include steeples or bell towers for churches, light poles, or similar camouflaging techniques;
  - iv) Whether the proposed structure would endanger the health and safety of people and animals, including, but not limited to, the likelihood of the failure or collapse of such structure, or the potential of falling ice;
  - v) Whether the existence or operation of the proposed Communication Tower would cause objectionable noise, glare, physical activity or effects that will impair the peaceful enjoyment of neighboring properties;
  - vi) Whether sight lines from all existing homes and roadways would be adversely affected by the Communication Tower;
  - vii) Zoning district changes will not be approved to allow new Communication Towers in the Hook/Grass Lake, Lower Mud Lake, and Waubesa Wetlands view sheds;
  - viii) Zoning district changes will not be approved if construction and operation of the Communication Tower would require filling of wetland areas;
  - ix) Such other factors as the Plan Commission or Board deem relevant to the application.

b) *Conditions.* Approval of a change in a zoning district boundary to allow construction and operation of a Communication Tower shall be subject to the following conditions, which shall be implemented through recorded covenants and restrictions and other agreements satisfactory to the Town:

- i) No graphic message or advertising may be permitted on Communication Towers. This would not prohibit the use of warning or equipment information signs;
- ii) Fencing and locks must be provided to secure the site. No barbed wire or razor wire fencing is permitted;
- iii) Vegetative buffering must be provided to separate the facility and accessory buildings from adjacent land uses;
- iv) The Communication Tower shall be light blue or gray, or other colors that are demonstrated to minimize visibility. The use of mottling as a camouflage is encouraged;
- v) Communication Towers and their antennas shall not be lighted except as required by the Federal Aviation Administration or other lawful authority;
- vi) Towers shall be set back from all residential and commercial buildings and public roadways by a minimum distance of the design fall-down radius of the tower, including all antennas and attachments. Barns and other livestock shelters are included in this setback requirement;
- vii) If a new equipment building is necessary, it shall be situated in the rear yard of the principal use and shall be screened with landscaping or other appropriate screening materials;
- viii) No trespassing signs shall be posted on any security fencing;
- ix) Such other site design requirements and conditions as the Town determines appropriate to minimize adverse impacts;
- x) If an antenna is being integrated with an existing structure, reduced requirements for items (i.) through (viii.), will be considered;
- xi) The owner of any Communication Tower shall provide performance bonds, or demonstrate financial responsibility to the Town's satisfaction, to ensure compliance with all applicable requirements for removal of Communication Towers and equipment, if not required by Dane County as a condition of the county permit.

8) **Conditional Use Permits.**

- a) *Standards.* The Town shall apply the following standards in evaluating applications for conditional use permits and advising Dane County of the Town's recommendation regarding approval, conditional approval or disapproval of the proposed conditional use:
- i) Whether the establishment, maintenance or operation of the Communication Tower will be detrimental to or endanger the public health, safety, comfort or general welfare, including more specifically the following:
    - (1) Whether the proposed Communication Tower is needed at the proposed site for the provision of wireless communication services;
    - (2) Whether a preferred site is available for antenna structures. The Town's preferred sites are as follows:
      - (a) Existing structures;
      - (b) Town or school district lands where new Communication Towers will not interfere with activities or aesthetics on the site;
      - (c) Private lands where Communication Towers will not interfere with activities or aesthetics on the site;
      - (d) New Communication Towers in residential areas only if such towers are uniquely designed to blend into the uses on the site and to be compatible with the surrounding area. Examples of such unique towers would include steeples or bell towers for churches, light poles, or similar camouflaging techniques;
  - ii) Whether the uses, values and enjoyment of other property in the neighborhood for purposes already permitted would in any foreseeable manner be substantially impaired or diminished by the establishment, maintenance or operation of the Communication Tower, including more specifically:
    - (1) Whether the proposed structure would endanger the health and safety of people and animals, including, but not limited to, the likelihood of the failure or collapse of such structure, or the potential of falling ice;
    - (2) Whether the existence or operation of the proposed Communication Tower would cause objectionable noise, glare, physical activity or effects that will impair the peaceful enjoyment of neighboring properties;

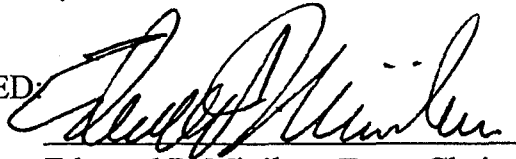
- (3) Whether sight lines from all existing homes and roadways would be adversely affected by the Communication Tower;
  - iii) Whether the establishment of the conditional use will impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
  - iv) Whether adequate utilities, access roads, drainage and other necessary site improvements have been or are being made;
  - v) Whether adequate measures have been or will be taken to provide ingress and egress so designed to minimize traffic congestion in the public streets;
  - vi) Whether the proposed conditional use conforms to all applicable regulations of the district in which it is located;
  - vii) Whether the proposed conditional use meets all conditions required for issuance of a conditional use permit under sec. 10.194 of the Dane County Code of Ordinances, and any amendments or modifications thereto.
- b) *Conditions.* A recommendation of approval of a conditional use permit for the construction and operation of a Communication Tower shall be subject to the following conditions, which shall be implemented through recorded covenants and restrictions and other agreements satisfactory to the Town:
- i) No graphic message or advertising may be permitted on Communication Towers. This would not prohibit the use of warning or equipment information signs;
  - ii) Fencing and locks must be provided to secure the site. No barbed wire or razor wire fencing is permitted;
  - iii) Vegetative buffering must be provided to separate the facility and accessory buildings from adjacent land uses;
  - iv) The Communication Tower shall be light blue or gray, or other colors that are demonstrated to minimize visibility. The use of mottling as a camouflage is encouraged;
  - v) Communication Towers and their antennas shall not be lighted except as required by the Federal Aviation Administration or other lawful authority;
  - vi) Towers shall be set back from all residential and commercial buildings and public roadways by a minimum distance of the design fall-down radius of the tower, including all antennas and attachments. Barns and other livestock shelters are included in this setback requirement;

- vii) If a new equipment building is necessary for transmitting, receiving and switching equipment, it shall be situated in the rear yard of the principal use and shall be screened with landscaping or other appropriate screening materials;
- viii) No trespassing signs shall be posted on any security fencing;
- ix) Such other site design requirements and conditions as the Town determines appropriate to minimize adverse impacts;
- x) If an antenna is being integrated with an existing structure, reduced requirements for items (i.) through (viii.), will be considered;
- xi) The owner of any Communication Tower shall provide performance bonds, or demonstrate financial responsibility to the Town's satisfaction, to ensure compliance with all applicable requirements removal of Communication Towers and equipment, if not required by Dane County as a condition of the county permit.

- 9) **Severability.** Any provision of this ordinance adjudged to be invalid or unlawful shall not affect the validity of the other provisions hereof.
- 10) **Effective Date.** This ordinance shall be effective upon passage and posting/publication pursuant to law.

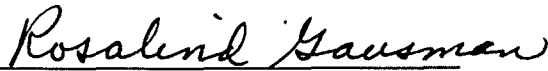
*The foregoing ordinance was duly adopted by the Town Board of Supervisors of the Town of Dunn at a meeting held on July 17, 2001.*

APPROVED:



Edmond P. Minihan, Town Chair

ATTEST:



Rosalind Gausman, Town Clerk/Treasurer

APPROVED: 7-17-01

POSTED: 7-25-01

PUBLISHED: \_\_\_\_\_

ORDINANCE NO. 12.6  
TOWN OF DUNN  
DANE COUNTY, WISCONSIN

AN ORDINANCE TO ADOPT A COMPREHENSIVE PLAN

SECTION I – TITLE/PURPOSE

The title of this ordinance is the Town of Dunn Comprehensive Plan Ordinance. The purpose of this ordinance is for the Town of Dunn to lawfully adopt a comprehensive plan as required under s. 66.1001 (4) (c), Wis. Stats.

SECTION II – AUTHORITY

The town board of the Town of Dunn has authority under its village powers under s. 60.22, Wis. stats., its power to appoint a town plan commission under ss. 60.62 (4) and 62.23 (1), Wis. stats., and under s. 66.1001 (4), Wis. stats., to adopt this ordinance. The comprehensive plan of the Town of Dunn must be in compliance with s. 66.1001 (4) (c), Wis. Stats., in order for the town board to adopt this ordinance.

SECTION III – ADOPTION OF ORDINANCE

The town board of the Town of Dunn, by this ordinance, adopted on proper notice with a quorum and roll call vote by a majority of the town board present and voting, provides the authority for the Town of Dunn to adopt its comprehensive plan under s. 66.1001 (4), Wis. Stats., and provides the authority for the town board to order its publication.

SECTION IV – PUBLIC PARTICIPATION

The town board of the Town of Dunn has adopted written procedures designed to foster public participation in every stage of the preparation of a comprehensive plan as required by s. 66.1001 (4) (a), Wis. Stats.

SECTION V – TOWN PLAN COMMISSION RECOMMENDATION

The Plan Commission of the Town of Dunn, by a majority vote of the entire commission, recorded in its official minutes, has adopted a resolution recommending to the town board the adoption of the Town of Dunn Comprehensive Plan, which contains all of the elements specified in s. 66.1001 (2), Wis. stats.

SECTION VI – PUBLIC HEARING

The Town of Dunn, has held at least one public hearing on this ordinance, with notice in compliance with the requirements of s. 66.1001 (4) (d), Wis. stats.

SECTION VII – ADOPTION OF TOWN COMPREHENSIVE PLAN

The town board of the Town of Dunn, by the enactment of this ordinance, formally adopts the document entitled Town of Dunn Comprehensive Plan, which is on file with the Town Clerk and

which is adopted and incorporated herein by reference as Appendix A and is dated December 18, 2006 pursuant to s. 66.1001 (4) (c), Wis. Stats.

**SECTION VIII – SEVERABILITY**

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

**SECTION IX – EFFECTIVE DATE**

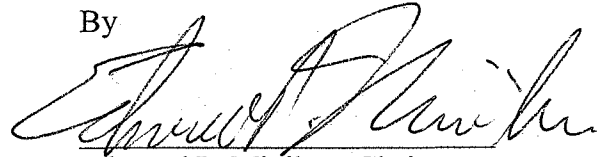
This ordinance is effective on publication or posting.

The town clerk shall properly post or publish this ordinance as required under s. 60.80, Wis. stats.

Adopted this 19 day of February 2007.

TOWN OF DUNN

By



Edmond P. Minihan, Chairman

Attest: Rosalind Gausman  
Rosalind Gausman, Clerk

AFFIDAVIT OF POSTING

I, Rosalind Gausman, duly elected Clerk Treasurer of the Town of Dunn, Dane County, Wisconsin, hereby verify that I posted the attached Ordinance 12.6(1) To Amend the Town of Dunn Comprehensive Plan in the following three locations on April 23, 2008:

1. Quick Stop, 1888 Barber Drive, Stoughton
2. The message board at the corner of Third Street and Waubesa Avenue.
3. Dunn town hall, 4156 CTH B, McFarland

Dated the 23 day of April 2008

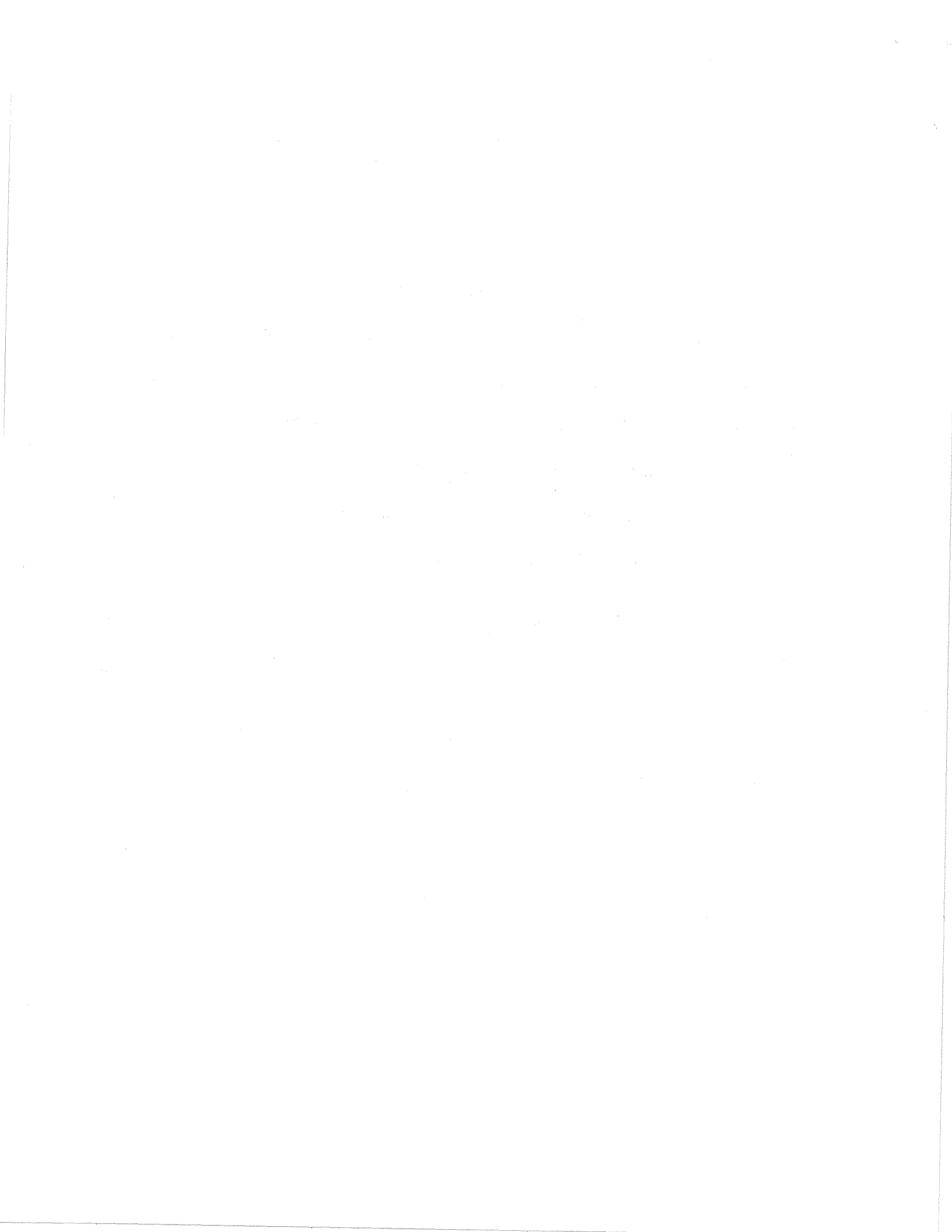
Rosalind Gausman  
Rosalind Gausman, Clerk Treasurer

Subscribed and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Notary Public, State of Wisconsin  
Commission expires: \_\_\_\_\_





ORDINANCE NO. 12.6(1)  
TOWN OF DUNN  
DANE COUNTY, WISCONSIN

AN ORDINANCE TO AMEND THE TOWN OF DUNN COMPREHENSIVE PLAN

SECTION I – TITLE/PURPOSE

The title of this ordinance is Amendment # 1 to the Town of Dunn Comprehensive Plan. The purpose of this ordinance is for the Town of Dunn to lawfully amend a previously adopted a comprehensive plan as required under Wis. Stats. S. 66.1001(4)(c).

SECTION II – AUTHORITY

The town board of the Town of Dunn has authority under its village powers under s. 60.22, Wis. stats., its power to appoint a town plan commission under ss. 60.62 (4) and 62.23 (1), Wis. stats., and under s. 66.1001 (4), Wis. stats., to amend this ordinance. The comprehensive plan of the Town of Dunn must be in compliance with s. 66.1001 (4) (c), Wis. Stats., in order for the town board to adopt this ordinance.

SECTION III – ADOPTION OF ORDINANCE

The town board of the Town of Dunn, by this ordinance, adopted on proper notice with a quorum and roll call vote by a majority of the town board present and voting, provides the authority for the Town of Dunn to amend its comprehensive plan under s. 66.1001 (4), Wis. Stats., and provides the authority for the town board to order its publication.

SECTION IV – PUBLIC PARTICIPATION

The town board of the Town of Dunn has adopted written procedures designed to foster public participation in every stage of the preparation of a comprehensive plan as required by s. 66.1001 (4) (a), Wis. Stats.

SECTION V – TOWN PLAN COMMISSION RECOMMENDATION

The Plan Commission of the Town of Dunn, by a majority vote of the entire commission, recorded in its official minutes, has adopted a resolution recommending to the town board the amendment of the Town of Dunn Comprehensive Plan, which contains all of the elements specified in s. 66.1001 (2), Wis. stats.

SECTION VI – PUBLIC HEARING

The Town of Dunn, has held at least one public hearing on this ordinance, with notice in compliance with the requirements of s. 66.1001 (4) (d), Wis. stats.

SECTION VII – AMENDMENT OF TOWN COMPREHENSIVE PLAN

The town board of the Town of Dunn, by the enactment of this ordinance, formally amends the document entitled Town of Dunn Comprehensive Plan, which is on file with the

Town Clerk and which is amended and incorporated herein by reference as Appendix A and is dated April 21, 2008 pursuant to s. 66.1001 (4) (c), Wis. Stats.

**SECTION VIII – SEVERABILITY**

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

**SECTION IX – EFFECTIVE DATE**

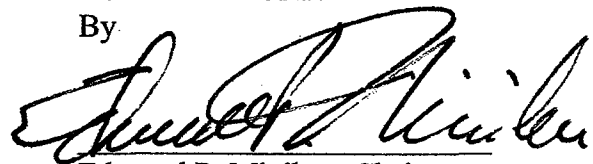
This ordinance is effective on publication or posting.

The town clerk shall properly post or publish this ordinance as required under s. 60.80, Wis. stats.

Adopted this 21 day of April 2008

TOWN OF DUNN

By



Edmond P. Minihan, Chairman

Attest:

Rosalind Gausman  
Rosalind Gausman, Clerk

## APPENDIX A

- 1) Add "2.11 Variances and Exceptions" to the Table of Contents (correction)
- 2) Page 2-3, Section 2.2, Density Policy #5, add "Section 2.3 Review Criteria for Site Plans and New Development (e) specifies a maximum lot size of 2 acres. (clarification)
- 3) Page 2-3, Section 2.2 Density Policy #12, add "sold" in the following sentence "if the property sold is deed restricted." (clarification)
- 4) Page 2-4, Section 2.2 Density Policy #13, remove "If parcels are of equal size, the splits will remain with the parcel of oldest creation." Replace at the end of the paragraph. "Generally, if parcels are of equal size, the splits will remain with the parcel of oldest creation. Splits may also be proportionally allocated." (clarification and language change to ensure adequate town flexibility.)
- 5) Page 2-4, Section 2.2, Density Policy, and new number 15 "Rezoning for non-residential development such as LC-1 will not count as a split if the re-zoned property is deed restricted from residential development. (clarification)
- 6) Page 2-4, Section 2.2, Density Policy, add new number 16 "When a property exhausts eligible splits a notice or deed restriction shall be placed on the balance of the land." (clarification of current practice)
- 7) Page 2-4, Section 2.2 Density Policy, add new number 17 "The town acknowledges that some zoning categories minimum lot size requirements may be inconsistent with or conflict with this Plan. The town will deny land divisions that do not comply with the 20,000 square foot minimum in sewerred areas and 1 lot per 35 acre standard density policy in non-sewerred areas. (clarification)
- 8) Page 2-6, second paragraph and "and/or 2.5" so the sentence reads "A site plan per section 2.3 and/or 2.5 will be required. (clarification)
- 9) Page 2-9, Section 2.2 C, Policies, #4 Change "Agricultural Conservation Area" to "Agricultural Preservation Area". (correction)
- 10) Page 2-11, Section 2.2 E, Policies, #3 Delete: "This area should be used primarily for agriculture and open space until more intensive development may be appropriate. Until" Replace with: "This area should be used primarily for agriculture until it is annexed. Prior to" (clarification)
- 11) Page 2-19, Section 2.4a, add the following bullet:
  - "Commercial District C-1 and C-2 with deed restriction allowing only marinas; sales of new and used watercraft and related equipment; snowmobiles and all terrain vehicles and related equipment; repairs and service of watercraft, snowmobiles and all terrain vehicles; incidental retail sales; and indoor and outdoor watercraft storage."
- 12) Page 2-19, Section 2.4, add new section d:

The Town will only support rezoning of land to C-1 or C-2 with the above stated deed restriction. In addition, the following criteria must be met:

  - 1) Marina is determined to be operating in the Town of Dunn prior to September 1, 1979.
  - 2) The zoning change does not create an undue impact on surrounding properties and is consistent with the physical character of the surrounding area." (new, plan changed to acknowledge that Dunn has the most taxable water frontage in Dane County, to

accommodate our residents' boat storage needs, and to allow for expansion of existing marinas.)

13) Page 2-20, Section 2.5 b, Add "c. The preceding standards will be reviewed and considered for C-2 zoning requests and other business proposals." (new to clarify process)

14) Page 2-25, Section 2.11 Variances will not be granted if the proposal would: b: delete "is in" (grammatical correction)

15) Acknowledgements, add David Crane, Village of McFarland representative. (Correction. Changes requested by the Village of McFarland in May 17, 2006 letter should have been changed in the Comp Plan.)

16) Page 2-10, Section D, Policy 4. Remove current wording and replace with "In the event the Town purchases conservation easements in the No Annexation Buffer Area pursuant to the Preservation Program, the Town agrees that such easements shall not prohibit non-motorized, passive public recreational access and uses ("Passive Uses"). Passive Uses include hiking, bicycling, cross-country skiing, snowshoeing, and guided nature walks. Passive Uses do not include playground uses, or soccer, basketball, or football recreational purposes or uses for other organized team sports. During conservation easement negotiations with landowners in the No Annexation Buffer Area, the Town will make efforts to partner with the Village of McFarland, Dane County Parks Department and/or Wisconsin Department of Natural Resources to purchase all or part of the land for Passive Uses." (Correction. Changes requested by the Village of McFarland in May 17, 2006 letter should have been included.)

17) Add language to chapter 2 that references the Kegonsa and Waubesa LSA maps (July 3, 2007) (correction the maps are in the plan but not property referenced).

18) Page 2-14 add policy #2. Change "Prohibit the division of any existing vacant parcel in an existing unsewered subdivision." To "Prohibit the division of any parcel in an existing unsewered subdivision." (clarification)

19) Page 2-19, Section 2.4 (a) second bullet point. Change "Rural Homes Districts RH-1" to "Rural Homes Districts" (clarification)

20) Page 9-1, change paragraph after "The following considerations should be made when using the comprehensive plan:" to "Zoning changes must be consistent with the comprehensive plan." (clarification)

ORDINANCE NO. 12.6 (4)  
TOWN OF DUNN  
DANE COUNTY, WISCONSIN

AN ORDINANCE TO AMEND THE TOWN OF DUNN COMPREHENSIVE  
PLAN

SECTION I – TITLE/PURPOSE

The title of this ordinance is Amendment #4 to the Town of Dunn Comprehensive Plan. The purpose of this ordinance is for the Town of Dunn to lawfully amend a previously adopted a comprehensive plan as required under Wis. Stats. S. 66.1001(4)(c).

SECTION II – AUTHORITY

The town board of the Town of Dunn has authority under its village powers under s. 60.22, Wis. stats., its power to appoint a town plan commission under ss. 60.62 (4) and 62.23 (1), Wis. stats., and under s. 66.1001 (4), Wis. stats., to amend this ordinance. The comprehensive plan of the Town of Dunn must be in compliance with s. 66.1001 (4) (c), Wis. Stats., in order for the town board to adopt this ordinance.

SECTION III – ADOPTION OF ORDINANCE

The town board of the Town of Dunn, by this ordinance, adopted on proper notice with a quorum and roll call vote by a majority of the town board present and voting, provides the authority for the Town of Dunn to amend its comprehensive plan under s. 66.1001 (4), Wis. Stats., and provides the authority for the town board to order its publication.

SECTION IV – PUBLIC PARTICIPATION

The town board of the Town of Dunn has adopted written procedures designed to foster public participation in every stage of the preparation of a comprehensive plan as required by s. 66.1001 (4) (a), Wis. Stats.

SECTION V – TOWN PLAN COMMISSION RECOMMENDATION

The Plan Commission of the Town of Dunn, by a majority vote of the entire commission, recorded in its official minutes, has adopted a resolution recommending to the town board the amendment of the Town of Dunn Comprehensive Plan, which contains all of the elements specified in s. 66.1001 (2), Wis. stats.

SECTION VI – PUBLIC HEARING

The Town of Dunn, has held at least one public hearing on this ordinance, with notice in compliance with the requirements of s. 66.1001 (4) (d), Wis. stats.

SECTION VII – AMENDMENT OF TOWN COMPREHENSIVE PLAN

The town board of the Town of Dunn, by the enactment of this ordinance, formally amends the document entitled Town of Dunn Comprehensive Plan, which is on file with the Town Clerk and which is amended and incorporated herein by reference as Appendix A and is dated May 20, 2019 pursuant to s. 66.1001 (4) (c), Wis. Stats.

SECTION VIII – SEVERABILITY

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

SECTION IX – EFFECTIVE DATE

This ordinance is effective on publication or posting.

The town clerk shall properly post or publish this ordinance as required under s. 60.80, Wis. stats.

Adopted this 20<sup>th</sup> day of May 2019.

TOWN OF DUNN

By



Edmond P. Minihan,

Chairman

Attest: Cathy Hasslinger  
Cathy Hasslinger, Clerk

**TOWN OF DUNN,  
DANE COUNTY, WISCONSIN  
ORDINANCE 13-1  
TOWN OF DUNN BUILDING CODE**

An Ordinance to repeal and recreate Chapter 13 of the Town of Dunn Building Code providing for the regulation of building construction and providing penalties for non-compliance.

**Section 1: Title and Purpose**

This Ordinance shall be referred to as the “Building Code of the Town of Dunn.” The purpose of this Ordinance is to promote general health, safety, and welfare and to provide certain minimum requirements, provisions, and standards for safe and stable structures hereafter erected, constructed, enlarged, altered, repaired, moved, converted to other uses, or demolished, and to regulate the equipment, maintenance, use, and occupancy of all buildings and structures within the Town of Dunn.

**Section 2: Authority**

Whereas under Chapter 60 of the Wisconsin Statutes, the Town of Dunn Town Board has the authority to exercise jurisdiction over the construction of buildings and structures.

**Section 3: Scope**

New and existing buildings and structures hereafter constructed, enlarged, altered, repaired, moved, converted, demolished, or reconstructed in the Town of Dunn shall conform to all the requirements of this Code. The provisions of this Ordinance shall supplement any and all laws of the State of Wisconsin pertaining to construction and use and does in no way supersede to nullify any such orders. Any amendments to any and all laws of State of Wisconsin pertaining to construction and use are hereby adopted.

**Section 4: Definitions**

1. *Addition*: New construction performed on a dwelling which increases the outside dimensions of the dwelling.
2. *Alteration*: A substantial change or modification other than an addition or minor repair to a structure or to systems involved within structure.
3. *Dwelling*: A building, or part of a building, containing living, sleeping, housekeeping accommodations and sanitary facilities for occupancy by one or families.
4. *Minor Repair*: Repair performed for maintenance or replacement purposes on any existing dwelling or structure which does not affect electric, plumbing, HVAC repair work, room arrangement, light and ventilation, access to or efficiency of any exit stairways or exits, fire protection or exterior aesthetic appearance and which does not increase a given occupancy and use.
5. *One (1) or Two (2) Family Dwelling*: A building structure which contains one (1) or separate households intended to be used as a home, residence or sleeping place by an individual or by two (2) or more individuals maintaining a common household to the exclusion of all others.
6. *Persons*: An individual, partnership, firm or corporation.



7. *Uniform Dwelling Code*: The Administrative Code Provisions and any future amendments, revisions, or modifications thereto, contained in the following chapters of the Wisconsin Administrative Code.

### **Section 5: Town of Dunn Building Department**

1. There is hereby established a Building Department for the Town of Dunn which shall be responsible for the supervision of the plumbing, heating, ventilating, electrical, and building codes of the Town of Dunn, and the inspection of all premises.
2. The Town Board shall appoint a state certified Building Inspector in accordance with Wisconsin Administrative Code § SPS 305 and any future amendments thereto.
3. The Building Department of the Town of Dunn shall be under the supervision of the Building Inspector.

### **Section 6: Building Inspector**

1. The Building Inspector shall be properly certified by the Wisconsin Department of Safety and Professional Services.
2. The Building Inspector is hereby authorized by the Town of Dunn to enforce the provisions of this Ordinance and all Wisconsin Administrative Codes and any future amendments thereto as listed in Section 13 of this Code.
3. With the consent of the Town Board, the Town Building Inspector may appoint one or more persons as state certified Deputy Inspector(s) and may delegate to them any of the powers and duties herein conferred upon the Building Inspector.
4. The Building Inspector shall have, except where otherwise provided herein, the general management of all matters pertaining to the Building Department, and shall enforce all state laws, Town ordinances, and lawful orders relating to the construction, alteration, repair, removal, safety, and use of buildings and permanent building equipment.
5. The Building Inspector shall have power to pass upon any question arising under the provisions of this Ordinance relating to buildings, subject to conditions contained in this Ordinance.
6. The Building Inspector shall provide information required to keep a record of all applications for building permits.
7. The Building Inspector shall keep a record of all inspections made and of all removals and condemnations of buildings.
8. The Building Inspector shall make an annual report to the Town Board of the above matters. This yearly report shall cover the period ending the last day of December and shall be filed with the Town Board on or before the first day of March, next thereafter.
9. The Building Inspector shall have the power and authority at all times in the performance of his or her duties, to enter upon any public or private premises and conduct inspection and to require the production of the permit for any building, permanent building equipment, electrical, or plumbing work. Any person interfering with the said Building Inspector while in the performance of his or her duties as prescribed in this Ordinance shall be considered a violation of this Ordinance.

### **Section 7: Permits Required**

1. *State of Wisconsin Residential Building Permit Required*: No person shall build or cause to be built any residential dwelling without first obtaining any required state uniform

building permit for such dwelling. Such building permit issued shall be filed with the Town Building Department.

2. *State of Wisconsin Commercial Building Permit Required:* No person shall build or cause to be built any commercial structure without first obtaining any required state building permits. Such building permit issued shall be filed with the Town Building Department including any state approved building plans.
3. *General Town of Dunn Building Permit Required:*
  - a. No building or structure of any kind or any part thereof, shall be erected, or ground broken for the same, or enlarged, altered, moved, demolished, razed or used within the Town, except as herein provided, until a building permit has been obtained by the owner, or his/her authorized agent, from the Town's Building Inspector, or his or her designee.
  - b. Except as provided in (e), no person shall install or have installed any electrical wiring in the Town of Dunn without first obtaining a building permit from the Town Building Inspector if the project involves the installation of new or an addition to any electrical wiring, electrical service, feeder, or branch circuit serving any of the following: A dwelling, accessory building, a farm, a public building, structure, or premises, a place of employment, a campground, a manufactured home community, a public marina, pier, dock, or wharf, or a recreational vehicle park.
  - c. No person shall install or have installed any plumbing work in the Town of Dunn without first obtaining a building permit from the Town Building Inspector, or his or her designee.
  - d. No person shall install or have installed any heating or air conditioning equipment in the Town of Dunn, except exempt buildings according to Wisconsin Statutes, without first obtaining a building permit from the Town Building Inspector, or his or her designee. The installation of heating equipment or air conditioner shall be approved by the Building Inspector.
  - e. Under emergency conditions, necessary installations may commence without obtaining a permit, provided the owner of the premises where the installation is to occur, or their agent, submits a building permit application to the Town of Dunn for the installation and submits the applicable building permit fee, according to the current fee schedule, no later than the next business day after commencement of the installation.
4. *Municipal Sewer Installation Permit Required:* All residential, commercial or industrial building installations for connection to or with a municipal sewer system shall be performed only after a permit is issued by the appropriate Town Sanitary District. The installation of any sewer connections shall be approved by the Plumbing Inspector of such Sanitary District.
  - a. *Sewer Lateral Replacement:* In the event of a sewer connection within a sanitary district, connection must be made with a sewer lateral that is compliant with current Uniform Dwelling Code and sanitary district regulations, if there is an existing lateral that is not compliant with current Uniform Dwelling Code or sanitary district regulations, or if the existing lateral does not pass a pressure test, or if the existing lateral is of clay material, it must be replaced with a compliant lateral prior to making the new connection.

- b. *Road Excavation Permit Required:* If a road cut is required to make connection to municipal sewer system, a road excavation permit is required from the Town of Dunn Highway Superintendent.

### **Section 8: Town of Dunn Building Permit**

1. *Building Permit Application:* Application for a building permit shall be made in writing upon a form furnished by the Building Inspector, or his/her designee. The Building Inspector, or his/her designee, may require a complete set of plans and specifications. Such application shall be submitted to the Town.
2. *Approval of Building Permit:* If the Building Inspector finds that the proposed building or project will comply with all provisions of this Code, all other applicable Ordinances of the Town of Dunn, and all laws and lawful orders of the State of Wisconsin, he or she shall then issue a building permit.
3. *Alteration of Building Plans:* The Building Permit shall be kept at the site of the proposed project or building. At the time of issuance of such building permit, the Building Inspector shall officially approve the plans and thereafter the plans and specifications shall not be altered in any respect which involves any provisions of this Ordinance, laws or orders or which involves the safety of the building, except with the written consent of the Building Inspector. In the case inadequate plans are presented, the Building Inspector may at his or her discretion, issue a permit for a part of the building or project before receiving the plans and specifications for the entire building or project. It shall be unlawful to commence work on any building unless a permit or a signed waiver of plans has been issued by the Building Inspector.
4. *Building Permit Fee:* Before the issuance of a building permit, the owner, or his or her agent, shall pay to the Town of Dunn a fee as listed on the current fee schedule.
5. *Building Permit Lapses:* Except for commercial electrical permits, a building permit will expire after 24 months from the date of issuance. If the work is not completed in 24 months, a new building permit must be applied for. Commercial electrical permits shall expire 12 months after the date of issuance.

### **Section 9: Revocation of Permits**

1. If the Building Inspector shall find at any time that the provisions of this Ordinance, laws, orders, plans, or specifications are not being complied with, he or she shall revoke the building permit and written notice of such action shall be posted at the site of the work. While any such permit is revoked, it shall be unlawful to do any further work upon such building until the permit is re-issued, excepting such work as the Building Inspector shall, through written order, require to be done as a condition precedent to the re-issuance of the permit.
2. The Building Inspector, or his/her designee, may revoke any building permit, certificate of occupancy, or approval issued under the regulations of this Ordinance and may stop construction or use of approved new materials, equipment, methods of construction, devices or appliances for any of the following reasons:
  - a. Whenever the Building Inspector, or his/her designee, shall find at any time that applicable ordinances, laws, orders, plans and specifications are not being

- complied with and that the holder of the permit refused to conform after written warning has been issued to him/her.
- b. Whenever the continuance of any construction becomes dangerous to life or property.
  - c. Whenever there is any violation of any condition or provisions of the application for permit or of the permit.
  - d. Whenever, in the opinion of the Building Inspector, or his/her designee, there is inadequate supervision provided on the job site.
  - e. Whenever any false statement or misrepresentation has been made in the application for permit, plans, drawings, data specifications or certified lot or plot plan on which the issuance of the permit or approval was based.
  - f. Whenever there is a violation of any of the conditions of an approval or occupancy given by the Building Inspector, or his/her designee, for the use of all new materials, equipment, methods or construction devices or appliances.
3. The notice revoking a building permit shall be in writing and may be served upon the applicant of the permit, owner of the premises and his/her agent, if any, and on the person having charge of construction.
  4. A revocation placard shall also be posted upon the building, structure, equipment or premises in question by the Building Inspector, or his/her designee.
  5. After the notice is served upon the persons as aforesaid and posted, it shall be unlawful for any person to proceed thereafter with any construction operation whatsoever on the premises, and the permit which has been so revoked shall be null and void, and before any construction or operation is again resumed, a new permit, as required by this Ordinance, shall be procured and fees paid therefor, and thereafter the resumption of any construction or operation shall be in compliance with the regulation of this Ordinance. However, such work as the Building Inspector, or his/her designee, may order as a condition precedent to the reissuance of the building permit may be performed, or such work as he/she may require for the preservation of life and safety.

#### **Section 10: Building Bond Required for New Home and Commercial Construction**

1. *Bond and Bond Fee Required:* Before a building permit is granted, the party applying shall give a bond in the sum for which is listed in the current fee schedule. This bond is required if the party intends to build a new one-family dwelling, two-family dwelling, multi-family dwelling, or commercial building. The funds will be deposited in an escrow account and will earn interest at the same rate as Town deposits. If the construction or alteration of the building is not completed prior to the expiration of the building permit, the deposit will be retained by the Town of Dunn and will not be refunded to the party. If the party subsequently seeks to obtain a new building permit, a new bond will be required.
2. *Bond Penalty Fee:* The bond fee shall double if the owner, or his agent, start building, enlarging, altering, repairing, or demolishing a building without a permit. Only 50% of the bond fee will be eligible for return.
3. *Return of the Bond:* Ninety (90) days after project completion and final building inspections, the Town will determine whether the bond and accrued interest will be returned. The bond amount and accrued interest will be returned if all of the following conditions have been met:

- a. The project has been completed within two (2) years from the issuance date of the building permit; and
  - b. The project is in compliance with the requirements and/or conditions of the project which may include but is not limited to; Town conditions and requirements for siting, driveway permit, building permit, conditional use permit, variance, zoning, shoreland zoning, erosion control, stormwater management conditions, lot-line grade specifications, shoreland and wetland mitigation provisions, or other provisions required by the Town; and
  - c. The project has not caused damage. If damage occurred, the damage must have been restored or repaired to its prior condition, or within a reasonable condition as determined by the Town Highway Superintendent; and
  - d. The road right-of-way area has not been altered in a manner that undermines drainage or road maintenance; and
  - e. Adequate ground cover of at least 80% has been established in the road right-of-way area.
4. *Forfeiture of Bond:* Ninety (90) days after project completion and final building inspections, the Town Highway Superintendent will determine whether the bond will be forfeited for failure to meet all requirements and/or conditions imposed on the project. Forfeiture of the bond does not diminish the property owner's obligation to comply to project requirements and/or conditions imposed. The amount forfeited will be determined by the Town's Highway Superintendent. Project requirements and/or conditions may include, but are not limited to, the responsibility to restore the road(s) and road right-of-way areas. Forfeited bond funds will not be used by the Town to bring the project into compliance. The full bond amount, or a portion of the bond, will be forfeited if any one of the following conditions apply:
- a. The project is not completed within two (2) years from the issuance date or expiration date of the building permit, whichever is later;
  - b. The project is not in compliance with the requirements and conditions of the project which may include but are not limited to; Town conditions and requirements for siting, driveway permit, building permit, conditional use permit, variance, zoning, shoreland zoning, erosion control, stormwater management conditions, lot-line grade specifications, shoreland and wetland mitigation provisions, or other provisions required by the Town;
  - c. The project has caused damage and the damages have not been remediated or restored to prior condition or within a reasonable condition as determined by the Town Highway Superintendent;
  - d. The road right-of-way area has been altered in a manner that undermines drainage or road maintenance.
  - e. Adequate ground cover of at least 80% has not been established in the road right-of-way area.

### **Section 11: Stormwater Management**

All development shall be maintained so that it shall not interfere with the drainage of public highways, side ditches, or roadside areas or with any existing structure in the road right-of-way. It is the property owner's responsibility to restore the road right-of-way area. All stormwater gutters and/or downspouts must terminate more than five (5) feet from the lot line and must be

directed towards rain gardens within the limits of the owner's property, roadside ditches, swales, or waterways. Downspouts may not be directed toward structures or improvements on neighboring properties. Water generated from roofs or other impervious surfaces must be discharged more than five (5) feet from the lot line and directed to rain gardens within the limits of the owner's property, roadside ditches, swales, or waterways.

## **Section 12: Inspections**

1. *Inspection:* Buildings shall be inspected at such times and in such manner as may be necessary to secure compliance with the laws, ordinances, rules, and orders applicable thereto. After final inspection, no structural part of said buildings shall be changed.
2. *Certificate of Occupancy:* Buildings shall have final inspection before occupancy. If on final inspection by the Building Inspector finds no violation of this Code or any other ordinances or laws, the Building Inspector shall thereupon issue a certificate of occupancy. No building or part thereof shall be occupied until such certificate has been issued except with the written consent of the Building Inspector, nor shall any building be occupied in any manner which conflicts with the conditions set forth in the certificate of occupancy.
3. *Disclaimer:* The purpose of the inspections under this Ordinance is to improve the quality of housing in the Town of Dunn. The inspections and the reports and findings issued after the inspections are not intended as, nor are they to be construed, as a guarantee. In order to so advise owners and other interested persons the following disclaimer shall be applicable to all inspections: "These findings of inspection contained herein are intended to report conditions of noncompliance with code standards that are readily apparent at the time of inspection. The inspection does not involve a detailed examination of the mechanical systems or the closed structural and nonstructural elements of the building and premises. No warranty of the operation, use or durability of equipment and materials not specifically cited herein is expressed or implied."

## **Section 13: Adoption of State of Wisconsin Codes**

Whereas, the Town Board of the Town of Dunn, Dane County, Wisconsin, hereby elects to adopt the provisions of the following Wisconsin Administrative Codes in their entirety. Any future amendments are hereby adopted and incorporated herein as of the effective date. It shall be the duty of the Building Inspector to enforce the provisions thereof. Any violation of said Codes or amendments thereto to the effective date of this Ordinance shall constitute a violation of this Code. The following Wisconsin Administrative Codes are hereby adopted:

1. Ch. SPS 305; Licenses, Certifications, and Registrations
2. Ch. SPS 316; Electrical
3. Ch. SPS 318; Elevators, Escalators, and Lift Devices
4. Chs. SPS 320-325; Uniform Dwelling Code
5. Chs. SPS 361-366; Commercial Building Code
6. Chs. SPS 380-387; Plumbing

## **Section 14: Unsafe Buildings**

1. Whenever the Building Inspector shall find that any building or structure, or any part thereof, is dangerous to life, or adjoining property, by reason of bad conditions, defective construction, overloaded floors, decay, lack of guards against fire, general dilapidation,

infestation of animals, or other cause, he or she shall order the owner of or tenant thereof to cause the same to be made safe or to be removed, as in the judgement of the Building Inspector may be necessary; and he or she shall also affix a notice of such order in a conspicuous place on the outside wall of the building and no person shall remove or deface such notice. The owner or tenant of such building or structure shall thereupon immediately cause the same to be made safe, or to be removed, as ordered. Any person who fails to comply with any such order shall be in violation of this Ordinance.

2. Where public safety requires immediate action, the Building Inspector shall enter upon the premises with such assistance as may be necessary, and cause the building or structure to be made safe or to be removed, and the expense of such work may be recovered by the Town in an action against the owner or tenant.

### **Section 15: Existing Buildings**

Alterations, installations, or repairs shall conform to any building code or State of Wisconsin Codes that applied when the alterations, installations, or repairs were altered, installed, or repaired. Alterations, installations, or repairs may be required to be brought into compliance with current code requirements as determined by the Building Inspector and within the time period determined by the Building Inspector when a hazard to life, health or property exists or is created by the installation.

### **Section 16: Occupancy of Public Areas**

1. Application to place material or machinery on public grounds or roadways shall be in writing and shall describe the premises on which such material or machinery is desired to be placed and shall specify the character of the material for which the permit is desired.
2. Before a permit is granted by the Town of Dunn Public Works Highway Superintendent, the applicant applying shall give a bond in accordance with the Town of Dunn fee schedule. The bond shall protect the Town of Dunn against all liabilities, judgments, costs and expense that may accrue in consequence of the placement of such material or machinery in the roadway or public ground by the applicant or by his contractor, agents or employees.
3. Such permit shall expire after thirty (30) days of issuance. The Town Highway Superintendent may extend any such permit as may be reasonably necessary.
4. Such permit shall not authorize the use of more than one-half of the public roadway.
5. No such permit shall be issued where the placing of any machinery upon the roadway will unreasonably interfere with the public safety and convenience, or where there is sufficient room for such material or machinery on the same lot or premises which is accessible from any street or alley.

### **Section 17: Moving Buildings**

1. *Moving Permit Required:* A person shall first obtain a permit from the Building Inspector, or his/her designee, before moving any structures over 120 square feet over Town or County roads. Exempt from the application requirements in (3) are structures which are not being moved over any Town or County roads.
2. *Wrecking and Building Permit Required:* In the event a building is to be placed within the boundaries of the Town of Dunn, a Town of Dunn building permit must also be

obtained for the new location of said building. In the event a building is to be removed, a Town of Dunn wrecking permit must also be obtained said building.

3. *Application Requirements:* The following must be submitted along with an application to move a building:

- a. *Permit Fee:* Before the Town shall issue a permit to move a building, a fee in the amount as listed in the current fee schedule, shall be paid to the Town of Dunn. The fee shall double if the owner, or his agent, start any or all portions of the moving process without first having an approved permit.
- b. *Moving Plan:* The applicant shall submit a moving plan that describes the road route and schedule for said move and must address inconvenience to neighbors, interruption of utilities, and shall not damage trees along the route.
- c. *Certificate of Insurance:* The Town requires the submission of proof of public liability insurance in the sum of not less than One Million Dollars (\$1,000,000.00) and the certificate must list the Town of Dunn as an additional insurer. This requirement may be waived with Town Board approval.
- d. *Bond:* Before a moving permit is granted, the applicant must give a bond in the sum as stated in the Town's current fee schedule. This requirement may be waived with Town Board approval. If not waived, the funds will be deposited in an escrow account and will earn interest at the same rate as Town deposits.
  - i. *Return of the Bond:* Ninety (90) days after project completion and final building inspections, the Town will determine whether the bond and accrued interest will be returned. The bond amount and accrued interest will be returned if all of the following conditions have been met:
    1. The project has been completed within six (6) months from the issuance date of the moving permit;
    2. The project has not caused damage or caused the Town to incur additional expense(s). If damage occurred, the damages must have been restored or repaired to its prior condition, or within a reasonable condition as determined by the Town Highway Superintendent;
    3. The road right-of-way area has not been altered in a manner that undermines drainage or road maintenance.
    4. Adequate ground cover of at least 80% has been established in the road right-of-way area.
  - ii. *Forfeiture of Bond:* Ninety (90) days after project completion the Town will determine whether the bond will be forfeited for failure to meet all requirements and/or conditions imposed on the project. Forfeiture of the bond does not diminish the property owner's obligation to comply to project requirements and/or conditions imposed. Project requirements and/or conditions may include, but is not limited to, the responsibility to restore the road(s) and road right-of-way areas. Forfeited bond funds will not be used by the Town to bring the project into compliance. The full bond amount, or a portion of the bond, will be forfeited if any one of the following conditions apply:
    1. The project is not completed within six (6) months from the issuance date;



2. The project has caused damage or costs have been incurred by the Town and the damages have not been remediated or restored to prior condition or within a reasonable condition as determined by the Town Highway Superintendent;
  3. The road right-of-way area has been altered in a manner that undermines drainage or road maintenance.
  4. Adequate ground cover of at least 80% has not been established in the road right-of-way area.
4. *Permit Conditions:* The issuance of a moving permit is conditioned upon the following:
- a. The moving of a building shall be continuous during all hours of the day and night until completed, with the least possible obstruction to thoroughfares.
  - b. Lights shall be kept in visible locations at each end of the building during hours of night light.
  - c. The applicant, or his/her designee, shall notify any applicable utility companies.
  - d. One lane of traffic must remain passable unless special permission is granted by the Town.
  - e. All applicants must notify residents affected by potential road delays and/or closures and any scheduled power outages with a Town approved notice no less than ten (10) days prior to move. Mailings and signs are required.
  - f. All applicants must report any changes to the moving schedule to the Town.
  - g. The applicant must report the commencement of the move to the Town within one day after reaching the building's destination.
    - i. The Town Highway Superintendent shall thereupon inspect the streets and highways in the Town over which said building has been moved and determine their conditions. If the removal of said building has caused any damage to the streets or highways, the building-mover shall immediately repair them in as good repair as they were before the permit was granted. Failure to repair roadways to their previous conditions is a violation of this Code and violations are subject to the provisions of Section 19 of this Code.

### **Section 18: Wrecking Buildings**

1. *Wrecking Permit Required:* No building within the Town of Dunn shall be wrecked without first obtaining a wrecking permit from the Building Inspector, or his/her designee. The applicant must pay a permit fee, pursuant to the current fee schedule. An owner, or his agent, who wishes to demolish or burn a building must first:
  - a. *Applicants Wrecking Buildings:*
    - i. Provide proof that the owner has obtained any necessary sanitary district permit(s) or that the appropriate sanitary district has been notified of the project;
    - ii. Provide proof that the owner has obtained any necessary DNR permit(s); and
    - iii. Provide proof that the owner has obtained any necessary erosion control permits pursuant to any applicable state, county, and/or local regulations; and

- iv. Provide proof that the owner has obtained any necessary Dane County Public Health permits or that Dane County Public Health has been notified of the project; and
  - v. Provide proof that the owner has obtained any necessary utility company permits or that the utility companies have been notified of the project; and
  - vi. Provide proof that the property owner has authorized the applicant to remove the structure.
- b. *Applicants Burning Buildings:*
- i. Must be in accordance with the exceptions under Wisconsin Administrative Code NR 429.04; and
  - ii. Provide proof to the Town that the owner has obtained any necessary DNR permit(s) to burn the building; and
  - iii. Provide proof of liability insurance which provides coverage for all damages including potential damage to adjacent properties in the sum of not less than Two Million Dollars (\$2,000,000.00) and lists the Town of Dunn as an additional insured if the structure scheduled to be burned is within one hundred (100) feet of a structure or dwelling under the ownership of a different individual.
2. *Permit Period:* Wrecking permits shall lapse and be void unless the work authorized thereby is completed within three (3) months from the date of issuance. Any unfinished portion of work remaining beyond three (3) months must have special approval from the Building Inspector, or his/her designee.
  3. All debris or removed materials must be hauled away within 72 hours of their removal from the structure. No combustible material shall be used for backfill and shall be hauled away.
  4. If any wrecking or removal operation under this Section results in, or would likely result in, an excessive amount of dust particles in the air creating a nuisance in the vicinity thereof, the permittee shall take all necessary steps, by use of water spraying or other appropriate means, to eliminate such nuisance.
  5. If applicable, the permittee shall take all necessary steps, prior to the wrecking of a building, through the employment of a qualified person in the field of pest control or by other appropriate means, to treat the building as to prevent the spread and migration of rodents and/or insects therefrom during and after the wrecking operations.
  6. If any foundation is not removed and is buried, a deed restriction must be recorded which describes the approximate of location and depth of the abandoned foundation. A copy of the recorded deed restriction must be submitted to the Town.
  7. The site shall be restored to existing grade and vegetative cover shall be established.

### **Section 19: Penalty for Violation**

Fees shall be assessed according to the Town's current fee schedule if the owner, or his agent, start building, enlarging, altering, repairing, or demolishing a building without a permit.

Any person, firm or corporation who violates, disobeys, omits, neglects, or refused to comply with or who resists the enforcement of any of the provisions of this Ordinance shall upon conviction thereof forfeit not less than \$125.00 nor more than \$1,000.00 for each day of noncompliance. Each day that a violation is permitted to exist shall constitute a separate offense.

**Section 20: Severability**

The provisions of this Ordinance shall be deemed severable and it is expressly declared that the Town Board would have passed the other provisions may be declared invalid and if any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby.

**Section 21: Effective Date**

This Ordinance shall be in full force and effect from and after its passage and publishing as required by law and shall apply to all buildings, alterations, or repairs which require a building permit within the Town of Dunn on and after said effective date.

It is intended that this Code adopted by the Town Board on the 15th day of June 2020.

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Edmond P. Minihan, Town Chair

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Cathy Hasslinger, Town Clerk Treasurer

**TOWN OF DUNN  
DANE COUNTY, WISCONSIN  
ORDINANCE NO. 13-2  
REGULATING DRIVEWAYS**

An Ordinance to repeal Ordinance 13-2 and recreate Ordinance 13-2 of the Town of Dunn Building Code to provide for the regulations of driveways in the Town of Dunn.

**Section 1: Authority**

Pursuant to sections 60.22(1), 60.22(3), 61.34(1) and 81.01 of the Wisconsin State Statutes, the Town Board of the Town of Dunn, Dane County, Wisconsin, does hereby ordain as follows:

**Section 2: Purpose**

The purpose of this Ordinance is to regulate the establishment, construction, improvement, modification, enlargement, or reconstruction (collectively “construction”) of driveways in the Town to assess if the location of the driveway and method of construction will promote the public health, safety, and general welfare of the Town, preserve agricultural land and productivity, and comply with the goals and policies set forth in the Town of Dunn Comprehensive Land Use Plan. It is the Town's intent to provide access to properties abutting town highways provided access is not deficient or dangerous to the public. This Ordinance shall not apply to driveways or other access which connects or will connect to any county or state highways. Hereon throughout the term town highway shall apply only to town owned and maintained public thoroughfares.

**Section 3: Definitions**

1. *County Highway*: All county owned and maintained public thoroughfares.
2. *Driveway*: A private road or other avenue of travel that runs through a parcel of land or connects or will connect with any public town highway but shall not include any field road lying outside of the right-of-way of a public town highway.
3. *Field Road*: A road or other avenue of travel regularly used only for agricultural purposes or to access agricultural land.
4. *Agricultural Land*: Land within the Town of Dunn which has produced or is capable of producing a viable crop.
5. *Private Road*: A road on private property which is accessed by one or more driveways and provides access to a public highway.
6. *Town Highway*: All town owned and maintained public thoroughfares.
7. *State Highway*: All State of Wisconsin owned and maintained public thoroughfares.

**Section 4: Maximum Number of Driveways Per Parcel**

1. The maximum number of driveways allowed to serve an individual residential or commercial property shall be two (2) driveways, subject to paragraph (2) below, provided when two (2) driveways are utilized, there is also at least 180 feet of total frontage on the town highway or private road from which the driveways serve the parcel.

2. There shall be allowed one (1) driveway for the first acre of the served parcel, and one (1) additional driveway for the second acre or part thereof, up to a maximum of two (2) driveways.
3. For corner parcels, or parcels abutting more than one town highway or private road, access shall be allowed from only one (1) of the town highways or private roads abutting the parcel.
4. Where two (2) driveways serve a parcel, each driveway shall be located no closer than 75 feet from each driveways' centerline and each driveway's edge shall be at least ten (10) feet from the property line.

### **Section 5: Driveway Construction Permit Required**

No person or public or private entity shall locate, establish, construct, or substantially reconstruct a driveway, field road, or other access to a property or parcel from a town highway or to a private road without first obtaining a driveway construction permit from the Town of Dunn. If a residential dwelling located on property served by an existing driveway is reconstructed or razed and a new dwelling is subsequently constructed, a new driveway permit must be applied for and obtained. Permit fees will be charged in accordance with the Town of Dunn's fee schedule. All costs of subsequent driveway construction shall be paid by the holder of the driveway construction permit.

### **Section 6: Driveway Construction Permit Submittal Requirements**

1. Application Fee: The applicant shall pay a non-refundable fee, in accordance with the Town of Dunn's fee schedule, at the time of making the application for a residential driveway or field road construction permit.
2. Application: A driveway construction permit application shall be submitted to the Town of Dunn. The application shall include the following information:
  - a. A copy of any erosion control plan, if required by Dane County Land and Water Resources.
  - b. A copy of any shoreland zoning permit if required by Dane County Zoning.
  - c. A driveway or field road construction plan consisting of a drawing or diagram showing the following information:
    - i. The length and width of the driveway or field road;
    - ii. The relationship of the driveway or field road to property lines and neighboring driveways;
    - iii. Any structures and existing roads;
    - iv. The location and size of any culverts;
    - v. The location and structure of any retaining walls;
    - vi. The Town may request additional information regarding the radius of any curves, the slope of the driveway, substrata, and/or any other information relevant to driveway construction.

### **Section 7: Application Review and Approval**

1. Upon submittal of a completed application, accompanying requirements, and full payment of the permit fee, as described in Section 6 of this Ordinance, the Town's Highway Superintendent, or his or her representative, shall review all applications using

this Ordinance's guidelines and requirements. The Town may issue a driveway construction permit if all requirements have been met.

- a. The Town's issuance of a driveway construction permit does not constitute a determination the driveway or field road is safe, suitable, or fit for any purpose.
2. If the Highway Superintendent, or his or her representative, determines the application presents issues which should be presented to the Town Board, a meeting must be scheduled before the Town Board to review the application.
  - a. The Town Board shall consider the application and, at its sole discretion, approve, conditionally approve, or deny the application.
    - i. If the Town Board approves the application, the Highway Superintendent shall issue a driveway construction permit.
    - ii. If the Town Board conditionally approves the application, the Highway Superintendent, or his or her representative, shall issue a driveway construction permit once the conditions of the approval have been fulfilled.
    - iii. If the Town Board denies the application for a driveway or field road construction permit, it will not consider a substantially similar application from the applicant.
3. Driveway Inspection: The holder of the driveway construction permit shall notify the Town within thirty (30) days of completion of the driveway construction. Within thirty (30) days of notification, the Town Highway Superintendent shall conduct an inspection of the driveway to verify compliance with the provisions of this Ordinance.
4. Permit Period: Upon application approval, the driveway construction permit is effective for 12 months from the date of issuance. The permit shall expire after 12 months.
5. Renewal: The driveway construction permit may be renewed for one additional 12-month period upon request. Renewal is conditioned upon any additional state and/or county regulations being met. Any required state or county permits must be valid and nonexpired. If the driveway has not been constructed by the end of the renewal period, a new application and applicable fee must be submitted.

## **Section 8: Specifications for the Construction of Driveways**

Driveway plans and specifications must comply with the following:

1. *General Design and Location:* All driveways shall be located and constructed so vehicles approaching or using it shall have adequate sight distance along the town highway or private road as determined by the Highway Superintendent. Driveway approaches must be at least twenty (20) feet from the nearest driveway and be located at least ten (10) feet from lot lines. Driveways shall not provide direct ingress or egress to or from any street intersection area and shall not encroach upon or occupy areas of the town highway required for effective traffic control or for highway signs or signals. Driveways shall be located wherever possible as not to interfere with utilities in place.
2. *Drainage:* All driveways, driveway entrances, driveway approaches, and field roads shall be constructed so they shall not interfere with the drainage of town highways, side ditches, or roadside areas or with any existing structure in the right-of-way. Drainage from driveways shall run into ditches and not onto the town highway pavement, private roads, or neighboring properties. Drainage shall follow the ditch lines. It is the property owner's responsibility to restore the road right-of-way area. Stormwater shall be

discharged more than 5-feet away from the property line and shall not be directed towards neighboring properties.

3. *Length and Width:* A driveway's length shall be a minimum of 24-feet and for driveways longer than 40-feet in length, driveways shall have a minimum width of 14-feet where the driveway pavement meets the town highway edge to ensure appropriate room for emergency vehicles.
4. *Culvert Requirement:* Unless a larger culvert is required by the Town Highway Superintendent, a culvert with a diameter of at least 18-inches and 24-feet in length must be present and accompanied with end walls at the ditch line with a slight dip just before the culvert. It is the property owner's responsibility to provide a culvert at their own expense. If no is culvert necessary, the applicant must receive a waiver from the Town's Highway Superintendent.
5. *Erosion Control:* Erosion control methods shall be implemented in accordance with Dane County Land and Water Resources specifications and requirements.
6. *Slope:* Driveways shall not be too steep which will prevent or inhibit safety vehicles from accessing the property.
7. *Side Banks:* Side banks shall be constructed using earthen materials.
8. *Driveway Apron:* For concrete driveway aprons, it is recommended but not required, that six (6) to eight (8) inches of asphalt is placed between the edge of the concrete driveway and the beginning of the town highway pavement in order to mitigate potential apron damage. Town road maintenance or construction affecting driveway aprons will be repaired using asphalt.
9. *Agricultural Land:* If applicable, driveways shall be constructed in a way which minimizes adverse effects on productive agricultural land.
10. *Relocation of Utilities:* If the relocation of utilities cannot be avoided, property owners must notify the Town and the utility holder prior to any utility relocation or driveway or field road construction. Any costs of relocating utilities shall be the responsibility of the property owner.
11. *Substrata:* The driveway must have at least four (4) inches of three-to-four-inch (3-4 inch) rock on the roadbed, covered with two (2) inches of three-fourth (3/4) inch gravel. If it can be shown there is already a suitable base established, the provision requiring four (4) inches of three-to-four-inch (3-4 inch) rock may be modified or waived by the Town Highway Superintendent.

### **Section 9: Prohibited Driveways and Activities**

1. No person shall place, construct, locate in, or cause to be placed, any obstruction or structure within the road right-of-way of any town highway.
2. No person shall fill ditches and/or culverts or interfere with the drainage of town highways, side ditches, or road right-of-way areas.
3. No person shall place lawn sprinkler pipes and fencing, including invisible or underground fencing, in a public road right-of-way.
4. No person shall create a hazardous condition.
5. Field roads shall not be used for non-agricultural purposes.

**Section 10: Variances**

The provisions in Section 4 and or 8 of this Ordinance may be varied by the Town Board, or the Town Board’s representative, in instances where driveway reconstruction is proposed to occur in the same location as prior or in such instances where the particular nature of the property or the design of the town highway may make the adherence to the requirements of this Ordinance impossible or impractical. Any variance request must accompany the initial application and the reason for the variance request must be stated in writing.

**Section 11: Penalties**

Any violation of this Ordinance shall be subject to a penalty of \$100.00 per violation. Each day the violation continues to exist shall constitute a separate offense.

**Section 12: Severability**

If any section or part of this Ordinance is adjudged to be unconstitutional, unlawful, or invalid, by a course of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

**Section 13: Effective Date**

This Ordinance shall take effect the day after passage and posting or publication pursuant to law. The above and foregoing Ordinance was adopted by the Town Board of the Town of Dunn at its meeting held on May 17, 2022.

TOWN OF DUNN

By: \_\_\_\_\_  
Steve Greb, Town Chair

Attest: \_\_\_\_\_  
Cathy Hasslinger, Town Clerk Treasurer



**TOWN OF DUNN  
DANE COUNTY, WISCONSIN  
ORDINANCE 13-3  
REGULATING DEVELOPMENT SITING**

An Ordinance creating Section 13-3 of the Town of Dunn Building Code of Ordinances relating to Town development siting criteria.

**Section 1: Title and Purpose**

Whereas, under s. 101.65, Wis. Stats., the Town Board of the Town of Dunn hereby elects to enact the Town Development Siting Criteria Ordinance. The purpose of this Ordinance is to encourage planned and orderly land use development; to encourage the protection of groundwater resources; to preserve wetlands; to conserve soil, water and forest resources; to protect the beauty and amenities of landscape and man-made developments; to provide healthy and safe surroundings for family life; and to promote the efficient and economical use of public funds.

**Section 2: Authority**

Whereas, under Chapter 60 and s. 101.65 of Wisconsin Statutes, the Town of Dunn Town Board has to authority to exercise jurisdiction over the construction of new dwellings.

**Section 3: Definitions**

The following words and phrases shall have the designated meaning unless a different meaning is expressly provided, or the context clearly indicates a different meaning:

1. *Board*: The Dunn Town Board.
2. *Certified Survey Map*: A map of land division meeting all of the requirements of Section 236.34 of the Wisconsin Statutes and in full compliance with the provisions of this Ordinance.
3. *Easement*: The area of land set aside on or over or through which a liberty, privilege or advantage in land, distinct from ownership of the land, is granted to the public or some particular person or part of the public.
4. *Improvement, Public*: Any sanitary sewer, storm sewer, open channel, water main, roadway, park, parkway, public access, sidewalk, pedestrian way, planting strip or other facility for which the Town may ultimately assume the responsibility for maintenance and operation.
5. *Limited Service Area*: Areas designated on the Town of Dunn Future Land Use Map in the Town of Dunn Comprehensive Land Use Plan as "Limited Service Area".
6. *Lot*: A parcel of land defined by a Certified Survey Map or Plat.
7. *Parcel*: Contiguous land under the control of a land divider whether or not separated by streets, highways, or railroad rights-of-way. May not correspond with tax parcels.
8. *Plan Commission*: The Dunn Plan Commission.
9. *Street*: A public way for pedestrian and vehicular traffic whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, or however otherwise designated.
10. *Structure*: Anything which has the capacity to contain, used for the occupation or shelter of man or animal or for the storage, receiving, retaining or confining of personal property, the use of which requires temporary or permanent location on the ground or attachment to something

having temporary or permanent location on the ground. The term does not include the facilities and appurtenances of public utilities other than buildings.

11. *Subdivision*: The division of a lot, parcel or tract of land where the act of division:
  - a. Creates five or more lots, parcels or building sites; or
  - b. Creates five or more lots, parcels or building sites by successive divisions within a period of five years.
12. *Tax Parcel*: A specific tract of real estate defined by a legal description and used for taxing purposes. Tax parcel boundaries may not correspond to Parcels as defined above.
13. *Town*: The Town of Dunn situated in Dane County, Wisconsin.

#### **Section 4: Circumstances Requiring a Site Plan for Residential, Accessory, and Commercial Buildings**

1. Unless subject to subsection (2), a site plan is required to be reviewed and approved by the Town Plan Commission for all proposed development of parcels greater than 2.3 acres in size which are not located in a platted subdivision and to which no building envelope has been previously established.
2. A site plan is not required if a new structure is built within 100 feet of the existing structure it is replacing.
  - a. If a structure is proposed to be relocated outside of the 100-foot radius, the applicant must demonstrate that the new proposed location better meets the Town's siting standards and that there is a compelling environmental or agricultural reason for siting the structure outside of the 100-foot radius. If approved, a condition for restoring the abandoned homesite to vegetative cover may be required.
3. A site plan is required to be reviewed and approved by the Town Plan Commission for all proposed business or commercial developments within the Town, regardless of acreage size.
4. Notwithstanding subsection (1), the Town Plan Commission has the authority to require a site plan for any new structure or replacement structure regardless of the size or zoning of the lot involved.
5. The applicant shall provide all necessary maps, data, and information for determining suitability.

#### **Section 5: Site Plan Submittal Requirements**

All the following criteria must be shown on Site Plan Applications:

1. All existing property boundaries, lot lines and easements.
2. All existing uses, structures, roads and driveways.
3. Areas of differing soil productivity.
4. All-natural features (woodlands, wetlands, floodplains and steep slopes (12 percent or greater)).
5. All proposed uses.
6. All other information requested by the Plan Commission.
7. If applicable, the Plan Commission may require a "full build-out" plan when lots or new homesites are proposed.

#### **Section 6: Additional Site Plan Submittal Requirements for Commercial Buildings**

Uses requiring high amounts of water usage, large septic tanks, or needing fire protection provided by a public system with hydrants should be directed to an urban service area in another municipality as the Town of Dunn does not intend to provide these services.

For any business or commercial developments within the Town, a site plan is required to be submitted to the Town Plan Commission for review and approval, regardless of acreage size. The site plan for any proposed business or commercial development must depict all the following conditions and standards:

1. *Parking*: No parking or storage of vehicles is permitted within the street right-of-way. Off-street parking areas shall be depicted.
2. *Landscaping*: Visual landscaping barriers are required to block views between commercial development and neighboring residences and shall be portrayed.
3. *Lighting*: External lighting is restricted to safety lights at the entrance and exists of buildings. All outdoor lighting shall be designed to not create glare or shine directly on neighboring residences.
  - a. *Stormwater Management*: All development shall be maintained so that it shall not interfere with the drainage of public highways, side ditches, or roadside areas or with any existing structure in the road right-of-way. It is the property owner's responsibility to restore the road right-of-way area. All stormwater gutters and/or downspouts must terminate more than five (5) feet from the lot line and must be directed towards rain gardens within the limits of the owner's property, roadside ditches, swales, or waterways. Downspouts may not be directed toward structures or improvements on neighboring properties. Water generated from roofs or other impervious surfaces must be discharged more than five (5) feet from the lot line and directed to rain gardens within the limits of the owner's property, roadside ditches, swales, or waterways.
    - i. If the applicant proposes an addition of more than 500 square feet of impervious surface, a professionally engineered stormwater management plan must be submitted to the Town. This plan must demonstrate that stormwater runoff generated from the development during a 24-hour, 25-year flood event shall be no greater than what existed prior to the proposed development.
4. *Erosion Control*: Businesses shall satisfy the requirements of the Dane County Construction Site Erosion Control Ordinance, Chapter 14, Sec. 14.50-14.99.
5. *Existing and Proposed Buildings*: All existing and proposed buildings shall be shown.
6. *Waste Disposal*: A plan for storage and/or disposal of solid waste and hazardous materials used in the operation must be submitted.
7. *Fencing*: Any existing and/or proposed screening or fencing must be indicated.
8. *Road Access and Traffic Levels*: The name and width of the road(s) serving the business must be shown. Any required special access improvements must also be shown. The projected traffic levels and types of vehicles proposed to service or use the development shall also be described.
9. *Hours of Operation*: The hours of operation shall be clearly stated.
10. *Signage and Loudspeakers*: Business signage is limited to one unilluminated sign on a building and outside loudspeakers are prohibited.

## **Section 7: Lands Unsuitable for Development**

Lands that are unsuitable for development include, but are not limited to:

1. *Floodplains*: Areas mapped as Floodplain by the Federal Emergency Management Agency (FEMA), Wisconsin Department of Natural Resources, or Dane County Zoning. When a proposed development is located in an area where flooding or potential flooding may be a hazard, the Plan Commission may request technical assistance from any of these agencies in determining whether the land is suitable or unsuitable for the use proposed.
2. *Wetlands*: All wetlands as defined in NR 103.02(5) of the Wisconsin Administrative Code, including a 100-foot buffer (around wetlands with an area of 2 acres or greater). The 100-foot

buffer shall be measured from the DNR Wetland Inventory where a wetland delineation is not available. The Town may require a wetland delineation to determine this buffer at the discretion of the Plan Commission. A variance from the 100-foot wetland buffer may be considered by the Town Board.

3. *Ordinary High-Water Mark*: All areas within 75 feet of the ordinary high-water mark of navigable streams and lakes, as identified by Wisconsin Department of Natural Resources.
4. *Slopes*: All areas having slopes 20 percent or greater.
5. *Exceptional Habitat*: Areas that provide habitat for threatened, endangered, or special concern species in the opinion of a natural resource specialist.
6. *Environmental Resources*: Environmental and Cultural Resources Protection Area, as stated in the policies of 2.2(B) of the Town's Comprehensive Plan, are unsuitable for development unless a variance is granted to the applicant from the Town Board.
7. *Historical Resources*: All areas historical or geological importance are unsuitable for development unless a variance has been granted to the applicant by the Town Board. Additionally, all burial sites, Indian mounds, and archaeological sites are protected under s. 157.70, Wis. Stats, and are unsuitable for development and no variance will be granted.
8. *Limited Soils*: For unsewered development that requires sanitary service, all soil types that have very severe limitations are unsuitable for development unless the landowner provides proof of suitability for an onsite wastewater treatment systems that is in conformance with the applicable state administrative code and the Dane County Private Sewage System Ordinance. Soil types with severe limitations are shown on the operational soil survey maps prepared by the U.S. Department of Agriculture and Natural Resource Conservation Service.
9. *Conservation Easements*: Lands that are held by a conservation easement which prohibits the type of development proposed.
10. *Limited Service Area (LSA)*: If a structure is within the Limited Service Area, it must connect to sewer service. If a parcel includes an area exceeding 5,000 square feet within the LSA, then development and structures requiring sanitary service must be located within the LSA portion of the property and must connect to sewer service.
11. *Deed Restrictions or Covenants*: The Town may require deed restrictions, covenants and/or similar notations to be included on certified survey maps, plats or other documents recorded at the Dane County Register of Deeds.

The Plan Commission, when applying the provisions of this Section, shall recite the particular reasons upon which it bases its conclusion that the land is not suitable for a proposed use, and afford the applicant an opportunity to present evidence regarding such unsuitability if the applicant so desires. Thereafter, the Plan Commission may affirm, modify or withdraw its determination of unsuitability.

### **Section 8: Severability**

If any section or part of this Ordinance is adjudged to be unconstitutional, unlawful, or invalid, by a course of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.


### **Section 9: Effective Date**

This Ordinance shall take effect the day after passage and posting or publication pursuant to law. The above and foregoing Ordinance was adopted by the Town Board of the Town of Dunn at its meeting held on September 10, 2019.

TOWN OF DUNN

By: 

Edmond P. Minihan, Town Chair

Attest: 

Cathy Hasslinger, Town Clerk Treasurer

Approved:

Posted:

**TOWN OF DUNN**  
**DANE COUNTY, WISCONSIN**  
**ORDINANCE NO. 14-2**  
**DEBRIS ON PUBLIC OR PRIVATE PROPERTY**

**Section 1: Debris on Public or Private Property**

No person shall throw or deposit any type of debris or waste material on or along any highway or on any other public or private property.

**Section 2: Penalty**

Any person violating Section 1 of this ordinance shall be required to forfeit no more than \$50.00 for each Offense.

**Section 3:**

Intentionally left open.

**Section 4: Failure to Control Waste**

Any person who fails to control or store any debris, waste material, trash or garbage so that it becomes deposited on or along any highway or on any other public or private property shall be deemed in violation of Section 1 of this ordinance and shall be subject to the penalty set forth in Section 2 of this ordinance.

**Section 5: Liability for Another's Failure to Control Waste**

Any person who employs, contracts, engages or utilizes with or without financial recompense another person to transport, store, or discard any debris, waste material, trash or garbage, who then fails to control this material so that it becomes deposited on or along any highway or on any other public or private property shall be deemed in violation of Section 1 of this ordinance and subject to the penalty set forth in Section 2 of this ordinance.

TOWN OF DUNN

ORDINANCE NO. 14-3

**OFFENSES AGAINST PUBLIC PROPERTY/WASTE DISPOSAL**

Section 1: Dumping of Rubbish Regulated

- (a) DEFINITION - The word "rubbish as used in this section shall mean any garbage, ashes, or miscellaneous wastes or other substances other than agriculture or landscape related.
- (b) PROPERTY OWNERS NOT TO PERMIT DUMPING WITHOUT A PERMIT. No person, firm or corporation owning, controlling or occupying real estate within the Town of Dunn shall permit or allow the dumping of rubbish as defined in (a) above, upon said real estate without first having been granted a permit to do so by the Town Board.
- (c) DUMPING PROHIBITED UNLESS AUTHORIZED. No person, firm or corporation shall dump or deposit anywhere in the Town any rubbish as defined in (a) above, except in such places as may be authorized.
- (d) OWNER'S CONSENT REQUIRED. No person shall dump or deposit any rubbish as defined in (a) above, upon private property unless the written consent of the owner or his/her authorized agent shall first be filed with the Town Board.

Section 2: Littering Prohibited

No person shall throw or deposit any litter or other refuse on the streets, alleys, highways, public parks, or other public or private property within the town other than in proper receptacles.

Section 3: Placing Trash for Pickup Regulated

No person, firm or corporation shall place garbage cans, garbage bags, or other trash receptacles along any street, alley, highway, or other roadway within the town; provided that this subsection shall not apply to the placement of such receptacles within 24 hours of a regularly scheduled time for garbage removal. Every day during which such receptacles are permitted to remain shall constitute a separate offense.

Section 4: Use of Town Landfill Regulated

The town owned and operated landfill is for the use of residents only for disposal of refuse generated on real estate within the Town of Dunn.

- (a) Use of the town landfill requires a sticker with a

number issued by the town clerk.

- (b) Garbage enroute to the town landfill must be bagged or covered and tied down.
- (c) Disposal of tires at the town landfill will require a \$2.00 fee per tire.

Section 5:        Disposal of Newsprint

- (a) Newsprint includes newspapers, advertising circulars printed on newsprint, and normally accompanying newspapers, but shall not include books, magazines and periodicals.
- (b) All newsprint shall be securely tied in both directions with heavy string or cord in bundles of 30 pounds or less, and shall not be placed in containers with other refuse or garbage. Such bundles shall, at the option of the householder, be placed at the roadside with other refuse on the regular refuse collection day to be collected by private refuse collector, or may be taken to the town landfill or other location for recycling and placed in the designated location for recyclable newsprint.

Section 6:        Penalty

Any person violating the provisions of subsections 1 through 5 shall forfeit not less than \$10.00 nor more than \$50.00 for each offense.



ORDINANCE NO. 14-3a  
TOWN OF DUNN

AN ORDINANCE TO REPEAL AND RECREATE SECTIONS 1 AND 6 OF ORDINANCE NO. 14-3  
AND TO CREATE SECTIONS 7, 8, 9 AND 10 OF ORDINANCE NO. 14-3 OF THE  
TOWN CODE OF ORDINANCES, RELATING TO  
OFFENSES AGAINST PUBLIC PROPERTY/WASTE DISPOSAL

*The Town Board of Supervisors of the Town of Dunn, Dane County, Wisconsin, do ordain as follows:*

1. Section 1 of Ordinance No. 14-3, shall be repealed and recreated to provide as follows:

Section 1: Dumping of Rubbish Regulated

- (a) **PURPOSE.** The purpose of this ordinance is to regulate the dumping or deposit of rubbish, as defined in (b) of this section, and other waste products by persons, firms, corporations and other entities within the Town of Dunn. Because of the possible danger to the health, safety and welfare of the public, and because of the Town's long-time commitment to agriculture, such dumping or deposit within the Town shall be permitted only under the terms and conditions of this Ordinance.
- (b) **DEFINITION.** The word "rubbish" shall mean any garbage, ashes, or miscellaneous wastes or other substances other than agriculture or landscape related, but including petroleum - or other - contaminated soil.
- (c) **PERMIT AND OWNER'S CONSENT - PRIVATE PROPERTY.** No person, firm, corporation or other entity shall dump or deposit any rubbish, as defined in (b) above, upon private property or real estate in the Town of Dunn without first having filed the written consent of the owner or his/her authorized agent with the Town Board and without first having been granted a permit to do so by the Town Board under Section 6 of this Ordinance.

- (d) **PERMIT - PUBLIC PROPERTY.** No person, firm, corporation or other entity shall dump or deposit on public property in the Town any rubbish, as defined in (b) above, except in such places as may be authorized by the Town, or, if not authorized, without first having been granted a permit to do so by the Town Board under Section 6 of this Ordinance.

2. Section 6 of Ordinance No. 14-3 shall be repealed and recreated to provide as follows:

Section 6: Dumping/Depositing Application and Permit

- (a) **APPLICATION.** An application for a permit required under this Ordinance shall be filed with the Town Clerk. The application shall include a sworn statement that the application is true and factual. The application shall include the following information:
- (1) The name, address and telephone number of the applicant;
  - (2) The location, current owners and legal description of the site of the proposed dumping or depositing;
  - (3) The names and addresses of the owners of all property located within one-half mile of the site of the proposed dumping or depositing;
  - (4) Names, addresses and telephone numbers of any persons who will represent the applicant;
  - (5) Copies of available site reports, feasibility reports, engineering plans, or other documents filed or to be filed with the Department of Natural Resources, or the U.S. EPA, that are related to the proposed dumping or depositing;
  - (6) A plan for construction, operation, maintenance, closure and long-term care of the site proposed to receive the dumping or depositing. The plan must describe the size, capacity and other features of the site and its proposed future;

- (7) A plan for financial, legal, environmental, health and safety protection of the Town, its government, its employees and agents and its current and future residents;
  - (8) Copies of current financial statements or other financial information; and
  - (9) Any other information relevant to the proposed dumping or depositing of rubbish, as defined in Section 1(b) of this Ordinance.
- (b) **APPLICATION FEE.** The application for a dumping/depositing permit shall be accompanied by a fee of \$150. The Town Board also may charge the applicant an additional fee to reimburse the Town for appropriate and necessary costs and expenses incurred by the Town for attorneys' fees and experts' fees related to the application process.
- (c) **NOTICE AND PUBLIC HEARING.** Upon the filing of a completed application and application fee, the Town Board shall hold a public hearing on the application. Notice of the time, place and purpose of the public hearing shall be given by publication of a Class 2 notice under the Wisconsin Statutes in the official Town newspaper. Notice of the time, place and purpose of the hearing shall also be sent to the applicant, the owner and occupant of the site of the proposed dumping or depositing, and owners of property located within a half mile of the site of the proposed dumping or depositing.
- (d) **ISSUANCE OF DUMPING/DEPOSITING PERMIT.** The application for a dumping/depositing permit shall be processed within 90 days of the receipt of a completed application and application fee. The completed application shall be reviewed by the Town Board. The Town Board may, at its sole discretion, issue the permit if:
1. The Town Board is satisfied that there has been and will be reasonable compliance with the terms of this Ordinance;
  2. The Town Board determines that issuance of the permit promotes the health, safety and general welfare of the Town and its residents, including the owners or occupants of property adjacent to the proposed dumping/depositing site;

3. The person, firm, corporation or other entity has complied with or will comply with all applicable laws, regulations and ordinances regarding the dumping/depositing of rubbish; and
4. Any other conditions or requirements reasonably imposed by the Town Board.

(e) **INSPECTIONS PURSUANT TO APPLICATION AND PERMIT.** A dumping/depositing permit shall not be issued unless the owner or occupant of the property on which the rubbish will be dumped or deposited grants to the Town the right to go on the property to conduct inspections upon reasonable notice for purposes of determining compliance with the provisions of this Ordinance or the permit.

(f) **BOND.** A permit under this ordinance shall not be effective unless there is on file with the Town Clerk a cash bond or a bond with a corporate surety duly licensed in the State of Wisconsin in an amount determined to be sufficient by the Town Board. The bond is to assure that the applicant will comply with all the provisions of this Ordinance and will save harmless, indemnify, and defend the Town, its officers, its representatives, and its agents from any expenses or costs incurred through action of the applicant with regard to the dumping/depositing.

(g) **REVOCAION OF PERMIT.** If this Ordinance is violated, if any of the conditions upon which the permit was issued are violated or if the related plans are not carried out, the Town shall have the right to revoke the dumping/depositing permit. If the violations are not corrected or if the related plans are not carried out, the Town Board shall have the right, at its sole discretion, to correct the violations or carry out the related plans and charge the expense against the bond.

3. Section 7 of Ordinance No. 14-3 shall be created to provide as follows:

**Section 7: Permit for Disposal of Petroleum - or Other - Contaminated Soil**

No permit which allows the disposal of petroleum - or other - contaminated soil will be issued under Section 6 of this ordinance unless:

- (a) All the requirements of Section 6 of this Ordinance have been met;
- (b) All federal, state and local requirements, standards and prohibitions relating to the disposal of petroleum - or other - contaminated soil are met; and
- (c) The disposal of petroleum - or other - contaminated soil is to take place on land not used to grow crops meant for human consumption, or, if such land is used to grow crops meant for human consumption, the levels of contaminants contained within the soil shall not preclude the safe human consumption of such crops or the safe human consumption of animals that have consumed such crops.

4. Section 8 of Ordinance No. 14-3 shall be created as follows:

Section 8: State Law Applicable

Nothing contained herein shall be deemed to limit or restrict the application of any state law or administrative regulation of any state agency regulating the subject of this ordinance.

5. Section 9 of Ordinance No. 14-3 shall be created as follows:

Section 9: Severability and Conflict

If any section, subsection, sentence, clause, phrase, or word of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions.

6. Section 10 of Ordinance No. 14-3 shall be created as follows:

Section 10: Penalty

Any person, firm, corporation or other entity violating the provisions this ordinance shall forfeit not less than \$100 nor more than \$500 for each offense. Each day of violation constitutes a separate offense.

7. This ordinance shall be effective upon passage and publication pursuant to law.

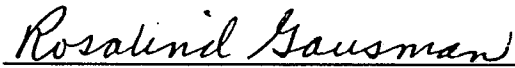
The foregoing ordinance was duly adopted by the Town Board of Supervisors of the Town of Dunn at a regular meeting held on July 20, 1999.

APPROVED:



Edmond P. Minihan, Town Chair

ATTEST:



Rosalind Gausman, Town Clerk/Treasurer

APPROVED: 07-20-1999

PUBLISHED: 08-06-1999

POSTED: \_\_\_\_\_

TOWN OF DUNN

ORDINANCE NO. 14-4

**Water Traffic and Boating Code**

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Section 1: Intent

The intent of this ordinance is to provide safe and healthful conditions for the enjoyment of aquatic recreation consistent with public rights and interest and the capability of the water resources.

Section 2: Definitions

"Slow-no-wake" means the slowest possible speed so as to maintain steerage.

"Untrailerred boat" means any boat that is transported to the boat landing without a trailer and capable of launching by carrying such boat to the landing.

Section 3: Applicability and Enforcement

The provisions of this ordinance shall apply to the waters of the Yahara River within the jurisdiction of the Town. The provisions of this ordinance shall be enforced by Dane County Sheriff's Department and the Wisconsin Department of Natural Resources.

Section 4: Slow-No-Wake Zone

The entire length of the Yahara River in the Town of Dunn, including Mud Lake is designated as a slow-no-wake zone. No person shall operate a motorboat in this zone at a speed faster than the slowest possible speed so as to maintain steerage.

Section 5: Restricted Area

The boat landing owned by the Town of Dunn at the end of Sleepy Hollow Road in the SW 1/4 of the NE 1/4 of Section 10, is restricted to use by untrailerred boats.

Section 6: Penalties

Any person violating the provisions of this ordinance shall forfeit not more than \$50 for the first offense and shall forfeit not more than \$100 upon a second or subsequent conviction within one year.

Section 7: Severability

The provisions of this ordinance are severable. If any provision of this ordinance is invalid, or if the application of any provision to any person or circumstance is invalid, such invalidity shall not affect other provisions or applications, which can be given effect without the invalid provision or application.



TOWN OF DUNN

ORDINANCE #14-5B

AN ORDINANCE TO REVOKE CHAPTER 14-5 AND  
RECREATING CHAPTER 14-5 OF THE GENERAL CODE OF ORDINANCES

The Town Board of the Town of Dunn, Dane County, Wisconsin does ordain that Chapter 14-5 of the General Code of the Town of Dunn, entitled Public Health and Sanitation, "Recycling Ordinance" be and the same is revoked and hereby re-created to read as follows:

TOWN OF DUNN

ORDINANCE #14-5

**RECYCLING ORDINANCE**

The Town Board of the Town of Dunn, Dane County, Wisconsin, hereby ordains as follows:

Section 1: Purpose

- (1) The purpose of this ordinance is to promote recycling, composting, and resource recovery through the administration of an effective recycling program, as provided in Chapter 159.11 of Wisconsin Statutes and Chapter NR 544 of the Wisconsin Administrative Code.
- (2) The provisions of this ordinance shall be administered by the Town Board or designee of the Town Board in accordance with the purpose of the ordinance.

Section 2: Statutory Authority

- (1) This ordinance is adopted as authorized under Chapter 159.09(3)(b), Wisconsin Statutes.

Section 3: Definitions

(1) The following words are defined in this ordinance as follows:

- (a) "Collector" means the contractor or entity authorized by the Town Board to collect, transport and dispose of the community's solid waste, recyclable and non-recyclable, or, person or persons contracting with waste generators for these services, and who will enforce preparation standards for recyclable materials as well as ensure community compliance with this source separation recycling program.
- (b) "Corrugated cardboard" means heavy duty Kraft paper packaging material with a corrugated medium between two flat paper liners, and does not include paperboard such as for cereal or laundry detergent boxes or holders for 6 packs or 12 packs of beverage cans or bottles.
- (c) "Garbage" means discarded materials resulting from the handling, processing, storage and consumption of food.
- (d) "Glass" means discarded glass bottles, jars and containers and does not include window glass, drinking glasses, pyrex, light bulbs or other non-container glass.
- (e) "Good faith" means reasonable efforts to adhere to the

- policies, standards and rules of this mandatory source separation recycling program.
- (f) "Hazardous waste" or "hazardous substance" means those wastes or substances defined thusly in NR 181 of the Wisconsin Administrative Code (including all amendments provided thereto) pursuant to authority vested in the Wisconsin Department of Natural Resources to describe and list materials thusly and also includes those solid wastes or substances found in household waste (notwithstanding the household waste exclusion provided in s. NR 181.12(4) (a), Wisconsin Administrative Code.)
  - (g) "Household Sharp Medical Waste" means any type of product capable of puncturing or lacerating the skin that is designed or used to treat, diagnose, or prevent a disease or medical condition, including, but not limited to, scalpels and hypodermic needles.
  - (h) "Lead-acid batteries" means automotive and related batteries that are comprised of lead plates with an acid electrolyte, and does not include nickel-cadmium batteries, dry cell (flashlight) batteries or batteries used in calculators, watches, hearing aids or similar devices.
  - (i) "Major appliance" means a residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator, stove, water heater or any other item commonly referred to as a white good.
  - (j) "Metal cans" means tin coated steel cans, bi-metal cans, and aluminum cans used for food and other non-hazardous materials but excluding aerosol cans and cans that held paint, paint related products, pesticides or other toxic or hazardous substances.
  - (k) "Multi-family dwelling" means a residential dwelling place intended to be the residence of more than four independent family units.
  - (l) "Newspapers" means matter printed on newsprint including daily or weekly publications and advertising materials but excludes glossy paper, magazines, catalogs or similar materials.
  - (m) "Non-recyclable material" means all items or waste not recyclable except hazardous waste or hazardous substances.
  - (n) "Other paper" shall mean all paper excluding newsprint materials or materials specifically excepted in the definition of "newspapers", and "corrugated cardboard" but shall include grades of fiber materials with available markets for recycling.
  - (o) "Oversize and bulky waste" means large items such as

- furniture, mattresses, carpeting, construction or demolition materials of substantial dimensions, brush and other large items whose proportions are not easily reduced.
- (p) "Person" includes any individual, corporation, organization, association, or other entity, local governmental unit, as defined in section 66.299(1), Wis. Stats., state agency or authority or federal agency.
  - (q) "Plastic container" means a blow molded plastic bottle made of high density polyethylene (HDPE) or a plastic bottle or jar made of polyethylene terephthalate (PET), but does not include HDPE containers that are not blow molded including but not limited to containers for yogurt, cottage cheese, butter, margarine, ice cream and similar products.
  - (r) "Preparation standards" shall mean criteria provided establishing acceptable good faith limits for introduction of materials into the source separation recycling program involving either transport to a material recycling center or temporary storage of such materials.
  - (s) "Recyclable material" means identified materials meeting preparation standards and shall include the following: newspapers; corrugated cardboard; [unbroken] brown, green and clear container glass; aluminum, bi-metal and tin-coated steel cans; blow-molded HDPE and PET plastic containers; tires; used oil, lead-acid batteries; and large appliances. "Recyclable material" further means all materials identified as recyclable material in Wis. Statutes 159.07(3)(4) and NR 544.06 of the Wisconsin Administrative Code, as amended from time to time.
  - (t) "Rubbish" means combustible and non-combustible materials including, but not limited to: paper products, wood, metal, glass, cloth and products thereof in unrecoverable condition; litter and street rubbish not including yard waste; uncontaminated ashes. "Rubbish" for purposes of this ordinance shall not include "oversize or bulky waste".
  - (u) "Sharps Container" means a container specifically manufactured for the disposal of sharp medical waste.
  - (v) "Solid Waste" means garbage, rubbish and all other discarded or salvageable solid materials, including solid waste materials resulting from industrial, commercial and agricultural operations, and from community activities, but does not include solids or dissolved material in waste water effluents or other common water pollutants.

- (w) "Solid waste storage" shall mean safe, environmentally sound short-term containment of materials and for recyclable material shall involve preserving materials in a condition meeting preparation standards.
- (x) "Tires" for collection purposes shall mean rubber tires, from automobile and light truck tires and other tires which are removed from rims.
- (y) "Used oil" means any contaminated petroleum-derived or synthetic oil including but not limited to the following: engine and other mechanical lubricants; hydraulic and transmission fluid; metalworking fluid; and, insulating fluid or coolant.
- (z) "Yard waste" means leaves, grass clippings, yard and garden debris, including clean woody vegetative material no greater than six (6) inches in diameter and holiday trees, but does not include tree stumps, extensive root systems or shrubs with intact root balls.

Section 4:            Applicability

(1) This ordinance shall apply to all persons, and appropriate waste generating activities, within the Town of Dunn.

Section 5:            Conflict and Severability

(1) The provisions of this ordinance shall be held to be minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes or pertinent Dane County Ordinances in their interpretation and application. Because this ordinance creates a comprehensive, mandatory source separation recycling program in our community, where any terms or requirements of this ordinance may be inconsistent or conflicting, the more restrictive requirements or interpretations consistent with state and county law shall control. If any section, provision or portion of this ordinance is found unconstitutional or invalid by a court, the remainder of the ordinance shall remain enforceable and shall not be affected by that ruling.

Section 6:            Preparation Standards

(1) Preparation standards for recyclable materials shall be provided by notice to generators of waste and collectors by the Town or the collector under contract with the Town or individual persons. When additional materials become recyclable, preparation standards for them will be

established by the Town or Collector dependent upon available economic markets.

(2) Acceptable recyclable materials shall be prepared in accordance with the following standards for collection purposes pursuant to this ordinance:

- a) "Newsprint" shall be dry, free of paper not normally included in the newspaper and not sunburned.
- b) "Corrugated Cardboard" shall be flattened, empty and free of food debris and other contaminating material;
- c) "Glass Containers" shall be unbroken, empty, clean and free of metal caps and rings, other contaminates such as window glass, drinking glasses, ceramics and similar material;
- d) "Metal Cans" shall be empty with ends removed and flattened where possible, and clean with labels removed;
- e) "Plastic Containers" shall not be tied together, and shall be empty, clean, flattened, and have caps removed.
- f) "Lead-acid Batteries" shall have all caps firmly attached and be free from leaks.
- g) "Tires" shall include automobile and light truck tires and other tires, removed from rims.

(3) All garbage placed for collection shall be well drained, wrapped and deposited in water tight containers or water tight bags. No container or bag placed for collection shall exceed 95 gallons in capacity.

(4) Household Sharp Medical Waste Disposal. Household sharp medical waste shall not be deposited in any place or manner in the Town of Dunn other than as hereinafter provided:

(a) Acceptable means of disposing of household sharp medical waste include:

- 1. Disposal in an approval medical waste box, such as a Sharps container; or
- 2. Disposal in a heavy plastic container, such as a laundry soap bottle, providing that the lid is permanently affixed thereto using tape or another means, and the container is marked "Medical Waste: Do Not Open".

(b) No container for household sharp medical waste or loose household sharp medical waste may be mixed with recyclables.

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

- (6) Grass, leaves and brush shall not be collected with the intent of disposal at sanitary landfills. All persons who generate yard waste shall be responsible for appropriate disposal of yard waste from properties owned or occupied by the aforementioned persons. Composting of yard waste on site at home is encouraged and information on how to compost is available at the Town Hall and on the Town website. The Town of Dunn provides a collection site for yard waste composting at the Transfer Site where residents of the Town of Dunn are encouraged to bring yard waste for composting.

Section 7: Required Separation of Solid Waste

- (1) The owner or occupant of each residence, residential unit, place of business, church, industry or commerce or other place providing goods or services of any type shall cooperate in the recycling of recyclable material by performing the following:
- (a) Except as provided in (c) and (d) hereafter, all recyclable material shall be separated from other solid waste, and placed in containers for collection according to the collection schedule established under Section 8. Recyclables shall not be placed in containers with other solid waste.
  - (b) Newspaper and Corrugated cardboard. Newspapers shall be placed in a suitable container marked "NEWSPAPER" and placed at the curb line with solid waste on the designated collection date for the Town's collector. No newspapers, except newspapers rendered useless for recycling purposes, shall be disposed of in any manner by any resident or business so as to result in newspapers being disposed of in the Dane County sanitary landfill or any private landfill. Corrugated cardboard shall be flattened and securely tied in bundles or placed in suitable containers facilitating handling and collection. Corrugated cardboard and newspaper shall not be intermixed, bundled together or mixed with other recyclable materials such as paper.
  - (c) Owners of multi-family dwellings in the Town of Dunn must provide adequate containers for handling and collection of recyclable materials enabling tenants to ensure separation of recyclables and ensuring that recyclables meet preparation standards. The following shall be acceptable means of providing containers: providing a series of containers for the complex or sub-units thereof with containers for all types of recyclables to be shared in common by occupants of the multi-family

dwelling not including provisions for major appliances or used oil with sufficient, separate containers to achieve good faith separation of recyclables based upon size of the multi-family dwelling, and handling, transportation and processing requirements for the collector. Containers shall be clearly designated and marked as to the recyclable contained therein, and containers shall be maintained in a clean, safe and watertight condition.

(d) Owners of commercial, retail, industrial and governmental facilities in the Town of Dunn must provide separate containers for recyclable materials and regular collection of those containers; and, must notify all users of their facilities of county and municipal recycling requirements.

(e) All persons who are generators of the following types of waste shall make appropriate arrangements for collection, transportation and disposal of these materials at their own expense: lead-acid batteries, major appliances, tires, large metal products and used oil.

(f) Grass, leaves and brush are not to be included in solid waste, as they are banned from landfills.

(g) Owners of multiple family dwellings, commercial, retail, government and industrial facilities shall notify users, tenants and occupants of reasons to reduce and recycle, which materials are collected, how to prepare materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address and telephone number.

(h) The requirements specified in (c) (d) and (g) above do not apply to the owners or designated agents of non-residential facilities and properties or multiple family dwellings if the post-consumer waste generated within the facility or property is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the materials specified in section 7 (1) (a) (b) from solid waste in as pure a form as is technically feasible.

(2) It shall be unlawful to bring into the Town of Dunn for disposal refuse or recyclables from outside the Town of Dunn.

(3) A collector may not dispose in a landfill or burn in a solid



waste facility any recyclable materials generated in the Town of Dunn that have been separated for recycling.

- (4) To the greatest extent practicable, the recyclable materials separated in accordance with Section 7(1) shall be clean and kept free of contaminants such as food or product residue, oil or grease, or other non-recyclable materials, including but not limited to household hazardous waste, medical waste, and agricultural chemical containers. Recyclable materials shall be stored in a manner which protects them from wind, rain, and other inclement weather conditions.
- (5) Separation requirements of this ordinance do not apply to a recyclable material for which a variance has been granted by the Department of Natural Resources under s. 159.11(2m), Wis. Stats., or s. NR 544.14, Wis. Administrative Code.

Section 8: Collection Schedule

- (1) The Town Board and Town's collector shall establish the time of collection of solid waste, including recyclable materials, and the clerk shall distribute the collection schedule according to regulation established under Section 15.
- (2) All persons having solid waste, including recyclable materials, shall place the same in containers or water-tight bags or bundles as herein required at the collection point not sooner than 24 hours prior to the regularly scheduled collection time and no person shall permit solid waste containers thereof to accumulate or remain at the curb line longer than 12 hours thereafter.

Section 9: Placing of Solid Waste for Collection

- (1) Except as otherwise specifically directed or authorized by the Town Board under (2), solid waste containers from all residential premises shall be placed at the curb line adjacent to the street designated in the published collection schedule.
- (2) The Town Board may direct or authorize the placing of solid waste containers in a manner different than that provided herein in order to facilitate a more reasonable mode of collection from particular premises.

Section 10: Garbage or Rubbish not to be Deposited in any Other Place or Manner than herein Provided.

- (1) No person shall place any garbage on any street, or other

public or private property unless the same shall be placed in containers or bags for town collection at the times and in the manner as herein provided.

- (2) No person shall place for collection any solid waste at the curb line or adjacent to any premises not owned or occupied by such person.

Section 11:        Recyclable Material Property of Town

- (1) All residential recyclable material collected and deposited as provided in this section shall be the property of the Town.
- (2) Recyclables collected privately for businesses and apartments are the property of those entities.

Section 12:        Items not to be Placed for Pick Up

- (1) No person shall dump, deposit or place at the curb line adjacent to any street for collection by the town or for any other purpose any of the following:
  - (a) Large amounts of stone, concrete, rubber, earth or sod.
  - (b) Lead-acid batteries and tires.
  - (c) Grass, leaves and brush.
  - (d) Containers over 95 gallons.
  - (e) Garbage or rubbish in such a manner as will permit strewing by animals or vandals prior to collection.

Section 13:        Anti-scavenging Provision

- (1) Persons shall not pilfer recyclables or disturb recyclable materials placed for collection. All recyclable materials placed for collection pursuant to this ordinance shall thereupon become the property of the municipality, or, the municipality's authorized agent, or, a private collector whom persons in the municipality have contracted to perform functions pursuant to the recycling plan provided in this ordinance. Only persons authorized by the municipality or the generator of waste shall collect or handle recyclable materials once those materials have been placed appropriately for collection. Any and each collection by unauthorized persons in violation of this provision shall constitute a separate and distinct offense punishable as provided hereinafter.

Section 14:      Violation and Penalty

- (1) For the purpose of ascertaining compliance with the provisions of this ordinance, any authorized officer, employee or representative of the Town of Dunn may inspect recyclable materials separated for recycling, post-consumer waste intended for disposal, recycling collection sites and facilities, collection vehicles, collection areas of multiple-family dwellings and non-residential facilities and properties, and any records relating to recycling activities, which shall be kept confidential when necessary to protect proprietary information. No person may refuse access to any authorized officer, employee or authorized representative of the Town of Dunn who requests access for purposes of inspection, and who presents appropriate credentials. No person may obstruct, hamper, or interfere with such an inspection.
  
- (2) Any person who violates a provision of this ordinance may be issued a citation by a Town of Dunn law enforcement officer to collect forfeitures. The issuance of a citation shall not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this paragraph.
  
- (3) Any person who violates any provision of this ordinance or any regulations promulgated pursuant to this ordinance shall forfeit upon conviction thereof not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00) for each separate violation hereunder, provided that the range of forfeiture for the third and any subsequent violation of this ordinance or regulations promulgated pursuant thereto within a twelve month period shall be not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) for each separate violation. Each incident of violation shall be a separate offense and each day or part thereof during which a violation occurs or continues shall be deemed a separate offense. In addition to or in lieu of the penalty provided herein, the violator may be required by court order to clean up, remove or pay the cost of clean up or removal of any garbage or rubbish placed in violation of this ordinance and pay for the cost of all medical care necessary should any injury be caused by the improper disposal of household sharp medical waste.

Section 15:      Promulgation of Regulations

- (1) Town Board of the Town of Dunn shall prepare regulations, standards and schedules as necessary to make effective all provisions of this ordinance. Periodically, upon a schedule adopted by the municipality, the Town of Dunn shall prepare notices and distribute other information to persons and entities generating waste within the town for purpose of informing the public about the requirements dictated by this mandatory source separation recycling ordinance.

Section 16:      Licensing and Other Requirements

- (1) No person or corporation shall engage in the business of hauling recyclables within the Town of Dunn without being licensed by the Wisconsin Department of Natural Resources under section NR 502.06 of the Wisconsin Administrative Code.
- (2) Any contractor operating in the Town of Dunn shall not transport for processing any recyclables to a processing facility unless that facility has been approved in writing by the Town of Dunn and the facility has self-certified with the Wisconsin DNR under section NR 544.16 of the Wisconsin Administrative Code.
- (3) Collectors who collect solid waste or recyclables in the Town of Dunn for storage, treatment, processing, marketing or disposal shall obtain and maintain all necessary municipal and state permits, licenses and approvals prior to collecting any materials in the Town of Dunn.
- (4) Collectors operating in the Town of Dunn are required to maintain records and report in writing to the Town clerk on a monthly basis. Reports shall include: the amount of solid waste and recyclables processed and or marketed by item type from the Town of Dunn; and the final disposal location of solid waste and recyclable material. Failure to report shall be cause for the Town to revoke any license or sever any contract with the collector.
- (5) Collectors have the right to reject or leave at the curb any recyclable material that is not prepared according to the specifications in this ordinance, applicable regulations, or educational material provided by the contractor to service recipients. Materials may also be left if not separated from solid waste, placed in the proper container, or are not designated recyclable material. In such cases, the collector shall notify the generator in writing of the materials about the reasons for rejecting the items.
- (6) Collectors shall maintain a list of residents who are commingling recyclable material with other solid waste and

provide it to the municipality with the monthly report.

Section 17: Consistency

(1) All ordinances of the Town of Dunn or parts of those ordinances construed to be inconsistent with this ordinance for the purpose of achieving an effective recycling program

in the municipality shall be hereby repealed as to such inconsistency only for the limited purpose of making effective all provision in this ordinance.

Section 18: Effective Date

(1) This ordinance shall be in full force and effect on passage and publication as required, except the recycling provision pertaining to curb side pick up shall be effective on January 1, 1995 or such earlier date as the Town Board may adopt by ordinance.

Adopted this \_\_\_\_ day of \_\_\_\_\_.

BY ORDER OF THE TOWN BOARD OF THE TOWN OF DUNN

\_\_\_\_\_  
Edmond P. Minihan, Chairman

\_\_\_\_\_  
Steven Greb, Supervisor

\_\_\_\_\_  
Jeff Hodgson, Supervisor

Attested:

\_\_\_\_\_  
Cathy Hasslinger, Clerk

Posted:

**TOWN OF DUNN CODE OF ORDINANCES: ORDINANCE #14-6A**

**AN ORDINANCE TO REVOKE CHAPTER 14-6 AND RECREATING CHAPTER 14-6A OF THE CODE OF ORDINANCES**

**The Town Board of the Town of Dunn, Dane County, Wisconsin does ordain that Chapter 14-6 of the General Code of the Town of Dunn, entitled "Illicit Discharge Control" be and the same is revoked and hereby re-created to read as follows:**

Chapter 14.6  
**Illicit Discharge Control**

- 14-6-1 Purpose
- 14-6-2 Definitions
- 14-6-3 Applicability
- 14-6-4 Responsibility for Administration
- 14-6-5 Severability
- 14-6-6 Ultimate Responsibility
- 14-6-7 Discharge Prohibitions
- 14-6-8 Monitoring of Discharges
- 14-6-9 Notification of Spills
- 14-6-10 Enforcement, Penalties, and Remedies
- 14-6-11 Effective Date

**Sec. 14-6-1 Purpose.**

The purpose of this Chapter is to provide for the health, safety, and general welfare of the citizens of the **Town of Dunn** and protect waters of the state through the regulation of illicit discharges to the municipal separate storm sewer system as required by federal and state law. This Chapter establishes methods for controlling the discharge of pollutants into the municipal separate storm sewer system owned or operated by **Town of Dunn** in order to comply with the requirements of the Clean Water Act, Chapter 283.33, Wis. Stats., and Wisconsin Pollutant Discharge Elimination System municipal storm water discharge permit program under Chapter NR 216, Wis. Adm. Code.

The objectives of this Chapter are:

- (1) To regulate the contribution of pollutants to the municipal separate storm sewer system associated with discharges from any user of the municipal separate storm sewer system.
- (2) To prohibit illicit connections and discharges to the municipal separate storm sewer system.
- (3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this Chapter.

**Sec. 14-6-2 Definitions**

For the purposes of this Chapter, the following definitions are applicable:

- (1) "**Authorized agency**" means employees or designees of the director or directors of the municipal agency or agencies of the **Town of Dunn** designated to administer or enforce this Chapter.

- (2) **“Illicit connection”** means any drain or conveyance, whether on the surface or subsurface, which allows the discharge of sanitary waste to the municipal separate storm sewer system and any connections to the municipal separate storm sewer system from indoor drains and sinks.
- (3) **“Illicit discharge”** means any discharge to a municipal separate storm sewer that is not composed entirely of storm water except discharges authorized by a WPDES permit or other discharges not requiring a WPDES permit.
- (4) **“Municipal separate storm sewer” or “MS4”** means a conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets the following criteria:
- Owned or operated by the **Town of Dunn**.
  - Designed or used for collecting or conveying storm water.
  - Which is not a combined sewer conveying both sanitary wastewater and storm water.
  - Which is not part of a publicly owned wastewater treatment works that provides secondary or more stringent treatment.
- (5) **“Non-storm water discharge”** means any discharge to the municipal separate storm sewer system that is not composed entirely of storm water.
- (6) **“Storm water”** means surface runoff and drainage of rainfall and snow or ice melt.
- (7) **“Waters of the state”** means those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, all lakes, bays, rivers, streams, springs, ponds, well, impounding reservoirs, marshes, water courses, drainage systems and other surface water or groundwater, natural or artificial, public or private within the state or under its jurisdiction, except those waters which are entirely confined and retained completely upon the property of a person.

### **Sec. 14-6-3 Applicability**

This Chapter shall apply to all discharges to the MS4 and to all activities that can reasonably be expected to result in a discharge to the MS4.

### **Section 14-6-4 Responsibility for Administration**

The **Town of Dunn** shall administer, implement, and enforce the provisions of this Chapter. Any powers granted or duties imposed by this Chapter upon the authorized agency may be delegated by the Town Board Chair to persons or entities acting in the beneficial interest of or in the employ of the Town.

### **Sec. 14-6-5 Severability**

The provisions of this Chapter are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Chapter.

### **Sec. 14-6-6 Ultimate Responsibility**

The standards set forth herein and promulgated pursuant to this Chapter are minimum standards; Therefore, this Chapter does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharges.

## **Sec. 14-6-7 Discharge Prohibitions**

### **(1) Prohibition of Illicit Discharges.**

No person shall discharge or cause to be discharged into the MS4 or waters of the state of any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water. The commencement, conduct or continuance of any illicit discharge to the MS4 is prohibited. Prohibited discharges include but are not limited to discharging treated swimming pool water to the MS4 and storage of vehicles that results in fluids leaking. The following non-storm water discharges or flows are generally not considered illicit discharges if done in a non-polluting manner: water line flushing, landscape irrigation, diverted stream flows, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, de-chlorinated swimming pool water, street wash water and fire fighting.

### **(2) Prohibition of Illicit Connections.**

- (a) The construction, use maintenance or continued existence of illicit connections to the MS4 is prohibited.
- (b) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (c) A person is considered to be in violation of this Chapter if the person connects a line conveying sanitary waste to the MS4, or allows such a connection to continue.

## **Sec. 14-6-8 Monitoring of Discharges**

### **Access to Facilities.**

The authorized agency shall be permitted to enter and inspect facilities subject to regulation under this Chapter as often as may be necessary to determine compliance with this Chapter. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized agency.

## **Sec. 14-6-9 Notification of Spills**

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illicit discharges or pollutants discharging into storm water, the MS4, or water of the state, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the authorized agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the authorized agency within three business days of the phone notice. Failure to provide notification of a release as provided above is a violation of this chapter.



**Sec. 14-6-10 Watercourse Protection**

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

**Sec. 14-6-11 Enforcement, Penalties, and Remedies**

(a) *Violations.* It shall be unlawful for any person to violate any provision of this Chapter. Each and every day during which the violation continues shall constitute a separate offense. The Town may institute appropriate action of proceedings to enjoin violations of this Chapter.

(b) *Penalties.* Any person who fails to comply with the provisions of this Chapter shall, upon conviction thereof, forfeit no less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) and also pay the costs of prosecution for each violation, including the Town’s reasonable and actual attorneys fees and disbursements incurred in the prosecution of such violations.

(c) In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to public health, safety, welfare, and environment and is declared and deemed a nuisance, and may be abated by injunctive or other equitable relief as provided by law.

(d) The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and the town may seek cumulative remedies.

(e) The Town of Dunn may recover in full attorney's fees, court costs, and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

**Sec. 14-6-11 Effective date**

This ordinance shall take effect the day after passage and posting or publication pursuant to law.

The above and foregoing ordinance was adopted by the Town Board of the Town of Dunn at its meeting held on \_\_\_\_\_.

TOWN OF DUNN

By \_\_\_\_\_  
Edmond P. Minihan, Chairman

ATTTESTED: \_\_\_\_\_

Cathy Hasslinger, Clerk Treasurer

Approved: \_\_\_\_\_

Published: \_\_\_\_\_

ORDINANCE #14-7  
TOWN OF DUNN  
AN ORDINANCE CREATING CHAPTER 14-7 OF THE GENERAL CODE OF  
ORDINANCE FOR REGULATING LEAF DISPOSAL AND COLLECTION

The Town Board of the Town of Dunn, Dane County, Wisconsin does ordain that Chapter 14-7 of the General Code of Ordinances entitled “Town of Dunn Ordinance Regulating Leaf Disposal and Collection” is hereby created to read as follows:

Section I:     Title

This ordinance shall be cited as the “Town of Dunn Ordinance Regulating Leaf Disposal and Collection” and hereinafter referred to as “this ordinance”.

Section II:    Authority

This ordinance is adopted to protect the health, safety and welfare of residents of the Town of Dunn. This ordinance is authorized by the powers granted to the Town of Dunn by the Town’s adoption of Village powers under sec. 60.10(2)(c), Wis. Stats., and is in accord with sec. 61.34(1), Wis. Stats., and Wis. Admin. Code SPS 307.

Section III:   Purpose

This ordinance regulates the town’s leaf collection program for the purpose of reducing phosphorus leaching from leaves into nearby lakes. The town will pick up leaves near the roadside in designated areas near lakes.

REGULATIONS APPLICABLE TO LEAF DISPOSAL AND COLLECTION

Section IV:    Definitions

As used in this ordinance, the following terms have the following meaning:

- (A)    “Designated Roadside Pick-up Area” includes properties notified by the town by letter, notice in the tax bill, or properties with a special charge for “Leaf Pick up” appearing on the tax bill.
  
- (B)    “Town Transfer Site” means the town’s site located at 4030 County Road B ¼ mile east of the Dunn Town Hall.

Section V: Prohibition

- (A) It shall be unlawful and a violation of this ordinance for any person, including lawn service companies and clean up organizations, to burn an amount of leaves exceeding one quarter bushel per year in the designated leaf pick up areas.
- (B) It shall be unlawful and a violation of this ordinance for any person, including lawn service companies and clean up organizations, to rake or move leaves into any lake, pond, flowage, river, or stream or onto the immediate shoreline.
- (C) It shall be unlawful and a violation of this ordinance for any person, including lawn service companies and clean up organizations, to keep brush, rocks, animal waste, and other non-leaf material that could cause damage to the equipment or injury to workers with the leaves placed for roadside pick-up.

Section VI: Administration of Roadside Leaf Pick-up

- (A) Property owners in the Designated Roadside Pick-up Area rake leaves to the shoulder area of the roadside, but avoid placing leaves on the pavement or in a ditch. Signs will be placed on the roadside prior to pick up days to alert property owners.
- (B) Property owners are encouraged to place leaves in a row on the road shoulder, not in a large pile if possible.
- (C) Place leaves at least four feet from any mailbox or utility pole.
- (D) Do not park or store items near leaves placed for roadside pick-up.
- (E) Property owners in the designated roadside pick-up area may have a special charge placed on the tax bill to help offset up to one half of the town's cost for the program. Grant revenue may reduce this special charge to zero.
- (F) Property owners may choose to dispose of leaves by taking them to the town transfer site or by mulching the leaves instead of raking leaves to the roadside for pick up. All provisions of this ordinance remain in effect including any fees assessed as a special charge on the tax bill.

Section VII: Enforcement

Failure to comply with any of the prohibitions in Section V of this ordinance shall constitute a violation. The Town may, upon receipt of a complaint or observation of a violation, commence appropriate procedures to enforce this Ordinance. The Town hereby authorizes enforcement by the Dane County Sheriff's Department.

Section VIII: Penalties

For any violation forfeiture of not less than \$25 and not more than \$100 upon first conviction and upon the 2nd and each subsequent conviction within a 12-month period, a forfeiture of not less than \$100 nor more than \$200.

Section IX: Effective Date

This ordinance is effective on publication.

The Town Clerk shall properly publish this ordinance as required under Sec. 60.80(2) of Wis. Statutes as a Class I Notice in a newspaper.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2017

Signatures of Town Board:

\_\_\_\_\_  
Town Board Chair

\_\_\_\_\_  
Town Supervisor

\_\_\_\_\_  
Town Supervisor

\_\_\_\_\_  
Attest: Town Clerk

**TOWN OF DUNN**  
**DANE COUNTY, WISCONSIN**  
**ORDINANCE NO. 16-1**  
**VEHICLE STORAGE**

**Section 1: Coverage**

It shall be unlawful for any person to allow or permit the storage or parking of any unlicensed or inoperative motor vehicle, implement, commercial or industrial equipment of refuse, in or near any residential area in the Town of Dunn.

**Section 2: Notification**

Any person who receives written notice from the Town Board of the Town of Dunn to remove from his property any such motor vehicle, implement, commercial or industrial equipment of refuse, shall have ten (10) days from the receipt of said notice to comply with same.

**Section 3: Penalties**

Any person who shall violate this ordinance shall be deemed guilty of a misdemeanor and upon arrest and conviction thereof shall forfeit the sum of \$1.00 for each day that said notice is not complied with. If said notice has not been complied with for a for a period of thirty (30) days from the mailing date of same, the Town Board may cause the said vehicles, implements, commercial or industrial equipment to be removed and said person shall bear the additional cost of removing same as a part of said forfeiture.

**CAR HAS TO BE IN A GARAGE OR HAS TO HAVE AN UP TO DATE LICENSE PLATE.**

ORDINANCE NO. 16.2  
TOWN OF DUNN  
DANE COUNTY, WISCONSIN

AN ORDINANCE RELATING TO THE MAINTENANCE  
OF PREMISES AND STRUCTURES

The Town Board of the Town of Dunn, Dane County, Wisconsin, do hereby ordain as follows:

Section 1: Maintenance of Premises and Structures.

- 1) Premises and Structures Shall Be Maintained. Every owner of any premises and every adult resident of any premises shall keep such premises and every structure thereon free of the following:
  - a) Any deterioration.
  - b) Any appearance of deterioration.
  - c) Any nuisance.
  - d) Any vermin.
  - e) Any health, safety, or fire hazard.
  
- 2) Definitions: For the purposes of this section:
  - a) "Adult" means a person who is 18 years of age or older.
  - b) "Basement" means that portion of a structure that has a floor below the surface of the ground immediately adjoining it.
  - c) "Deterioration" means the condition of a structure, or part thereof, that is:
    - i) So old, dilapidated, or has become so out of repair as to be dangerous, unsafe, unsanitary, or otherwise unfit for human habitation, occupancy, or use; or
    - ii) Characterized by broken, cracked, crumbling, rusting, pitted, holed, or rotten materials; broken, loose, or missing shingles; peeling or inadequate paint or stain; structural unsoundness; or other evidence of decay, neglect, lack of maintenance, or excessive use.
    - iii) This term does not include old farm buildings not used for human living or sleeping purposes.
  
  - d) "Fence" means an independent structure forming a barrier at grade between lots, between a lot and a street or an alley, or between portions of a lot or lots, and includes a wall or latticework screen, but excludes a hedge or natural growth, and excludes a barrier that is fewer than 18 inches in height that is used to protect plant growth.

- e) “Nuisance” means any one of more of the following conditions or items:
- i) Any nuisance known at common law, in equity jurisprudence, as described by the Wisconsin Statutes, or as described by the Town’s ordinances.
  - ii) Any attractive nuisance that may prove detrimental to the health or safety of any person on any premises or in any structure. This includes, but is not limited to: open basements and excavations that are not barricaded so as to prevent any person from falling into the basement or excavation; unused iceboxes, refrigerators, and freezers in which a person could be trapped; and any structurally unsound fence or structure.
  - iii) Any abandoned, inoperable, or unlicensed vehicle, or any vehicle part, that is visible, in whole or in part, from the ground at any place other than on the premises.
  - iv) The following items, if any such item is visible, in whole or in part, from the ground at any place other than on the premises for a period of time exceeding 48 hours: household furnishings, furniture, and appliances. This does not include furniture intended for outdoor use.
  - v) Any building material, if any such material is visible, in whole or in part, from the ground at any place other than on the premises for a period of time exceeding 5 days, and the building material has not been used, in whole or in part, as a part of a building project during those 5 days.
  - vi) Any accumulation of stagnant water.
  - vii) Any plant, tree, or other vegetation that constitutes a hazard to any person, such as a dead or dying tree or vine.
  - viii) Any uncovered soil that is subject to erosion.
  - ix) Any poison ivy, poison oak, poison sumac, or similar vegetation.
  - x) All solid waste including, but not limited to: all waste and all animal, fish, fowl, or vegetable matter incident to or resulting from the use, preparation, or storage of food (except properly maintained composting material); rubbish; waste material, combustible and noncombustible, resulting from housekeeping or an ordinary mercantile enterprise; debris; street cleanings; excelsior, paper, ashes, cinders, tin cans, bottles and broken glass; and significant amounts of grass clippings, brush, and loose leaves.
  - xi) Any garbage not in a secure storage facility.
- f) “Owner” means every person who holds title, or part of the title, to a structure or premises.
- g) “Premises” means a parcel of land.
- h) “Resident” means every person who occupies a structure or premises.
- i) “Structure” means anything constructed or erected that requires location on the ground or is attached to something having location on the ground, including a building, dwelling, fence, free standing wall, driveway, sign, or other advertising medium.



- j) “Vermin” means one or more rats, termites, or cockroaches, and other rodents, insects, or pests that constitute an actual or potential health hazard, excluding flies and mosquitoes that are not inside a structure.

### 3) Enforcement

- a) Inspection of Premises and Structures. The Building Inspector, the Public Works Supervisor, and the Fire Chief are each authorized to make one or more inspections of any premises or structure to determine whether such premises or structure comply with this section. The Building Inspector, the Public Works Supervisor, and the Fire Chief are each authorized to obtain a special inspection warrant pursuant to secs.66.122 and 66.123, Stats. The Building Inspector, the Public Works Supervisor, and the Fire Chief may act pursuant to sec. 66.05, Stats.
- b) Notice. Whenever the Building Inspector, Public Works Supervisor, or Fire Chief believes that a violation of this section has occurred, the Building Inspector, Public Works Supervisor, or Fire Chief shall provide written notice of the violation to any owner of the premises, any adult resident of the premises, or any combination thereof as the Building Inspector, Public Works Supervisor, or Fire Chief deems appropriate. The notice may be addressed to an owner or resident by name or as “owner” or “Resident”. The notice mailed to any owner shall be mailed to the address to which the property tax bills for the premises are sent. The notice mailed to any resident shall be mailed to the resident’s address. Notice is effective upon mailing.
- c) 30-Day Correction Period. The owner, owners, adult resident, or adult residents to whom a notice has been mailed shall have 30 days from the effective date of the notice to correct the violation.
- d) Defenses to Charge. It shall be a defense to any charge under this section that:
  - i) The person charged does not have the legal right to correct the condition upon which the charge is based.
  - ii) A different person or persons have the legal responsibility to correct the condition upon which the charge is based.
  - iii) The person charged does not have a legal right to reside on the premises and resides on the premises pursuant to permission that may be revoked at any time.
  - iv) An item or items have been placed near a highway for the purpose of removal from the premises within 24 hours.
- e) Forfeiture. In the event a violation of this section is not corrected within the 30-day correction period, each person found guilty of such a violation shall forfeit not less than \$25.00 not more than \$200.00 for each violation plus all costs, fees, penalties, assessments, surcharges, and other charges that are or can be imposed by state law. Each day a violation occurs or exists after the effective date of the notice shall be considered a separate violation.
- f) Town Agreement After Forfeiture Is Imposed. In the event a forfeiture is imposed under this section, the Town and any owner or any resident may stipulate that the

amount of the forfeiture may be reduced to an agreed-upon if the violation is corrected by an agreed-upon date.

Section 2: This Ordinance shall take effect the day after passage and publication pursuant to law.

The above and foregoing ordinance was duly adopted by the Town Board of the Town of Dunn at its meeting held on \_\_\_\_\_, 2002.

APPROVED:  
TOWN OF DUNN

By \_\_\_\_\_  
Edmond P. Minihan, Chair

ATTEST:

\_\_\_\_\_  
Rosalind Gausman, Clerk Treasurer

Approved: \_\_\_\_\_

Published: \_\_\_\_\_

ORDINANCE #16-3  
Amended June 15, 2020  
TOWN OF DUNN  
AN ORDINANCE TO REPEAL AND RECREATE WITH AMENDMENTS, CHAPTER 16-3  
OF THE GENERAL CODE OF ORDINANCES  
TO REGULATE BURNING WITHIN THE TOWN OF DUNN

The Town Board of the Town of Dunn, Dane County, Wisconsin does ordain that Chapter 16-3 of the General Code of Ordinances entitled "An Ordinance Providing for the Regulation of Burning within the Town of Dunn, Dane County, Wisconsin" be and the same is hereby created to read as follows:

**Section 1: Title/Purpose**

This ordinance is entitled "An Ordinance Providing for the Regulation of Burning." It is the purpose of this ordinance to regulate and address the nuisance created by the burning of combustible materials in the town, because of air and water pollution that results from such burning, and because of the danger of fires where they are not properly controlled.

In addition to regulating open burning it is recognized that the use of outdoor furnaces could also create a nuisance and health hazard. Although outdoor furnaces may provide an economical alternative to conventional heating systems, concerns have been raised regarding the safety and environmental impacts of these heating devices, particularly the production of offensive odors and potential health effects of uncontrolled emissions. This ordinance is intended to ensure that outdoor furnaces are utilized in a manner that does not create a nuisance and is not detrimental to the health, safety and general welfare of the residents of the Town.

**Section 2: Authority**

The Town Board of the Town of Dunn has the specific statutory authority, powers and duties, pursuant to Sec. 66.052, (1991-1992) Wis. Stats., and Chapters 143, 144, 146 and 823, (1991-1992) Wis. Stats., pursuant to the specific statutory sections noted in this ordinance and/or by its adoption of village powers under Sec. 60.10, (1991-1992) Wis. Stats., to regulate, control, prevent and enforce against in the Town of Dunn certain uses, activities, businesses and operations by persons that may cause a public nuisance in the Town of Dunn.

**Section 3: Adoption of the Ordinance**

The Town Board of the Town of Dunn has, by adoption of this ordinance, confirmed the specific statutory authority, powers and duties noted in the specific sections of this ordinance and has established by these sections and this ordinance, regulations, controls and enforcement against certain uses, activities, businesses and operations by person that may cause a public nuisance in the Town of Dunn.

#### Section 4: Coverage

- (A) Open Burning Prohibited. No person shall set or cause to be set any outdoor fire within the Town of Dunn except as exempt in Section 5 or regulated in Section 6 of this Ordinance;
- (B) Outdoor Furnace. As used in this chapter, an Outdoor Furnace is any equipment, device or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space. An outdoor furnace may be installed, operated and used in the Town of Dunn only in accordance with the following provisions:
  - (1) The outdoor furnace shall not be used to burn any of the prohibited materials listed in Section 6 of this ordinance.
  - (2) The outdoor furnace shall be located at least 100 feet from the nearest building which is not on the same property as the outdoor furnace and must not have more than one residence which is not on the same property as the outdoor furnace within 300 feet from the outdoor furnace unless exempt under **Section IV(B)(6)(iii)** of this Ordinance.
  - (3) The outdoor furnace shall have a chimney that extends at least fifteen (15) feet above the ground surface or a greater height to be sufficient to prevent the emission from the chimney from creating a nuisance. Such greater height may be set to exceed the height of neighboring residences.
  - (4) The owner of the property must provide proof that any outdoor furnace complies with the applicable state and federal emission standards and is rated to pass the current EPA Phase II Emissions standard.
  - (5) The outdoor furnace shall be installed, operated, and used in accordance with the manufacturer's guidelines except as otherwise provided in this ordinance.
  - (6) The lawful use of an outdoor furnace installed prior to the effective date of this ordinance may be continued as long as:
    - (i) An annual license is obtained within 90 days of the adoption of this ordinance.
    - (ii) The outdoor furnace is not hazardous, harmful, noxious, or a public nuisance.
    - (iii) The Town Board may grant an exception to the setback requirement in

Section 4(B)(2), the chimney height requirements in Section 4(B)(3), and the emissions standard in Section 4(B)(4) of this ordinance if the outdoor furnace was installed prior to the adoption of this Ordinance, and licensed within 90 days of the adoption of this ordinance and complies with the remainder of Section 4(B) of this Ordinance.

- (7) Outdoor furnace license.
  - (i) All outdoor furnaces operating in the Town require an annual license. The Town shall issue a license under this section for outdoor furnaces that comply with the provisions of Section 4 of this Ordinance. The owner of the outdoor furnace shall also obtain any required zoning and building permits from the county and the Town.
  - (ii) Application. An application for an outdoor furnace permit shall be made to the Town and shall include the following information:
    - (a) Name and address of applicant and property owner;
    - (b) Legal description of the property; and
    - (c) A diagram of the dimensions of the property, including location of buildings and the outdoor furnace relative to the lot lines and distances from residences on adjacent properties showing that the furnace complies with the applicable set back requirements.
    - (d) Manufacturer specifications, EPA hang-tag, or documentation that prove the outdoor furnace complies with state and federal emissions standards and meets the EPA Phase II Emissions standard.
  - (iii) Fee. All permits applied for under this section shall include an application fee that shall be determined from time to time by the Town Board.

## **Section 5: Exemptions**

The following are exempt from the prohibition in Section 4(A):

- (A) Persons who burn charcoal or other combustible materials for domestic cooking outdoors in a grill or similar cooking equipment and subject to Section 6 (F) and (G). This exemption does not apply upon a declared public fire emergency by the State Department of Natural Resources;
- (B) Attended fires for the controlled burning of grass or similar vegetation, including brush for environmental management purposes subject to Section 6 (C),(D),(F), and (G);
- (C) Attended burning of brush or weeds on agricultural lands and burning of combustible

material related to agricultural use subject to Section 6 (A),(C),(D),(E),(F) and (G);

- (D) Attended campfires or bonfires if they are in an area cleared of flammable material, with the fire area less than three feet in diameter or one square yard, and subject to Section 6 (A),(D),(E),(F), and (G); and
- (E) Attended fires in burn barrels or fire pits with protective screens designed to prevent flying sparks or ashes, and subject to the regulation in Section 6 (A),(B),(D),(E),(F) and (G).

## **Section 6: Regulations**

The following regulations apply to Section 5 only as noted above.

- (A) Burning in a burn barrel or fire pit or platform must be done at least fifteen (15) within a property line excluding road right of way, and burning shall be done at least thirty (30) feet away from any building, fence, structure or other combustible material;
- (B) Burning shall be permitted only on even-numbered days and between one hour before sunrise and one hour after sunset or 7:00 PM which ever is later;
- (C) Persons must notify the fire department of their jurisdiction of any burning outside of a container such as a burn barrel, fire pit or platform;
- (D) Burning shall be done only when wind velocity does not exceed fifteen (15) miles per hour as recorded by the U.S. Weather Service, Madison, Wis. (With the exception of registered prairie fires); and when wind direction is such as will not carry smoke or soot into any adjoining building or to laundry hanging outside of the premises, and when it would not be a source of annoyance by reason of smoke, fumes or odors to persons or property on or near the premises;
- (E) The burning of garbage or any other trash or materials not readily combustible is prohibited as required by Wisconsin Administrative Code NR 429.04);
- (F) No person shall fail to take action reasonably necessary to control any fire which he or she has set anywhere in the Town; and
- (G) No such fire shall be allowed to smolder for such a time as to become a nuisance.
- (H) Materials that may not be burned
  - (1) Unless a specific written approval has been obtained from the Department of Natural Resources, the following materials may not be burned in an open fire, incinerator, burn barrel, furnace, stove or any other indoor or outdoor incineration or heating

device. The Town of Dunn will not issue a permit for burning any of the following materials without air pollution control devices and a written copy of an approval by the Department of Natural Resources.

- (i) Rubbish or garbage including but not limited to food wastes, food wraps, packaging, animal carcasses, paint or painted materials, furniture, composite shingles, construction or demolition debris or other household or business wastes.
- (ii) Waste oil or other oily wastes except used oil burned in a heating device for energy recovery subject to the restrictions in Chapter NR 590, Wisconsin Administrative Code.
- (iii) Asphalt and products containing asphalt.
- (iv) Treated or painted wood including but not limited to plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives.
- (v) Any plastic material including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, films and containers.
- (vi) Rubber including tires and synthetic rubber-like products.
- (vii) Newspaper, corrugated cardboard, container board, office paper and other materials that must be recycled.
- (viii) Materials transported into the Town for the purpose of disposal.

### **Section 7: Penalties**

Any person violating any of the provisions of this ordinance shall be punished by a forfeiture of not less than \$20 nor more than \$500, together with the costs of prosecution, for each such offense.

### **Section 8: Severability**

If any section or part of this Ordinance is adjudged to be unconstitutional, unlawful, or invalid, by a course of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby. The provisions of this ordinance are severable and the invalidity of any section or part thereof shall not render the entire ordinance invalid.

**Section 9: Effective Date**

This Ordinance shall take effect the day after passage and posting or publication pursuant to law. The above and foregoing Ordinance was adopted by the Town Board of the Town of Dunn, Dane county, Wisconsin, at its meeting held on June 15<sup>th</sup>, 2020.

TOWN OF DUNN, DANE COUNTY, WI

By: \_\_\_\_\_

Edmond P. Minihan, Town Chair

Attest: \_\_\_\_\_

Cathy Hasslinger, Town Clerk Treasurer

Approved:

Posted:



**Ordinance #16-4**  
**Town of Dunn**  
**An Ordinance to Prohibit Loitering**

Section I: Definitions

As used in this Section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

- (A) Loiter. To sit, stand, loaf, lounge, wander or stroll in an aimless manner or to stop, pause or remain in an area for no obvious reason.
- (B) Nuisance. Unnecessary conduct which may tend to annoy, intimidate, threaten or otherwise disturb another in or about any public street, sidewalk, bridge or public ground which is offensive to the public morals or decency of the citizens of the Town of Dunn.
- (C) Prowl. To move or roam about furtively, particularly on the property of another person.

Section II: General Regulation of Loitering or Prowling

A person commits a violation if he or she causes a nuisance, loiters or prowls in a place, at a time, or in a manner not usual for law abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the actor takes flight on appearance of a peace officer, refuses to identify him or her self, or manifestly endeavors to conceal him or her self or any object. Unless flight by the actor or other circumstances make it impractical, a peace officer shall prior to any arrest for an offense under this section afford the actor an opportunity to dispel any alarm which would otherwise be warranted, by requesting the actor to identify him or her self and explain the presence and or conduct. No person shall be convicted of an offense under this section if the police officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the actor was true and if believed by the peace officer at the time would have dispelled the alarm.

Section III: Violations and Penalties

- (A) Any person under the age of 18 years violating the provisions of this Ordinance may be referred to the proper juvenile authorities, as provided in Chapter 48 of the Wisconsin Statutes, and in the case of repeated violations by the same person both the person and the parents or legal guardian of such person shall be referred to the juvenile authorities.
- (B) Any person of 18 years or older violating this Ordinance shall forfeit to the Town of Dunn the sum of not less than \$50 or more than \$500 for the first offense and not less than \$100 nor more than \$1,000 for a subsequent offense, and the costs of prosecution, and in case of default of payment of such forfeiture and costs, shall be imprisoned in the County jail until

payment of such forfeiture and costs of prosecution but not exceeding 30 days for each violation.

ORDINANCE #17.1

AMENDED April 15, 2019

TOWN OF DUNN

AN ORDINANCE RELATED TO THE ADOPTION OF STATE SAFETY STATUTES

The provisions of the following Wisconsin Statutes are hereby adopted by reference and incorporated herein as if fully set forth. Any act required to be performed or prohibited by any provision incorporated herein is required or prohibited by this Section. Any future amendments to the provisions incorporated herein are hereby adopted and incorporated herein as of the effective dates of those amendments. Any offense that would be a felony if charged as a violation of a Wisconsin Statute is not adopted.

- 29.29            Noxious Substance in Water
  - 167.10         Fireworks Violation
  - 175.25         Illegal Storage of Junked Vehicle
  - 940.19(1)     Battery
- The entirety of chapters 941 to 948 and chapters 951 and 961



Edmond P. Minihan, Chairman

Attested:

  
Cathy Hasslinger, Clerk Treasurer

Posted: 4/15/2019

**Sec. 17.02 State Juvenile Statutes Adopted.**

The provisions of the following Wisconsin Statutes are hereby adopted by reference and incorporated herein as if fully set forth. Any act required to be performed or prohibited by any provision incorporated herein is required or prohibited by this Section. Any future amendments to the provisions incorporated herein are hereby adopted and incorporated herein as of the effective dates of those amendments.

- 938.983(2) Possess, Buy, Attempt to Buy, or Falsely Represent Age to Receive Tobacco Product
- 961.573(2) Possession of Drug Paraphernalia
- 961.574(2) Manufacture or Delivery of Drug Paraphernalia
- 961.575(2) Delivery of Drug Paraphernalia to a Minor

ORDINANCE 2004-03

AN ORDINANCE TO AMEND SECTION 17.03  
OF THE CODE OF ORDINANCES,  
TOWN OF DUNN,  
DANE COUNTY, WISCONSIN

RELATING TO JUVENILE CURFEWS

The Town Board of the Town of Dunn, Dane County, Wisconsin, do ordain as follows:

*Section 1:* Section 17.03 of the Code of Ordinances, Town of Dunn, Dane county, Wisconsin, is hereby amended to provide as follows:

**Sec. 17.03 Juvenile Curfew.**

- (1) **Curfew Established.** It shall be unlawful for any juvenile to be in, on, or at (whether on foot, in or on any type of vehicle, or otherwise), any public street, avenue, highway, road, alley, park, school grounds, place of amusement and entertainment, cemetery, playground, public building, swimming beach, or any other public place in the Town during Curfew Hours unless accompanied by his or her parent, guardian, or person having legal custody of his or her person, or unless there exists a reasonable necessity therefor. The fact that said juvenile, unaccompanied by parent, guardian, or custodian, is found in, on, or at any such public place during the aforementioned hours shall be prima facie evidence that said juvenile is there unlawfully and that no reasonable excuse exists therefor.
- (2) **Curfew Hours.**
  - (a) Curfew Hours for juveniles younger than 15 years of age are as follows:
    - (i) On Sunday through Thursday, between the hours of 10:00 p.m. and 5:00 a.m. the following day.
    - (ii) On Friday and Saturday, between the hours of 11:00 p.m. and 5:00 a.m. the following day.
  - (b) Curfew Hours for juveniles 15 years of age and older are as follows:
    - (i) On Sunday through Thursday, between the hours of 11:00 p.m. and 5:00 a.m. the following day.
    - (ii) On Friday and Saturday, between the hours of 11:59 p.m. and 5:00 a.m. the following day.
- (3) **Exceptions.**
  - (a) This Section shall not apply to a juvenile:
    - (i) Who is performing an errand as directed by his or her parent, guardian, or custodian;
    - (ii) Who is on his or her own premises or in an area immediately adjacent thereto;
    - (iii) Whose employment makes it necessary to be in such a place during such hours;

- (iv) Who is going to or is returning home from, a supervised school, church, or civic function, but not more than 60 minutes before or after such function.
- (b) These exceptions shall not, however, permit a juvenile to unnecessarily loiter about said public places or be in a parked motor vehicle on the public streets.
- (4) **Parental Responsibility.** It shall be unlawful for any parent, guardian, or custodian to allow or permit such juvenile to violate the provisions of this Section. The fact that prior to the present offense a parent, guardian, or custodian was informed by any law enforcement officer of a separate violation of this Section occurring within 30 days of the present offense shall be prima facie evidence that such parent, guardian, or custodian allowed or permitted the present violation. Any parent, guardian, or custodian herein who shall have made a missing person notification to the Police Department shall not be considered to have allowed or permitted any juvenile to violate this Section.

*Section 2:* This ordinance shall take effect the day after passage and posting pursuant to law.

*The foregoing ordinance was duly adopted by the Town Board of the Town of Dunn, Dane County, Wisconsin, at a meeting held on May 17, 2004.*

Approved:



Edmond P. Minihan, Chairperson

Attest:



Rosalind Gausman, Clerk Treasurer

**Sec. 17.05 Prohibited Weapons.**

- (1) **Prohibited Weapons.** No person may sell, manufacture, purchase, possess, or carry metallic knuckles or knuckles of any substance which could be put to the same use with the same or similar effect as metallic knuckles, a "numchuks" (also called a "nunchaku") or any similar weapon, a "cestus" or similar material weighted with metal or other substance and worn on the hand, a "churkin" (also called a "suriken") or any similar object intended to injure a person when thrown, a "sucbai" or similar weapon, a "manrikigusari" or a similar length of chain having weighted ends, or any other martial arts device or instrumentality which, in the manner it is used or intended to be used, is calculated or likely to produce injury or death to another person.
- (2) **Definitions.** For the purpose of this Section, the following definitions shall apply:
  - (i) **"Numchuk" or "Nunchaku."** An instrument consisting of 2 or more sticks, clubs, or rods connected by a rope, cord, wire, or chain.
  - (ii) **"Churkin."** A round throwing knife consisting of several sharp points protruding from a rounded disc.
  - (iii) **"Sucbai."** A short length of wood or metal or similar material which, when gripped in the hand, protrudes on either side of the fist. Such prohibited instrument may or may not have spikes or short pointed protrusions from either end.

**Sec. 17.06 Possession of Marijuana.**

No person may possess 25 grams or less of marijuana, as defined under Wisconsin law, except as authorized by Wisconsin law.

**Sec. 17.07 Damage to Property.**

No person may negligently, recklessly, or intentionally damage, injure, deface, destroy, remove, or interfere with any property owned by another person or entity without the consent of the owner, unless authorized to do so by law. No person or entity may place or permit to be placed any sign, poster, advertisement, notice, or other writing upon any pole without the consent of the owner.

**Sec. 17.08 Damage to Public Property.**

No person may damage any public property. No person may climb any tree or pluck any flowers or fruit, wild or cultivated, or break, cut down, trample upon or negligently, recklessly, or intentionally damage, injure, deface, destroy, remove, or ill use any tree, shrub, flower, flower bed, turf, fountain, ornament, statue, building, fence, apparatus, bench, table, official notice, sign, sidewalk, bridge, building, structure, or other public property.

**Sec. 17.09 Failure to Obey Lawful Order.**

It shall be unlawful for any person to fail to obey the direction or order of a law enforcement officer that is given while such officer is acting as a law enforcement officer in the Town.

**Sec. 17.10 Trespass.**

No person may enter or remain on any property after having been notified by the owner or lawful occupant not to enter or remain on the property, unless authorized to do so by law.

**Sec. 17.11 Littering.**

No person may drop or throw any paper, plastic, glass, refuse, waste, filth, or other litter upon a street, alley, highway, public park, water, or other public or private property without the consent of the owner of the property.

**Sec. 17.12 Loud and Unnecessary Noise.**

- (1) **Loud and Unnecessary Noise Prohibited.** It shall be unlawful for any person to make, continue, or cause to be made or continued any loud and unnecessary noise. It shall be unlawful for any person to knowingly or wantonly use or operate, or to cause to be used or operated, any mechanical device, machine, apparatus, or instrument for intensification or amplification of the human voice or any sound or noise in any public or private place in such manner that the peace and good order of the neighborhood is disturbed or that persons owning, using, or occupying property in the neighborhood are disturbed or annoyed.
- (2) **Types of Loud and Unnecessary Noises.** The following acts are declared to be loud, disturbing, and unnecessary noises in violation of this Section, but this enumeration shall not be deemed to be exclusive:
  - (a) **Horns, signaling devices.** The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle for longer than 3 seconds in any period of 1 minute or less, except as a danger warning; the creation of any unreasonable loud or harsh sound by means of any signaling device and the sounding of any plainly audible device for an unnecessary and unreasonable period of time; the use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any signaling device when traffic is for any reason held up.
  - (b) **Radios, phonographs, similar devices.** The playing, using, or operating, or permitting to be played, used, or operated, any radio receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in a loud and unnecessary manner. The operation of any set, instrument, phonograph, machine, or device between the hours of 10:00 p.m. and 7:00 a.m. in a



manner as to be plainly audible at the property line of the building, structure, or vehicle in which it is located shall be prima facie evidence of a violation of this Section.

- (c) **Loudspeakers, amplifiers for advertising.** The playing, using, or operating, or permitting to be played, used, or operated, of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting attention of the public to any building or structure. Announcements over loudspeakers can only be made by the announcer in person and without the aid of any mechanical device.
- (d) **Animals, birds.** The keeping of any animal or bird which causes frequent or long continued unnecessary noise.
- (e) **Exhausts.** The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, or motor boat except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- (f) **Construction or repair of buildings.** The erection (including excavation), demolition, alteration, or repair of any building by the operation of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or any other similar equipment attended by loud or unusual noise, other than between the hours of 7:00 a.m. and 10:00 p.m. on weekdays and Saturdays; provided, however, that if the Town has a Chief of Police, the Chief of Police shall have the authority, upon determining that the loss of inconvenience which would result to any party in interest would be extraordinary and of such nature as to warrant special consideration, to grant a permit for a period necessary within which time such work and operation may take place within the hours of 10:00 p.m. and 7:00 a.m.
- (g) **Schools, courts, churches, hospitals.** The creation of any excessive noise near or adjacent to any school, institution of learning, church, or court while in use, or near or adjacent to any hospital, which unreasonably interferes with the normal operation of that institution, or which disturbs or unduly annoys patients in the hospital, provided that conspicuous signs are displayed in the streets indicating a school, hospital, or court street. No person, while on public or private grounds adjacent to any building, or while within any building in which a school or any class thereof is in session, shall willfully make or assist in the making of any noise or diversion which disturbs or tends to disturb the peace or good order and operation of such school session or class thereof.
- (h) **Exceptions.** The provisions of this Section shall not apply to:
  - (i) Any vehicle of the Town while engaged in necessary public business.
  - (ii) Excavations or repairs of streets or other public construction by or on behalf of the Town, County, or State at night when public welfare and convenience renders it impossible to perform such work during the day.
  - (iii) The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in nature.

**Sec. 17.13            Disturbance of Lawful Assembly.**

No person may intentionally interrupt or in any way molest or disturb any public or private school, Sunday School, or church or other place where religious worship is held, or intentionally create or encourage any noise, riot, or disturbance at, in, or near the same, which shall have the effect to disturb or hinder the exercise of any such school, church, or place of worship, or intentionally interrupt, molest, or disturb any lawful assemblage or people, or intentionally create any disturbance at or in any place of public gathering or entertainment.

**Sec. 17.14            Drunkenness.**

No person may be in a state of alcohol intoxication or impairment in or upon any public place.

**TOWN OF DUNN  
DANE COUNTY, WISCONSIN**

**ORDINANCE NO. 17.15**

**AN ORDINANCE CREATING SECTION 17.15 OF THE  
CODE OF ORDINANCES, TOWN OF DUNN, DANE COUNTY,  
WISCONSIN, PROHIBITING ANIMALS FROM BEING AT LARGE**

The Town Board of the Town of Dunn, Dane County, Wisconsin, do ordain as follows:

*Section 1: Animals and Fowl Prohibited from Being at Large.* Section 17.15 of the Town Code of Ordinances, Town of Dunn, Dane County, Wisconsin, is hereby created to provide as follows:

Sec. 17.15            Animals and Fowl Prohibited from Being at Large.

- (1) No person having an animal or fowl in his or her possession or ownership shall allow the animal or fowl to be at large.
- (2) "At large" means the animal or fowl is not:
  - (a) on a leash; or
  - (b) confined to an enclosed area that is under the ownership or control of the owner or possessor of the animal or fowl.

*Section 2: Severability.* If any part of this ordinance is for any reason held invalid or unconstitutional by any court of proper jurisdiction, such part shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions.

*Section 3: Effective Date.* This ordinance shall become effective upon passage and publication pursuant to law.

The above and foregoing ordinance was duly adopted by the Town Board of the Town of Dunn, Dane County, Wisconsin, at its regular meeting held on June 20, 2000.

TOWN OF DUNN  
Dane County, Wisconsin

By \_\_\_\_\_  
Edmond P. Minihan, Town Chair

Attest \_\_\_\_\_  
Rosalind Gausman, Town Clerk/Treasurer

APPROVED: \_\_\_\_\_

PUBLISHED: \_\_\_\_\_

ORDINANCE #17-16

TOWN OF DUNN

AN ORDINANCE CREATING CHAPTER 17-16 OF THE GENERAL CODE OF ORDINANCES TO REGULATE THE CONDUCT OF PERSONS AND USE OF PROPERTIES DESIGNATED AS PARKS AND GREEN SPACE IN THE TOWN OF DUNN

The Town Board of the Town of Dunn, Dane County, Wisconsin does ordain that Chapter 17-16 of the General Code of Ordinances entitled "Town of Dunn Parks Regulations" be and the same is hereby created to read as follows:

Section I:      Title

This ordinance shall be cited as the "Town of Dunn Parks Regulations" and hereinafter referred to as "this ordinance".

Section II:      Authority

This ordinance is adopted to protect the public health, safety and welfare of residents of the Town of Dunn. This ordinance is authorized by the powers granted to the Town of Dunn by the Town's adoption of Village powers under sec. 60.10(2)(c), Wis. Stats., and is in accord with sec. 61.34(1), Wis. Stats., and Wis. Admin. Code SPS 307.

Section III:      Purpose and Intent

The purpose of this ordinance shall be to set forth regulations governing the conduct of persons and use of properties designated as parks and green spaces within the Town of Dunn, to control and regulate traffic and maintain general order in town parks, and to further the safety, health, comfort and welfare of all persons using Town parks.

Section IV:      Definitions

When used in this ordinance, the terms shall be defined and limited as follows:

- (A) The term "park" or "town park" as used herein shall include the grounds, improvements, equipment, buildings, waters and any other property or appurtenance which is now or may hereafter be under the control of the Town of Dunn and which has been designated as, accepted by or used for park or recreational purposes.
- (B) Resident is defined as any person living in the Town of Dunn and any person living in any community with which the Town has a reciprocal agreement for use of Parks.
- (C) The term "green space" or "town green space" as used herein shall include properties owned by the Town of Dunn, with the exception of town parks, road right-of-way, and the Transfer Site.
- (D) "Parks Commission" is defined as the Town of Dunn Parks Commission, or their designee.
- (E) The word "gun" shall include, but not limited to, rifle, shotgun, handgun, air gun or paint ball gun.

Section V:      Hours

- (A) All town parks shall be closed at 11:00 PM for all uses, including picnics, parties and social gatherings, and shall remain closed until 1 hour before sunrise the following morning. No person shall enter or remain in any town park after closing hours.
- (B) Notwithstanding the general prohibition set forth in subsection (A) above, the Town Board may, from time to time, permit use of parks and park facilities after normal closing hours provided that:

1. The party or group desiring to use the park facilities after normal closing hours designates an individual or individuals who shall be responsible for the conduct of the party or group and shall be personally liable to the town for any damage to town property caused by any member of the group, irrespective of whether the damage occurs before or after the normal closing hours; and
2. The party or group post such bond as the Town Board may require of any group or party desiring to use park facilities after normal closing hours; and
3. The group or party comply with such additional rules and regulations as the Town Board may, from time to time, adopt regarding use of park facilities after normal closing hours.

(C) Notwithstanding the general prohibition set forth in subsection (A) above, the closing time with respect to boat landings shall be extended until 11:00 p.m. from April 15<sup>th</sup> until November 1<sup>st</sup>.

Section VI: Reservation of Parks

- (A) Park facilities may be reserved by any person, group, party or social gathering by filing an application with the Parks Commission. A reservation is required only if temporary structures, such as tents, will be used. The Parks Commission shall maintain a roster of such applications, and reservations shall be granted on a first come, first serve basis.
- (B) The application for reservation of any park facilities shall designate one or more persons who shall be responsible for the conduct of the persons attending the party or group, and who shall be personally liable to the town for any damage to the town property caused by any member of the party or group incident to use of the park facilities. The reservation fee for residents and for non-residents is set by the Town Board on the Town Fee Schedule.

Section VII: Littering, Storage of Personal Property, and Personal Use Prohibited

- (A) No person shall leave or deposit on town property any paper, litter, garbage or similar refuse.
- (B) No person shall break any bottle or other glassware in any park or green space, and in the event any bottle or glassware is broken, the person causing or permitting the bottle or glassware to break shall immediately pick up the broken pieces and dispose of them in a safe and appropriate manner.
- (C) No person shall deposit, dump, throw, or place any earth, rubbish, dust, manure, paper, garbage, or other refuse matter or any sand, stone, lumber, or building material, or any substance in the waters, grounds, or roadways of any park, parkway, or green space without written permission of the Parks Commission.
- (D) No person shall store personal property on town property including in the waters, grounds, or roadways of any park, parkway, or green space without written permission of the Parks Commission.
- (E) No person shall make personal use of town property including in the waters, grounds, or roadways of any park, parkway, or green space by constructing buildings, structures or improvements or planting vegetation on such properties without written permission of the Parks Commission.

Section VIII: Unreasonable Noise Prohibited

- (A) No auto radio, portable radio, television, band instrument or musical device shall be operated in any town park at such volume as to unreasonably interfere with the use and enjoyment of the park facilities by other users of the park and neighboring property owners.

Section IX: Use of Firearms, Hunting and Trapping Prohibited

- (A) No person shall carry, fire or discharge any gun, pistol or other firearm, nor shall any person hunt with bow and arrow within the confines of the Town Park with the exception of law enforcement. No person shall discharge fireworks of any description or set traps within a town parks except with permission of the Town Board.

Section XI: Fires

- (A) No person shall start or maintain a fire of any kind for any reason.
- (B) The use of charcoal burners in designated picnic areas shall be permitted provided lawns and other vegetation are not damaged and provided further that all unburned coals or ash are removed from the site.

Section XII: Animals in Parks

- (A) No animal, excepting service animals, and except animals on leash as provided in subparagraph (B) shall be permitted within the confines of the town parks.
- (B) No person having the control or care of an animal shall permit the animal to enter or remain in the town park unless it is led by a leash of suitable strength and not more than six feet in length, with the person having the control or care of the animal and to be responsible for cleanup of messes.
- (C) No one shall kill, injure, attempt to injure, or unnecessarily disturb any waterfowl or other birds or animals, wild or domestic, within any of the parks or parkways. Nor shall any person rob or disturb the nest or eggs of any bird or other animal therein.

Section XIII: Injury to Vegetation, Structures, Equipment

- (A) No person shall climb any tree, or pluck any flowers or fruit, wild or cultivated, or break, cut down, prune, trample upon, apply pesticide or herbicide to, remove, or in any manner injure or deface, write upon, defile or misuse any tree, shrub, flower, flower bed, turf, fountain, ornament, status, building, fence, apparatus, bench, table, official notice, sign, bridge, structure, or other property within any park or green space.
- (B) No person in any park or green space shall remove any device for the protection of trees or shrubs; nor shall any person fasten a dog or other animal next to any tree, shrub, or grass plot which may become damaged by the action of the animal.
- (C) No person shall destroy or unlawfully remove, take, or meddle with any property of any kind or nature belonging to the Town of Dunn without the written consent of the Parks Commission or their designee.

Section XIV: Camping, Sleeping Regulated

- (A) No person shall sleep, or camp, or lodge in any park or parkway without the written permission of the Parks Commission or their designee.

Section XV: Motor Vehicles Regulated

- (A) No person shall drive any automobile, motorcycle, snowmobile, or unlicensed motor vehicle of any type within the confines of any town park except upon drives or areas designated for such use. Every person operating an automobile, motorcycle, snowmobile or similar vehicle shall comply with state, county and municipal traffic

codes and regulations, and with all orders, directions and regulations officially displayed on any post, sign or device installed for such purposes.

- (B) No automobile, motorcycle, snowmobile or unlicensed motor vehicle of any type shall operate within the confines of the Town Park at a speed in excess of 15 mph or at posted speeds.
- (C) All automobiles, motorcycles, snowmobiles and other unlicensed motor vehicles shall be parked in areas designated for parking, and in no other areas of the Town Park. Overnight parking within the confines of the Town Park shall be prohibited. The parking of any automobile, motorcycle, snowmobile or other unlicensed motor vehicle in any area other than a designated parking area shall be deemed a violation of this chapter, unless as specified on the Park Reservation form.

Section XVI: Regulation Regarding Conduct and Use of Town Parks

- (A) The Town Parks Commission shall be authorized to adopt such regulations as are reasonably needed to regulate the conduct and use of town park facilities, These regulations may include, but are not limited, to the following matters: regulations designed to prevent damage to public property, improvements, trees, flowers and other vegetation; regulations governing sleeping and camping within the town park; regulations governing the use of the park by bicyclists; regulations governing the operation of snowmobiles; regulations governing access to public buildings and facilities within the park; and regulations regarding use of swimming and water facilities
- (B) No such regulations shall be effective until the regulation has been recommended to and approved by the Town Board. The Parks Commission shall cause written notice of the enactment of such regulations to be posted in appropriate places within the confines of the Town Park so as to apprise users of the park of the existence of the regulation. Any violation of such regulations, after the same have been approved by the Town Board and after notice has been suitably posted within the confines of the town park, shall be deemed a violation of this chapter.

Section XVII: Penalty

Any person who shall violate any provision of this chapter, or any regulation adopted pursuant to the provisions of this chapter, shall be subject to a penalty as follows:

- (A) First Offense. Any person or organization violating the terms of this chapter shall be subject to a fine of not less than \$50 nor more than \$300 for the first offense. The court may subject the individual to imprisonment for failure to pay said penalty.
- (B) Second and Subsequent Offenses. In the event any person guilty of violating the terms of this chapter a second or subsequent time within a 12 month period shall be subject to a fine of not less than \$200 nor more than \$1000 for each second or subsequent offense. Failure to pay said penalty may subject the individual to imprisonment.
- (C) In addition to any penalty imposed for violation of this chapter, any person who shall cause physical damage to or destroy any public property shall be liable for the costs of replacing or repairing such damaged or destroyed property. The parent or parents of any unemancipated minor child who violates any section of this chapter may also be held liable for the cost of replacing or repairing such damaged or destroyed property in accordance with Section 895.035, Wis. Stats.

Section XVIII: All ordinances or parts of ordinances conflicting with or contravening the provisions of this



ordinance are hereby repealed.

Section XIX: This ordinance shall take effect upon passage and posting as provided by law.

The above and forgoing ordinance was duly adopted by the Town Board of the Town of Dunn, Dane County, Wisconsin at its meeting held the 18th day of March, 2014.

TOWN BOARD, TOWN OF DUNN

DANE COUNTY, WISCONSIN

BY: \_\_\_\_\_

Edmond Minihan, Chairman

ATTESTED:

BY: \_\_\_\_\_

Cathy Hasslinger, Town Clerk

Adopted: \_\_\_\_\_

Posted: \_\_\_\_\_

Published: \_\_\_\_\_

ORDINANCE #17-16 (3)  
TOWN OF DUNN  
AN ORDINANCE TO AMEND THE TOWN OF DUNN PARKS AND OPEN SPACE PLAN

Section I:      Title

The title of this ordinance is Amendment #3 to the Town of Dunn Parks and Open Space Plan.

Section II:     Authority

This ordinance is adopted to protect the public health, safety and welfare of residents of the Town of Dunn. This ordinance is authorized by the powers granted to the Town of Dunn by the Town's adoption of Village powers under sec. 60.10(2)(c), Wis. Stats., and is in accord with sec. 61.34(1), Wis. Stats., and Wis. Admin. Code SPS 307.

Section III:    Adoption of Ordinance

The Town Board of the Town of Dunn, by this ordinance, adopted on proper notice with a quorum and roll call vote by a majority of the Town Board present and voting, provides the authority for the Town of Dunn to amend its Parks and Open Space Plan, and provides the authority for the Town Board to order its publication.

Section IV:    Public Participation

The Town Board of the Town of Dunn has adopted written procedures designed to foster public participation in every stage of the preparation of the Parks and Open Space Plan.

Section V:     Town Parks Commission Recommendation

The Parks Commission of the Town of Dunn, by a majority vote of the entire commission, recorded in its official minutes has recommended approval to the Town Board the amendment of the Town of Dunn Parks and Open Space Plan.

Section VI:    Public Hearing

The Town of Dunn has held at least one public hearing on this ordinance.

Section VII:   Amendment of the Town Parks and Open Space Plan

The Town Board of the Town of Dunn, by the enactment of this ordinance, formally amends the document entitled Town of Dunn Parks and Open Space Plan, which is on file with the Town Clerk and incorporated herein by reference as Appendix F and is dated April 16, 2018.

Section VIII:   Severability

If any provision of this ordinance of its application to any person or circumstance is held invalid, the

invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision of application, and to this end, the provisions of this ordinance are severable.

Section IX: Effective Date

This ordinance is effective on publication or posting.

The Town Clerk shall property post or publish this ordinance as required under s. 60.80, Wis. Stats.

Adopted this 16 day April 2018.

Town of Dunn

By



Edmond P. Minihan, Chair

Attest:



Cathy Hasslinger, Clerk

# **Chapter 18**

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## **Public Works and Infrastructure**

18-1 Establish System for Operation and Maintenance of Cemetery

ORDINANCE #18-1  
TOWN OF DUNN CEMETERY ORDINANCE

Section 1: Title/Purpose

This ordinance is entitled the "Town of Dunn Cemetery Ordinance". The purpose of this ordinance is to establish a system for operation and maintenance of cemetery property acquired by the Town of Dunn.

Section 2: Authority

The Town Board of the Town of Dunn has specific statutory authority, powers and duties, pursuant to Sec. 157.50, (1991-1992) Wis. Stats., and its adoption of village powers under Sec. 60.10, (1991-1992) Wis. Stats., to acquire by gift, purchase or condemnation land for cemeteries within or without the boundaries of the Town of Dunn and to determine, upon any acquisition, by ordinance, the system of management and operation of the cemetery.

Section 3: Management and Operations

The Town meeting dated November 28, 1989 authorized acquisition of the following described real estate, known as the Dunn Burying Ground, for cemetery purposes for the Town of Dunn along with all funds, all assets and personal property associated with the existing cemetery in the Town of Dunn:

Lot 1 of Certified Survey Map No. 6586 in Section 21, T6N,  
R10E, Town of Dunn, Dane County, Wisconsin.

The Town Board of the Town of Dunn shall provide for the management, control, operation and care for the Dunn Burying Ground. The Town Board of the Town of Dunn shall employ or appoint a person to be primarily in charge of the daily cemetery operations and supervision. Such person shall be the cemetery Sexton. The term of the appointment or employment shall be determined by the Town Board. The term shall not exceed three years, but the Town Board has authority to reemploy or reappoint the same person for additional terms. The initial term shall commence on September 1, 1994.

Section 4: Regulations

The Town Board of the Town of Dunn shall develop, approve by resolution, and enforce written regulations respecting the Dunn Burying Ground operations,

including any physical management and any fiscal management requirements, in compliance with Chapter 157, (1991-1992), Wis. Stats.

Section 5: Annual Statement

The Town Board of the Town of Dunn shall have prepared an annual statement of the transactions at the Dunn Burying Ground and the financial condition of the Dunn Burying Ground including an accounting of receipts and expenditures. The money received from the sale of lots at the Dunn Burying Ground shall be used by the Town Board of the Town of Dunn for the care and improvement of the cemetery, operation expenses of the cemetery and maintenance of roads in the cemetery.

Section 6: Conveyances and contracts

The Town Chairman and the Town Clerk of the Town of Dunn shall sign all conveyances for cemetery lots. The Town Clerk shall be responsible to maintain the cemetery books detailing the names of the grantee, the consideration and the residence of the grantee. The Town Board of the Town of Dunn may seek all personal property associated with the cemetery and all land not used for cemetery purposes are subject to restrictions in Chapter 157, (1991-1992) Wis. Stats. The Town Board of the Town of Dunn may lease the cemetery to a cemetery association for preservation and may contract with the association to use cemetery funds. These leases and contracts shall be terminable at will by the Town Board of the Town of Dunn. The Town Board may convey real property, funds, or personal property to a cemetery association if authorized by the Town meeting. The Town Board of the Town of Dunn shall annually, or more often if necessary, establish by resolution the proper charges for cemetery lot purchases and the proper charges of the perpetual care maintenance costs.

Section 7: Improvements

The Town meeting may authorize the Town Board of the Town of Dunn to appropriate up to five hundred (\$500.00) in any year for the improvement of the Town of Dunn Burying Ground if the cemetery is under the supervision of the Town Board of the Town of Dunn.

Section 8: Investments

The Town Board of the Town of Dunn shall invest the money received for the perpetual care as provided in Chapter 881, (1991-1992) Wis. Stats. The Town Board of the Town of Dunn has the right, at any time, to terminate the perpetual care fund and place the money in the general fund if the Town of Dunn owns the cemetery and provides all maintenance expenses in perpetuity for those grave sites in the cemetery at the time of termination.

Section 9: Plat Approval

The Town Board of the Town of Dunn shall, by resolution, approve, to its satisfaction, all cemetery plats or maps for burial lands in the Town of Dunn. The Town Clerk of the Town of Dunn, upon approval by the Town Board of the Town of Dunn, shall certify the resolution and affix it to the plat or map.

Section 10: Transfer to Town

The Town Board of the Town of Dunn may, by resolution, accept, by transfer, the real estate and personal property of any cemetery association in the Town. The acquisition and price must be authorized by the Town meeting.

Section 11: Tax for Maintenance

The Dunn Cemetery Association or any other cemetery association in the Town of Dunn may seek a tax for maintenance of the cemetery when the cemetery association certifies to the Town Clerk of the Town of Dunn that it has insufficient maintenance funds. The cemetery association shall comply with Sec. 157.062(7), (1991-1992) Wis. Stats., in seeking these funds.

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE TO REPEAL AND RECREATE THE SANITARY SEWER USE STANDARDS FOR TOWN OF DUNN SANITARY DISTRICT NO. 3**

Introduction: On October 26, 1973, the Board of Commissioners of Sanitary District No. 3 of the Town of Dunn, Dane County, Wisconsin, (“Sanitary District No. 3”) adopted its first ordinance regulating the use of public and private sanitary sewers. While this ordinance was amended in 1977, 1991 and 1999, it is no longer compliant with the Sewer Use Ordinance of Madison Metropolitan Sewerage District, as last amended January 22, 2021, and much of the language of the ordinance is obsolete due to changes in nomenclature and increased levels of environmental protection.

The Board of Commissioners of Sanitary District No. 3, Town of Dunn, Dane County Wisconsin do ordain as follows:

1. The October 26, 1973 Ordinance “Regulating the Use of Private Sewers and Drains, Private Sewage Disposal, the Installation of and Connection of Building Sewers, and the Discharge of Waters and Wastes into the Public Sewer System, and Providing Penalties of Violations thereof; as well as all ordinances relating thereto, including the October 26, 1977 amendments thereof, the 1991 amendments thereof, and the March 16, 1999 amendments thereof, are hereby repealed and recreated to read as follows:

**“THE SEWER USE AND USER CHARGE ORDINANCE OF TOWN OF DUNN  
SANITARY DISTRICT NO. 3**

(a) Definitions. The following words, terms or phrases when used in this Ordinance shall have the meaning ascribed to them in this Section, except where the context clearly indicate a different meaning:

- (1) *Actual customer.* The number of water meters serving a user. If a user’s water consumption is not metered, the Commissioner shall estimate the number and size of the water meters that would otherwise be required to measure such consumption. The Commissioners’ estimate shall be in accordance with generally accepted engineering practices.
- (2) *Applicable pretreatment standard.* That most restrictive provisions contained in any pretreatment limitations or prohibitive standards (enacted by any federal, state or local governmental entity) and incorporated in this Ordinance, which applicable pretreatment standard shall be complied with by nondomestic wastewater users of the sewerage system.
- (3) *Best Management Practices (BMPs).* Structural or non-structural measures, practices, operating procedures, schedules of activities, treatment requirements, techniques or devices employed to minimize or treat the discharge of pollutants



into the sewerage system; to implement prohibitions listed in Wis. Admin. Code § NR 211.10(1) or (2); or to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage areas. Best Management Practices may be specified (1) by EPA and DNR categorical regulations, or (ii) by MMSD and Sanitary District No. 3 for significant users and non-significant residential, industrial, institutional, and Commercial Users. In the case of the latter, BMPs are equivalent to local limitations and shall be incorporated into any permits issues by MMSD or Sanitary District No. 3.

- (4) *Biochemical Oxygen Demand (BOD)*. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 Celsius expressed in milligrams per liter. Quantitative determination of BOD shall be made in accordance with 40 C.F.R. pt. 136 and Wis. Admin Code Chap. NR 219.
- (5) *Building sewer*. A sanitary sewer that begins at the immediate outside of the foundation wall of any building or structure being served and ends at its connection with a District sewer or interceptor.
- (6) *Carbonaceous biochemical oxygen demand (CBOD)*. The quantity of oxygen used in the biochemical degradation of organic material in five days at 20 degrees Celsius when the oxidation of reduced forms of nitrogen is prevented by the addition of an inhibitor. This analytical procedure shall be performed in accordance with 40 C.F.R. pt. 136 and Wis. Admin Code Chap. NR 219.
- (7) *Combined sewer*. A sewer designed to receive or receiving both wastewater and stormwater or surface water.
- (8) *Commercial User*. Any business or non-profit organization that provides goods or services and generate Wastewater.
- (9) Commissioners. The Commissioners of the Sanitary District No. 3.
- (10) *Compatible pollutant*. BOD, TSS, pH or fecal coliform bacteria, plus additional pollutants identified in the WPDES Permit issued to the MMSD for its wastewater treatment facility, provided that said wastewater treatment facility was designed to treat such pollutants and, in fact, does remove such pollutants to a substantial degree.
- (11) *Composite sample*. A sample consisting of portions of waste taken in proportion to the volume of flow of said waste.
- (12) *Director*. The Director of MMSD or other authorized representative of the Commission or MMSD.

- (13) *District sewer.* Any sanitary sewer owned and/or operated by Sanitary District No. 3, which sewer is tributary to an intercepting sewer or treatment facility owned or operated by the MMSD.
- (14) *DNR.* The Wisconsin Department of Natural Resources.
- (15) *Domestic wastewater or sanitary sewage.* A combination of liquid and water-carried wastes and wastewater discharged from toilets, conveniences or other sanitary plumbing facilities, which contain no incompatible pollutants exceeding the limitations set forth in Section (d) of this Ordinance and which contain no substances prohibited by the terms of this Ordinance.
- (16) *Equivalent Residential Units (ERUS).* The number of dwelling units equivalent to average residential sewer use and shall be based on one ERU for every 75,000 gallons of wastewater discharged per year.

Where a user does not have a water meter for measuring the user's water consumption, an Engineer employed or engaged by Sanitary District No. 3 shall estimate the volume of wastewater discharged, based upon standard engineering practices; and the equivalent residential units shall then be determined on this estimate.

- (17) *Federal Act.* The Federal Water Pollution Control Act (33 USC §§ 1251 to 1387, as amended from time to time, et seq.) or as implemented by Wis. Stats. § 283.001 et seq., or appropriate Sections of the Wisconsin Administrative Code adopted pursuant to Wis. Stats. § 283.001 et seq., as well as any applicable guidelines, limitations and standards promulgated by the EPA pursuant to the Federal Act.
- (18) *Floatable oil.* Oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. Wastewater shall be considered free from floatable oil if it is properly pretreated and does not interfere with the collection system.
- (19) *Garbage.* The animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods or from the handling, storage or sale of food products and produce.
- (20) *Holding tank waste.* The scum, liquid, sludge or other waste from holding tanks such as chemical toilets, campers, trailers, privies and other temporary holding facilities and shall include wastes from a soil absorption field.
- (21) *Incompatible pollutant.* Any pollutant that is not a compatible pollutant.
- (22) *Industrial discharge or industrial waste.* Any water-borne solids, liquids or gaseous wastes, other than domestic wastewater, resulting from, discharging from, flowing from or escaping from any industrial user, including, but not

limited to, cooling water and discharges from wastewater pretreatment facilities. Such term includes any wastewater which is not sanitary sewage.

- (23) *Industrial user.* Any person who makes, causes or permits an industrial discharge into Sanitary District No. 3's wastewater facilities.
- (24) *Intercepting sewer.* Any sanitary sewer owned or operated by MMSD.
- (25) *Interference.* The inhibition or disruption of the sewerage system or wastewater treatment processes or operations, which may or does contribute to a violation of any condition of the MMSD's WPDES Permit.
- (26) *MMSD.* The Madison Metropolitan Sewerage District, a regional sewerage district as defined and with such powers as set forth in Wis. Stats. §200.09, as amended from time to time.
- (27) *National Categorical Pretreatment Standards.* Any regulation or order containing pollutant discharge limitations as promulgated by the EPA in accordance with Section 307(b) and (c) of the Federal Act (33 USC § 1317), which limitations apply to one or more specific categories of industrial users.
- (28) *New Source.* Any building, structure, facility, or installation from which there is or may be discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under § 307(c) of the Federal Act which will be applicable to such source, if such standards are thereafter promulgated provided that:
  - (A) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
  - (B) The building, structure, facility, or installation totally replaces or substantially changes the process or production equipment that causes the discharge of pollutants at an existing source; or
  - (C) The production or wastewater generating process of the building, structure, facility, or installation are substantially independent of an existing source at the same site.
- (29) *Person.* Any individual, firm, company, partnership, municipality, association, private or public corporation, limited liability company, non-profit entity, cooperative, society, institution, enterprise, government agency, or other entity.
- (30) *Pretreatment.* The reduction of the amount of pollutants, the limitation of pollutants or the alteration of the nature or characteristics of the pollutant properties of the wastewater of a user prior to or in lieu of discharge to a public sewerage system.

- (31) *Properly shredded garbage.* The wastes from the preparation, cooking and dispensing of food that has been shredded to such a degree that all Ordinances will be carried freely under the flow conditions normally prevailing in public sewers.
- (32) *Public sewer.* A sewer owned and maintained by Sanitary District No. 3.
- (33) *Public sewerage system.* All structures, appurtenances, conduits and pipelines by which wastewater is collected and disposed of, including the wastewater treatment works, excepting plumbing inside of and in connection with buildings and properties served and excepting building sewers.
- (34) *Sanitary District No. 3.* A town sanitary district organized and existing pursuant to Subchapter IX of Wis. Stats. Chap. 60, as amended from time to time. Sanitary District No. 3 is a body corporate with the powers of a municipal corporation, governed by the Commissioners and is responsible for sanitary sewers within its borders, as well as public water service system, if the Commissioners ever determine to provide such service.
- (35) *Sanitary sewage.* A combination of liquid and water-carried wastes discharged from toilets and/or sanitary plumbing facilities, together with such groundwaters, surface waters, and stormwaters as may have inadvertently entered the sewerage system.
- (36) *Sanitary sewer.* A sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, governmental or non-profit properties or institutions.
- (37) *Septage.* The wastewater or contents of septic or holding tanks, dosing chambers, seepage beds, seepage pits, seepage trenches, privies or portable restrooms.
- (38) *Sewer.* A pipe or conduit that carries wastewater or drainage water.
- (39) *Sewer service charge.* A service charge levied on users of the wastewater collection and treatment facilities for payment of use-related capital expenses as well as the operation and maintenance costs, including replacement costs, of said facilities.
- (40) *Sewer system.* The public sanitary sewers within a sewerage system. The facilities that convey wastewater from individual structures, from private property to the public sanitary sewer, or its equivalent, are specifically excluded from the definition of “sewer system”; except that pumping units and pressurized lines for individual structures or groups of structures may be included as part of a “sewer system” when such units are cost effective and are owned and maintained by Sanitary District No. 3. Lift stations or pumping

stations and all appurtenances thereto are included in this definition. For example, a building sewer is not part of the sewer system.

- (41) *Significant industrial contributor.* A user that has a discharge flow that:
- (A) Is greater than 25,000 gallons on any day of the year;
  - (B) Is greater than five percent of the total flow rate or design compatible pollutant loading received at the municipal wastewater treatment plant and/or is subject to pretreatment standards for incompatible pollutants as defined in Wis. Admin. Code Ch. NR 211; or
  - (C) Has been notified in writing by the Wisconsin Department of Natural Resources, MMSD or by Sanitary District No. 3 that it is necessary to provide information concerning the concentration and quantity of the pollutants discharged.
- (42) *Slug load or Slug discharge.* Any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violates conditions in MMSD's Sewer Use Ordinance, or WPDES Permit conditions.
- (43) *Standard methods.* The analytical procedures performed in accordance with 40 CFR § 136, or as the U.S. Environmental Protection Agency otherwise determines.
- (44) *Total Suspended solids (TSS).* Total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater or other liquids and that is removable by laboratory filtering as prescribed in 40 C.F.R. pt. 136 and Wis. Admin Code Chap. NR 219, and referred to as nonfilterable residue.
- (45) *Total Kjeldahl nitrogen (TKN).* The quantity of organic nitrogen and ammonia as determined in accordance with 40 C.F.R. pt. 136 and Wis. Admin Code Chap. NR 219.
- (46) *Total phosphorus (TP).* The quantity of total phosphorus as determined in accordance with 40 C.F.R. pt. 136 and Wis. Admin Code Chap. NR 219.
- (47) *Unpolluted water.* Water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

- (48) *User*. Any person who discharges, or causes to be discharged, domestic wastewater, industrial discharges or any other wastewater into the public sewerage system.
  - (49) *User charge*. The charges levied by MMSD on its customers, municipalities and/or users of the wastewater facilities for the cost of operation, maintenance and replacement of such wastewater facilities. The user charge is a component of the sewer service charge.
  - (50) *Wastewater facilities*. MMSD's structures, equipment and processes that are designed to collect, carry and treat domestic wastewater and industrial discharges.
  - (51) *Wastewater parameters*. Volume, CBOD, TSS, TKN, TP, actual customers, equivalent meters and such additional parameters as may, from time to time, be determined by MMSD or Sanitary District No. 3.
  - (52) *WPDES permit*. MMSD's and Sanitary District No. 3's permits to discharge pollutants, obtained under the Wisconsin Pollutant Discharge Elimination System (WPDES) pursuant to Wis. Stats. § 283.001 et seq.
- (b) Territory of Sanitary District.
- (1) *Additions to Sanitary District Territory.*
    - (A) Sanitary District No. 3 requires addition of all properties outside of Sanitary District No. 3 boundaries requesting sewer service to the territorial boundaries of Sanitary District No. 3.
    - (B) All petitioners shall make such a request for such sewer to Sanitary District No. 3. The application shall be accompanied by a legal description of the property to be served. The petitioner may be asked to attend the appropriate Sanitary District meeting to discuss addition of their property to Sanitary District No. 3.
    - (C) The procedure all petitioners must follow to add territory to Sanitary District No. 3 shall be as set forth in Wis. Stats. §§ 60.71 and 60.785(1). In addition, petitioners shall request the Dunn Town Board to petition the Capital Area Regional Planning Commission to add the territory to the Sanitary District No. 3, Limited Service Area.
      - (i) The Petitioner must contact the Dunn Town Board for approval of addition of territory to Sanitary District No. 3. In the alternative, Sanitary District No. 3 may request the Dunn Town Board to add territory to Sanitary District No. 3.

(ii) Any action on such a petition or request by the Dunn Town Board, shall be forwarded to Sanitary District No. 3 noting approval or disapproval of the addition. If the property is approved for addition to the Sanitary District, a legal description of the land authorized for addition by the Dunn Town Board shall also accompany the notice.

- (D) If sewer extensions are required to service the added property the provisions for sewer service in Section (b)(2) of this Ordinance shall be followed.
- (E) All provisions of Sanitary District No. 3 Ordinances, as amended from time to time, shall apply to all parcels and all lands added into Sanitary District No. 3.
- (F) All costs of adding territory to Sanitary District No. 3 not reimbursed to the Petitioner under Wisconsin law shall be borne by the Petitioner. If the Petitioner is developing more than one parcel, the petitioner may be asked to enter into a Letter of Intent and/or a Developer's Agreement with Sanitary District No. 3 setting forth the agreement between the parties.

(2) *Sewer Main Extensions.*

- (A) To maintain the uniformity of the Sanitary District sewer system, it is the policy of Sanitary District No. 3 that all planning, design, and construction of future sewer main extensions be approved by an engineer employed or engaged by Sanitary District No. 3. This approval is based on a recognition of Sanitary District No. 3's responsibilities in taking into consideration the best interest of the public and all of the potential users of the sewer system. Sanitary District No. 3 shall develop and maintain a system which is compatible within all of its existing or potential parts. Comprehensive basic engineering and planning data and thorough records will become increasingly important as Sanitary District No. 3 develops. All future sewer main extensions will be owned and maintained by Sanitary District No. 3. It has the powers and the responsibility to insure that all of the public affected be treated fairly, and it is for that reason that the planning, design, construction and installation of all future sewer extensions be done by, or under the direction and control of, Sanitary District No. 3 in accordance with the most current edition of the Standard Specifications for Sewer and Water Construction in Wisconsin, as amended from time to time.
- (B) *Procedures.* Any person requesting an extension of a future sewer main shall make such a request on application forms provided by Sanitary District No. 3. The application shall be accompanied by the following:

- (i) A preliminary plat or certified survey map prepared in compliance with the requirements of Wis. Stats. Chap. 236. It may be desirable from the developer's standpoint to submit a preliminary sketch plan of the proposed development prior to proceeding with the preliminary plat. This will permit early comment by Sanitary District No. 3 and could result in cost savings to the developer.
  - (ii) A topographic map of the area affected with two (2) foot contour intervals.
  - (iii) An application fee based on the number of equivalent residential units to be serviced by the extension.
  - (iv) An agreement between the applicant and Sanitary District No. 3 to pay all costs for the preliminary design of the sewer main extension including engineering, legal, administrative, soil borings, survey, testing, or any other costs incurred in obtaining information required by an engineer employed or engaged by Sanitary District No. 3, and in the preliminary design of the sewer main extension regardless of whether or not it is ever constructed. The application fee shall be a credit against the total costs for the preliminary design, and the balance shall be due and payable in full at the time of submission of the preliminary design by the applicant.
  - (v) A complete and accurate legal description of the entire area to be included in the design and the names and addresses of all owners of any parcel within the confines of the area affected.
  - (vi) A statement of the proposed uses and zoning of the premises.
  - (vii) All survey information related to the area of the subdivision must be provided in electronic form in the format directed by the engineer employed or engaged by Sanitary District No. 3.
  - (viii) Such other information as may be required by said Sanitary District.
- (C) Upon receipt of a copy of the application and accompanying materials, the engineer employed or engaged by Sanitary District No. 3 shall proceed to gather whatever further information may be required for preliminary design. The said engineer shall bill Sanitary District No. 3 separately for such services as to each application and said District shall pay for said services out of the application fee of applicant.



- (i) Upon completion of the preliminary design, the plan, report and recommendations shall be submitted to Sanitary District No. 3 together with recommendations as to considerations to be made by Sanitary District No. 3, potential problems to be encountered and feasibility of the extension.
  - (ii) The said engineer shall compute and include in its recommendations to Sanitary District No. 3, the anticipated total costs of the project, charges for each lot.
- (D) Upon receipt of the preliminary plan, report and recommendations of the said engineer, Sanitary District No. 3 shall prepare a contract between Sanitary District No. 3 and the applicant which shall set forth the rights and obligation of Sanitary District No. 3 and the applicant based on the recommendations of the attorney and engineer employed or engaged by the District and which proposed contract shall specifically include the following:
- (i) The agreement of the applicant to pay all costs of the sewer extension. It is anticipated that there may be extensions which will be for the benefit of more property than that included in the applicant's application. The agreement shall address the methodology for cost recovery by Sanitary District No. 3 for the benefit of the applicant.
  - (ii) The agreement of applicant to provide, without cost to Sanitary District No. 3, on forms acceptable to Sanitary District No. 3, all easements or other land rights required for the construction of the extension.
  - (iii) The agreement of applicant to execute appropriate documents granting Sanitary District No. 3 a lien or appropriate security against all lots in the affected area to guarantee payment of the costs of the sewer extension.
  - (iv) Payment of an initial deposit and agreement for payment of further deposits required by Sanitary District No. 3 and the balance due as set forth herein.
  - (v) Upon execution of the contract and payment of the preliminary deposit, Sanitary District No. 3 shall proceed with whatever procedures may be necessary under law to procure any land rights required which cannot be provided by applicant, to prepare final plans and specifications, to advertise for bids, to obtain bids toward the construction contracts, and to construct the sewer extension.

(vi) Sanitary District No. 3 shall keep accurate and complete records of payments of all monies relating to the project. These costs shall be paid out of the required deposits until said sums have been exhausted.

(vii) When the required deposits have been exhausted Sanitary District No. 3 shall require additional deposits from the applicant for the completion of the project as these costs become due and payable.

(viii) When Sanitary District No. 3 notifies the applicant that the sewer main is operational and connections can be made, Sanitary District No. 3 shall compute the actual total costs of the project and shall give notice thereof to applicant. Deposits paid by applicant shall be subtracted from the total costs to determine the actual balance due.

(ix) For each road opening, the applicant shall pay a road opening fee as specified by an engineer employed or engaged by the Town of Dunn which controls the procedure for opening roads in Sanitary District No. 3 territory

(x) The agreement of applicant to provide, without cost to Sanitary District No. 3, on forms acceptable to the Sanitary District, lien waivers for all labor and materials used and contracted for the construction of the extension.

(c) Application for Service.

(1) Application for permission to connect a building sewer to a District sewer shall be made to Sanitary District No. 3 on a form furnished by Sanitary District No. 3. The application must describe fully and truthfully all the wastes, which are anticipated to be discharged. If the applicant is not the fee simple owner of the property, the written consent of the owner must accompany the application. By submitting such an application, all users are deemed to have agreed to be bound by this Ordinance, as amended from time to time.

(A) The application shall include at least the following information:

- (i) Name of property owner;
- (ii) Legal description of property being served;
- (iii) The number and type of plumbing fixtures to be connected.

(B) If it appears that the service applied for will not provide adequate service for the contemplated use, Sanitary District No. 3 may reject the application. If Sanitary District No. 3 approves the application, it shall issue a connection permit as shown on the application. No service shall

be provided or application approved without prior payment of all applicable fees.

- (2) The applicant shall agree to install the building sewer in accordance with the most current edition of the Standard Specifications for Sewer and Water Construction in Wisconsin. No building sewer may be connected to a District sewer unless the District sewer is adequately sized to transport the additional flow. The size and kind of pipe for the building sewer shall be subject to the approval of an Engineer employed or engaged by Sanitary District No. 3, but in no case shall a pipe of less than four-inch diameter be used. The slope of the building sewer shall be no less than one-eighth-inch per foot. Such sewers shall be backfilled in the manner designated by an Engineer employed or engaged by Sanitary District No. 3. Prior to connection, each building sewer shall be inspected and approved by an Engineer employed or engaged by Sanitary District No. 3. All applications for disposal of industrial waste shall be on forms provided by MMSD and shall be approved by MMSD prior to connection to any District sewer.

(d) User Charge System.

- (1) *Definitions.* The following words, terms and phrases, when used in this Section, shall have the meanings ascribed to them herein, except where the context clearly indicates a different meaning:
  - (A) *Debt service charges.* All costs associated with repayment of debts incurred for the construction and/or rehabilitation of the wastewater collection system and treatment facility.
  - (B) *Customer charge.* A flat rate consisting of pro rata share of district administrative costs not based upon the cost of providing the volume of wastewater consumed by consumer.
  - (C) *Normal domestic strength wastewater.* Wastewater with concentrations of CBOD, TSS, TKN, and TP no greater than 200, 250, 40 and ten milligrams per liter (mg/l) respectively.
  - (D) *Normal user.* A user whose contributions to the sewerage system consist only of normal domestic strength wastewater originating from a house, apartment, flat, or other living quarters occupied by a person constituting a distinct household, business or commercial enterprise.
  - (E) *Operation and maintenance costs.* All costs associated with the operation and maintenance of the sewerage system.
  - (F) *Replacement costs.* All costs necessary to replace equipment as required to maintain capacity and performance during the design life of the

facility. A separate, segregated, distinct replacement fund shall be established and used for only replacement of equipment .

- (2) *Policy.* It shall be the policy of Sanitary District No. 3 to obtain sufficient revenues to pay the costs of operation and maintenance of the sewerage system, including debt service and a replacement fund (i.e., a cash account to be used for future expenditures for obtaining or installing equipment, accessories or appurtenances which are necessary to maintain the capacity and performance of the sewerage system during the service life for which such facilities were designed and constructed), through a system of sewer service charges as defined herein. The system shall assure that each user of the sewerage system pays their proportionate share of the costs of such facilities.
- (3) *Basis for charges.*
  - (A) *Determinations of charges.* Sewer service charges to each user shall be based on wastewater parameters recommended from time to time by Sanitary District No. 3. The sewer service charges shall consist of the sum of the annual debt service charges, all annual operation and maintenance costs, all replacement costs, and all sewer service charges levied or assessed to Sanitary District No. 3 by MMSD, plus an amount to be used for working capital and capital improvements as determined by Sanitary District No. 3.
  - (B) *Biennial review.* The sewer service charges of Sanitary District No. 3 shall be reviewed not less than ~~biennially~~annually. Sewer service charges will be adjusted, as required, to reflect actual number and size of users and actual costs. Users will be notified annually of the portion of such customer charges attributable to operation and maintenance, debt service and replacement costs. For purposes hereof, Sanitary District No. 3 may satisfy this notice requirement by including in the budget summary required to be published under Wis. Stats. § 65.90, a statement of the aforementioned components of the sewer service charges, based on the results of operations for the preceding fiscal year.
- (4) *Sewer service charges.* A sewer service charge is hereby imposed upon each lot, parcel of land, building or premises served by the public sewer and wastewater facilities or otherwise discharging sewage, including industrial wastes, into the public sewerage system. Such sewer service charges shall be payable as hereinafter provided, and in an amount determinable as follows:
  - (A) There shall be three classes of users.
    - (i) Category A users shall be those users whose water use is metered, discharging normal domestic strength wastewater with up to 250 milligrams per liter for CBOD, and/or 250 milligrams per liter of TSS,

and/or 40 milligrams per liter or TKN, and/or ten milligrams per liter of TP. The Category A Service Charge is of the following form:

Service Charge = Customer Charge + Volume Charge

Customer Charge = A flat rate consisting of a pro rata share of District administrative costs, assigned to that Customer based on the size of the water meter

ERU Charge = The Equivalent Residential Units (“ERUs”) multiplied by the Equivalent Residential Unit Rate (“ERU Rate”)

ERU Rate = The average cost of providing wastewater service to a residential customer for one calendar year, exclusive of administrative and billing costs

Volume Charge = The volume of metered water in hundreds of cubic feet multiplied by the volume rate

Volume Rate = The volume unit price for sewer service expressed in dollars per 100 cubic feet, as determined by Sanitary District No. 3.

No user shall be assigned less than one ERU. An ERU shall mean a single family residential dwelling unit that discharges normal domestic strength wastewater. Each dwelling unit in a duplex shall be assigned one ERU. The number of ERUs for non-residential users shall be as determined by Sanitary District No. 3 on the basis that one ERU is equal to a discharge of 75,000 gallon per year

(ii) Category B users shall be those whose wastewater meets the criteria applicable for category A users, but whose water use is unmetered. The Category B Sewer Service Charge shall be of the form as follows:

Service Charge = Customer Charge+ ERU Charge

Customer Charge = A flat rate consisting of a pro rata share of District administrative costs, assigned to that Customer

ERU Charge = The Equivalent Residential Units (“ERUs”) multiplied by the Equivalent Residential Unit Rate (“ERU Rate”)

ERU Rate = The average cost of providing wastewater service to a residential customer for one calendar quarteryear, exclusive of administrative and billing costs

No user shall be assigned less than one ERU. An ERU shall mean a single family residential dwelling unit that discharges normal domestic strength wastewater. Each dwelling unit in a duplex shall be assigned one ERU. The number of ERUs for non-residential users shall be as determined by Sanitary District No. 3 on the basis that one ERU is equal to a discharge of 75,000 gallon per year

(iii) Category C users shall be users whose wastewater discharges are high strength wastewater having organic concentrations of CBOD greater than 200 milligrams per liter and/or TSS greater than 250 milligrams per liter and/or TKN greater than 40 milligrams per liter, and/or TP greater than ten milligrams per liter. The form of the Category C service charge is as follows:

Service Charge = Customer Charge + Volume Charge + High Strength Surcharge.

The Customer Charge and the Volume Charge are similar to those components of the Category A and B service charges.

High Strength Surcharge equals the excessive CBOD, suspended solids, TKN, and total phosphorus multiplied by the respective CBOD, suspended solids, TKN, and total phosphorus rates. The excessive CBOD, suspended solids, TKN, and total phosphorus are the portions of each of these constituents that are in excess of normal domestic strength wastewater. The excessive amounts of CBOD, suspended solids, TKN, and total phosphorus are expressed in pounds, and their respective rates are expressed in dollars per pound.

- (B) Each user shall be charged an annual Customer Charge based upon a pro rata share of the District's administrative costs. The customer charges shall be as established by Sanitary District No. 3 annually.
- (C) Category A users shall be charged a service charge consisting of the customer charge plus the volume charge for each applicable billing cycle.
- (D) Category B users discharging normal domestic strength wastewater shall be billed at the rate established by Sanitary District No. 3 from time to

time. This rate approximates the costs for 75,000 gallons annually discharged to the sewer system. If it determined by Sanitary District No. 3 that the user discharges more than 75,000 gallons annually to the system, an additional charge established by Sanitary District No. 3 from time to time will be made for estimated additional usage.

- (E) Category C users be billed, in addition to the applicable customer charge and volume charge, a high strength surcharge as part of their service charge. The CBOD charge shall be as established by Sanitary District No. 3 from time to time. The suspended solids charge shall be as established by the Sanitary District No. 3 Board from time to time. The TP charge shall be as established by the Sanitary District No. 3 Board from time to time. The TKN charge shall be as established by the Sanitary District No. 3 Board from time to time. All surcharge rates shall be as provided in Appendix A to this Code. All Category C users shall have their wastestreams sampled periodically to determine the extent to which the wastewater stream is subject to the high strength surcharge.
  - (F) Sanitary District No. 3 shall maintain a written schedule of sewer service charges that is available to its customers upon request. This written schedule of sewer service charges shall be reviewed no less than biennially.
- (5) *Reassignment of sewer users.* Sanitary District No. 3 will reassign sewer users into appropriate sewer service charge categories if wastewater sampling programs and other related information indicate a change of categories is necessary.
  - (6) *Billing, payment and penalty.* Sewer service charges shall be billed in arrears to each user annually, or more frequently, if so determined by Sanitary District No. 3. Sewer service charges shall be collected with the property tax bill of each user.
  - (7) *Charges a lien.* All sewer service charges shall be a lien upon the property serviced pursuant to Wis. Stats. § 66.0821(4)(d), and shall be collected in the manner therein provided.
  - (8) *Disposition of revenue.* The amounts received from the collection of charges authorized by this Ordinance shall be credited to a sanitary sewerage account, which shall show all receipts and expenditures of the sewerage system. Charges collected for replacement expenses shall be credited to a segregated, nonlapsing replacement account. These funds are to be used exclusively for replacement. When appropriated by Sanitary District No. 3, the credits to the sanitary sewerage account shall be available for the payment of the requirements for operation, maintenance, repairs, and depreciation of the sewerage system consistent with 40 C.F.R. § 35.929. Any surplus outside the preview of 40

C.F.R. § 35.929, in said account, shall be available for the payment of principal and interest of any bonds other debt issued and outstanding, or which may be issued, to provide funds for said sewerage system, or part thereof, and all or part of the expenses for additions and improvements and other necessary disbursements or indebtedness, and Sanitary District No. 3 may resolve to pledge such surplus or any part thereof for any such purpose. All present outstanding sewer system general obligation bonds, including any refunding bonds, shall be paid from this fund as to both principal and interest.

- (9) *Excess revenues.* Excess revenues collected from a user class will be applied to operation and maintenance costs attributable to that class for next year.
- (10) *Annual audit.* Sanitary District No. 3 shall authorize and conduct an independent audit, the purpose of which shall be to maintain proportionality between users and user classes of the user charge system and to ensure that adequate revenues are available relative to increasing operation, maintenance and replacement costs and debt retirement.

(e) Prohibited Connections.

- (1) *Septic tank connections.* No connection shall be made to any municipal wastewater collection facility if the connection pipe is carrying any contents from a septic tank, unless said septic tank is serving as a pretreatment process, which has been required or permitted pursuant to the MMSD Sewer Use Ordinance.
- (2) *Building foundation drains.* No connection shall be made to any Sanitary District No. 3 wastewater collection facility if the connection pipe is carrying flow from a building foundation drain.

(f) Mandatory Connections.

- (1) Every owner of a parcel of land within Sanitary District No. 3 shall connect to a public sewer whenever all of the following conditions exist:
  - (A) The parcel of land is adjacent to a public sewer;
  - (B) There is located upon such parcel a building or other structure used or usable for human habitation or occupancy or for the conduct of any trade, business of industry;
  - (C) Such building or structure is being served by a private sewage disposal system or treatment works; and.
  - (D) The parcel is located within the boundaries of an Urban Service Area or Limited Service Area.



- (2) Such connection shall be made no later than 12 months after the installation of the public sewer adjoining such parcel. Upon failure to do so, the Sanitary District No. 3 may cause such connection to be made and bill the property owner for all such costs. If such costs are not paid within 30 days, such costs shall constitute a special tax lien against the property pursuant to Wis. Stats. § 281.45. However, the owner may, within 30 days after the completion of the work, file a written notification with Sanitary District No. 3 stating that the owner cannot pay such amount in one sum and ask that the sum be levied in five or less equal installments. The amount shall be so collected with interest at a rate not to exceed 15 percent per annum from the date of completion for the work, all as determined by Sanitary District No. 3. The unpaid balance shall constitute a special tax lien, all pursuant to Wis. Stats. § 281.45.

(g) Prohibited Discharge.

- (1) *General prohibitions.* No person shall discharge wastes to a District or intercepting sewer which cause, or are capable of causing, either alone or in combination with other substances:
- (A) A fire or explosion;
  - (B) Obstruction of flow or damage to the wastewater facilities;
  - (C) Danger to life or safety or welfare of persons;
  - (D) Air pollution as defined in Wis. Stats. § 285.01(3), as amended from time to time, and any regulations or orders of any regulatory agency issued thereunder;
  - (E) Prevention of effective maintenance or operation of the wastewater facilities;
  - (F) Any product of MMSD's treatment processes or any of MMSD's residues, sludges or scums to be unsuitable for reclamation and reuse or to interfere with reclamation processes;
  - (G) A detrimental environmental impact, a nuisance or any condition unacceptable to any public agency having regulatory jurisdiction over Sanitary District No. 3;
  - (H) Any District sanitary sewer or MMSD's wastewater facilities to be overloaded;

- (I) In the opinion of the Director of MMSD or of the Sanitary District No. 3 Commission, excessive MMSD or District collection and treatment costs, or the use of a disproportionate share of MMSD's facilities;
  - (J) Cause the MMSD or Sanitary District No. 3 to violate their respective WPDES permits.
- (2) *Specific prohibited discharges.* Prohibited discharges shall include, but not be limited to:
- (A) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
  - (B) Any wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction or in combination with other wastes, to injure or interfere with any waste treatment process, constitute a danger to humans, flora or fauna, create a public nuisance or create any hazard in the receiving waters of the wastewater treatment plant.
  - (C) Any waters or wastes having a pH lower than 5.5 or higher than ten or having any other corrosive property capable of causing damage or hazard to structures, equipment or treatment works personnel.
  - (D) Solids or viscous substances including, but not limited to, substances as ashes, bones, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, improperly shredded garbage, whole blood, paunch manure, hair and fleshings, entrails, dishes, cups, milk containers, either whole or ground by garbage grinders, as well as other stringy or fibrous materials.
  - (E) Any wastewater from industrial plants containing floatable oils, fats or greases.
  - (F) Any wastewater that contains organo-sulfur or organo-phosphate pesticides, herbicides or fertilizers.
  - (G) Any holding tank waste or septage.
  - (H) Any "flushable" despite their name, wipes. These do not degrade rapidly and have a significant likelihood of clogging building sewers and District sewers.
- (3) *Prohibitions on storm drainage and groundwater.*
- (A) Stormwater, groundwater, rainwater, street drainage, roof runoff and subsurface drainage shall not be discharged into District sewers without prior

approval of Sanitary District No. 3 and MMSD or into intercepting sewers without prior approval of MMSD. Such approval shall be granted only when no reasonable alternative method of disposal is available.

(B) Polluted stormwater runoff from limited areas may be discharged to the sanitary sewer upon approval by the Director of MMSD, payment of applicable charges and fees and compliance with conditions required by Sanitary District No. 3 and MMSD.

- (4) *Prohibition of unpolluted water.* Unpolluted water, including, but not limited to, cooling water, process water or blow-down from cooling towers or evaporative coolers shall not be discharged into District sewers without prior approval of Sanitary District No. 3 and MMSD or into intercepting sewers without prior approval of MMSD. Such approval shall be granted when no reasonable alternative method of disposal is available and upon payment of applicable charges and fees and compliance with conditions as required by Sanitary District No. 3 and MMSD.

(h) Limitations on Discharge Characteristics.

- (1) *Limitations related to treatment plant influent.* Discharge to the public sewerage system of the following described substances, materials, waters or wastes shall be limited to the following concentrations or quantities, which concentrations or quantities will not harm the sewers, wastewater treatment process or equipment; will not have an adverse effect on the receiving stream; will not have an adverse effect on MMSD's sludge management program; will not endanger persons or property; will not cause air pollution or other detrimental environmental effects; and will not constitute a nuisance:

(A) Liquid having a temperature higher than 65 degrees Celsius (149 degrees Fahrenheit) or any wastewater having a temperature that will inhibit biological activity in the MMSD's treatment plant thereby resulting in interference. Notwithstanding the foregoing, in no case shall wastewater be discharged having a temperature that causes the influent to MMSD's treatment plant to exceed 40 degrees Celsius (104 degrees Fahrenheit), unless the treatment plant is designed to accommodate such temperature.

(B) Wax, grease, oil, plastic or any other substance that solidifies or becomes discernibly viscous.

(C) Radioactive wastes that, alone or with other wastes, result in releases greater than those specified by current United States Bureau of Standards Handbooks or which violates rules or regulations of any applicable regulatory agency.

(D) Wastewater containing more than 50 milligrams per liter of petroleum oil, nonbiodegradable cutting oils or products of mineral oil origin.

(E) Wastewater containing more than 300 mg/1 of oil or grease of animal or vegetable origin.

(F) Wastewater that, in concentration of any given constituent or in quantity of flow, exceeds, for any period of duration longer than 15 minutes, more than five times the average 24-hour concentration or flows during normal operation.

(G) Wastewater that contains in excess of any of the following constituents in a 24-hour flow proportionate sample made up of an aggregate of the total discharge from all of the outfalls of the industrial user:

- 1.0 mg/1 aluminum
- 0.25 mg/1 cadmium
- 0.5 mg/1 hexavalent chromium
- 10.0 mg/1 total chromium
- 1.5 mg/1 copper
- 5.0 mg/1 lead
- 0.02 mg/1 mercury
- 0.3 mg/1 selenium
- 3.0 mg/1 silver
- 8.0 mg/1 zinc
- 2.0 mg/1 nickel
- 0.1 mg/1 cyanide

Samples shall be collected over the period of discharge if the discharge is less than 24 hours in duration.

(H) Industrial discharges exceeding applicable National Categorical Pretreatment Standards or state standards.

(I) Any substance with objectionable color not removed in the treatment process such as, but not limited to, dye wastes and vegetable tanning solution.

(J) Any noxious or malodorous liquids, gases or solids which, either singly or by interaction, are capable of creating a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance and repair.

(K) The District may alter, amend or modify the limitations established in Subsection (1) of this Section, if it determines that it is necessary to meet the objectives of this Ordinance or the conditions of MMSD's WPDES permit.

(i) Limitations related to treatment plant effluent.

(A) No person shall discharge any wastewater to the public sewerage system that, in combination with other discharges, results in either:

i. MMSD's treatment plant effluent having concentrations exceeding the following limits:

a. One tenth mg/1 total phenols; or

b. Two one thousandths mg/1 polychlorinated biphenols (PCBs).

ii. MMSD's treatment plant digested sludge exceeding a PCB concentration of ten ppm on a dry-weight basis.

(B) No person shall cause or permit a discharge into any public sewerage system that would cause, or significantly contribute to, either directly or indirectly, a violation of the conditions of MMSD's WPDES permit and any modification or reissuance thereof.

(3) *Limitations superseded.* Upon promulgation of National Categorical Pretreatment Standards for a particular industrial user subcategory, the federal standards, if more stringent than the limitations imposed under this Ordinance, shall immediately supersede the limitations imposed under this Ordinance, and such industrial user shall comply with said federal standards. MMSD shall notify all affected users of the applicable requirements under 40 CFR § 403.12.

(4) *No dilution of industrial discharges.* Dilution of an industrial discharge for purposes of reducing the pollutant characteristics or concentrations to below the limitations established in this Ordinance or below other applicable pretreatment standards is prohibited.

(j) Accidental Discharge.

Any person who accidentally discharges into the public sewerage system wastes or wastewater prohibited under this Ordinance shall immediately report such a discharge to the Director of MMSD and shall report the location of the discharge, the time thereof, the volume thereof and the type of waste or wastewater so discharged. Within 15 days of such discharge, a detailed written statement describing the cause of the discharge and the measures taken to prevent a future occurrence shall be submitted to Sanitary District No. 3 and to the Director of MMSD. Such reporting shall not relieve the person causing the accidental discharge from any penalties imposed by this Ordinance. Where the Director of MMSD deems necessary, industrial users shall provide facilities to prevent accidental discharges or spills of wastes or wastewaters prohibited under this Ordinance.

(k) Standard Grease Trap Installations.

The installation of grease, oil and sand interceptors at repair garages, gasoline stations, car washes and other industrial or commercial establishments shall be required, where necessary in the opinion of the Director of MMSD, to prevent discharge of sand, flammable wastes, oil and grease in amounts exceeding the limits of Sections (e) through (g) of this Ordinance. All such traps shall be constructed and maintained by the owner at the owner's expense, in accordance with the Wisconsin Plumbing Code and the Standard Specifications of Sanitary District No. 3, and shall be readily accessible for cleaning and inspection.

(l) Prohibition of Discharge of Septage Wastes; Disposition of other Wastes.

No holding tank, septage, or grease trap waste may be discharged into District sewers, and other waste permitted to be discharged under this Ordinance shall be of domestic origin or contain compatible pollutants only.

(m) Wastewater Measurements, Sampling, Reporting and Monitoring Facilities.

- (1) Wastewater characteristics and constitutes shall be monitored to determine compliance with this Ordinance and to facilitate an equitable system of service charges.
- (2) A new user who expects to discharge, or who is capable of discharging, wastewater having constituents or characteristics different from domestic wastewater shall install a monitoring facility.
- (3) An existing user whose discharges are different from domestic wastewater may be required by MMSD or Sanitary District No. 3 to install a monitoring facility. Construction of such facility must be completed within 90 days after the user has been notified of the requirement, unless MMSD grants an extension of time.
- (4) All monitoring facilities shall be constructed at the owner's expense, in accordance with the plans approved by Sanitary District No. 3 and MMSD. The monitoring facility shall contain the necessary flow monitoring and sampling equipment to facilitate the observation, sampling and measurement of wastes and shall be maintained by the owner so as to be safe and accessible at all times.
- (5) The requirements of Subsections (2), (3) and (4) of this Section may be waived by special written permission of the Director of MMSD and Sanitary District No. 3.

(n) Owner's Maintenance of Building Sewer.

The owner of property abutting a public sewer shall maintain sewer service from the public sewer main to the structure or building on the owner's property, including all controls

between the same, without expense to Sanitary District No. 3, except when they are damaged as a result of negligence or carelessness on the part of Sanitary District No. 3. Without intending to limit the generality of the foregoing, the owner has the sole responsibility for the repair and maintenance of all building sewers; and the ownership thereof shall at all times be vested in such property owner. All sewer services must be maintained free of defective conditions, by and at the expense of the owner or occupant of the property. When any sewer service is to be relayed and there are two or more buildings on such service, each building shall be disconnected from such service and a new sewer service shall be installed for each building. In the event of any obstruction of, damage to or repair of a building sewer, the same shall be the responsibility of the property owner, except as provided for in Section (x) or as otherwise provided for herein.

(o) Damages to System.

No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure or pertinence of equipment that is a part of the sewerage system. Any person violating this provision shall be subject to charges of violations of state law or Town of Dunn ordinances.

(p) Written Notice of Violation.

Any person connected to the sewerage system found to be violating a provision of this Ordinance shall be served by Sanitary District No. 3 with a written notice stating the nature of the violation and providing a reasonable time for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(q) Accidental Discharge.

Any person found to be responsible for accidentally allowing a deleterious discharge into the sewer system that causes damage to the sewerage system and/or receiving water body shall, in addition to a forfeiture, pay the amount to cover all damages, both of which will be established by Sanitary District No. 3.

(r) Liability to Sanitary District No. 3 for Losses.

Any person violating any provision of this Ordinance shall become liable to Sanitary District No. 3 for any expense, loss or damage occasioned by reason of such violation that Sanitary District No. 3 may suffer as a result thereof.

(s) Drainage Recovery.

Sanitary District No. 3 shall have the right of recovery from all persons, any expense incurred by Sanitary District No. 3 for the repair or replacement of any part of the sewerage system damaged, in any manner by any person by the performance of any work under that person's control, or by any negligent acts.

(t) Appeal Procedure.

Any user, affected by any decision, action, or determination, including cease and desist orders, made by the interpreting or implementing provision of this Ordinance may file with Sanitary District No. 3 a written request for reconsideration within ten days of the date of such decision, action, or determination, setting forth in detail the facts supporting the user's request for reconsideration. Sanitary District No. 3 upon receiving the request for reconsideration shall publish the request in its official newspaper. Sanitary District No. 3 shall render a decision on the request for reconsideration of the user in writing within 15 days of receipt of request. If the ruling on the request for reconsideration made by Sanitary District No. 3 is unsatisfactory, the person requesting reconsideration may, within ten days after notification of the action, file a circuit court action under Wis. Stats. Chap. 68.

(u) Optional Penalty for Failure to Make Mandatory Connection.

In lieu of causing a mandatory connection to a public sewer main to be made at its order, Sanitary District No. 3, at its option, may impose a penalty for the period that the violation continues after ten days' written notice to any owner failing to make such connection to the sewer system. The penalty shall be in the amount of \$100.00 per day. Upon failure to make such payment, such penalty shall be assessed as a special tax lien against the property pursuant to Wis. Stats. § 281.47.

(v) Tap Permits.

After sewer connections have been introduced into any building or upon any premises, no plumber shall make any alterations, extensions, or attachments, unless the party ordering such tapping or other work exhibits the proper permit for the same from Sanitary District No. 3.

(w) Obstruction of Building Sewers in Public Rights-of-Way.

In the event of any blockage, damage or break in any building sewer, which occurs within a public street, alley, highway, or other public right-of-way, Sanitary District No. 3 shall have the exclusive right and option to repair the building sewer within said street, alley, highway or right-of-way. In such event, the owner of the building sewer shall promptly reimburse Sanitary District No. 3 for all costs so incurred. If not so reimbursed, the same shall be added to the owner's sewer service charges and collected in the same manner as such charges are so collected.

(x) Backflow Preventers.

All floor drains shall have a backflow prevention valve installed at the owner's expense. All new construction shall comply from the effective date of the ordinance from which this Ordinance.



(y) Single-User Laterals or Building Sewers.

No user shall allow other persons or other services to connect to the sewer system through their lateral or building sewer.

(z) Discontinuance of Service.

Whenever any person desires to discontinue sewer service from the system, that person shall apply to Sanitary District No. 3 in writing and pay the required fee prior to such disconnection. Disconnection shall only be allowed where a structure is demolished. The fact that a structure is vacant shall not entitle the property owner to discontinue sewer service or to an abatement of sewer service charges.

(aa) User to Permit Inspection.

Every user shall permit the duly authorized agent of Sanitary District No. 3, at all reasonable times, to enter their premises or building to examine the pipes and fixtures, and the manner in which the drains, and sewer connections operate; and the user must at all times, frankly and without concealment, answer all questions put to them relative to its use, all in accordance with this Ordinance and Wis. Stats. § 196.171, to the extent applicable.

(bb) Condemnation Where Necessary.

Whenever any real estate or any easement therein or use thereof shall, in the judgment of Sanitary District No. 3, be necessary to the sewer system, and whenever for any reason an agreement for purchase from the owners cannot be made, Sanitary District No. 3, shall proceed with all necessary steps to take such real estate easement or use by condemnation in accordance with the Wisconsin Statutes and any other applicable federal or state provisions.

(cc) Disconnection and Refusal of Service.

- (1) *Reasons for disconnection.* Sewer service may be disconnected or refused for the following reasons :
  - (A) Violation of this Ordinance, as amended from time to time;
  - (B) Violation of MMSD ordinance, as amended from time to time;
  - (C) Failure to pay the application fee, any connection fee or delinquent account of the user.
- (2) *Discontinuation for delinquent accounts.* Service charges become delinquent if unpaid after the due date thereof. Sanitary District No. 3 may disconnect service for delinquent charges by giving the user at least eight calendar days

prior to disconnection, a written disconnect notice. For purposes of this rule, the due date shall not be less than 20 days after issuance of the bill. Sanitary District No. 3 may disconnect without notice where a dangerous condition exists for as long as the condition exists. Service may be denied to any user for failure to comply with the applicable requirements of these rules and regulations or if a dangerous or unsafe condition exists on the user's property.

(dd) Connection Fees.

- (1) *MMSD charges.* For each connection of a building sewer to a public sewer within Sanitary District No. 3, there shall be paid a connection charge as determined pursuant to MMSD ordinance, as amended from time to time.
- (2) *Utility charges.* For each connection of a building sewer to a public sewer within Sanitary District No. 3 there shall be paid connection charges. Such connection charges shall be assessed to the person seeking the connection and shall be paid as a condition precedent to the actual connection. The connection charges shall be the charge established by Sanitary District No. 3 from time to time for sewer hookup and lateral for new buildings.
- (3) *Failure to pay violation of Ordinance.* For purposes of this Ordinance, the connection charges described in Subsections (1) and (2) of this Section are collectively referred to as "connection fees." The failure to pay any connection fee is a violation of this Ordinance, and Sanitary District No. 3 may pursue all rights and remedies provided for herein.

[The connection charge at the time of adoption of this ordinance is \\$500.00](#)

(ee) Abatement Procedures.

- (1) *Violations constituting public nuisance.* A violation (other than the failure to pay sewer service charges or other fees or costs due under this Ordinance) of any provision of this Ordinance or any other rule or order of the Public Utilities Committee or Sanitary District No. 3 is hereby declared to be a public nuisance.
- (2) *Enforcement.* Sanitary District No. 3 shall have the right to enforce the provisions of this Ordinance and shall make periodic inspections and inspections upon complaint to ensure that such provisions are not violated. No action shall be taken under this Ordinance to abate a public nuisance unless Sanitary District No. 3 shall have inspected or caused to be inspected the premises where the nuisance is alleged to exist and shall have satisfied itself that a nuisance does in fact exist.
- (3) *Summary abatement.* If Sanitary District No. 3 determines that a public nuisance exists within the Sanitary District No. 3 and that there is great and immediate

danger to public health, safety, or welfare, Sanitary District No. 3 may cause the same to be abated and charge the cost thereof to the owner, occupant, or person causing, permitting, or maintaining the nuisance, as the case may be.

- (4) *Abatement after notice.* If Sanitary District No. 3 determines that a public nuisance exists on the private premises but that the nature of such nuisance is not such as to present great and immediate danger to the public health, safety, or welfare, Sanitary District No. 3 shall serve notice to the person causing or maintaining the nuisance to remove the same within ten days. If such nuisance is not removed within such ten days, Sanitary District No. 3 shall cause the nuisances to be removed as provided in Subsection (3) of this Section.
- (5) *Other methods not excluded.* Nothing in this Ordinance shall be construed as prohibiting the abatement of public nuisances by Sanitary District No. 3 or its officials in accordance with the laws of the state.
- (6) *Court order.* Except when necessary under Subsection (3) of this Section, Sanitary District No. 3 shall not use force to obtain access to private property to abate a public nuisance, but shall request permission to enter upon private property if such premises are occupied, and, if such permission is denied, shall apply to any court having jurisdiction for an order assisting the abatement of the public nuisance.
- (7) *Cost of abatement.* In addition to any other penalty imposed by this Ordinance for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by Sanitary District No. 3 shall be collected as a debt from the owner, occupant, or person causing, permitting, or maintaining the nuisance, and such cost shall be assessed against the real estate as a special charge pursuant to Wis. Stats. § 66.0627. For purposes hereof, costs shall include, but not be limited to, actual attorneys' fees and court costs.

(ff) Public Sewer Main Extension.

- (1) *Application and approval.* The extension of public sewer system to serve new customers/users is subject to the prior review and approval of Sanitary District No. 3 and any other governmental agency having appropriate jurisdiction. Any person seeking to develop real property and requiring sewer service in connection with such development, shall make application to Sanitary District No. 3 for a public sewer main extension, if so required, in order to serve such development. Such application shall be in writing and shall set forth the following information:
  - (A) The name of development, the legal description of the property involved, the owner of the property if different than the applicant, and written consent of the owner must accompany application;

- (B) The plat map or Certified Survey Map or other map showing street layout and lot sizes;
  - (C) The proposed plans and specifications for the sewers;
  - (D) The name and address of applicant's consulting engineer;
  - (E) The number of housing units and/or other units to be constructed;
  - (F) Such additional information as Sanitary District No. 3 Board may require.
- (2) *Conditions of approval.* Sanitary District No. 3, shall have the sole discretion to approve or disapprove the requested public sewer system extensions. In granting such approval, Sanitary District No. 3 may condition its approval upon compliance with:
- (A) Any applicable ordinances of the Sanitary District No. 3, MMSD or Dane County;
  - (B) Any applicable statute, rules, orders, or codes of the state;
  - (C) The preparation of plans and specifications for the public sewer system extension, subject to the approval of Sanitary District No. 3 and its consulting engineer;
  - (D) The applicant making and installing the public sewer system extension at the applicant's sole cost and expense or otherwise providing a surety bond or other security to ensure that the public sewer system will be so constructed within a reasonable period of time;
  - (E) The dedication of such rights-of-way, easements, and sewerage facilities as the Sanitary District No. 3 may reasonably require;
  - (F) The payment of all costs and expenses incurred or to be incurred by Sanitary District No. 3 in connection with the review and approval of such public sewer system extension, including, but not limited to, engineers' fees, attorneys' fees, inspection fees and other similar costs and expenses;
  - (G) The payment of any applicable connection fees due or to become due pursuant to subsection (dd) of this Ordinance;

(H) Any other condition determined by Sanitary District No. 3 to be fair and reasonable in order to protect the interest of the Sanitary District No. 3 in connection with the proposed development.

- (3) *Contract for sewer improvements.* Sanitary District No. 3 may require the person filing an application pursuant to subsection (b)(2) of this Ordinance to enter into a written development agreement with Sanitary District No. 3 as a condition of the approval of the public sewer system extension. Such agreement shall define the scope of the work, the obligations of the applicant to construct the sewer facilities, the requirement of security for performance of the applicant's obligations set forth therein, and such other matters as Sanitary District No. 3 and/or Sanitary District No. 3 may reasonably determine. The applicant shall reimburse Sanitary District No. 3 for all engineering, inspection, or attorneys' fees incurred hereunder
- (4) *Sanitary District No. 3 sewer extension.* Sanitary District No. 3 may, on its own, cause any public sewer system to be extended at such time and under such conditions as Sanitary District No. 3 deems appropriate.
- (5) *Approval of District sewers.* Prior to constructing or extending a District sewer, Sanitary District No. 3 shall receive approval of the MMSD. It shall submit an application to MMSD including the following.

(A) *Plans and specifications.*

(i) At least two (2) sets of plans and specifications shall be provided for any construction, reconstruction, alteration or extension of District sewer. An electronic copy of the required plans and specifications shall be included with the submittal per the DNR's requirements.

(ii) All construction plans shall be in conformation with Wis. Admin. Code Ch. NR 108.

(iii) The plans submitted to MMSD shall be on 11 x 17 high grade paper and shall be clear and legible. The pages shall be numbered and the plans drawn to a suitable, conveniently usable scale.

(iv) All elevations given on plans submitted to the Commission shall be based on the North American Vertical Datum of 1988 (NAVD88). All bearings shown shall be referred to a boundary line of government lot or quarter section, monumented in the original survey or resurvey of Wisconsin. Every plan submitted shall bear a sign showing the direction of the true north in relation to the plan.

- (v) Map(s) showing: the location of the work, the ultimate tributary drainage basin(s) and the immediate service area of the proposed sewer extension for sewers eight inches in diameter or larger.
- (vi) The size, type, and grades of proposed sewers.
- (vii) The elevations of sewer inverts and the manhole tops.
- (viii) The distance between manholes.
- (ix) Complete details of all appurtenances.
- (x) The plans shall be accompanied by complete and signed DNR Sanitary Sewer Extension Submittal Forms, as amended from time to time.
- (xi) Plans shall be reviewed by the Capital Area Regional Planning Commission as required pursuant to Wis. Admin. Code § NR 110.08(4). A copy of the Capital Area Regional Planning Commission 208 review and letter and approval letter from Sanitary District No. 3 shall accompany the plans.
- xii. No extensions shall be approved unless the area served is within the territory to MMSD.

(B) *Incomplete applications.* Incomplete applications shall not be processed and considered for MMSD and Sanitary District No. 3 approval until all of the required information is provided by the application. Plans not approved by MMSD shall be returned to the applicant with a letter describing the reason(s) for denial of the application.

- (6) *Best Management Practices.* Sanitary District No. 3, its customers and any application seeking to extend its systems shall follow Best Management Practices (BMPs) developed or cited by MMSD for the discharge of any constituents, substances, materials, waters, or waste where MMSD determines that following these BMPs is necessary to meet the objectives of this Ordinance or the conditions of MMSD's WPDES permit. Where a BMP is required to implement prohibited discharge and pretreatment standards for the purpose of Wis. Stats. §283.21(2)."

The above and foregoing Ordinance was duly adopted at a regular meeting of the Town Board of the Town of Dunn Sanitary District No. 3 on the \_\_\_\_ day of \_\_\_\_\_, 2021.

TOWN OF DUNN SANITARY  
DISTRICT NO. 3

By: \_\_\_\_\_  
Alan Monroe, Chair

By: \_\_\_\_\_  
Tammy L. Rayfield, Treasurer

ATTEST:

By: \_\_\_\_\_  
Catherine Richards, Secretary

4862-4650-4711, v. 1

# Chapter 19

## Traffic

- 19.01 State Traffic Code Adopted
- 19.02 Other State Traffic Statutes Adopted
- 19.03 Snowmobiles
- 19.04 Disorderly Conduct with a Motor Vehicle
- 19.05 Unnecessary Noise with a Motor Vehicle
- 19.05a Unnecessary Noise with a Light Motor Vehicle
- 19.06 Operation of Motor Vehicle in Place without Permission
- 19.07 Abandoned Vehicle
- 19.08 Use of School Bus Lights
- 19.09 Roadside Parking

### **Sec. 19.01 State Traffic Code Adopted**

The provisions of Chapters 110, 194, and 340 through 350, together with the provisions of ch. TRANS 305, of the Wisconsin Statutes that the Town may adopt are hereby adopted by reference and incorporated herein as if fully set forth. Any act required to be performed or prohibited by any provision incorporated herein is required or prohibited by this Section. Any future amendments to said Chapters that the Town may adopt are hereby adopted and incorporated herein as of the effective dates of those amendments.

### **Sec. 19.02 Other State Traffic Statutes Adopted**

The provisions of the following Wisconsin Statutes are hereby adopted by reference and incorporated herein as if fully set forth. Any act required to be performed or prohibited by any provision incorporated herein is required or prohibited by this Section. Any future amendments to the provisions incorporated herein are hereby adopted and incorporated herein as of the effective dates of those changes.

- 349.135 Radios and Other Electric Sound Amplification Devices
- 941.01 Negligent Operation of Vehicle Off Highway
- 943.23 Operating Vehicle Without Owner's Consent



**ORDINANCE NO. 19.01(1)**

**TOWN OF DUNN  
DANE COUNTY, WISCONSIN**

**AN ORDINANCE TO REDUCE SPEED LIMITS ON HIGHWAYS IN THE TOWN**

**RECITALS**

- A. The Town Public Works Superintendent and the Dane County Sheriff's Department have inspected and investigated the existing driving conditions and existing speed limits on all Town highways and have recommended reducing speed limits for certain portions of Town highways.
- B. The Town, upon the basis of this inspection and investigation, has determined that the existing speed limits on these portions of Town highways are greater than is reasonable or safe under the current conditions found to exist on these portions of Town highways, and the speed of vehicles on these portions of Town highways is greater than is reasonable and prudent.
- C. Accordingly, the Town wishes to exercise its authority under the Wisconsin Statutes and declare that the official speed limits on portions of Town highways be the speed limits specified in Exhibit A attached hereto and incorporated herein.

NOW, THEREFORE, pursuant to the Wisconsin Statutes, including Wis. Stat. §§ 60.22 and 349.11, the Town Board of the Town of Dunn hereby ordains as follows:

*Section 1. Reduction in Speed Limits.* The official speed limit on certain Town highways shall be the "recommended speed" specified on the chart attached hereto and incorporated herein as Exhibit A. These speed limits are determined and declared to be reasonable and to further the public health, safety and welfare.

*Section 2. Erection of Signs and Remedies.* The Town's Public Works Director shall erect appropriate signs giving notice of the reduced speed limits specified in Section 1 above. When such signs have been erected and are in place, such speed limits shall be effective. Any person who violates the speed limits contained in this ordinance shall be subject to the applicable remedies and forfeitures provided in state law and/or Chapters 19 and 21 of the code of Ordinances of the Town of Dunn.

*Section 3. Effective Date of Ordinance.* This ordinance shall take effect the day after passage and posting or publication pursuant to law.

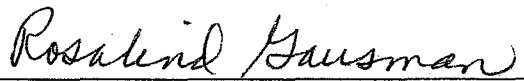
The above and foregoing ordinance was adopted by the Town Board of the Town of  
Dunn at its meeting held on July 17, 2006.

TOWN OF DUNN



Edmond P. Minihan, Town Chair

ATTEST:

  
Rosalind Gausman, Town Clerk/Treasurer

Approved: 7/17/2006

Posted: 7/18/2006 RS

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EXHIBIT A - Ordinance 19.01(1)							
Name of Road in Town of Dunn, Dane County	Current speed limit set by one of the following				Previous Speed Limit	Recommended speed by Sheriff Dep. & PW and approved new limit	
	55 max by 346.57(4)(h)	45 rustic rd 346.57(4)(k)	35 semiurban 346.57(4)(g)	previous TB actn			
Aalseth Ln			x		35	25	
Alice-Pauline Dr			x		35	25	
Alma Rd (east end by residents)			x		35	25	
Alma Rd (from residence to Lake Farm)	x				55	45	
Alsmo Rd			x		35	25	
Bible Camp Rd to southwest end			x		35	25	
Bonner Tr			x		35	25	
Brian St			x		35	25	
Bruce Parkway			x		35	25	
Burl Ct			x		35	25	
Catalpa Ln			x		35	25	
Don's Rd	x				55	45	
Dorothy Dr	x				55	45	
Elvehjem Rd (Village limits to AB)	x				55	45	
Elvehjem Rd (from AB, east to termination)	x				55	35	or 45 if DOT does not approve 35
Evans Rd			x		35	25	
Fish Camp Rd	x				15	15	
Goodland Park Rd	x				55	45	
Greene Rd	x				55	45	
Green Ridge Rd			x		35	25	
Halvorson Rd	x				55	45	
Hawkinson Rd	x				55	45	
Henshue Rd	x				55	45	
Hidden Farm Rd	x				55	45	
Holm Rd			x		35	25	
Jordan Dr (from curve south to Mahoney)	x				55	35	or 45 if DOT does not approve 35
Keenan Rd (from CTH B N to .25 mi S of Mahone)	x			x	45	45	
Labrador Rd	x				55	45	
Lake Farm Rd	x				55	45	
Lake Kegonsa Rd	x				55	45	
Lakeside St			x		35	25	
Lakeview Dr			x		35	25	
Lakeview Ter			x		35	25	
Lalor Rd		x		x	45	35	
Larsen Rd	x				55	40	or 45 if DOT does not approve 35
Liatris Ln	x				55	45	
Lookout Tr (from Keenan east to end)			x		35	25	
Mahoney Rd (Jordan Dr to Evans)	x				55	35	or 45 if DOT does not approve 35
Mahoney Rd (51 to Evans)(Jordan to B)	x				55	45	

Name of Road in Town of Dunn, Dane County	Current speed limit set by one of the following:				Previous Speed Limit	Recommended speed by Sheriff Dep. & PW and approved new limit	
	55 max by 346.57(4)(h)	45 rustic rd 346.57(4)(k)	35 semiurban 346.57(4)(g)	previous TB actn		Speed	by Sheriff Dep. & PW and approved new limit
Mallard Ave			x		35	25	
Maya Ct			x		35	25	
Meadowview Rd 500' E of View Rd to Larsen Rd			x		35	35	
Meadowview Rd	x				55	45	
Noarts St			x		35	25	
Orchard St			x		35	25	
Parkland Dr			x		35	15	or 25 if DOT does not approve 15
Pella Ln			x		35	25	
Peterson Rd			x		35	35	
Pinto Tr			x		35	25	
Ridge Ct			x		35	25	
Rivercrest Rd			x		35	35	
Riverholm Rd			x		35	35	
Ruth Ct			x		35	25	
Rutland-Dunn Towne Line (51 to Lake Kegonsa R	x			x	45	45	
Rutland-Dunn Town Line (Hawkinson to Sunrise)	x				55	45	
Rutland-Dunn Towne Line(Lake Kegonsa to Hawk	x				55	45	
Sandhill Rd (.25 mi N of Rutland Dunn north to B)	x				55	45	
Schneider Dr (entire length of road)	x				55	45	
Schuster Rd	x				55	45	
Scott Ln			x		35	25	
Senneth St			x		35	25	
Shaw Ct			x		35	15	or 25 if DOT does not approve 15
Skytop Dr	x				55	45	
Stace Rd			x		35	25	
Stenjem Dr			x		35	25	
Stoney Crest Rd			x		35	25	
Sunnyside St			x		35	25	
Thatcher Ln			x		35	25	
Third St			x		35	25	
Thomas Dr			x		35	25	
Tower Rd (Mahoney to 600' S of Maple Dr)	x				55	35	or 45 if DOT does not approve 35
Tower Rd (Crescent to Hwy 51)	x				55	45	
E Tower Rd (east of Hwy. 51)	x				55	45	
Wayne Cir			x		35	25	
Woodland Terr			x		35	25	
Yahara Dr			x		35	25	
Zuercher Ct			x		35	25	

**ORDINANCE NO. 19.01(2)**

**TOWN OF DUNN  
DANE COUNTY, WISCONSIN**

**AN ORDINANCE TO REDUCE SPEED LIMITS ON HIGHWAYS IN THE TOWN  
(AND REQUESTING DOT CONSENT)**

**RECITALS**

- A. The Town Public Works Superintendent and the Dane County Sheriff's Department have inspected and investigated the existing driving conditions and existing speed limits on all Town highways and have recommended reducing speed limits for certain portions of Town highways.
- B. The Town, upon the basis of this inspection and investigation, has determined that the existing speed limits on these portions of Town highways are greater than is reasonable or safe under the current conditions found to exist on these Town highways, and the speed of vehicles on certain portions of Town highways is greater than is reasonable and prudent.
- C. Accordingly, the Town wishes to exercise its authority under the Wisconsin Statutes and declare, with the consent of the Wisconsin Department of Transportation, that the official speed limits on certain portions of Town highways be reduced as specified below.

NOW, THEREFORE, pursuant to the Wisconsin Statutes, including Wis. Stat. §§ 60.22 and 349.11, the Town Board of the Town of Dunn hereby ordains as follows:

*Section 1. Reduction in Speed Limits.* The official speed limit on certain portions of Town highways shall be reduced as follows:

	<b>Highway</b>	<b>From</b>	<b>To</b>
a.	Elvehjem Road..... (from Highway AB east to its termination)	55 mph	35 mph
b.	Jordan Drive..... (from Mahoney Road north to curve)	55 mph	35 mph
c.	Larsen Road.....	55 mph	40 mph
d.	Mahoney Road (from Jordan Drive to Evans).....	55 mph	35 mph

	<u>Highway</u>	<u>From</u>	<u>To</u>
e.	Parkland Drive.....	35 mph	15 mph
f.	Shaw Court.....	35 mph	15 mph
g.	Tower Road..... (from Mahoney Road to 600 feet south of Maple Drive)	55 mph	35 mph

These speed limits are determined and declared to be reasonable and to further the public health, safety, and welfare.

*Section 2. Consent of Department of Transportation.* The Town Clerk shall request the Wisconsin Department of Transportation to consent to the speed limits specified in Section 1 above.

*Section 3. Erection of Signs and Remedies.* No signs giving notice of the reduced speed limits shall be erected until the Wisconsin Department of Transportation approves these reduced speed limits. Upon approval of the reduced speed limits by the Wisconsin Department of Transportation, the Town's Public Works Director shall erect appropriate signs giving notice of the reduced speed limits. When such signs have been erected and are in place, such reduced speed limits shall be effective. Any person who violates the speed limits contained in this ordinance shall be subject to the applicable remedies and forfeitures provided in state law and/or Chapters 19 and 21 of the Code of Ordinances of the Town of Dunn.

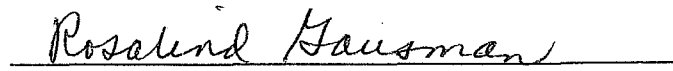
*Section 4. Effective Date of Ordinance.* This ordinance shall take effect the day after passage and posting or publication pursuant to law.

The above and foregoing ordinance was adopted by the Town Board of the Town of Dunn at its meeting held on July 17, 2006.

TOWN OF DUNN

By:   
Edmond P. Minihan, Town Chair

ATTEST:

  
Rosalind Gausman, Town Clerk/Treasurer

Approved: 7/17/2006

Posted: 7/18/2006 RB

**RESOLUTION 2014-08**  
**TO AMEND THE TRAFFIC ORDINANCE REGARDING BARBER DRIVE SPEED**

RECITALS

WHEREAS the Town Public Works Superintendent, the Dane County Sheriff's Deputy Thiel, and Dane County Department of Public Works, Highway, and Transportation have inspected and investigated the existing driving conditions and existing speed limits on Barber Drive, and

WHEREAS the Town upon the basis of this inspection and investigation, has determined that the existing speed limit on the portion of Barber Drive from Lake Kegonsa Road southeasterly to end is greater than is reasonable or safe under the current conditions, and

WHEREAS the Town and Dane County Department of Public Works, upon the basis of this inspection and investigation, has determined that continuity of speed limits between the portion of Barber Drive from Lake Kegonsa Road southeasterly to end and the portion of Barber Drive from Lake Kegonsa Road to Schneider Drive should be established, and

WHEREAS the Town wishes to exercise its authority under the Wisconsin Statutes and declare official speed limits on portions of Town highways,

THEREFORE, BE IT RESOLVED that pursuant to the Wisconsin Statutes, including Wis. Stat. §§ 60.22 and 349.11, the Town Board of the Town of Dunn hereby amends Ordinance 19-1 to establish the speed limit for the entire length of Barber Drive as 25 mph. This speed limit is determined and declared to be reasonable and to further the public health, safety and welfare

BE IT FURTHER RESOLVED that the Town's Public Works Director shall erect appropriate signs giving notice of the reduced speed limits. When such signs have been erected and are in place, such speed limits shall be effective. Any person who violates the speed limits contained in this ordinance shall be subject to the applicable remedies and forfeitures provided in state law and/or Chapters 19 and 21 of the code of Ordinances of the Town of Dunn.

Dated this 16 day of June, 2014.

TOWN OF DUNN

By Edmond P. Minihan  
Edmond P. Minihan, Town Chair

ATTEST:

Cathy Hasslinger  
Cathy Hasslinger, Town Clerk Treasurer

RESOLUTION 2017-04  
TO AMEND CHAPTER 19  
TO ADOPT WIS ADMIN CODE CH TRANS 305

BE IT RESOLVED THAT the Town Board of the Town of Dunn does hereby amend Chapter 19 (Traffic) of the Town of Dunn Code of Ordinances to adopt Ch TRANS 305 of the Wisconsin Administrative Code defining Vehicle Equipment Standards.

Dated this 9 day of January 2017.

  
Edmond P. Minihan, Chairman

Attested:   
Cathy Hasslinger, Clerk Treasurer



**TOWN OF DUNN**

**ORDINANCE NO. 19-3**

**AN ORDINANCE CREATING CHAPTER 19-3  
OF THE GENERAL CODE OF ORDINANCES**

The Town Board of the Town of Dunn, Dane County, Wisconsin does ordain that Chapter 19-3 of the General Code of Ordinances, entitled SNOWMOBILES be and the same is hereby created to read as follows:

**CHAPTER 19-3**  
**Snowmobiles**

19-3-1	State snowmobile laws adopted
19-3-2	Applicability of traffic regulations to snowmobiles
19-3-3	Speed; equipment
19-3-4	Unattended vehicles
19-3-5	Operation on sidewalks prohibited
19-3-6	Snowmobile and other off-highway vehicle operation restricted
19-3-7	Snowmobile routes and trail designated
19-3-8	Penalty
19-3-9	Enforcement

**SEC. 19-3-1 STATE SNOWMOBILE LAWS ADOPTED**

Except as otherwise specifically provided in this chapter, the statutory provisions describing and defining regulations with respect to snowmobiles in the following enumerated sections of the Wisconsin Statutes are hereby adopted by reference and made part of this Chapter as if fully set forth herein. Acts required to be performed or prohibited by such statutes are required or prohibited by this Chapter. Any future amendments, revisions or modifications of the Statutes incorporated herein by reference are intended to be made part of this Code.

350.01	Definitions.
350.02	Operation of snowmobiles on or in the vicinity of highways.
350.03	Right-of-way.
350.04	Snowmobile races, derbies and routes.
350.045	Public utility exemption.
350.047	Local ordinance to be filed.
350.05	Operation by youthful operators restricted.
350.07	Driving animals.
350.08	Owner permitting operation.
350.09	Head lamps, tail lamps and brakes, etc.
350.10	Miscellaneous provisions for snowmobile operation
350.101-	(inclusive) relating to intoxicated snowmobiling.
350.107	
350.11	Penalties.
350.12	Registration of snowmobiles.

350.13	Uniform trail signs and standards.
350.135	Interferences with uniform trail signs and standards prohibited.
350.15	Accidents and accident reports.
350.155	Coroners and medical examiners to report; Require blood specimen.
350.17	Enforcement.
350.19	Liability of landowners.
350.99	Parties to a violation.

### **SEC. 19-3-2 APPLICABILITY OF TRAFFIC REGULATIONS TO SNOWMOBILES.**

No person shall operate a snowmobile upon any street, highway or alley within the Town of Dunn in violation of the traffic regulation provisions of Sections, 346.04, 346.06, 346.11, 346.14(1), 346.18, 346.19, 346.20, 346.21, 346.26, 346.27, 346.33, 346.35, 346.37, 346.39, 346.40, 346.44, 346.46, 346.47, 346.48, 346.50(1)(b), 346.51, 346.52, 346.53, 346.54, 346.55, 346.87, 346.88, 346.89, 346.90, 346.91, 346.92(1), and 346.94(1), and (9), Wis. Stats.

### **SEC. 19-3-3 SPEED; EQUIPMENT.**

- (a) **Speed.** On town property where snowmobile use is allowed no person shall operate a snowmobile in excess of twenty (20) miles per hour or as posted.
- (b) **Restriction of Equipment.** No person may operate a snowmobile or other vehicle on a snowmobile route if it has an expansion chamber or any muffler other than the type and size provided by the manufacturer. Each snowmobile must display a lighted headlight and taillight at all times and said lights must conform to the requirements of Section 350.09 of the Wisconsin Statutes.

### **SEC. 19-3-4 UNATTENDED VEHICLES.**

No person shall leave or allow a snowmobile owned or operated by him/her to remain unattended on a public highway or public property while the motor is running or with the starting key left in the ignition.

### **SEC. 19-3-5 OPERATION ON SIDEWALKS PROHIBITED.**

No person shall operate a snowmobile upon any sidewalk, pedestrian way or upon the area between the sidewalk and the curb line of any street in the Town, except as specifically authorized by Section 19-3-6 or for the purpose of crossing to obtain immediate access to an authorized area of operations.

### **SEC. 19-3-6 SNOWMOBILE AND OTHER OFF-HIGHWAY VEHICLE OPERATION RESTRICTED.**

- (a) **Operation on Public Property.** Except as otherwise permitted by this Code of Ordinances, it shall be unlawful to operate any snowmobile or any other motor-driven craft or vehicle principally manufactured for off-highway use on the town roads, alleys, greenways, parks, parking lots, or any town property. The operator shall at all times have the express consent of the owner before operation of such craft or vehicle on public or private property not owned or controlled by him.
- (b) **Operation in Parks.** No person shall drive a snowmobile in any park within the Town except upon designated snowmobile trails as shall be designated by the Town Parks Commission.
- (c) **Written Consent of Owner Required.** The consent required under Sec. 350.10(6), (11), (12), and (13), Wis. Stats., and Subsection (a) above shall be written consent dated and limited to the season in which the consent is given. If the property is owned or leased by more than one (1) person, the written consent of each must be obtained.

### **SEC. 19-3-7 SNOWMOBILE ROUTES AND TRAILS DESIGNATED.**

- (a) **Routes Designated.** Except as provided in Sections 350.02 and 350.045 of the Wisconsin Statutes, or for snowmobile events authorized in accordance with Sec. 350.04, Wis. Stats., no person shall operate a snowmobile upon any public right-of-way, in any public park or on any other town property except upon snowmobile routes and trails designated by the Town Board. The designated routes to be used within the Town shall be recommended by the Parks Commission, adopted by the Town Board, a copy of which shall be on file with the Town Clerk-Treasurer.
- (b) **Trail Markers.** The Highway Foreman or Chief of Police shall approve the placement of appropriate snowmobile route, trail, and limit signs, and markers as approved by the State Department of Natural Resources under Sec. 350.13, Wis. Stats. The Chief of Police shall have the power to declare the state snowmobile routes and trails either open or closed.

- (c) **Markers to be Obeyed.** No person shall fail to obey any route or trail sign, marker or limit erected in accordance with this Section.

### **SEC. 19-3-8 PENALTY.**

Any person who shall violate any provision of this chapter for which there is no other penalty provision shall, upon conviction thereof, forfeit not less than Fifty Dollars (\$50.00) or not more than Five Hundred Dollars (\$500.00), together with the costs of prosecution, and, in default or payment thereof, may be imprisoned in the county jail for not exceeding ten (10) days, provided no person shall forfeit an amount in excess of the maximum fine or forfeiture for parking violations on highways shall be the amount applicable to such violations by owners or operators of motor vehicles under Chapter 19 of this Code of Ordinances.

### **SEC. 19-3-9 ENFORCEMENT.**

- (a) **Uniform Citation for Highway Violations.** The uniform traffic citation promulgated under Sec. 345.11, Wis. Stats., shall be used for violations of this Chapter relating to highway use except as herein provided.
- (b) **Parking Violations.** The special traffic citation described and defined in Chapter 19 of this Code of Ordinances shall be used for enforcement of violations or rules of the road relating to parking of vehicles adopted by reference in Section 19-3-1 of this Chapter.
- (c) **Other Violations.** All violations of this Chapter not described in Subsections (a) or (b) shall be enforced in accordance with Sections 66.12 and 66.114 of the Wisconsin Statutes. Stipulations of guilt or no contest may be made as provided in Sec. 66.12 and 66.114 of the Wisconsin Statutes. Stipulations of guilt or no contest may be made in Sec. 66.12(1)(b), Wis. Stat., in substantially the form provided in the uniform traffic citation within five (5) days of the date of the citation for such violation. Bail deposits may also be made under Sec. 66.12, Wis. Stat. Such deposits shall include a Three Dollar (\$3.00) Clerk's fee and costs of prosecutions.
- (d) **Police Department to Receive Stipulations and Penalties.** Stipulations, forfeited penalties and deposits for obtaining release from arrest authorized under this Chapter may be accepted at the Police Department offices by the Chief or officer designated by him. The officer authorized to accept penalties and deposits shall be bonded and such bond shall be filed with the Town Clerk-Treasurer.
- (e) **Forfeited Penalties and Deposits.** Except as otherwise provided in Sec. 345.26, Wis. Stat., and the deposit schedule adopted by the State Board of Circuit Court

Judges thereunder, required penalties and deposits or bail not including costs or fees for violation of this Chapter shall be as established by a schedule adopted by the Town Board.

The above and foregoing ordinance was duly adopted by the Town Board of the Town of Dunn at a regular meeting held on the 19th day of September, 1995.

APPROVED:

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Edmond P. Minihan, Chairman

ATTESTED:

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Rosalind Gausman, Clerk

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**Sec. 19.04            Disorderly Conduct With a Motor Vehicle.**

No person may, on public or private property, operate a motor vehicle in a disorderly manner. The conduct prohibited by this provision includes, but is not limited to, the following: the deliberate or intentional spinning of wheels; causing a vehicle, while commencing to move in motion, to have one or more wheels off the ground; operation in a manner that would tend to cause a disturbance; negligent operation; operation that endangers or damages property; operation that endangers or injures the health or safety of a person; operation that causes annoying or disturbing dust, noise, smoke, odor, or gas; and reckless operation.

**Sec. 19.05            Unnecessary Noise With a Motor Vehicle.**

No person may, on public or private property, cause unnecessary and annoying noise with a motor vehicle. The noises prohibited by this provision include, but are not limited to, the following: squealing tires; excessive noise from an engine; unnecessary blowing of a horn; loud muffler noise; and the backfire of an engine.

**Sec. 19.05a          Unnecessary Noise With a Light Motor Vehicle.**

- (1) **Declaration of Findings and Policy.** Excessive noise from light motor vehicles is a serious hazard to the public health and welfare, safety and the quality of life. A substantial body of science and technology exists by which excessive noise from light motor vehicles may be substantially abated. The people have a right to and should be ensured an environment free from excessive noise that may jeopardize their health or welfare or safety or degrade the quality of life. Therefore, it is the policy of the Town of Dunn to prevent excessive noise that may jeopardize the health and welfare or safety of its citizens or degrade the quality of life.
- (2) **Scope.** This ordinance shall apply to the control of all noise caused by light motor vehicles and originating within the limits of the Town of Dunn.
- (3) **Definitions.**
  - (a) **Terminology.** All terminology used in this ordinance, not defined below, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.
  - (b) **A-Weighted Sound Level.** This means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB (A) or dBA.
  - (c) **Noise Level.** This shall refer to the A-weighted sound level produced by a light motor vehicle.

- (d) **Person.** This means any individual, association, partnership, or corporation, and includes any officer, employee, department, agency or instrumentality of a state or any political subdivision of a state.
- (e) **Sound Level Meter.** This means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter, and weighing networks used to measure sound pressure levels. The instrument shall comply with the standards for Type 1 or Type 2 sound level meters as specified in American National Standards Institute Standards ANSI S1.4-1971 or its successor.
- (f) **Sound Pressure Level.** This means twenty (20) times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure of 20 micropascals. The sound pressure level is expressed in decibels.
- (g) **Noise.** This means any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.
- (h) **Light Motor Vehicle.** For the purposes of this ordinance a light motor vehicle shall mean any automobile, van, motorcycle, motor driven cycle, motor scooter or light truck or other motorized vehicle with gross vehicular weight of less than eight thousand (8,000) pounds.
- (i) **Modified Exhaust System.** It is an exhaust system in which:
1. The original noise abatement devices have been physically altered causing them to be less effective in reducing noise, or
  2. The original noise abatement devices have been either removed or replaced by noise abatement devices which are not as effective in reducing noise as the original devices, or
  3. Devices have been added to the original noise abatement devices, such that noise levels are increased.
- (4) **80 dBA Noise Limit.** It shall be unlawful for any person to cause noise levels from the operation of a light motor vehicle in excess of 80 dBA at any location within the limits of the Town of Dunn. Measurement can be made at any distance greater than or equal to fifteen (15) feet from the closest approach to the vehicle.
- (5) **Excessive Noise.** Notwithstanding the noise limit expressed under Subsection (4), it shall be unlawful for any person to operate a light motor vehicle such as to cause excessive noise levels as a result of a defective or modified exhaust system, or as a result of unnecessary rapid acceleration, deceleration, revving or tire squeal, or as a result of the operation of audio devices such as but not limited to radios, phonographs, and tape players.
- (6) **Signalling Devices.** It shall be unlawful for any person to operate any horn or other audible signalling device on any motor vehicle except in an emergency or when required by law.
- (7) **Exception.** Notwithstanding the other provisions of this ordinance, this ordinance shall not apply to noise created by equipment used for farming purposes.
- (8) **Severability.** If any provision of this ordinance is held to be unconstitutional or otherwise invalidated by any court of competent jurisdiction, the remaining provisions of the ordinance shall not be invalidated.



## ORDINANCE 19-05

### An Ordinance Establishing Special or Seasonal Weight Limits on Town Roads

- I Authority
- II Adoption
- III Overweight Permits
- IV Penalties
- V Effective Date

#### SECTION I - AUTHORITY

The Town Board of the Town of Dunn, Dane County, Wisconsin, has the specific authority under Wis. Stats. §§66.0114(1)-(3), 345.20-345.53, 349.03, 349.06, 349.16, 348.17, 348.26 & 348.27, to adopt this ordinance, as Towns have been authorized and delegated the authority to enact and enforce, in their own discretion, seasonal and special weight limits, and exceptions to those special and seasonal limits, on their own roads, pursuant to Wis. Stat. §349.16. The Board finds the following regulations to be in strict conformity with its authority and direction under Wis. Stat. §349.16, and not contrary to or inconsistent with chs. 341 to 348 and 350.

#### SECTION II - ADOPTION

The Town Board of the Town of Dunn, by this ordinance, adopted on proper notice with a quorum and a majority vote of the Town Board present and voting, provides the authority for the Town to establish special or seasonal weight limits, and overweight permits, as follows:

- A. The Town Board may, from time to time, designate by Resolution special weight limits on any portion of a Town Road determined by the Board to need additional protection due to road conditions then occurring. Until the next regularly scheduled Board Meeting, the Town Chair or the Town Highway Superintendent may temporarily designate and post special weight limits on any portion of a Town Road in need of immediate additional protection due to weakness of the roadbed, due to deterioration, climatic conditions or other special or temporary conditions, which are likely to cause serious damage in the absence of such special limitations.
- B. The following seasonal vehicle weight limit of 15 tons maximum [30,000 pounds] shall be effective for the following Town Roads:

All town roads except for any town roads that have a previously established lower weight limit, during the period set by the Highway Superintendent, in consultation with the Town Roadman, annually, to coincide with the Wisconsin Department of Transportation spring thaw determinations for the year in question, and, reported to the Board at the first scheduled Board meeting following the posting.

- C. The reduced seasonal weight limit set under Section II B. above does not apply to:

(1) **Septic Haulers** complying with Wis. Stat. §349.16(3), which are traveling to destinations where they will be emptying holding tanks which are full or otherwise endanger public health and safety. This exception does not apply if pumping of a tank can safely be deferred until after the expiration of this seasonal limit;

- (2) **Empty Vehicle Or Vehicle Combinations** being moved directly to or from a storage or maintenance facility located on a posted town road;
- (3) **Farm Tractor Hauling A Single Or Tandem Axle Manure Trailer** operated under and complying with a permit allowing a weight limit, excluding the tractor, of 15,000 pounds per axle for up to two axles, for operations from a farm for spreading; and,
- (4) **Milk Haulers** which are picking up and transporting milk from dairy farms. Milk haulers shall use the shortest lawful direct route over town roads to and from dairies, and shall have the vehicle tag axle fully deployed, or this exemption does not apply.
- D. Town vehicles engaged in official duties, public safety vehicles, fuel trucks, school buses and garbage and recycling trucks contracted by the Town, shall be exempt from the seasonal and special weight restrictions of this Ordinance.
- E. Unless otherwise exempt, delivery of heavy loads to their ultimate destination shall be delayed until after the expiration of the weight limits unless delivery of the load is necessary for health or safety or the care of farm animals, for which a permit may be issued.
- F. The Town Chair, Highway Superintendent or his or her designee shall erect signs as required under s. 349.16(2), Wis. Stats., on or before the effective date of this ordinance.

### **SECTION III – OVERWEIGHT PERMITS**

The Town of Dunn, Dane County, Wisconsin, may authorize and issue to the owner or operator of specific vehicle, an overweight permit, exempting such Permittee from the special or seasonal Town weight limits as follows:

- A. The Town Chair or Highway Superintendent of the Town of Dunn, Dane County, Wisconsin, for good cause in specified instances, *(with approval from the Town Board in the case of Multiple trip permits)* may authorize and issue to the owner or operator of specific vehicle, an overweight permit, effective for a designated period of time, up to one year, exempting operations by the described vehicle on designated Town Roads from special or seasonal weight limits. Such permits may include such conditions as may be deemed necessary to protect and preserve the highway, including the designation of permit routes.
- B. Any overweight permit, as issued, applies only to the vehicle designated in the permit, during operations as permitted. The permit, as issued, is not transferable, is revocable, and may be suspended by the Town Chair or Highway Superintendent at any time for good cause. The Permittee may, within 5 days of revocation or suspension, request in writing a hearing before the Town Board, which shall be held within 30 days or the permit shall automatically be reinstated.
- C. There is no application fee for overweight permits exceeding Town imposed weight limits, which may be issued by fax or electronic transmission.
- D. Permittee shall have a current, fully executed **Permit Application and Indemnification Form**, on file with the Town Clerk. The **Permit Application and Indemnification Form** shall provide the identity and address of the applicant, contact information, the name of the applicable liability insurance provider, the effective dates requested, the type of permit requested, the proposed routes of operation, and a description of the vehicle or vehicles to be permitted. It shall also provide that Permittee agrees to reimburse, indemnify and hold harmless the Town for the repair of any damage which results from Permittee's operations under the permit requested, or any liability alleged to have resulting from such damage, together with any costs of enforcing or fulfilling this paragraph, including expert witness and attorney's fees.

- E. To be valid, an overweight permit must be carried in the vehicle and displayed to any law enforcement officer, the Town Highway Superintendent, or the Town crew, promptly upon request.
- F. The issuance of a permit under this section shall be reported to the Town Board at the first regular meeting following issuance.
- G. Permits issued under this section are applicable solely to Town special and seasonal weight limits, and do not authorize or allow overweight operations in excess of the limits in Wis. Stat. §348.15.

**SECTION IV – PENALTIES**

- A. No person may operate any vehicle on the above-noted highways, in violation of a posted seasonal or special weight limit, without a written permit issued and carried in the vehicle, pursuant to SECTION III, above.
- B. The forfeiture for a first violation of any provision of this ordinance shall be Five Hundred (\$500.00) Dollars. The forfeiture for a second or subsequent offense shall be One Thousand (\$1,000.00) Dollars. Notwithstanding the forgoing, the total forfeiture shall not exceed the total forfeiture for equally overweight vehicle, with the same history of convictions, as calculated under the formulas included in Wis. Stat §348.21.
- C. Pursuant to Wis. Stat. §§ 345.47, the Town, shall recover as costs of the action under Wis. Stat. §§814.01 and 814.036, its actual reasonable expert witness and attorney’s fees.
- D. The vehicle need not be physically weighed, nor must the precise weight of the vehicle be shown, to prove a violation of this Ordinance, provided there is clear and convincing circumstantial evidence a violation existed. The manufacturer’s published empty weight of a vehicle shall be presumed to be the empty weight of a vehicle, in the absence of evidence to the contrary.
- E. If any section, clause, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remaining provisions shall not be affected or the charge may be amended to a violation of Wis. Chapter 348.

**SECTION V – EFFECTIVE DATE**

This ordinance shall take effect on the day after its enactment and publication as provided by law.

The above ordinance was duly adopted by the Town Board of Rutland at a regular meeting held on the 18<sup>th</sup> day of March , 2014.

APPROVED:

BY:

\_\_\_\_\_

Edmond P. Minihan, Town Chair

ATTEST:

\_\_\_\_\_

Cathy Hasslinger, Town Clerk

Published:\_\_\_\_\_

**Sec. 19.06            Operation of Motor Vehicle In Place Without  
Permission.**

No person may operate a licensed or unlicensed motor vehicle on private or public land, other than improved roadways, unless the owner of said land first consented to such operation in writing.

**Sec. 19.07            Abandoned Vehicle.**

Pursuant to sec. 342.40(1), Wis. Stats., any vehicle parked on a public highway for 48 or more hours is deemed abandoned. This provision is designed to facilitate snow removal. Any vehicle that has not been removed by the owner after the Town has attempted to notify the owner will be towed at the owner's expense.

**Sec. 19.08            Use of School Bus Lights.**

School bus operators shall use flashing red warning lights in a residence or business district when pupils or other authorized passengers are to be loaded or unloaded at a location at which there are no traffic signals and such persons must cross the street or highway before being loaded or after being unloaded.

**ORDINANCE 19.09**

**TOWN OF DUNN, DANE COUNTY, WISCONSIN**

**AN ORDINANCE TO REPEAL AND RECREATE SECTION 19.09 OF THE TOWN  
OF DUNN CODE OF ORDINANCES**

The Town Board of the Town of Dunn, Dane County, Wisconsin hereby ordains that Chapter 19 Section 19.09 of the General Code of Ordinances, entitled Road Side Parking be repealed and recreated to read as follows:

**Section 19.09 Road Side Parking**

**Purpose:** The purpose of this ordinance is to ensure safety of citizens by specifying where parking is not allowed due to increased risk of danger.

WI State Statute §346.50 through and including WI State Statute § 346.55 are adopted.

**General:** Vehicles and/or trailers parked on the side of any road shall not interfere with traffic; impede municipal snow removal efforts; obstruct the line of sight of persons traveling in vehicles on that road; and/or otherwise create a public safety hazard.

**Unpaved Roads:** Vehicles and/or trailers parked on the side of any unpaved road shall not obstruct the flow of traffic on that road.

The Town of Dunn or Dane County Sheriff are the only parking authorities that may restrict parking in the road-right-of-way. It is prohibited for any other person or organization to place obstacles, signs, or otherwise prevent the public from parking in the town road-right-of-way area.

**Vehicles for Sale:** No person may park any vehicle for the purposes of displaying such vehicle for sale on any highway or right of way of any highway.

Parking Shall be prohibited in the areas on the map Exhibit A.

No Parking with Trailers in the areas on the map Exhibit B.

Parking shall be prohibited seasonally November to April in accordance with posted signage in the areas on the map Exhibit C.

No person shall park or leave standing any vehicle:

1. Within an intersection or traffic lane.
2. Alongside or opposite any road excavation or obstruction when such stopping or standing would obstruct traffic.
3. In an area restricted by Town of Dunn or Dane County Sheriff Parking signs indicating the prohibition.
4. Upon any bridge or culvert.
5. Along any guardrail.
6. Upon any Town road, facing a direction different from the direction of the normal traffic flow for the lane of traffic adjacent to the parked vehicle.
7. Within four feet of the entrance to any private road or driveway.
8. In any Town park or town owned property outside of designated parking stalls during posted hours.

9. Within fifteen (15) feet upon the approach to any flashing signal, stop sign, yield sign, or traffic control sign located at the side of a roadway.
10. Parking spots reserved for disabled as indicated by signage unless qualified by disability and displaying disability registration or disability hang-tag.
11. Parking in a cul-de-sac, dead-end turn around area is prohibited. These areas are reserved for municipal truck and emergency response vehicle turn-around or access.
12. Any trailer not hooked-up to a motor vehicle, or other storage of material is prohibited from parking on any Town Road or road right-of way area.

Snow Removal: Parking of vehicles is prohibited along Town Roads for 24 hours after a snowfall of three inches or more. Parking of vehicles is prohibited along town roads during and for 48 hours after an ice or snow event with 10 or more inches of snow or one or more inches of ice.

Forty-eight hour limitation: Vehicle parking is prohibited on any Town road or Town owned and or maintained public parking lot in the Town for a period of 48 or more consecutive hours in the same location at any time, except that where more restrictive parking limits have been established, the more restrictive limits shall apply.

Parking by Permit: Parking permits authorizing parking within the limits printed on the permit, in the town road-right-of-way may be obtained by making an application that is approved by the Town Board or Town Highway Superintendent. Parking permits may be available for one vehicle in the area adjacent to the permit holder's primary residence or temporary permits may be obtained to accommodate road right-of-way use during new single family home construction. Parking permits do not authorize obstructing traffic or snow removal efforts.

Any person, who does not comply with this ordinance shall be fined no less than \$30.00 and no more than \$250.00 per occurrence. Unpaid fines may double after 30 days. Each day that a violation continues shall constitute a separate offense.

Effective Date. This ordinance shall take effect the day after passage and posting or publication pursuant to law.

The above and foregoing ordinance was duly adopted by the Town Board of the Town of Dunn, at its meeting held on Month, Day, 2022.

TOWN OF DUNN, Dane County, Wisconsin

ATTEST:



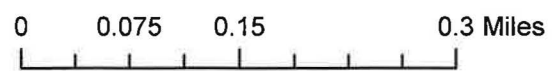
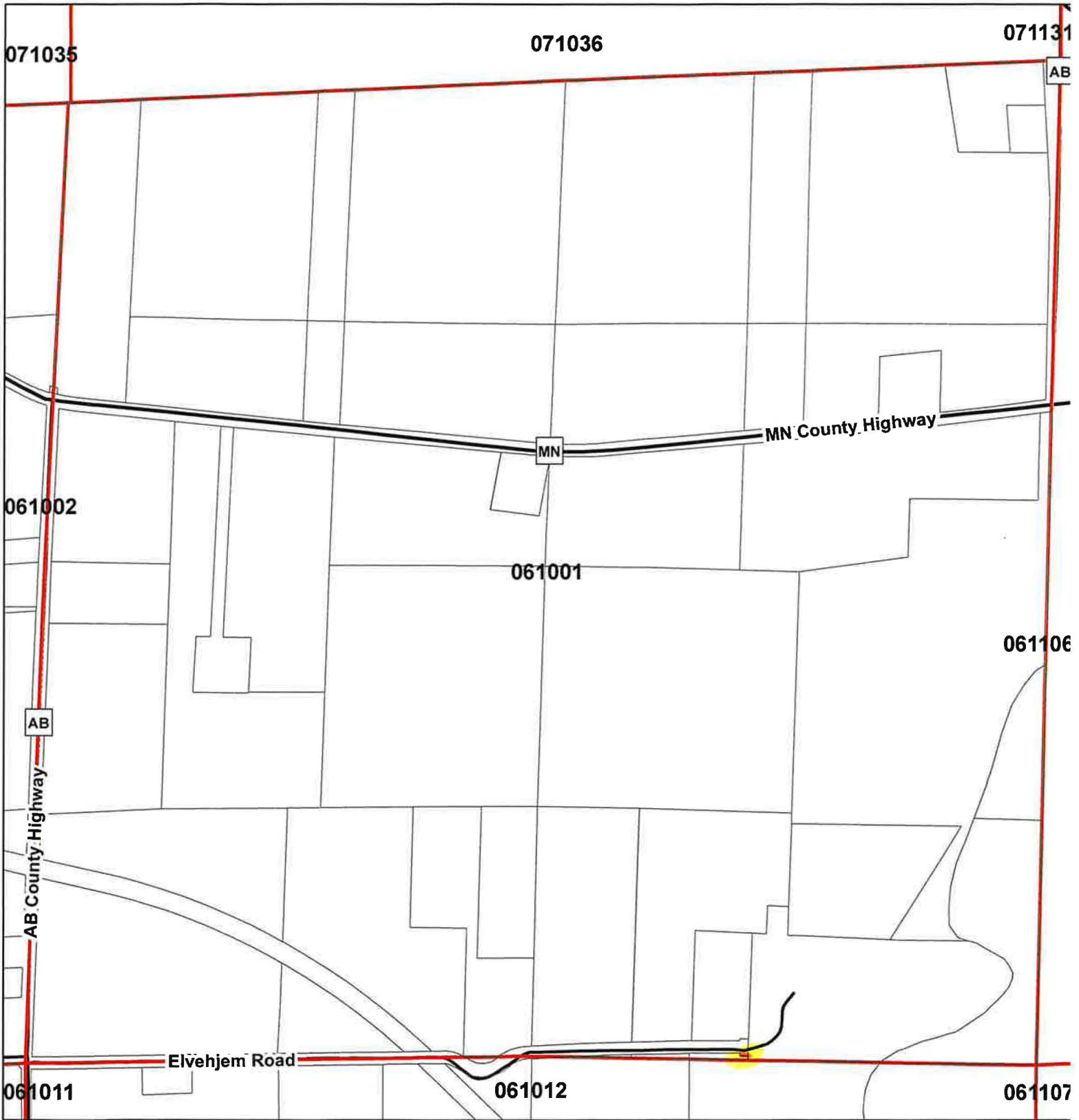
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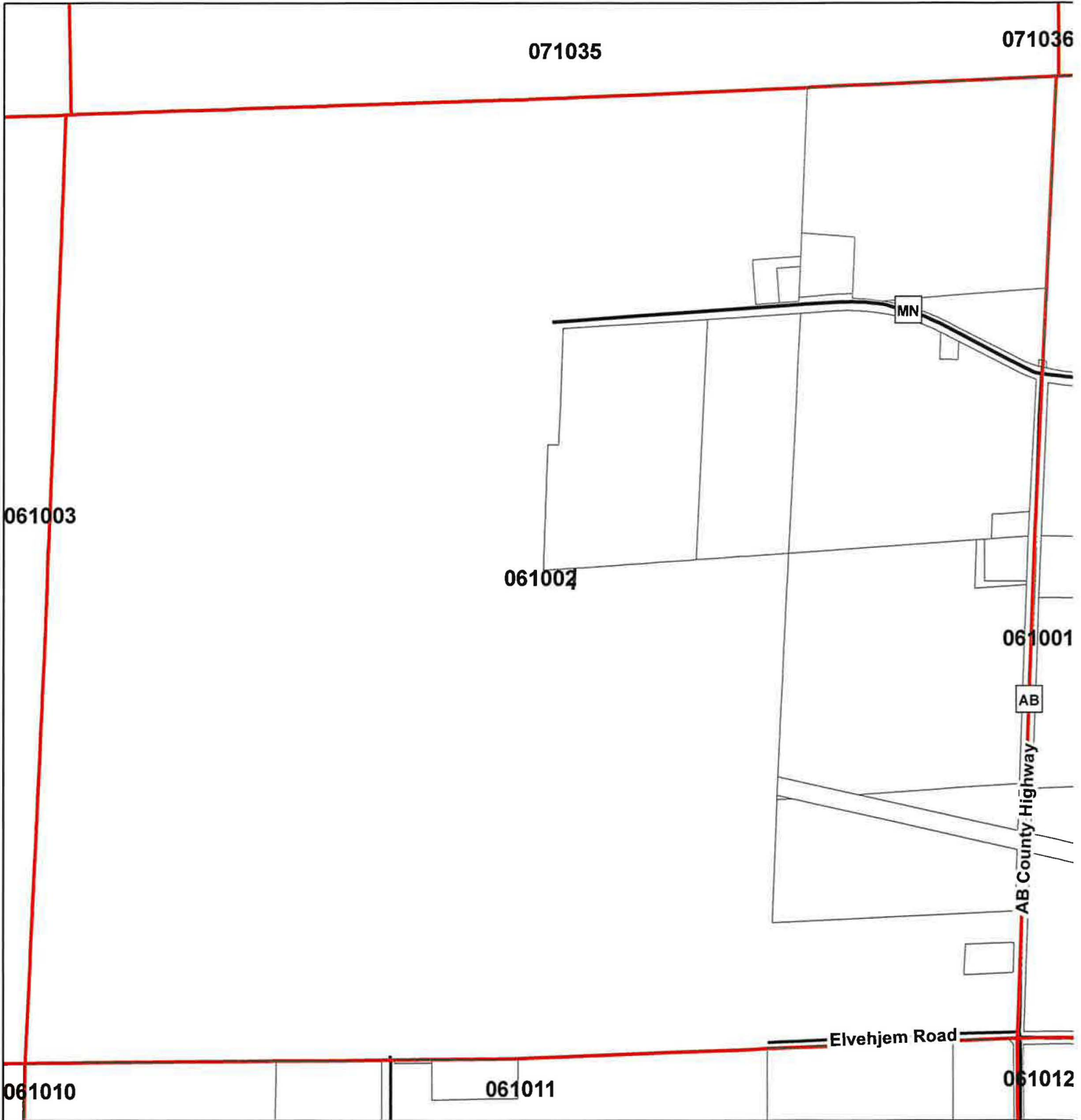
Steve Greb, Town Chair



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Cathy Hasslinger, Clerk/Treasurer

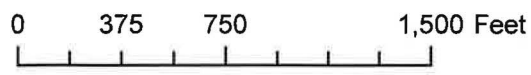
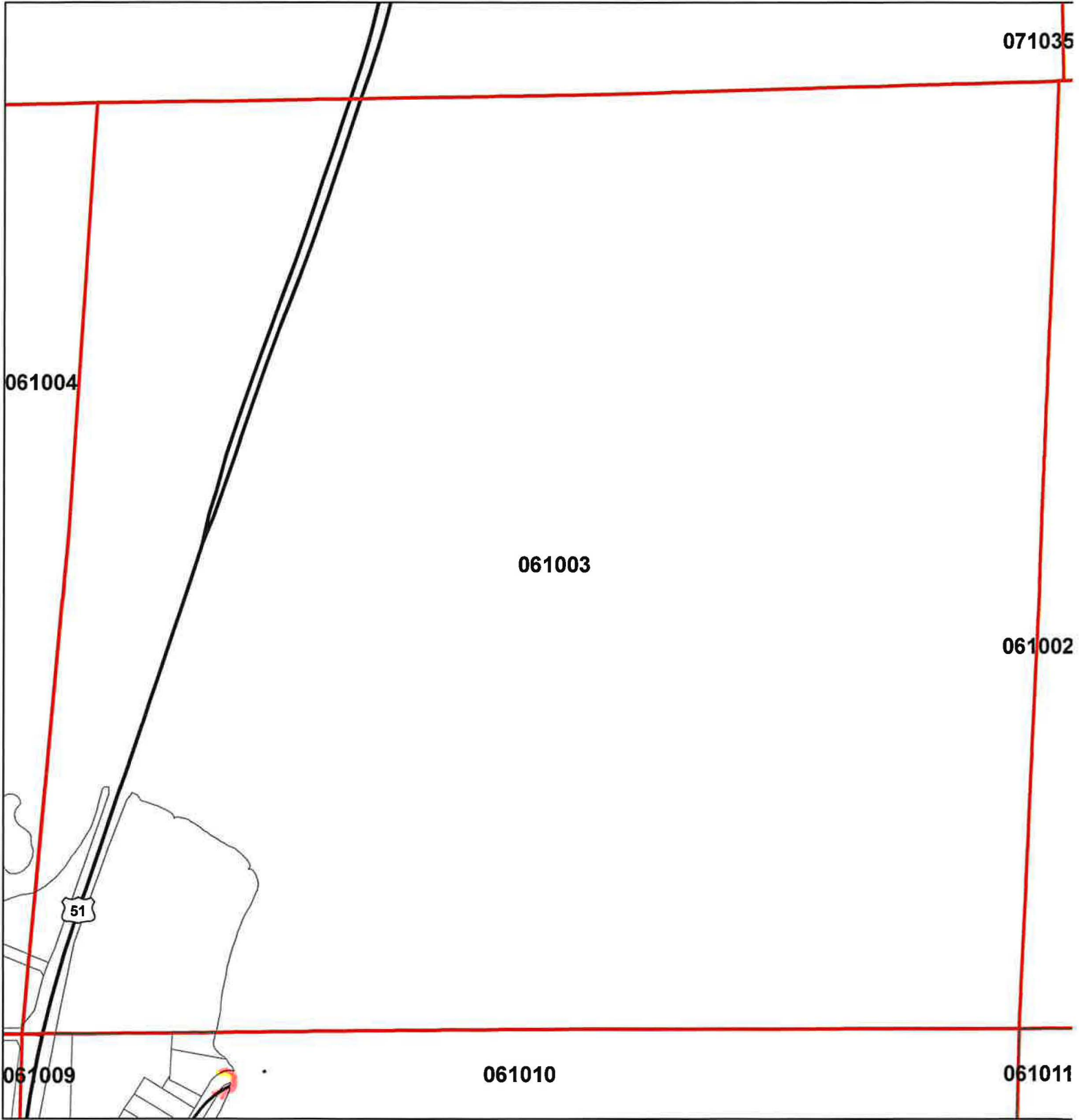




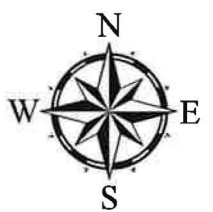
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061004

061003

Camp Leonard Road

Bible Camp Road

51

061008

061009

061010

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071031

071032

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7:AM TO 4:PM  
NO PARKING ANYTIME.

NO PARKING  
6 PM TO  
7 AM

NO PARKING  
ANYTIME

061006

061005

061004

061007

061008

061009

Waucheta Trail

McConnell Street

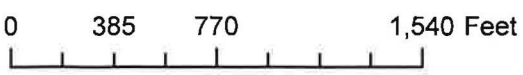
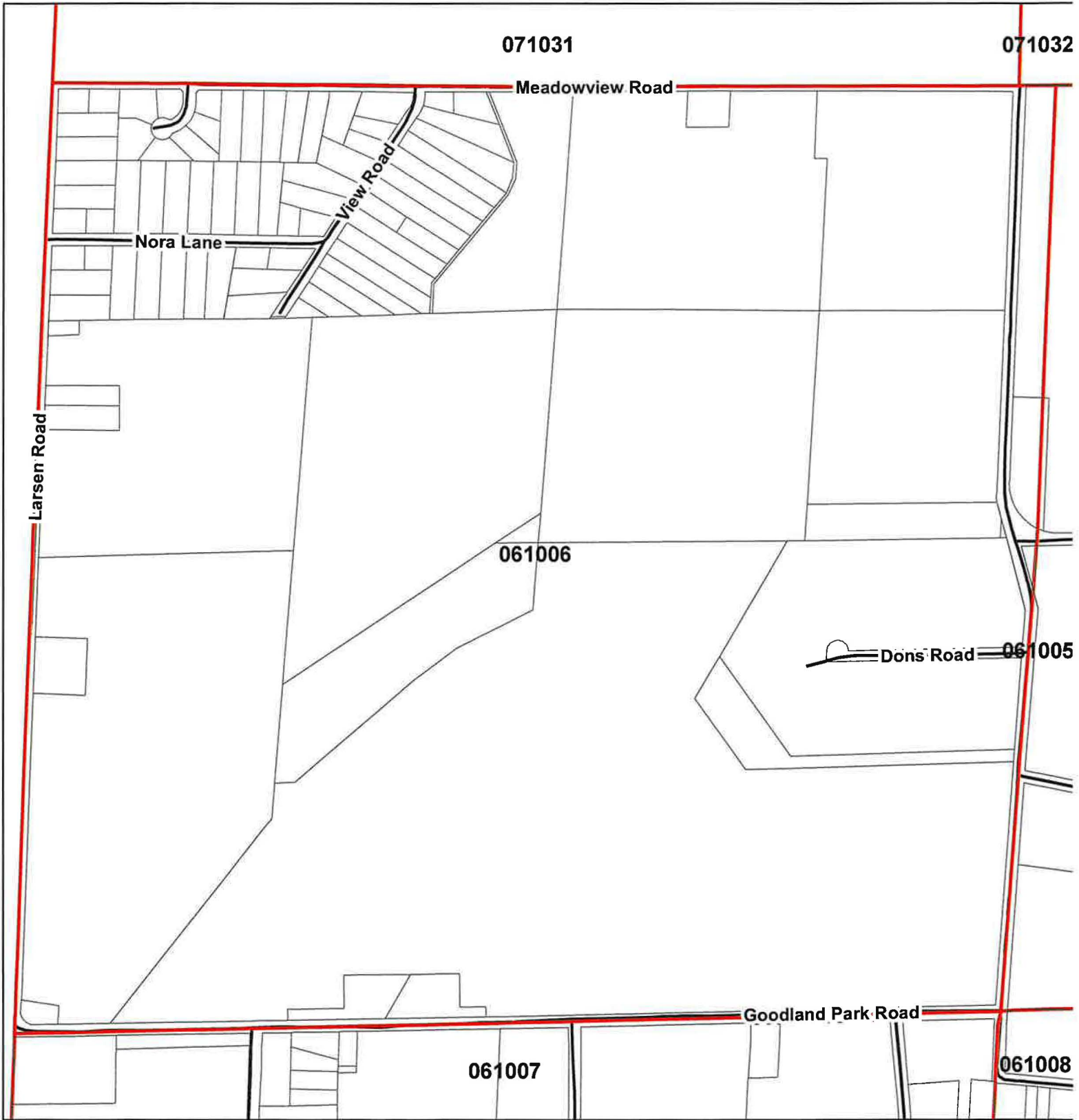
Gannon Street

Waubesa Avenue

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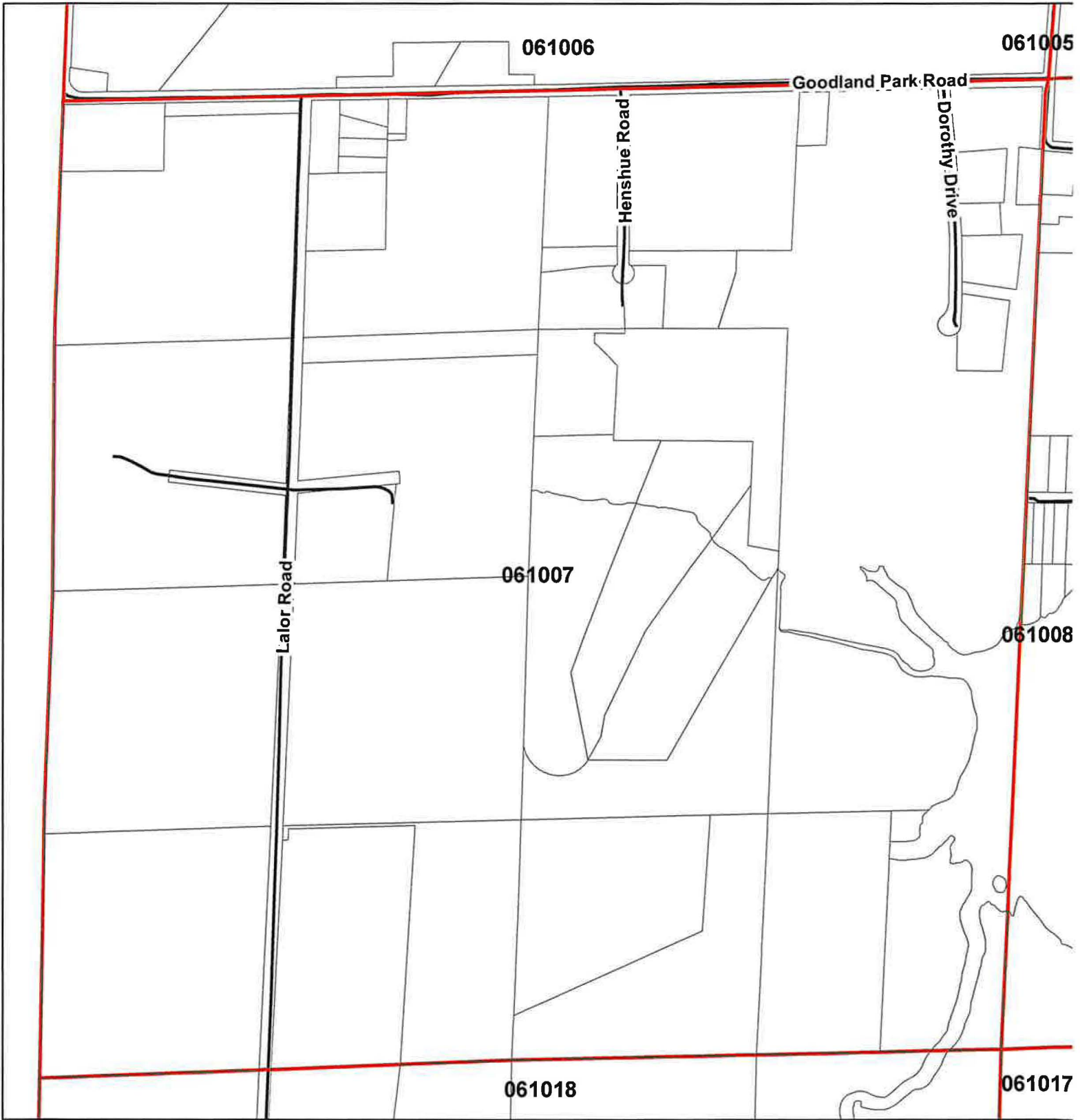
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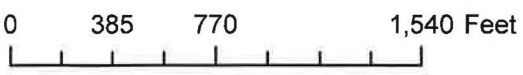
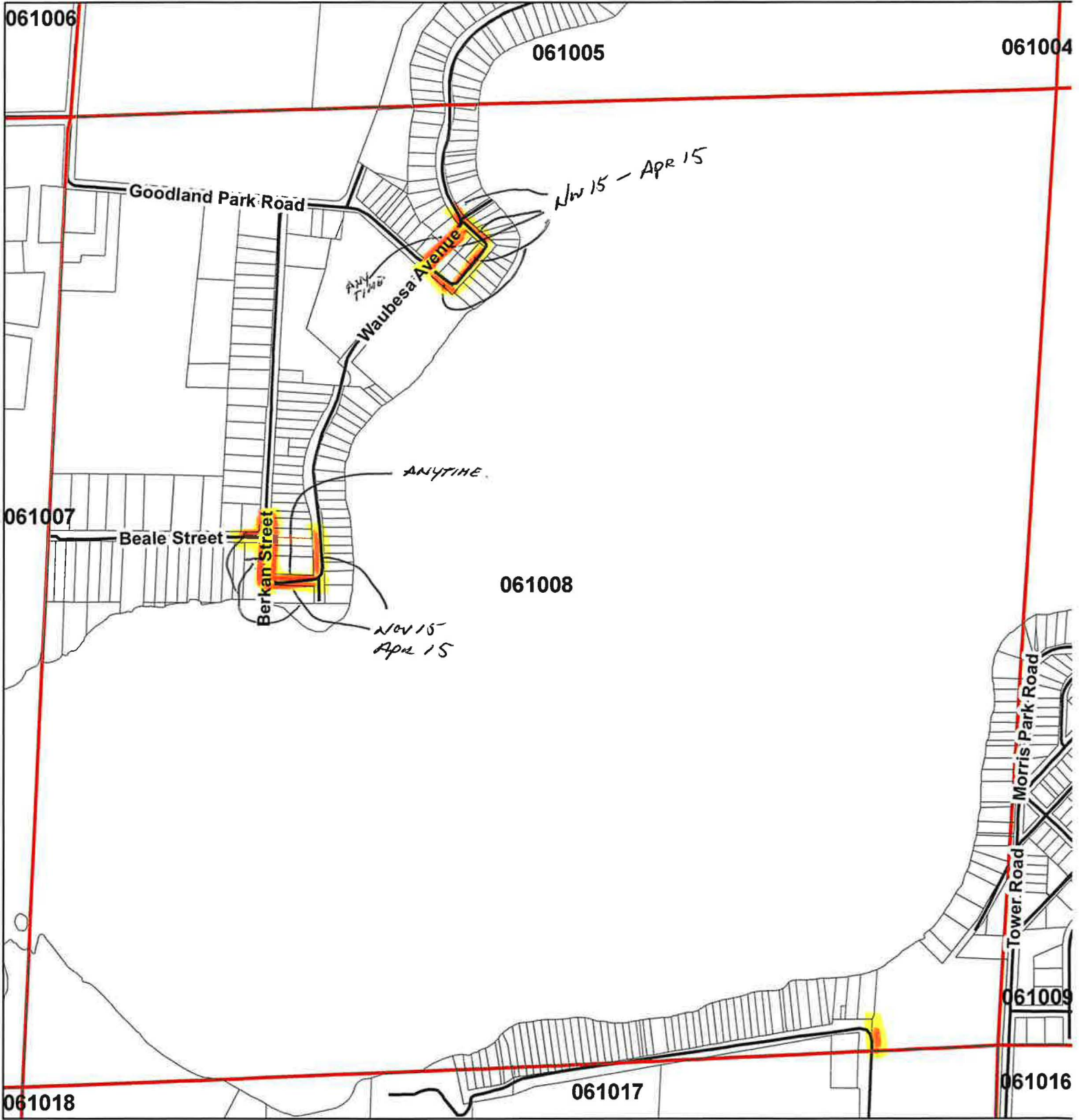


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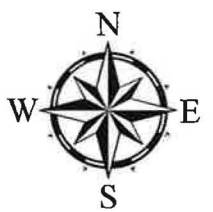
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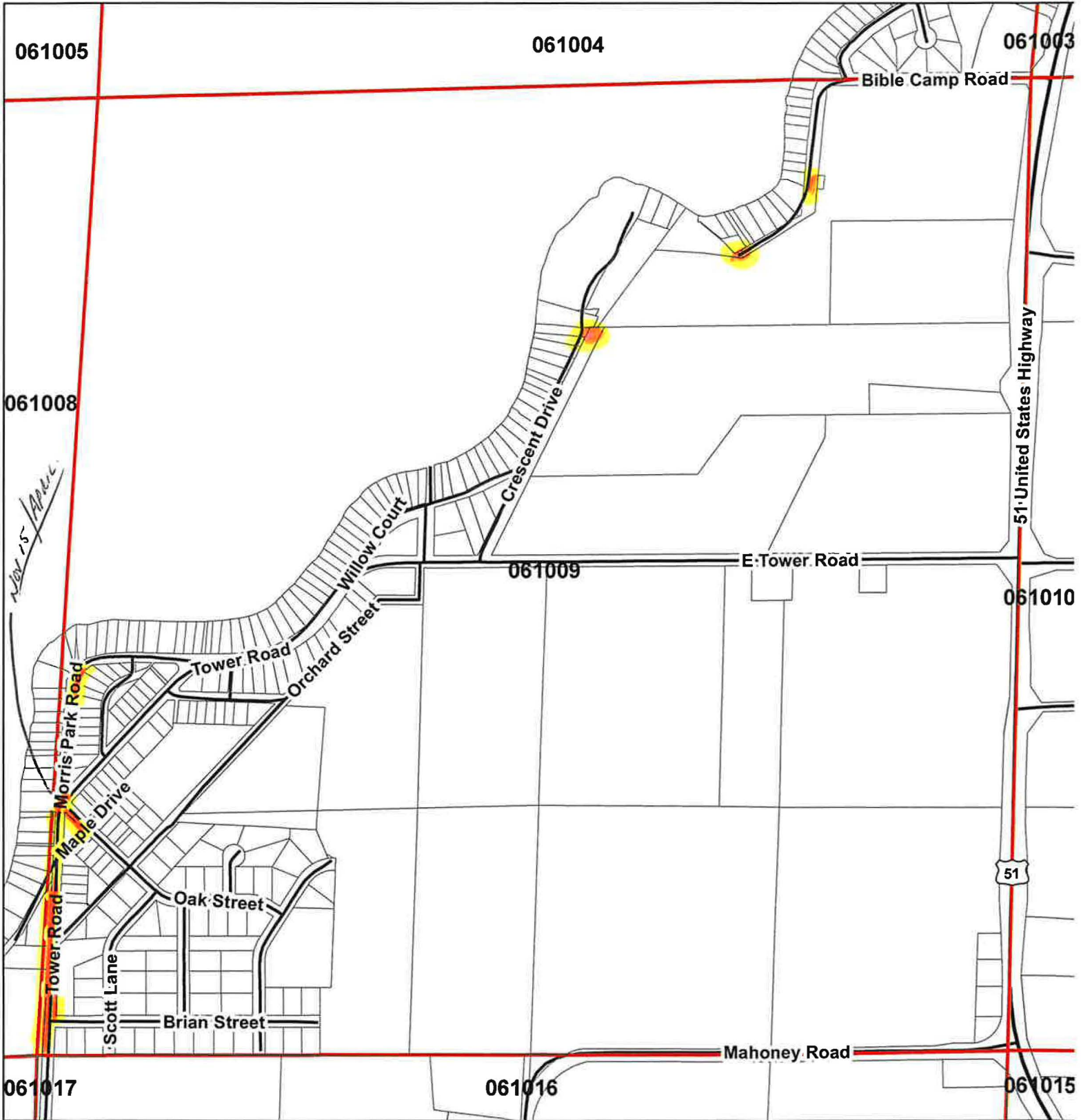






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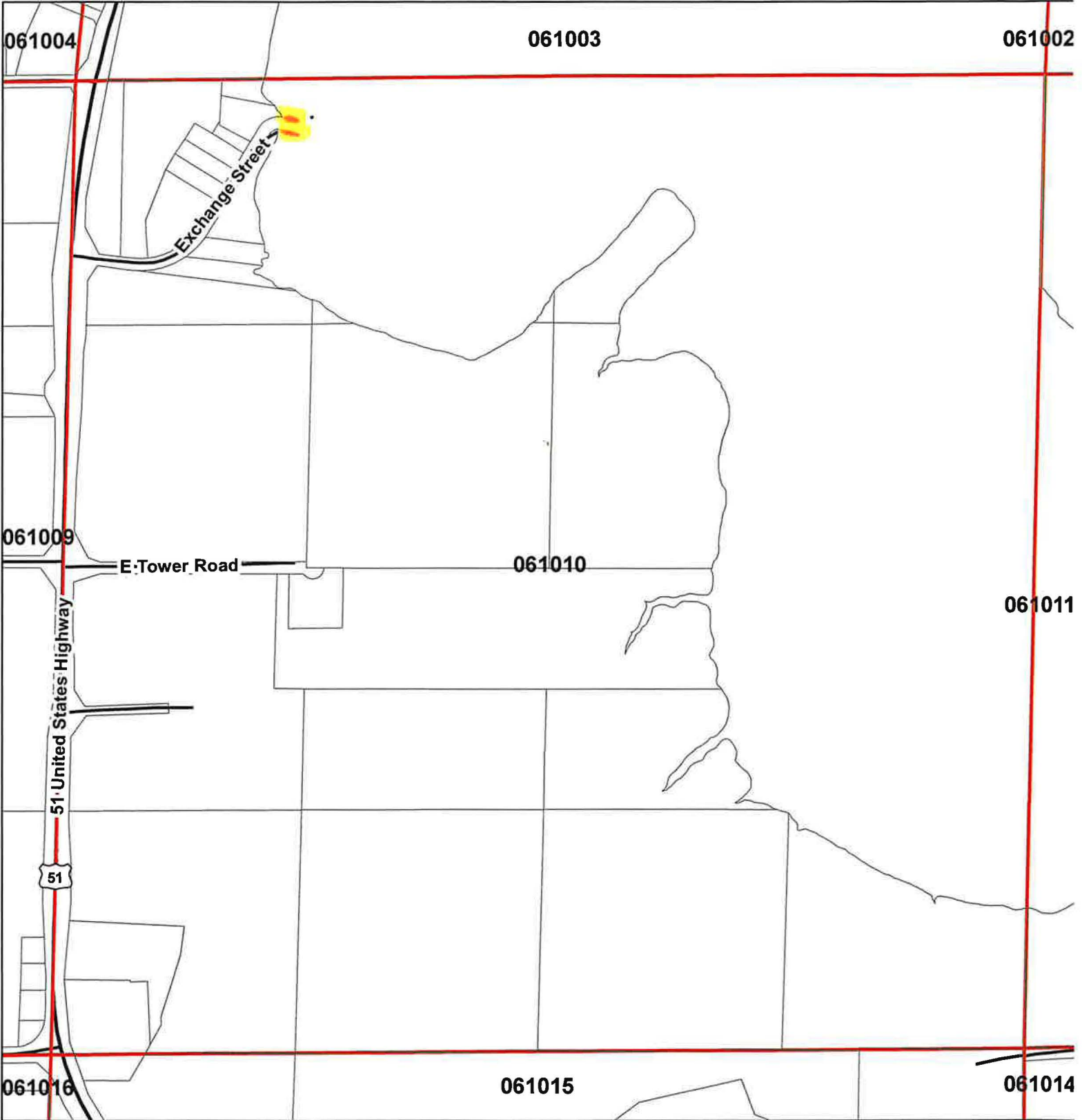




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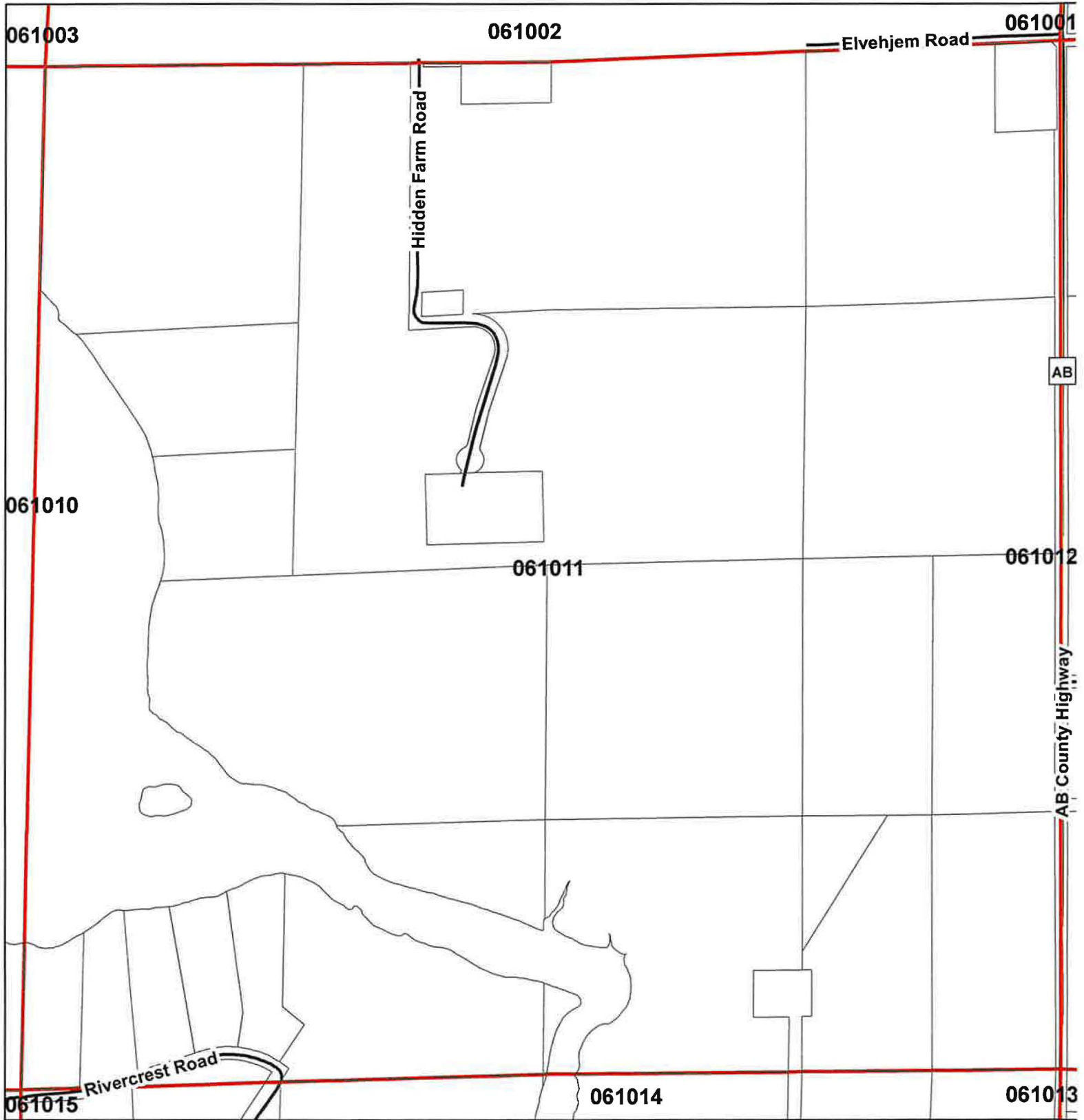


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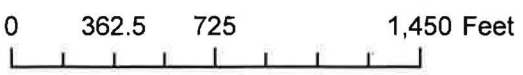
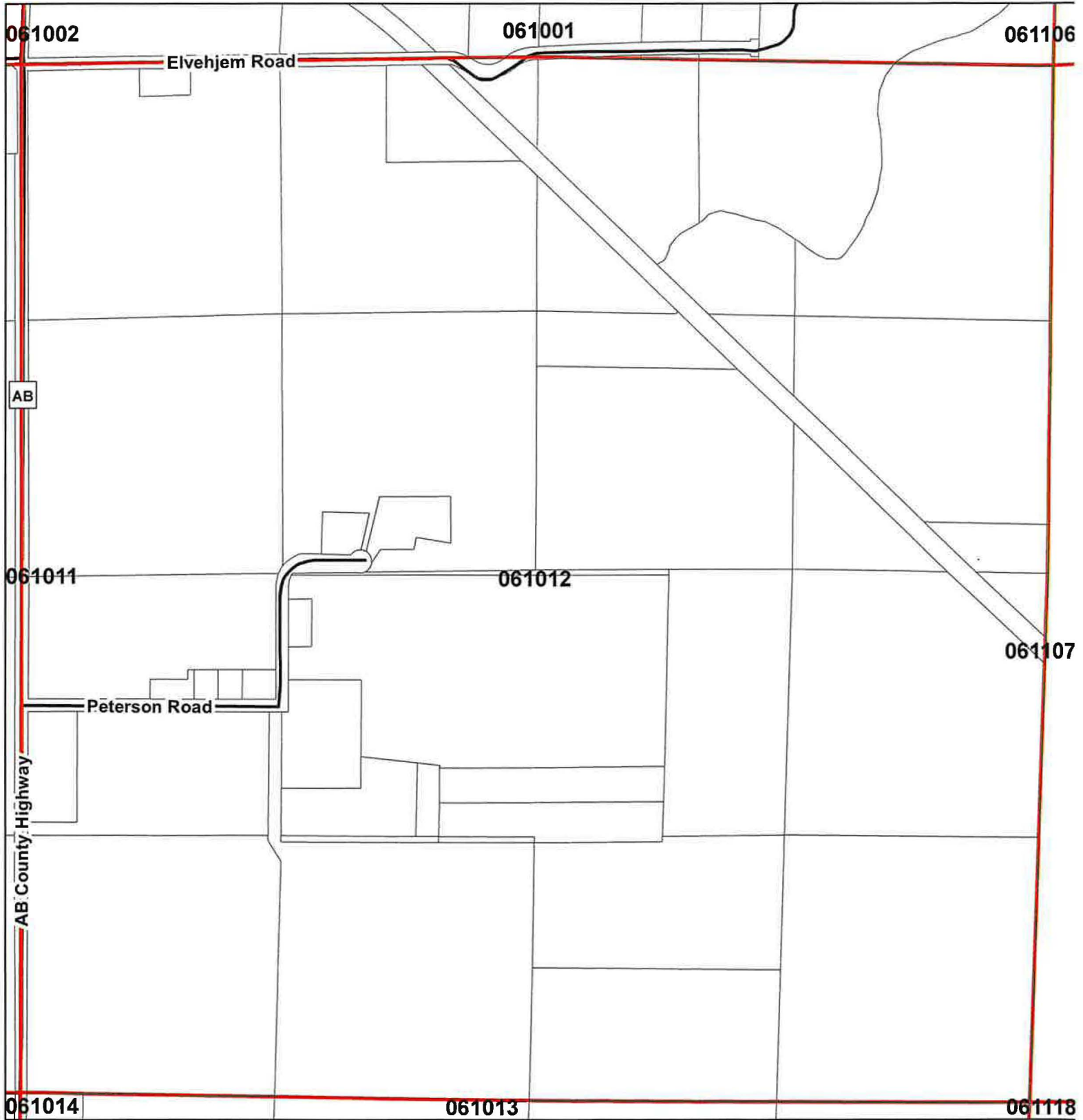




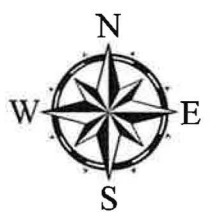
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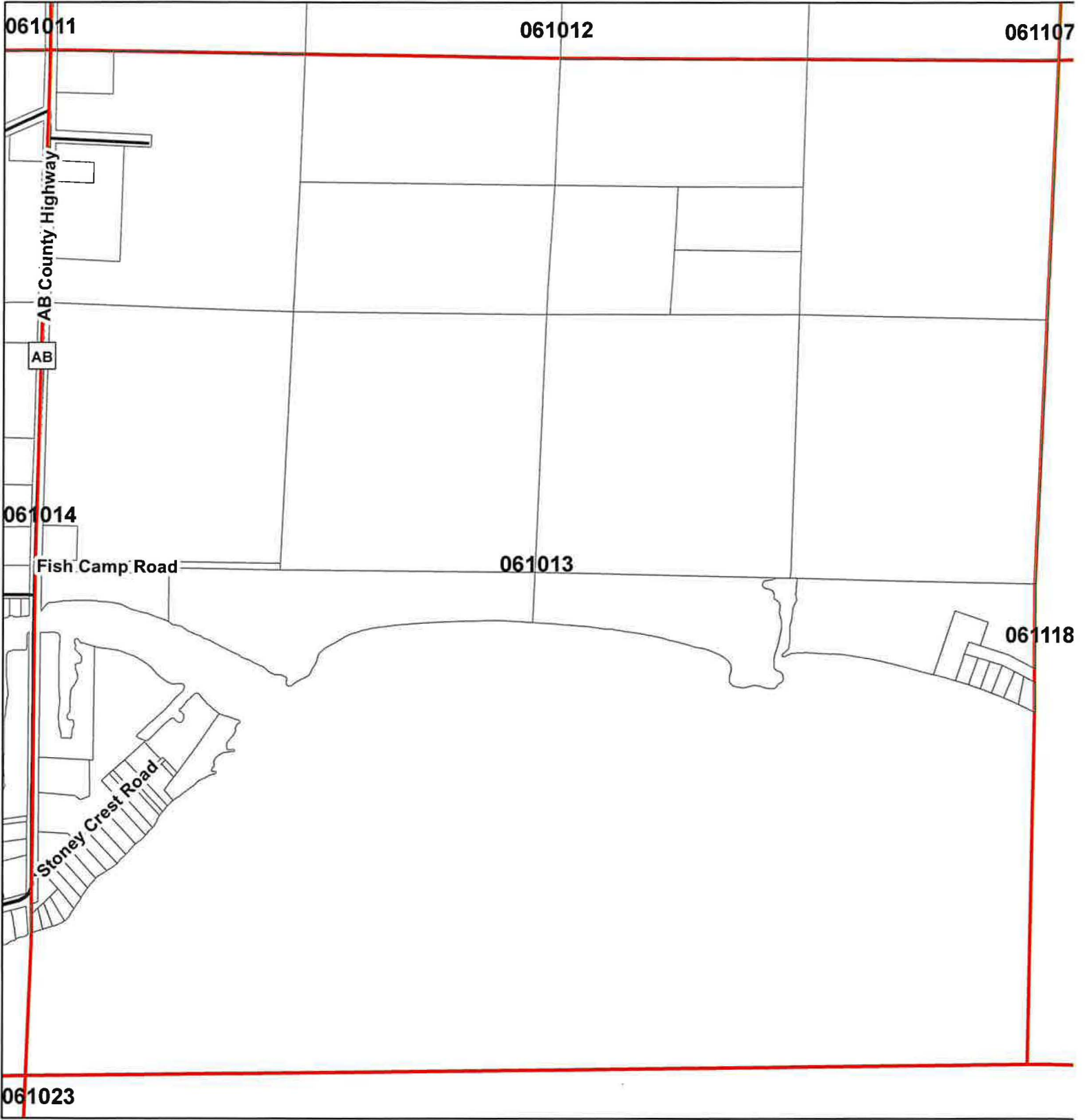
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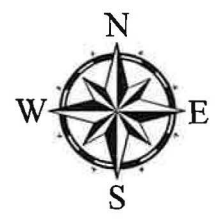
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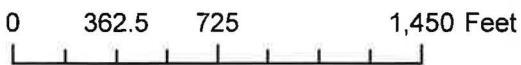
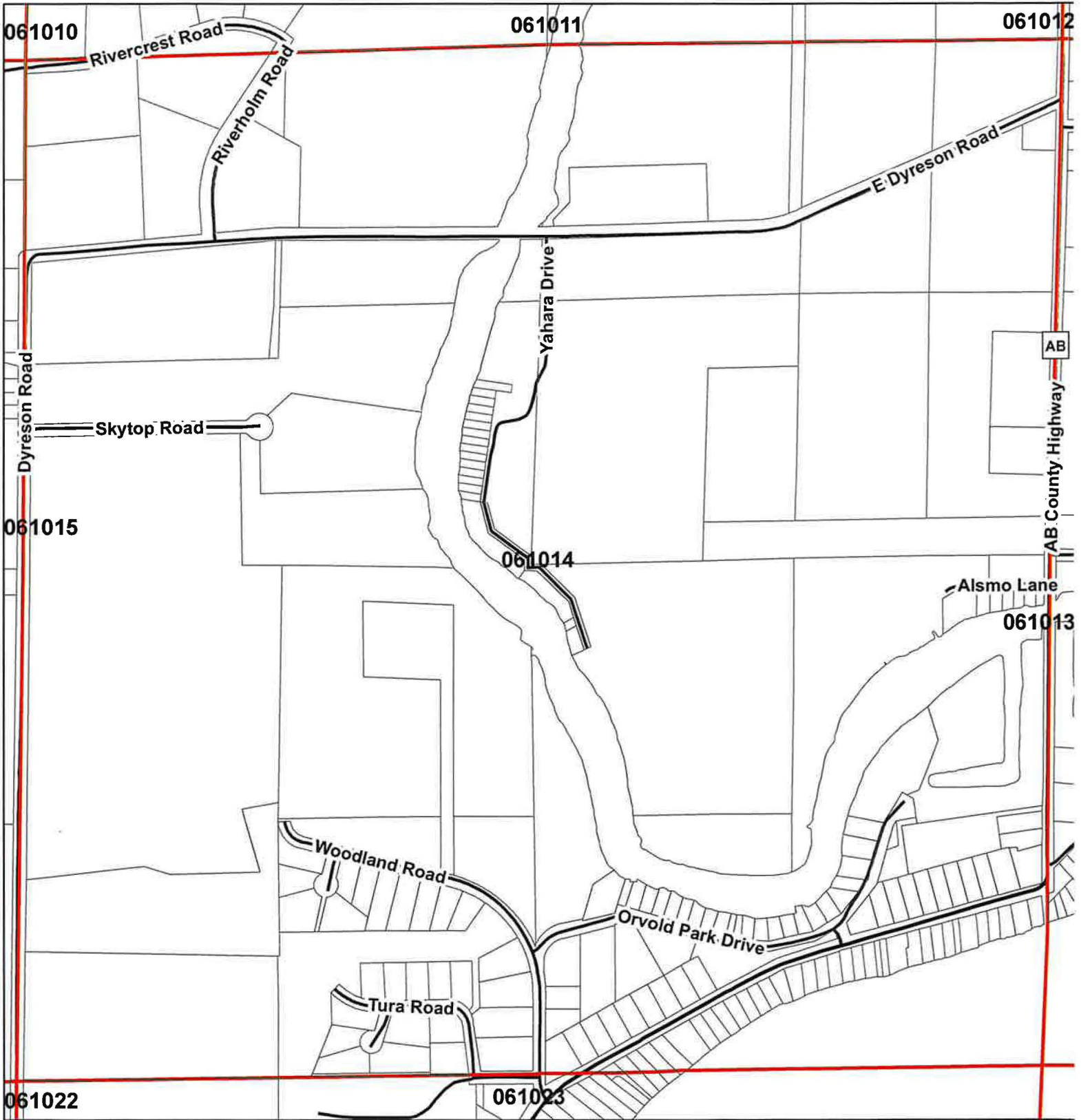




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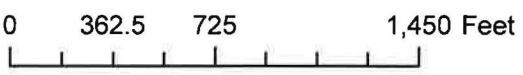
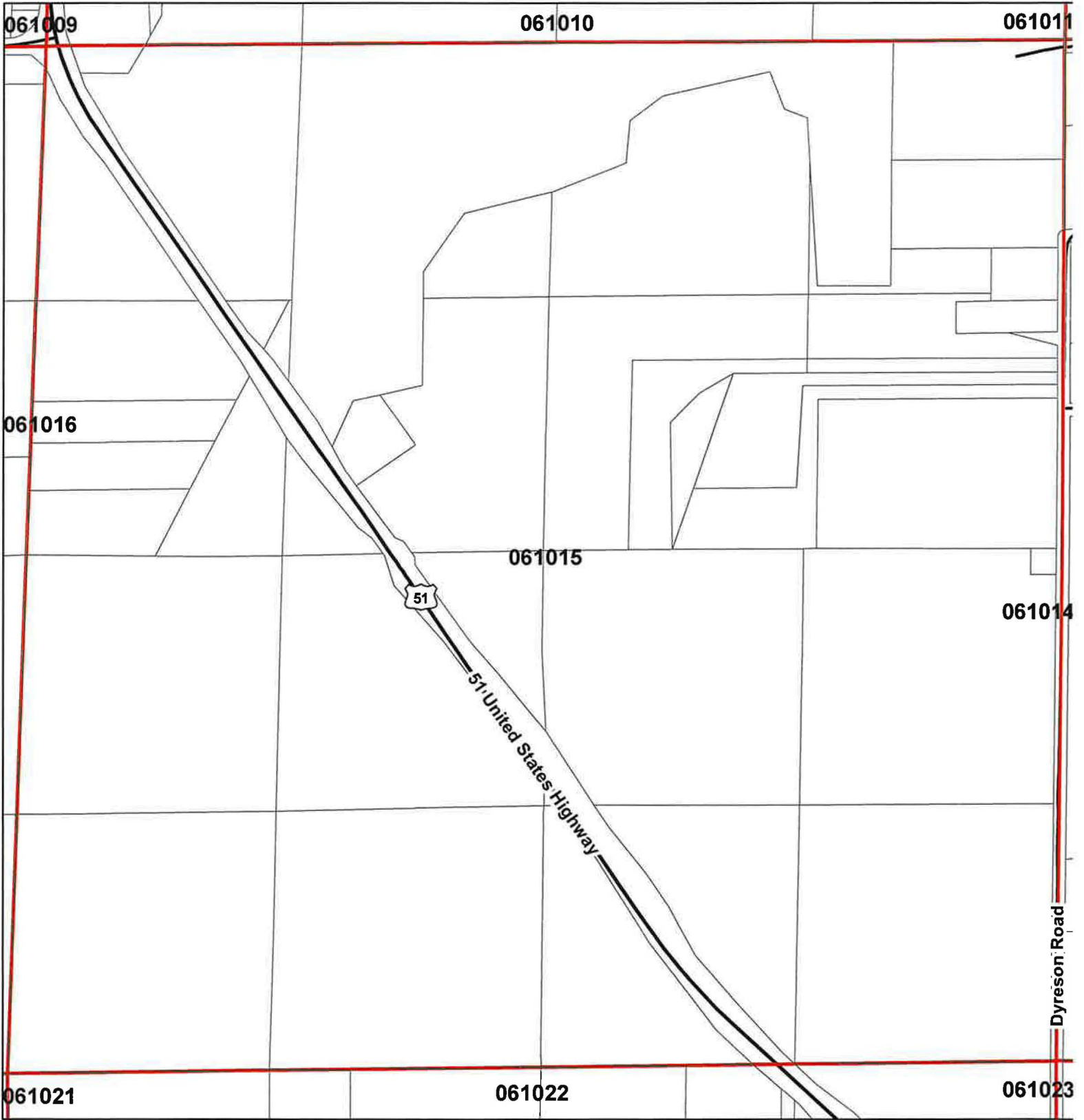




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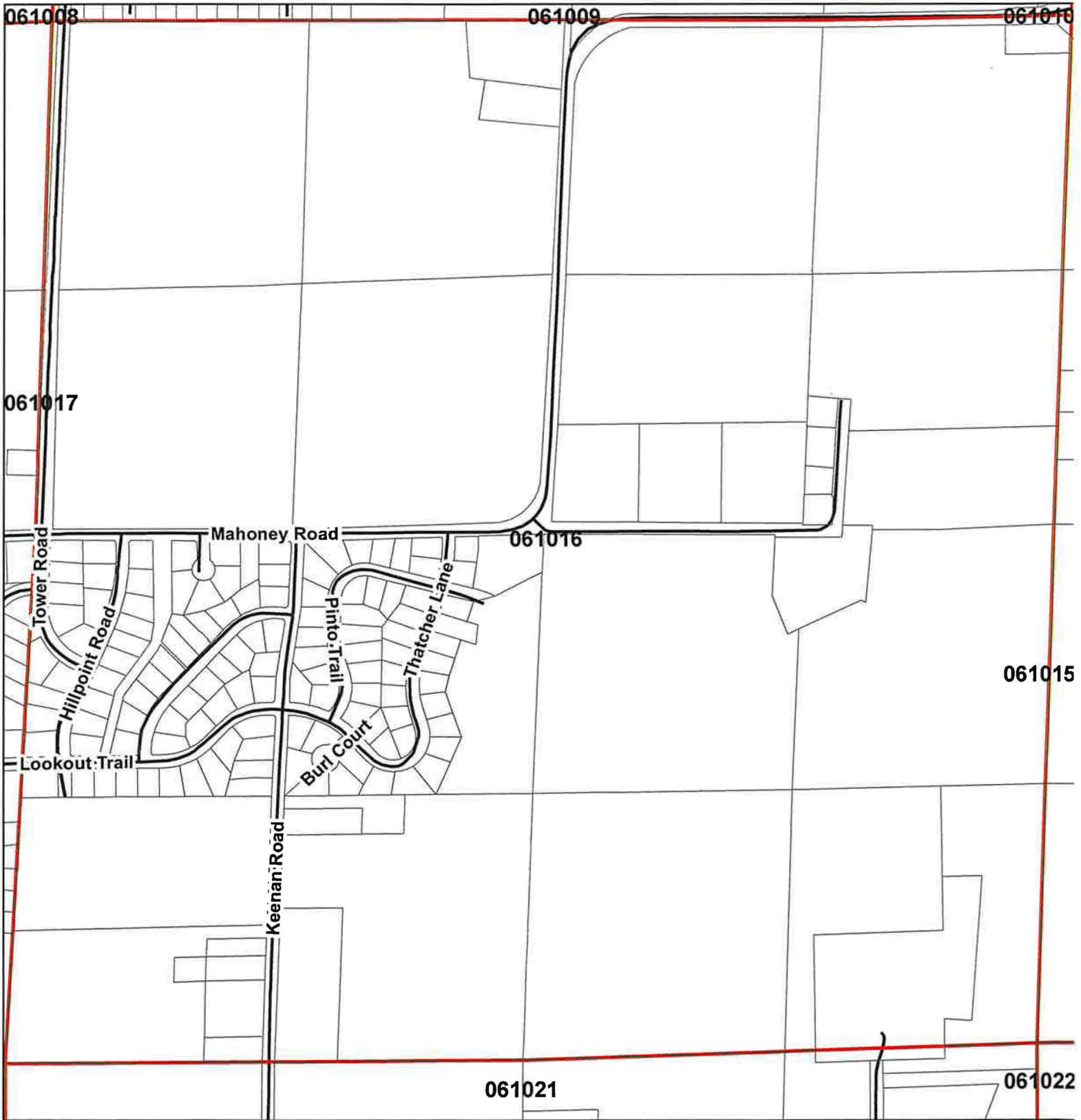






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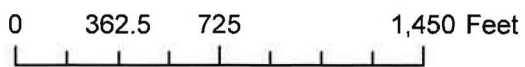




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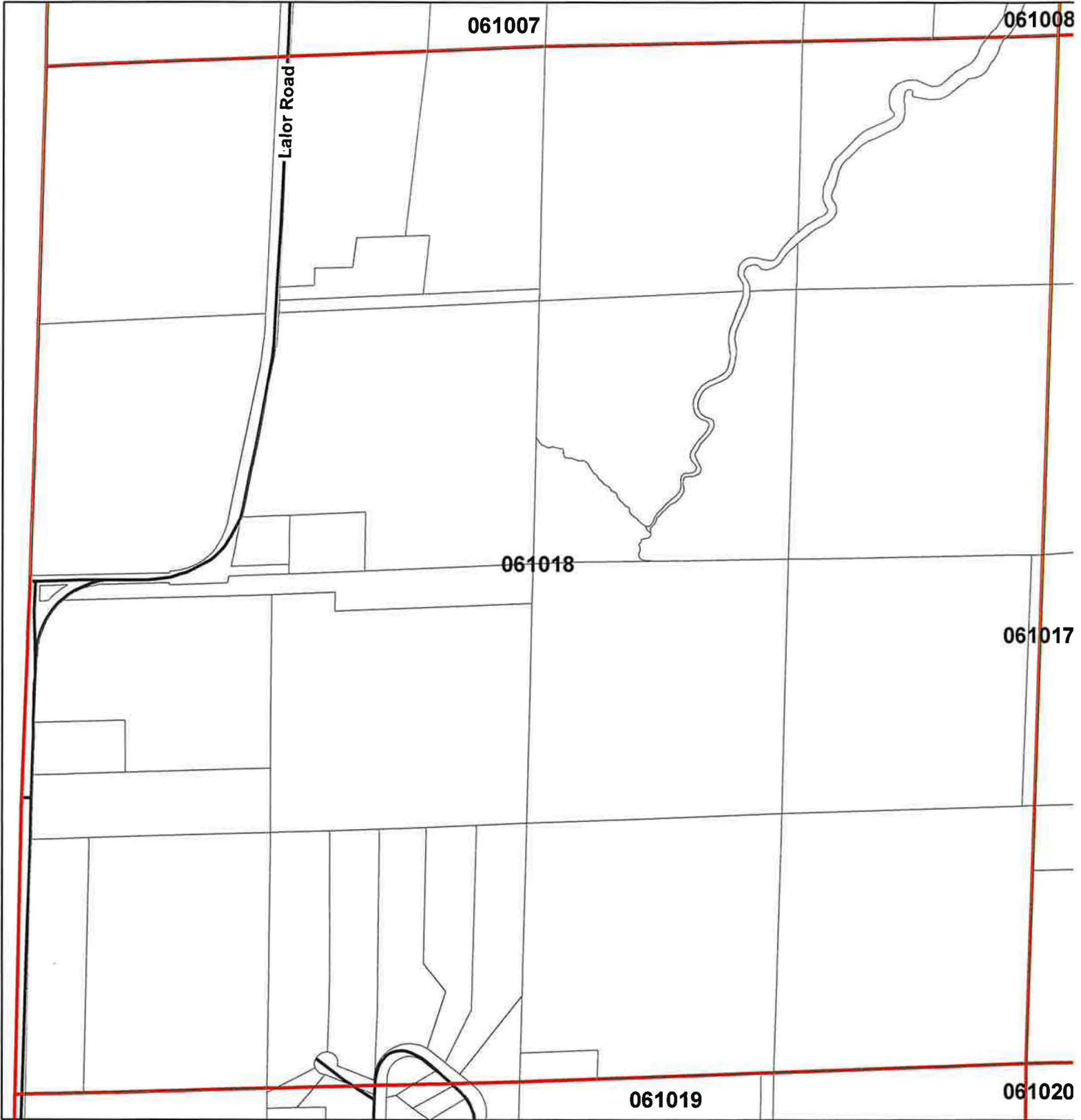
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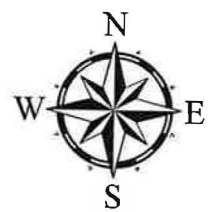


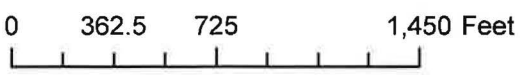
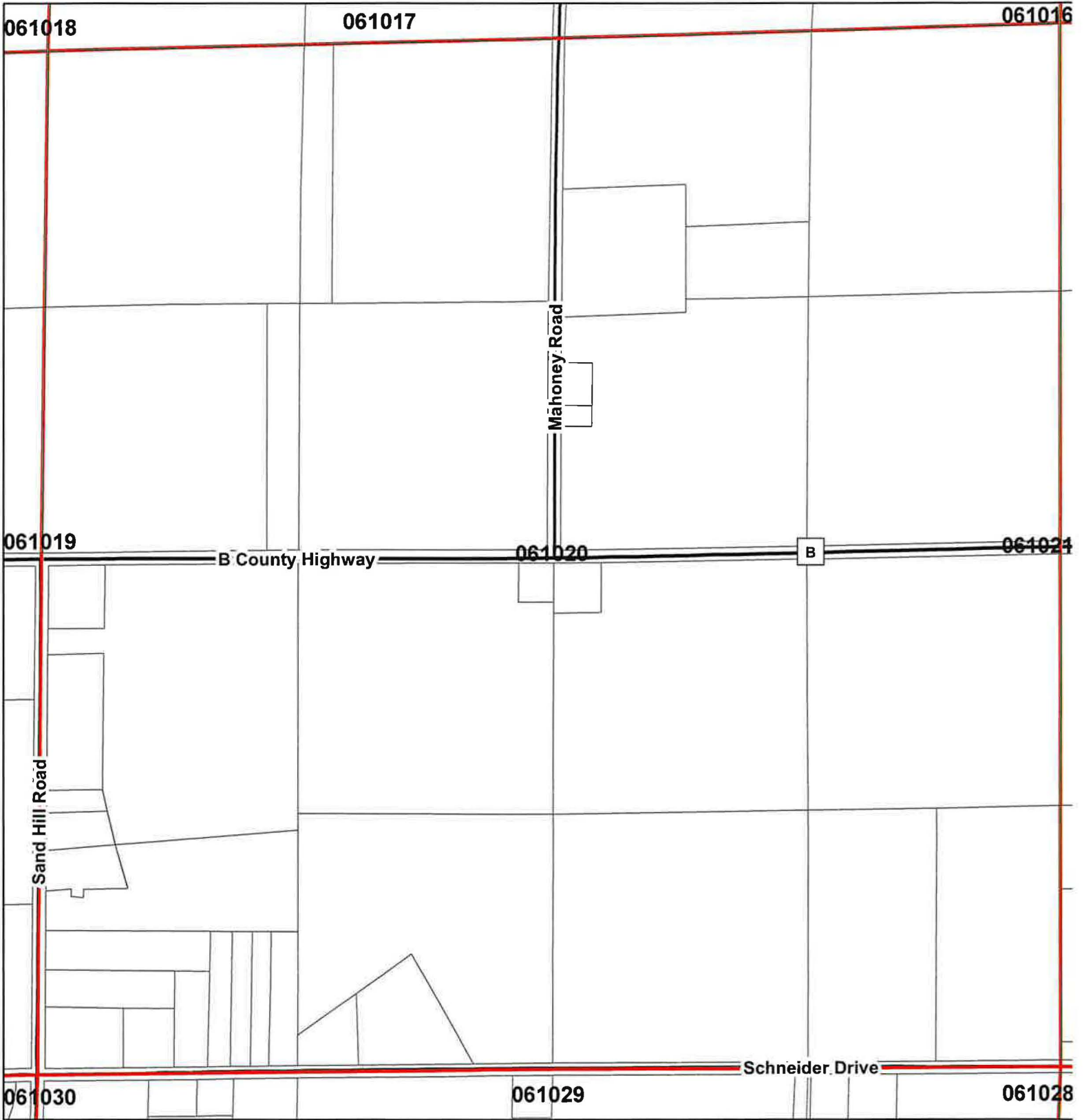




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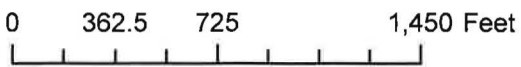
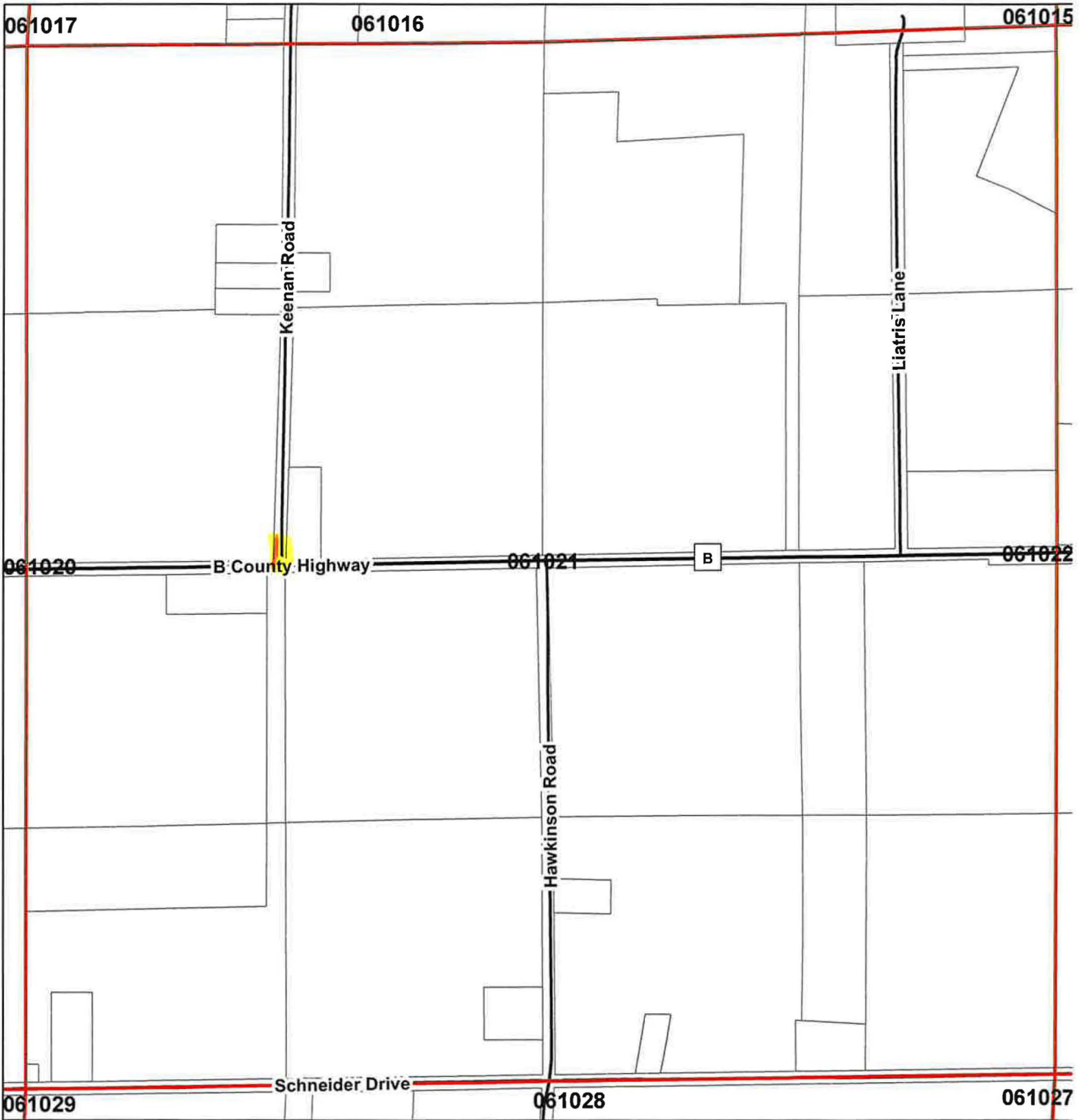
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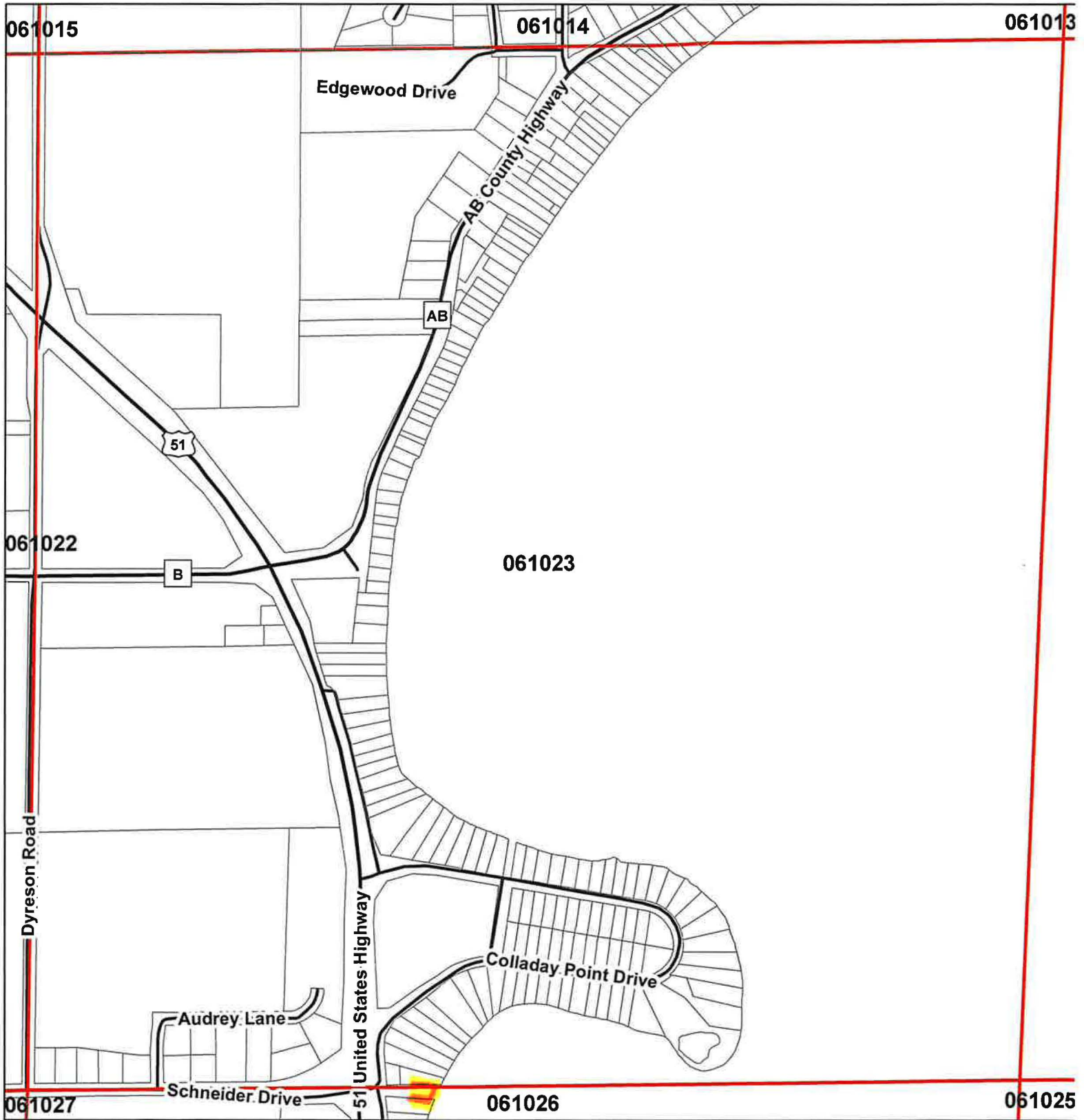




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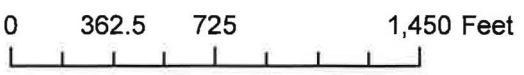
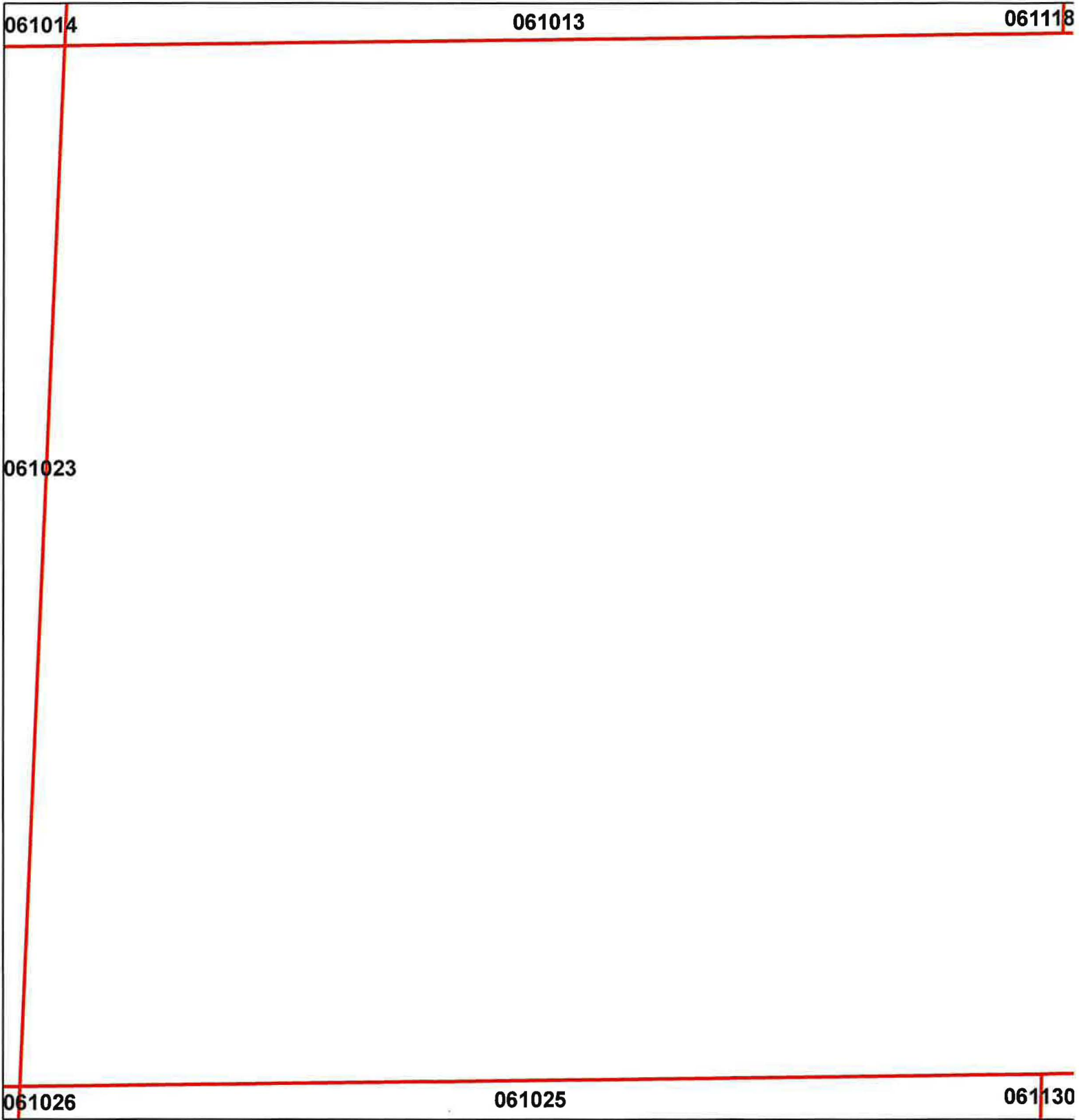


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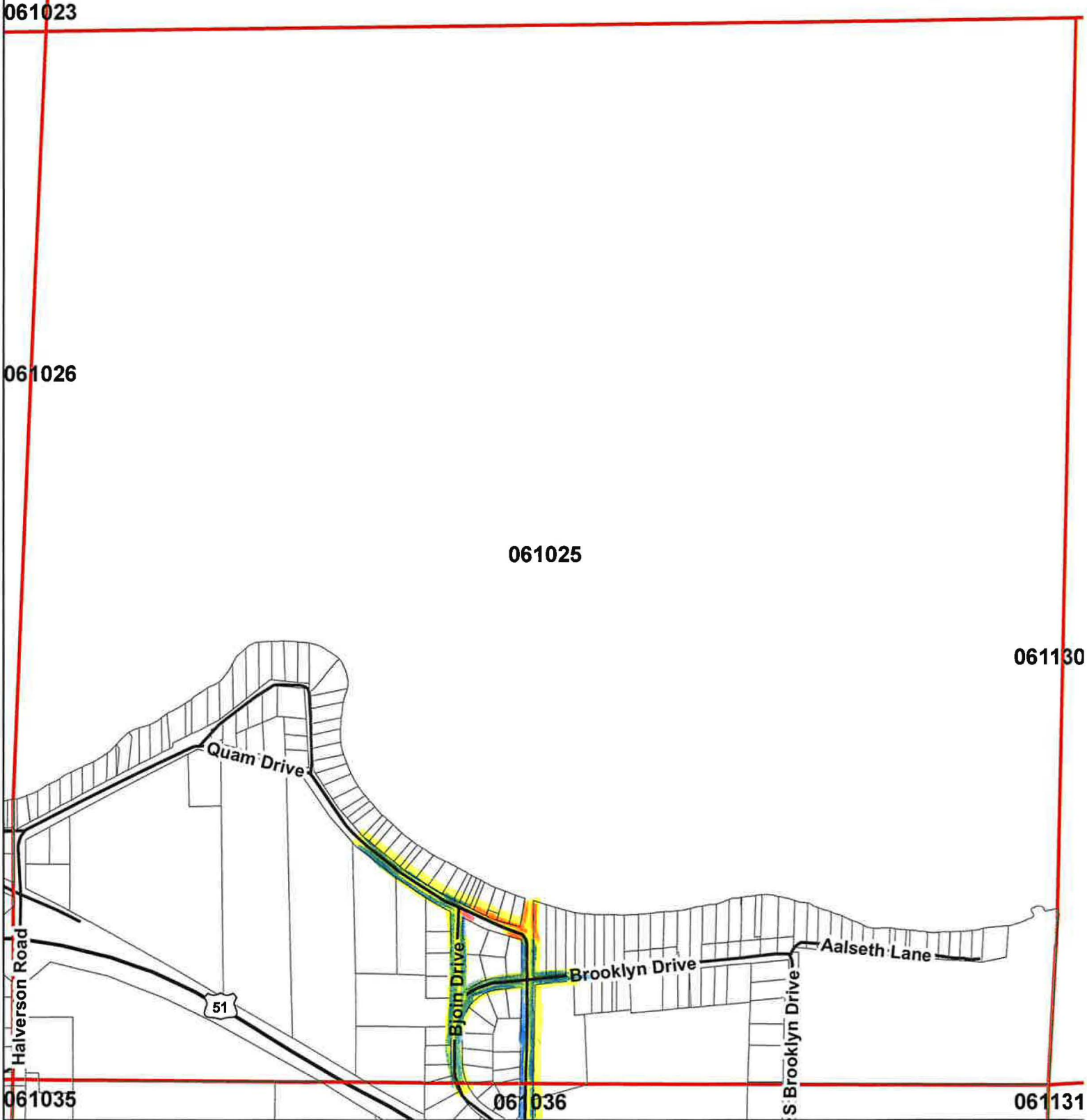






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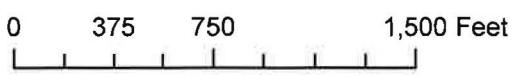
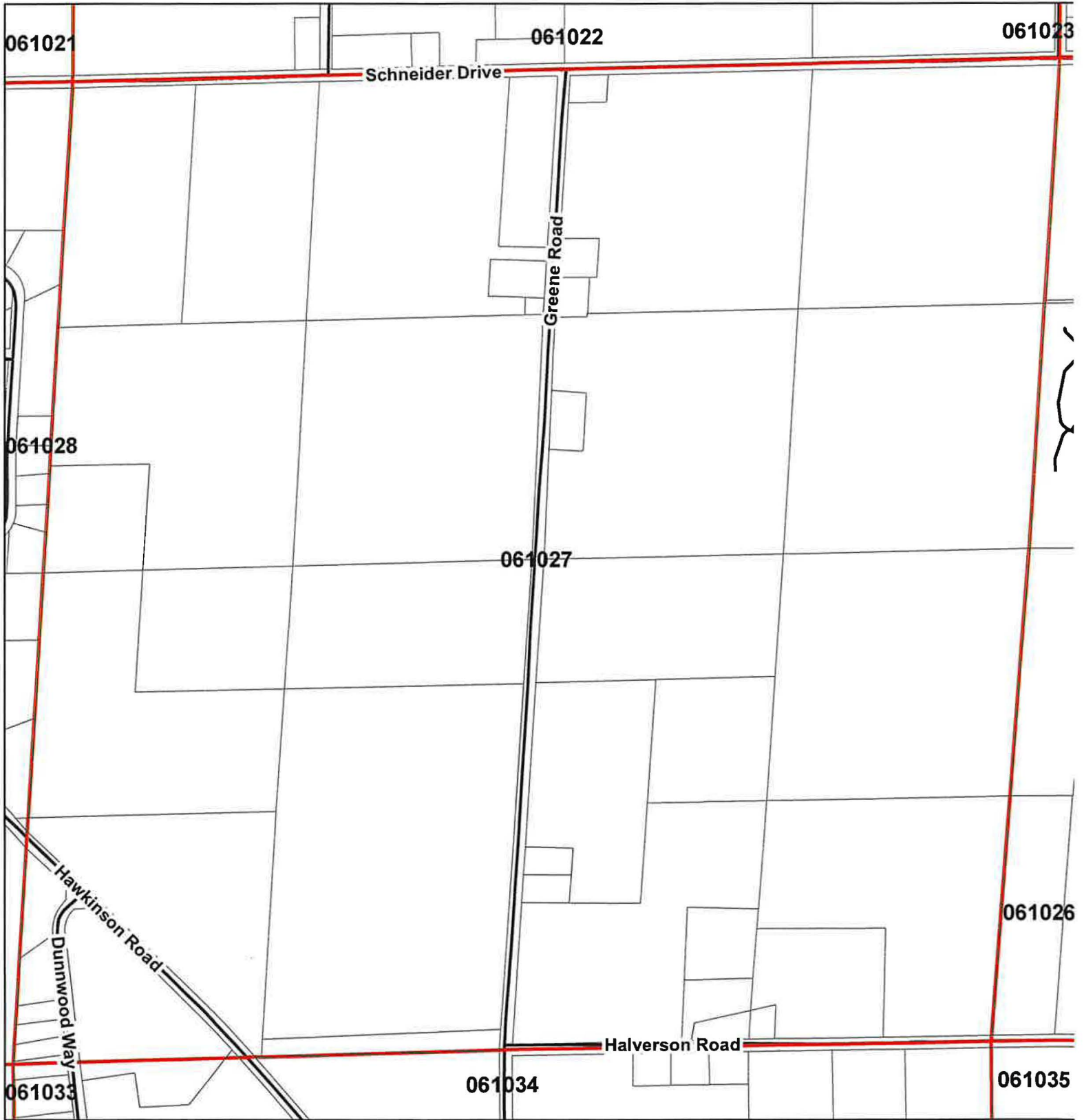


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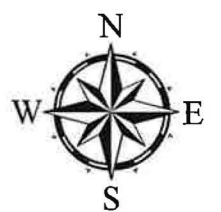
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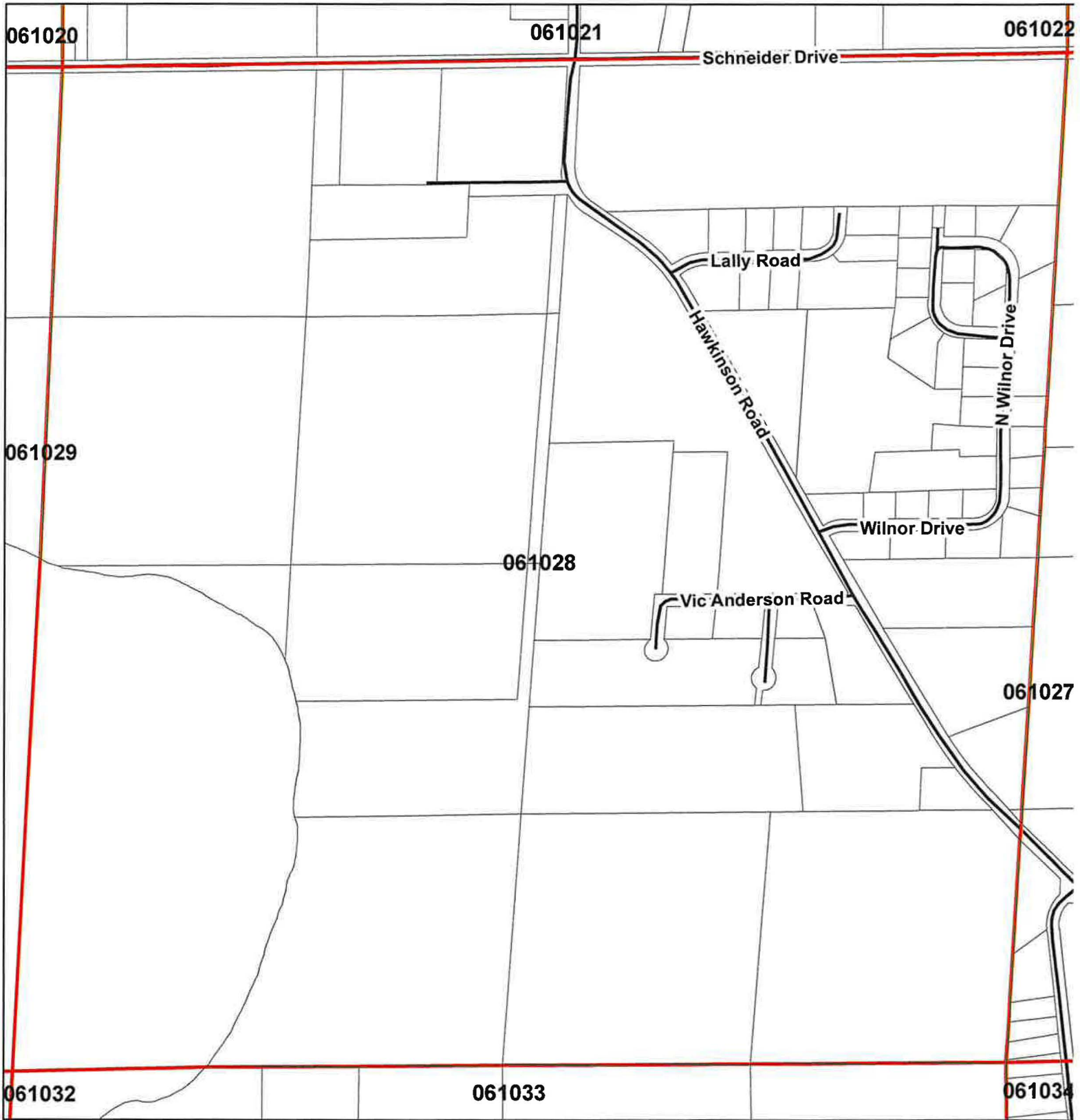






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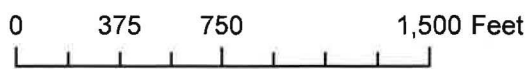
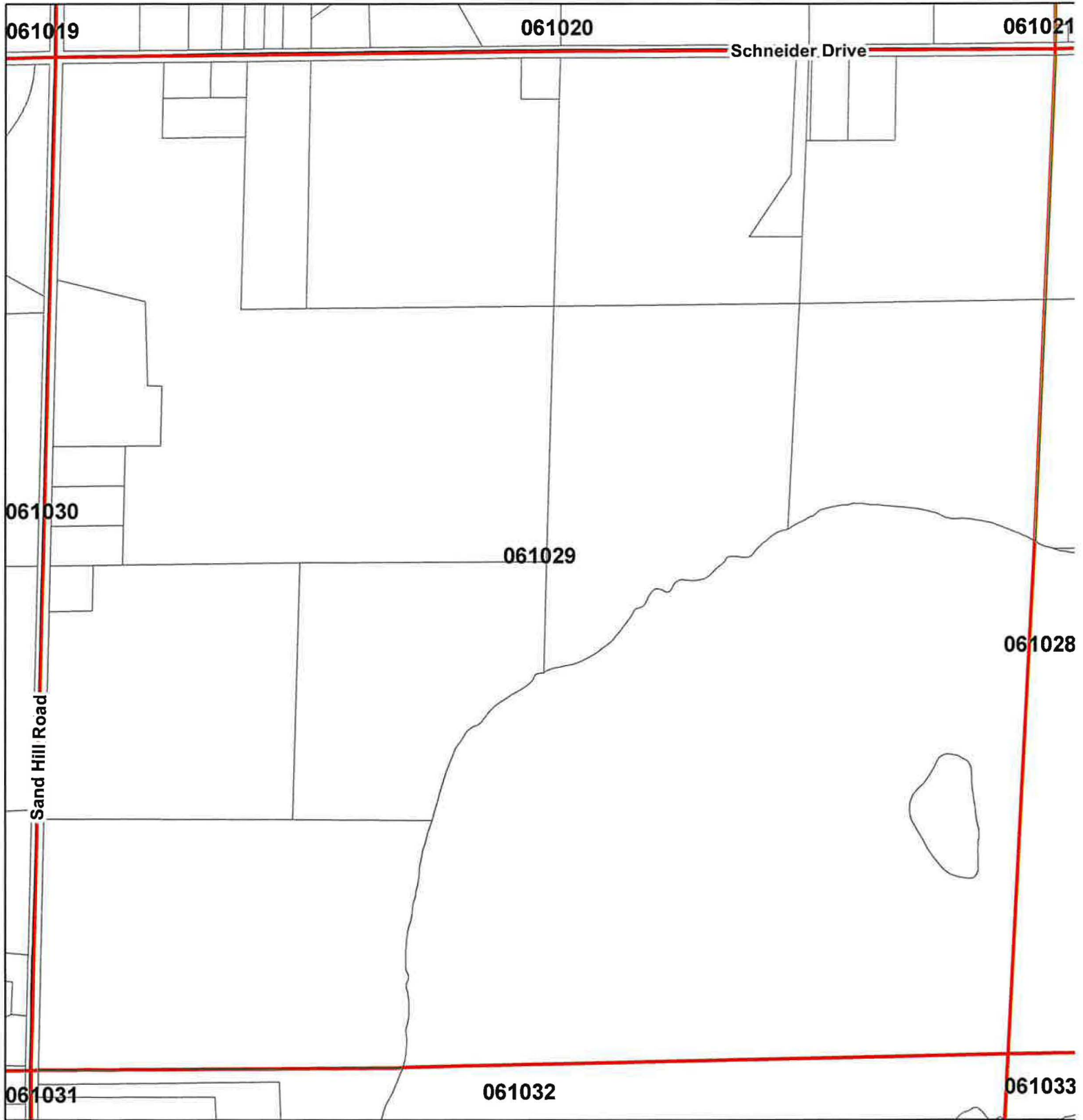




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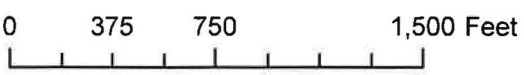
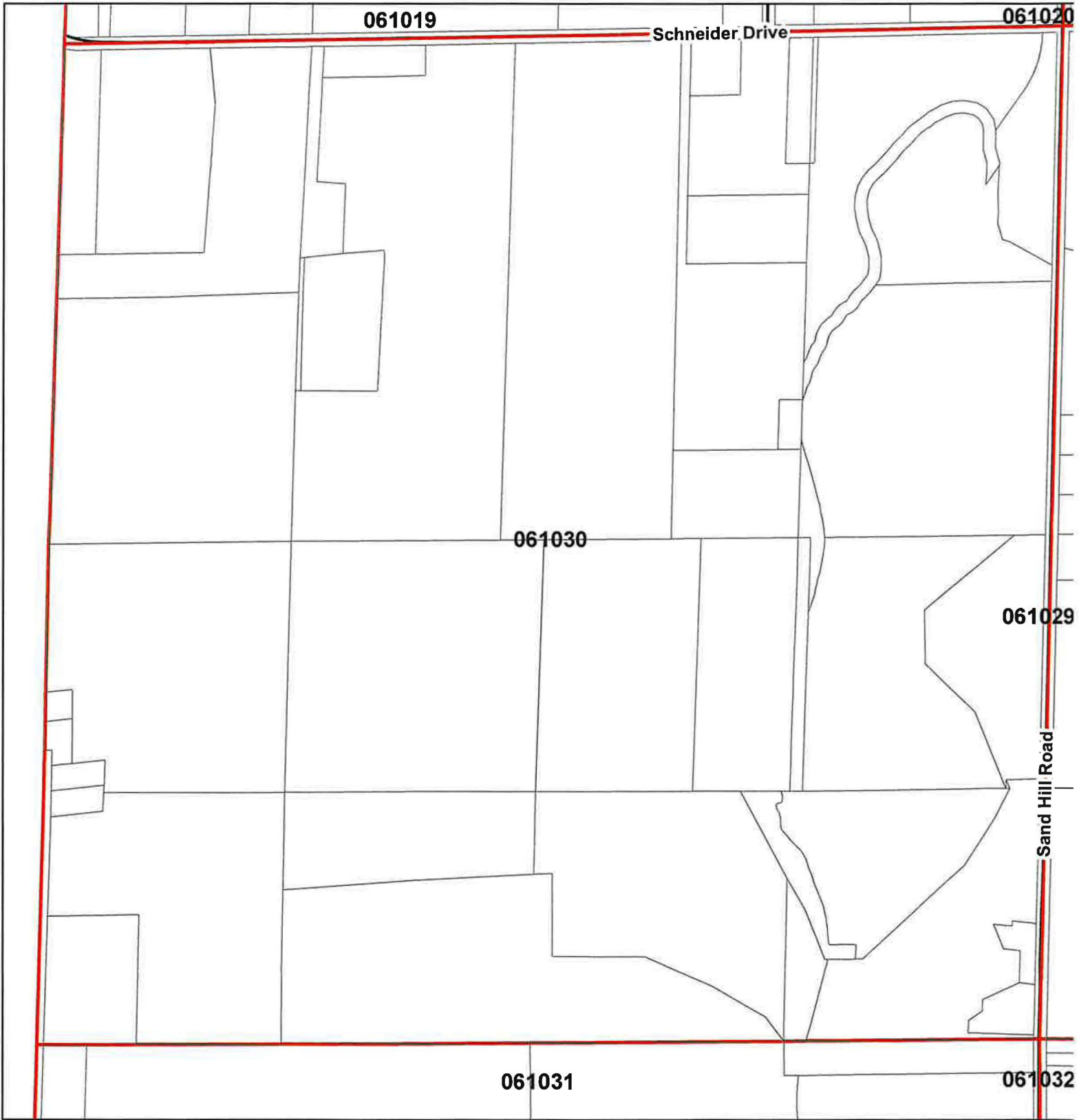
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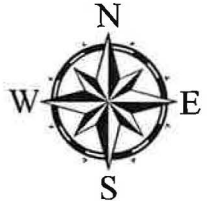


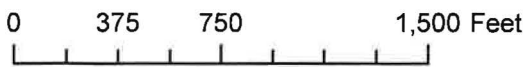
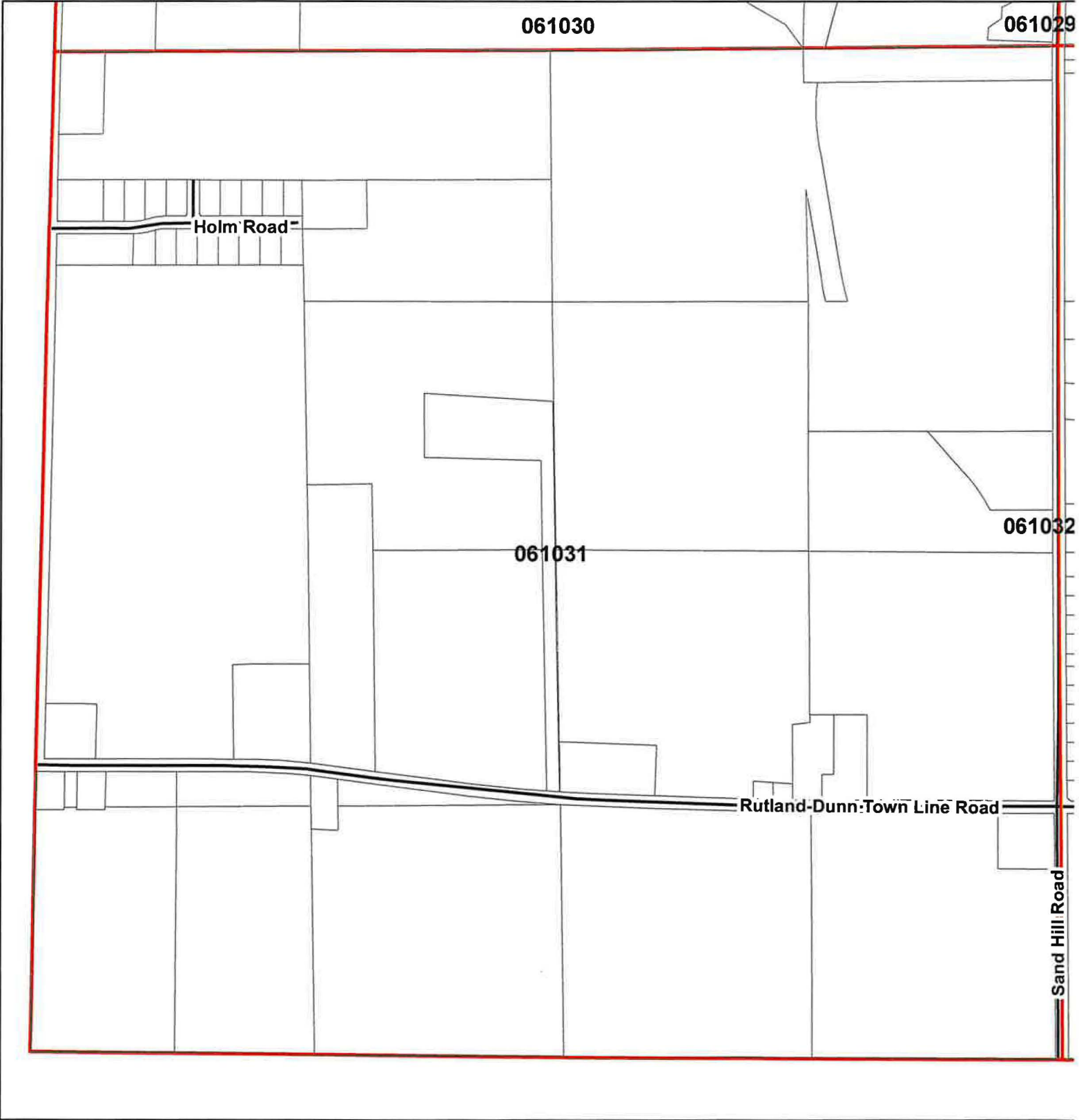
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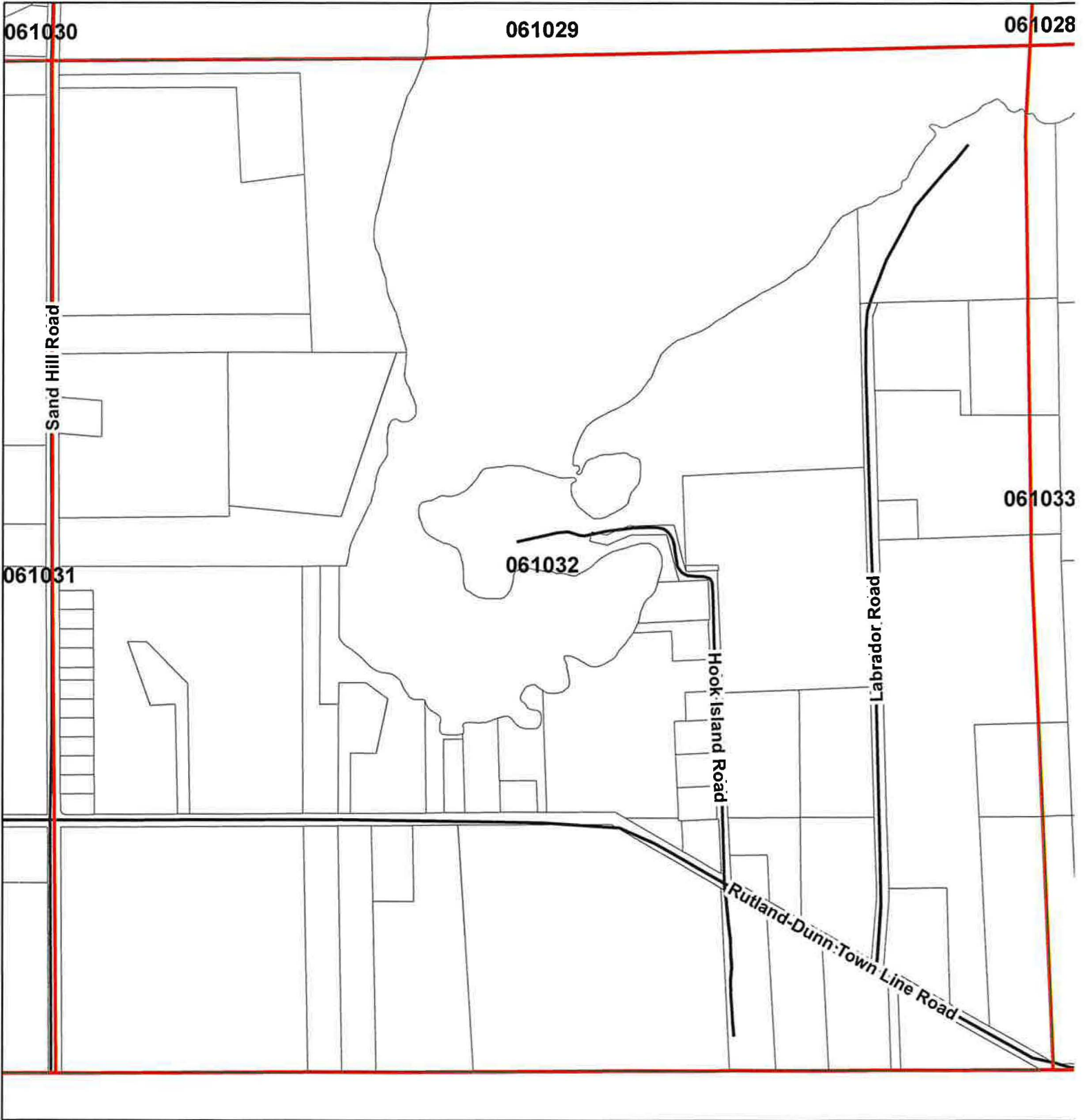




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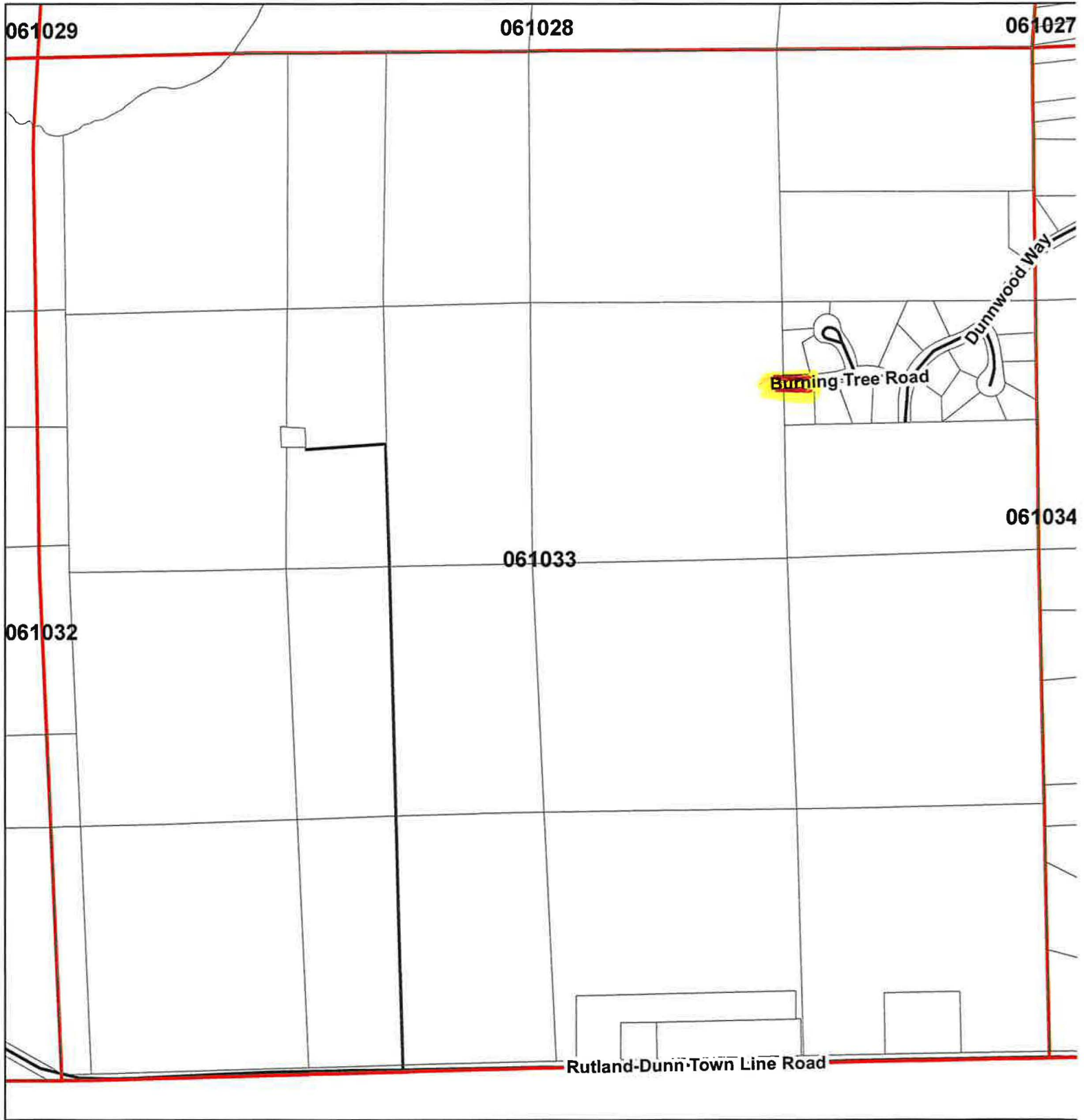




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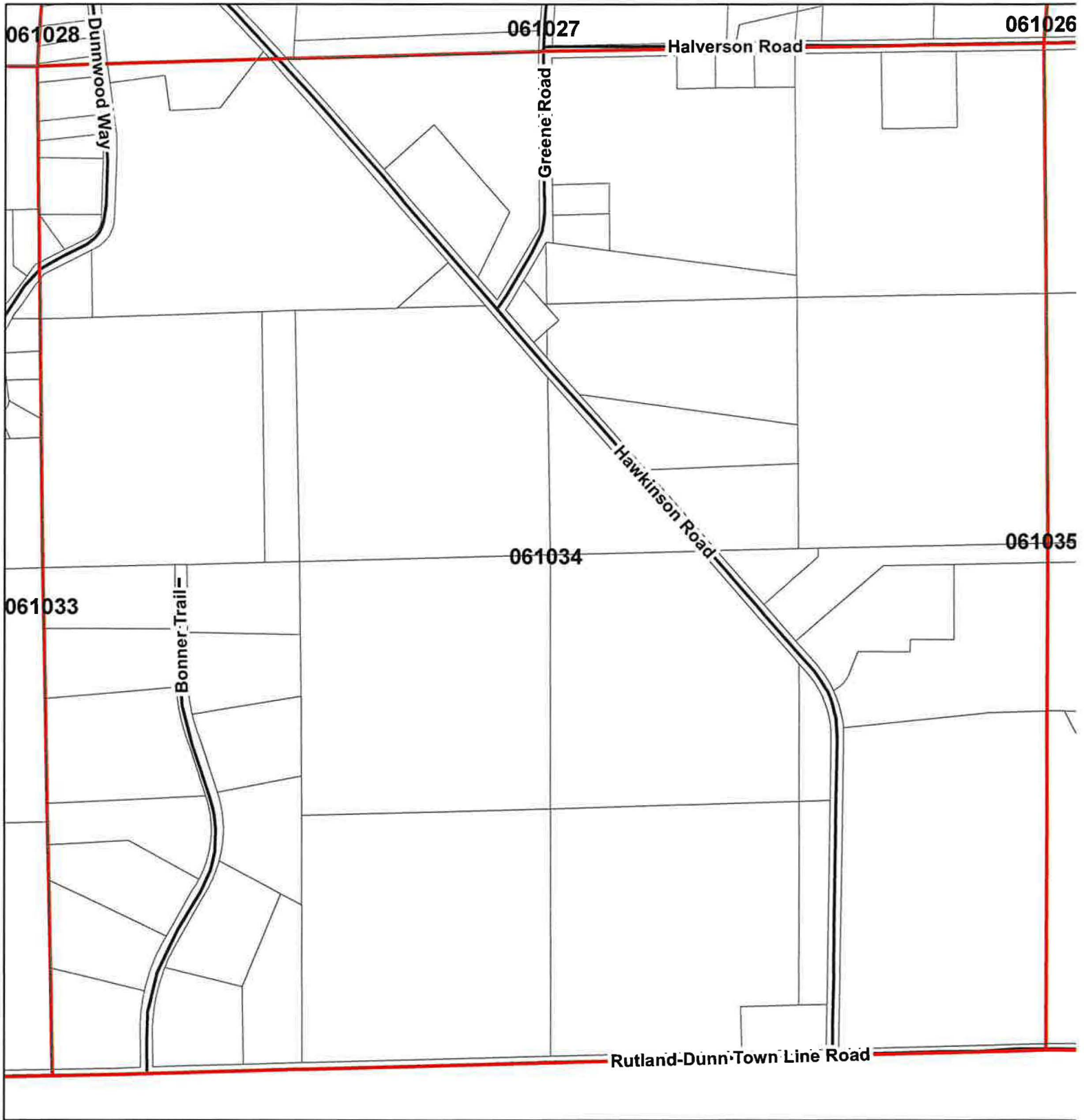




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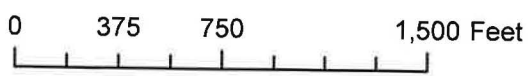
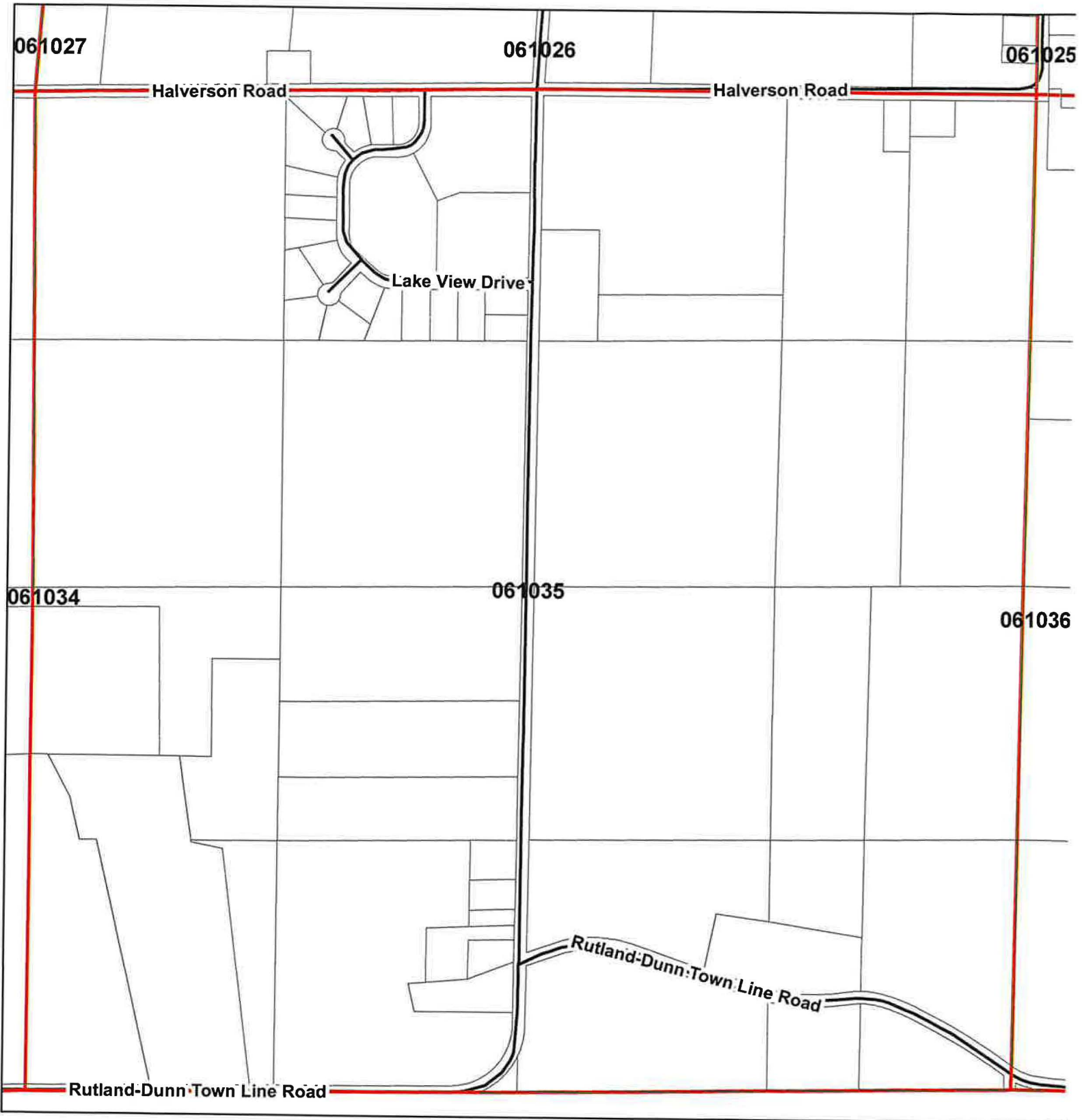


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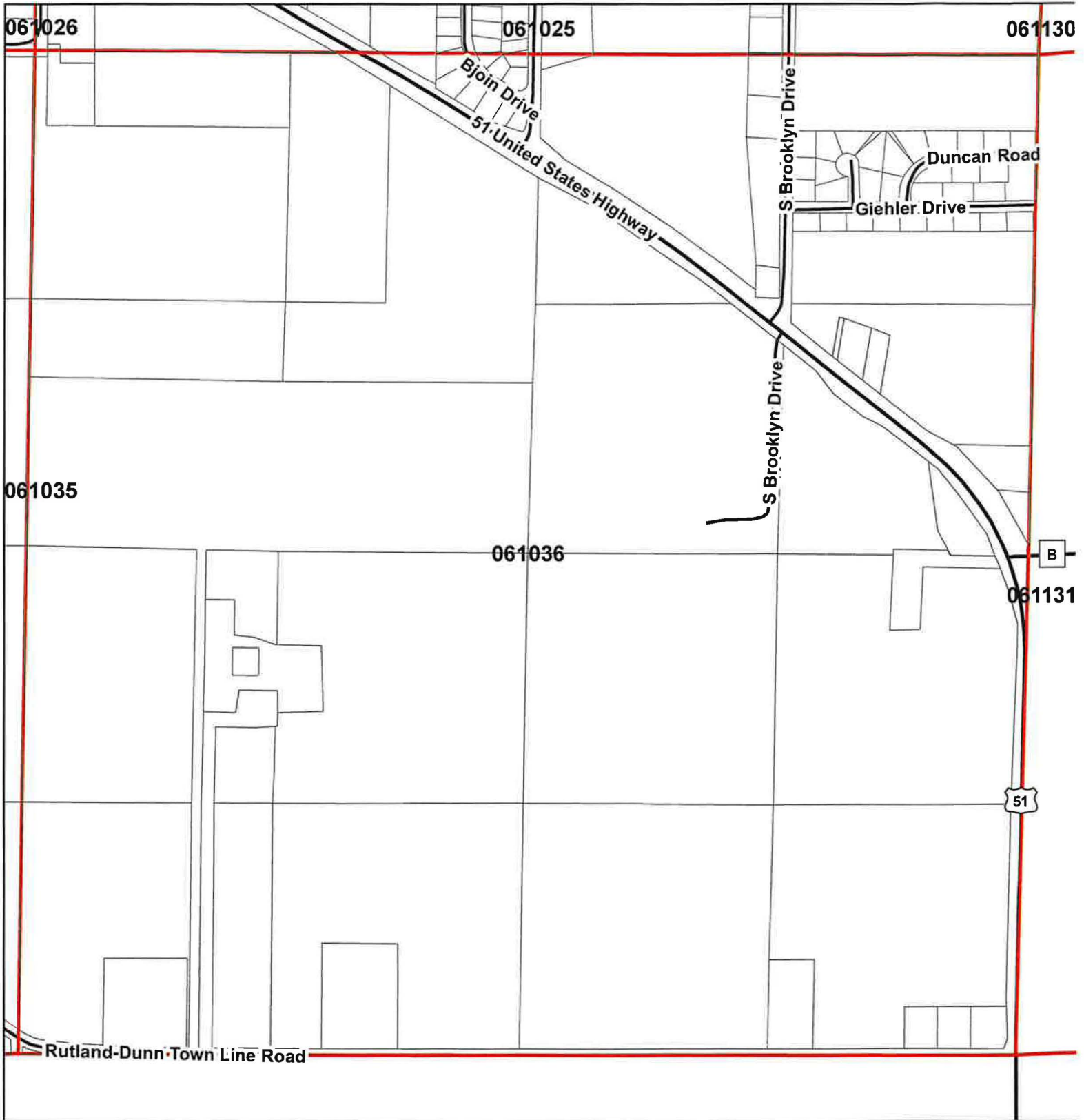






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ORDINANCE #19-10  
TOWN OF DUNN  
AN ORDINANCE CREATING CHAPTER 19-10 OF THE GENERAL CODE OF  
ORDINANCE TO ESTABLISH A PERMIT REQUIREMENT FOR AGRICULTURAL  
COMMERCIAL VEHICLES AND IMPLEMENTS OF HUSBANDRY

The Town Board of the Town of Dunn, Dane County, Wisconsin does ordain that Chapter 19-10 of the General Code of Ordinances entitled “Town of Dunn Ordinance Requiring Permits for Agricultural Commercial Vehicles and Implements of Husbandry” be and the same is hereby created to read as follows:

Section I: Title

This ordinance shall be cited as the “Town of Dunn Ordinance Requiring Permits for Agricultural Commercial Vehicles and Implements of Husbandry” and hereinafter referred to as “this ordinance”.

Section II: Authority

This ordinance is adopted to protect the health, safety and welfare of residents of the Town of Dunn. This ordinance is authorized by the powers granted to the Town of Dunn by the Town’s adoption of Village powers under sec. 60.10(2)(c), Wis. Stats., and is in accord with sec. 61.34(1), Wis. Stats., and Wis. Admin. Code SPS 307.

REGULATIONS APPLICABLE TO AGRICULTURAL COMMERCIAL VEHICLES AND  
IMPLEMENTS OF HUSBANDRY.

Section III: Definitions

As used in this ordinance, the following terms have the following meaning:

- (A) “Agricultural Commercial Vehicle” shall have the meaning given in Sec. 340.01(1o).
- (B) “Implement of Husbandry” shall have the meaning given in Sec. 340.01(24).
- (C) “Maintaining authority” shall mean the Town.
- (D) “Town Agent” means the Town officer or employee who has been designated by the Town Board to process applications, issue permits and pursue enforcement of violations on behalf of the Town.

Section IV: Prohibition

It shall be unlawful and a violation of this ordinance for any person, without a permit therefor, to operate an implement of husbandry, including a Category B implement of husbandry, or an

agricultural commercial vehicle on any Town road under the jurisdiction of the Town which exceeds the length and/or weight limits imposed by s. 348.15(3)(g), Wis. Stats.

Section V: Administration

- (A) Authority. This Ordinance is adopted under the authority of s. 348.27(19)(b)5a, Wis. Stats. and Trans 230 of the Wisconsin Administrative Code.
- (B) Permits. Applications for permits shall be made to the Town at the Town Hall, 4156 County Road B, McFarland, WI 53558. Only applications containing all required information shall be processed.
- (C) Fee. No fee shall be charged for issuance of a permit.
- (D) Review. Upon receiving an application for a permit under this section, the Town Agent shall provide the applicant with a final decision on the application within three (3) weeks of its receipt. If the Town Agent fails to approve or deny the application during this 3-week period, the application is considered approved until the applicant receives a denial meeting the requirement of subsection (6) or until six (6) weeks from receipt of the application. If the Town Agent fails to approve or deny the application within 6 weeks of its receipt, the application is approved.
- (E) Amendment. Any person to whom a permit has been issued under this section may, at any time, apply for an amendment to the permit to reflect a change in the applicant's circumstances or information, including a change in the listing or map of highways to be traveled. Upon receiving an application for amendment, the Town Agent shall provide the applicant with a decision on the application within five (5) business days of its receipt. If the Town Agent fails to approve or deny the application within the 5-day period, the application is considered approved until the applicant receives a denial under subsection (6) or until 10 business days from receipt of the application. If the Town Agent fails to approve or deny the application within 10 business days of its receipt, the application is approved.
- (F) Denial of permit. If the Town Agent denies a permit application it shall notify the applicant in writing of the denial and the notice shall include a reasonable and structurally based explanation of the denial that relates to the preservation of the roadway. If the only basis to deny the application is the listing or map of highways accompanying the application, the Town Agent shall modify the application to include an approved alternate route or map of highways for operation and approve the application.
- (G) Permit renewal. Permits issued under this section shall automatically renew each year unless there is a material change to any roadway for which the permit applies. Permit holders shall be notified in writing of a non-renewal.
- (H) Suspension/Revocation of Permit. Alteration of a permit, providing false information on the permit application or failure to comply with the conditions of a permit shall be just

cause for suspension of a permit upon verbal or written notice or revocation of a permit upon notice and an opportunity for a hearing.

- (I) Appeal. Any person aggrieved by an adverse determination by the Town Agent under this section, shall file a written request for appeal with the Town Board within 30 days of the date of the adverse decision.

Section VI: Enforcement

Failure to obtain a permit or to have permit in possession shall constitute a violation. The Town Agent may, upon receipt of a complaint or observation of a violation, commence appropriate procedures to enforce this Ordinance. The Town hereby authorizes enforcement by the Dane County Sheriff's Department.

Section VII: Penalties

- (A) If weight exceeds by 1,000 pounds or less – forfeiture of not less than \$50 and not more than \$100 upon first conviction and upon the 2nd and each subsequent conviction within a 12-month period, a forfeiture of not less than \$100 nor more than \$200.
- (B) If weight exceeds by more than 1,000 pounds:
- (1) For the first conviction, a forfeiture of not less than \$50 nor more than \$200 plus an amount equal to whichever of the following applies:
- a. One cent for each pound of total excess load when the total excess is not over 2,000 pounds.
  - b. Three cents for each pound of total excess load if the excess is over 2,000 pounds and not over 3,000 pounds.
  - c. Five cents for each pound of total excess load if the excess is over 3,000 pounds and not over 4,000 pounds.
  - d. Eight cents for each pound of total excess load if the excess is over 4,000 pounds and not over 5,000 pounds.
  - e. Fifteen cents for each pound of total excess load if the excess is over 5,000 pounds.
- (2) For the 2nd and each subsequent conviction within a 12-month period, a forfeiture of not less than \$100 nor more than \$300, plus an amount equal to whichever of the following applies:
- a. Two cents for each pound of total excess load when the total excess is not over 2,000 pounds.

- b. Five cents for each pound of total excess load if the excess is over 2,000 pounds and not over 3,000 pounds.
- c. Eight cents for each pound of total excess load if the excess is over 3,000 and not over 4,000 pounds.
- d. Twelve cents for each pound of total excess load if the excess is over 4,000 pounds and not over 5,000 pounds.
- e. Eighteen cents for each pound of total excess load if the excess is over 5,000 pounds.

Section VIII: Effective Date

This ordinance is effective on publication.

The Town Clerk shall properly publish this ordinance as required under Sec. 60.80(2) of Wis. Statutes as a Class I Notice in a newspaper.

Adopted this 15 day of December, 2014

Signatures of Town Board:

  
Town Board Chair

  
Town Supervisor

  
Town Supervisor

  
Attest: Town Clerk

**ORDINANCE NO. 19-11**

**TOWN OF DUNN**

**DANE COUNTY, WISCONSIN**

**AN ORDINANCE TO DESIGNATE CERTAIN TOWN ROADS AS CLASS B HIGHWAYS**

The Town Board of the Town of Dunn, Dane County, Wisconsin, has the specific authority under s. [349.15 \(2\)](#), Wis. stats., to adopt this ordinance.

This ordinance, adopted by a majority of the town board on a roll call vote with a quorum present and voting and proper notice having been given, designates town highways as class "B" highways in the town as follows:

A. The following town highways in the Town of Dunn are designated class "B" highways subject to the weight limits set forth in s. [348.16 \(2\)](#), Wis. stats., unless increased by town ordinance: Dyreson Road, Goodland Park Road, Greene Road, Halverson Road, Hawkinson Road, Keenan Road, Lake Farm Road, Lake Kegonsa Road, Lalor Road, Larsen Road, Mahoney Road, Rutland-Dunn Townline Road, Sand Hill Road, Schneider Drive, Tower Road.

B. The town chairperson, or his or her designee, shall place appropriate traffic signs on the above-described highways on or before the effective date of this ordinance.

C. No person may operate any vehicle on the above-noted highways in violation of the weight limits set forth in s. [348.16 \(2\)](#), Wis. stats. Upon conviction for a violation of this ordinance, the violator shall pay a forfeiture of not less than \$50 nor more than \$500, plus the applicable surcharges, assessments, and costs for each violation. Each trip in violation of this ordinance constitutes a separate offense. In addition, the town board may seek injunctive relief from a court of record to enjoin further violations.

This ordinance is effective on publication or October 1, 2020 (a specific date after the date of publication or posting date, allowing adequate time for erection of signs).

The town clerk shall properly post or publish this ordinance as required under s. [60.80](#), Wis. stats.

Adopted this 21st day of September, 2020.

TOWN OF DUNN

By \_\_\_\_\_  
Edmond P. Minihan, Town Chair

By \_\_\_\_\_  
Steve Greb, Town Supervisor

By \_\_\_\_\_  
Jeffrey Hodgson, Town Supervisor

ATTEST: \_\_\_\_\_  
Cathy Hasslinger, Town Clerk Treasurer/Business Manager

Approved: \_\_\_\_\_ Posted: \_\_\_\_\_



ORDINANCE 19.12  
TOWN OF DUNN  
AN ORDINANCE CREATING CHAPTER 19.12 OF THE GENERAL CODE OF  
ORDINANCES TO ESTABLISH ALL-TERRAIN AND UTILITY-TERRAIN  
VEHICLE ROUTES FOR THE OPERATION OF ATVs AND UTVs WITHIN THE  
TOWN OF DUNN

**Sec. 19-12-1 Finding, Purpose, and Authority**

- (a) Findings.** The Town Board finds that there is a need for ATV/UTV routes on roadways in the Town of Dunn for recreational purposes and that the need should be balanced against possible dangers and liabilities resulting from the use of ATV/UTVs on roadways.
- (b) Purpose.** The purpose of this ordinance is to establish ATV/UTV routes for the operation of ATVs/UTVs upon roadways in the Town of Dunn and to regulate the operation of ATVs/UTVs. Following due consideration of the recreational value weighed against the possible dangers, public health, liability aspects, traffic density and history of automobile traffic, these routes have been created.
- (c) Authority.** This Ordinance is adopted under the powers granted to the Town of Dunn by Wis. Stats. §§ 60.22(3), 61.34, and Wis. Stat. §23.33(8)(b)(1) and other authority under the statutes, and its adoption of village powers under Wis. Stats. §60.10(2)(c). Any amendment, repeal or recreation of the statutes relating to this Ordinance made after the effective date of this Ordinance is incorporated into this Ordinance by reference on the effective date of the amendment, repeal, or recreation.

**Sec. 19-12-2 Definitions**

- (a)** For the purpose of administrating and enforcing this section, the terms or words used herein shall be interpreted as follows:
- (1) Words in the present tense include the future.



- (2) Words in the singular number include the plural number.
- (3) Words in the plural number include the singular number.

**(b)** The following definitions apply:

- (1) All-Terrain Vehicle (ATV) means a commercially designed and manufactured motor-driven device that has a weight, without fluids, of 900 pounds or less, has a width of not more than 50 inches as measured laterally between the outermost wheel rim on each side of the vehicle, exclusive of tires, mirrors, and accessories that are not essential to the vehicle's basic operation, is equipped with a seat designed to be straddled by the operator, and travels on 3 or more tires.
- (2) Utility Terrain Vehicle (UTV) means any of the following:
  - i. A commercially designed and manufactured motor driven device that does not meet federal motor vehicle safety standards in effect on July 1, 2012, that is not a golf cart, low-speed vehicle, dune buggy, mini-truck, or tracked vehicle, that is designed to be used primarily off of a highway, and that has, and was originally manufactured with, all of the following:
    1. A weight, without fluids, of 3,000 pounds or less.
    2. Four or more tires.
    3. A steering wheel.
    4. A tail light.
    5. A brake light.
    6. Two headlights.
    7. A width of not more than 65 inches as measured laterally between the outermost wheel rim on each side of the vehicle, exclusive of tires, mirrors, and accessories that are not essential to the vehicle's basic operation.
    8. A system of seat belts, or a similar system, for restraining each occupant of the device in the event of an accident.
    9. A system of structural members designed to reduce the likelihood that an occupant would be crushed as the result of a

rollover of the device.

ii. A commercially designed and manufactured motor driven device to which all of the following applies:

1. It does not meet federal motor vehicle safety standards in effect on July 1, 2012; is not a golf cart, low-speed vehicle, dune buggy, mini-truck, or tracked vehicle; is designed to be used primarily off of a highway; and has, and was originally manufactured with, a weight, without fluids, of not more than 3,000 pounds.
2. It has a width of 65 inches or less as measured laterally between the outermost wheel rim on each side of the vehicle, exclusive of tires, mirrors, and accessories that are not essential to the vehicle's basic operation.
3. It is equipped with a seat designed to be straddled by the operator.
4. It travels on 3 or more tires.
5. It is not an all-terrain vehicle, as defined in Sec. 19-12-2 (b) (1).

(3) ATV Route means a roadway designated for use by ATV/UTV operators by the governmental agency having jurisdiction as authorized under this ordinance.

(4) ATV/UTV means ATV and/or UTV.

### **Sec. 19-12-3 Regulations**

**(a) Designation of ATV/UTV routes.** No person shall operate an ATV/UTV on any Town of Dunn street, road, highway, alley, park, or parking lot other than a motorized boat landing parking lot; on any land owned by the Town of Dunn or parking lots held open to the public; or on private land without permission of the owner; within the Town except as provided in 19-12-3(b) below.

**(b)** The Town-maintained roads listed below are designated as ATV/UTV routes unless posted:

- (1) Waucheeta Trail: In its entirety.

- (2) McConnell St.: In its entirety.
- (3) McConnell Ct: In its entirety.
- (4) Shaw Ct.: In its entirety.
- (5) Alma Rd.: From Gannon St. to Waubesa Ave.
- (6) Gannon St.: In its entirety.
- (7) Waubesa Ave.: In its entirety.
- (8) 3rd St.: In its entirety.
- (9) Lakeside St.: In its entirety.
- (10) Goodland Park Rd: From Waubesa Ave. to Lake Farm Rd
- (11) Noarts St.: In its entirety.
- (12) Berkan St.: In its entirety.
- (13) Beale St.: In its entirety.

**(c) Regulation of operation.** In addition to the provisions in Wisconsin Statutes, including Wis. Stat. §23.33 and Wis. Stats. Chs. 340 to 348 the following regulations apply to all operators and passengers as applicable:

- (1) The Town of Dunn reserves the right to close or modify ATV/UTV routes at any time.
- (2) All ATV/UTV routes shall be signed in accordance with Wisconsin Statutes, including Wis. Stat. § 23.33 (8) and NR 64.12(7).
- (3) Only Town of Dunn roads designated in 19-12-3(a) of this ordinance are designated as ATV/UTV routes, not including any county highways, state trunk highways, or connecting highways, unless Dane County and/or the Department of Transportation approves or is required to approve the designation.
- (4) All ATV/UTV units shall be registered in accordance with WI DNR regulations.

- (5) All ATV/UTV operators shall observe all applicable rules of the road governing motorized vehicles on municipal streets in accordance with Ch. 346, and § 23.33, Wis. Stats.
- (6) All ATV/UTV operators shall observe a speed limit of not more than 25 mph., or the posted speed limit, whichever is lower.
  - (i) Operators shall further drive at speeds that are reasonable and prudent for all prevailing roadway and highway conditions present.
  - (ii) Operators shall not drive carelessly or recklessly in any manner likely to result in property damage, injury or endanger the safety of any property, thing or person.
- (7) All operators of ATVs or UTVs are subject to Wis. Stats. and/or Wisconsin DNR rules and regulations pertaining to safety requirements.
- (8) No ATV/UTV may be operated on any designated route without fully functional headlights, taillights and brake lights. Operators must display a lighted headlight and taillight at all times while on the Town designated route.
- (9) All ATV/UTV operators must ride single file.
- (10) ATVs/UTVs may be operated on paved roadway surfaces only.
- (11) No ATV/UTV may be operated on any designated route from March 16 thru November 30.
- (12) ATV/UTVs that do not meet Wisconsin State or

local noise pollution requirements may not be operated on any route.

- (13) Operation on unpaved road shoulders is prohibited.
- (14) No person shall leave or allow any ATV/UTV owned or operated by him/herself to remain unattended on any roadway or public property while the motor is running or with the starting key left in the ignition. Insurance is required for all ATVs/UTVs operated within the Town of Dunn. Operators shall have proof of liability insurance and produce it upon demand of any law enforcement officer.
- (15) DOT approved protective helmets are required to be worn by all operators and passengers of any ATV/UTV for persons under the age of 18 years old.
- (16) A valid Department of Transportation driver's license is required to operate any ATV/UTV on a town ATV/UTV route.

#### **Sec. 19-12-4 Enforcement**

Dane County Sheriff's deputies shall enforce the provisions of this ordinance, as applicable.

#### **Sec. 19-12-5 Penalties**

- (a) The penalty for violation of any provision of this ordinance shall be a forfeiture as hereafter provided, together with statutory court costs and penalty assessment, if applicable.
- (b) The penalty for violations of this ordinance shall be a forfeiture of no less than \$60 and no greater than \$300 and shall be in accordance with the amounts designated in the Town of Dunn fee schedule.

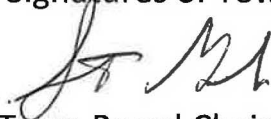
**Sec. 19-12-6 Effective Date**

This ordinance is effective upon approval by the WisDOT, Bureau of Highway Management and upon publication.

The Town Clerk shall properly publish this ordinance as required under Sec. 60.80(2) of Wis. Statutes as a Class I Notice in a newspaper.

Adopted this 20 day of June, 2022

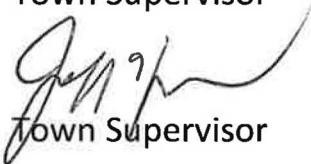
Signatures of Town Board:



Town Board Chair



Town Supervisor



Town Supervisor



# Town of Dunn Ordinance 19-2 ATV Route Map



1 centimeter = 349 feet

Date: 6/9/2022



## **Chapter 20**

---

### **Miscellaneous Ordinances**

20.01 Regulation Of Operation Of Licensed And Unlicensed Motor Vehicles On Private Property

20.02 Adopt Code of Ordinances

20.03 Tree Ordinance



TOWN OF DUNN

ORDINANCE NO. 20-1

**AN ORDINANCE RELATING TO THE REGULATION OF OPERATION OF  
LICENSED AND UNLICENSED MOTOR VEHICLES ON PRIVATE PROPERTY**

The Town Board of the Town of Dunn, Dane County, Wisconsin does ordain that Ordinance 20-1 be and hereby is created to read as follows:

Section 1: Operation of Licensed and Unlicensed Vehicles Unlawful

It shall be unlawful for persons to operate licensed or unlicensed motor vehicles on private or public lands other than improved roadways without the owner of said private or public property consenting thereto in writing.

Section 2: Penalties

Any person violating the provisions of this ordinance shall forfeit not more than \$50 for the first offense and shall forfeit not more than \$75 upon a second or subsequent conviction within one year.

Section 3: Reserved for Future Use

Section 4: Severability

The provisions of this ordinance are severable. If any provision of this ordinance is invalid, or if the application of any provision to any person or circumstance is invalid such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application.

Section 5: Effective Date

This ordinance shall take effect the day after proof of posting, as required by law, has been filed by the Town Clerk.

The foregoing Ordinance was duly adopted by the Town Board of the Town of Dunn at a regular meeting held on July 11, 1978.

Chapter 20.02

ORDINANCE NO.: 97-2

TOWN OF DUNN

AN ORDINANCE TO CREATE A TOWN OF DUNN  
CODE OF ORDINANCES

*The Town Board of Supervisors of the Town of Dunn, Dane County, Wisconsin, do ordain as follows:*

1. The Code of Ordinances is hereby adopted and enacted as the Code of Ordinances of the Town of Dunn, Dane County, Wisconsin.
2. Each Town ordinance provision that was in effect prior to adoption of the Code continues to be in effect unless such provision is inconsistent with a part of the Code.
3. All provisions in the Code that were not in effect prior to adoption of the Code shall be in effect on and after the first day permitted by law.
4. Adoption of the Code shall not affect the following, except that some of the following provisions existing at the time of adoption may be amended by this Ordinance:
  - a. Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Ordinance;
  - b. Any ordinance or resolution promising or guaranteeing the payment of money for the Town, or any contract or obligation assumed by the Town;
  - c. The administrative ordinances or resolutions of the Town not in conflict or inconsistent with the provisions of the Code;
  - d. Any appropriation ordinance or resolution;
  - e. Any right or franchise granted by the Town to any person, firm, or corporation;

- f. Any ordinance or resolution dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening, vacating, etc., any street or public way in the Town;
- g. Any ordinance or resolution establishing the prescribing of street grades of any streets in the Town;
- h. Any ordinance or resolution providing for local improvements or assessing taxes or special assessments therefore;
- i. Any ordinance or resolution dedicating or accepting any plat or subdivision in the Town;
- j. Any ordinance or resolution regulating the erection, alteration, repair, demolition, moving, or removal of buildings or other structures, except to the extent that such ordinances have been amended as part of this Ordinance;
- k. Zoning ordinances and building codes, except to the extent that such ordinances have been amended as part of this Ordinance;
- l. Charter ordinances;
- m. The issuance of corporate bonds and notes of the Town of whatever name or description; and
- n. Water, sewer, and electric rates, rules and regulations and sewer and water main construction.

5. A copy of the Code shall be kept on file in the office of the Town Clerk. It shall be the duty of the Town Clerk, or someone authorized by the Town Clerk, to insert in their designated places all amendments, ordinances, or resolutions which indicate the intention of the Town Board to make the same a part of the Code when the same have been printed or reprinted in page form, and to extract from the Code all provisions which may be repealed from time to time by the Town Board. This copy of the Code shall be available for all persons desiring to examine it.

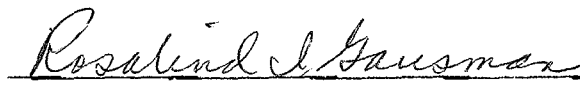
*The foregoing ordinance was duly adopted by the Town Board of the Town of Dunn, Dane County, Wisconsin, at a regular meeting held on June 3, 1997.*

Approved:



Edmond P. Minihan, Chairperson

Attest:

  
Rosalind I. Gausman, Clerk

AFFIDAVIT OF POSTING

I, Rosalind Gausman, duly elected Clerk of the Town of Dunn, Dane County, Wisconsin, hereby verify that I posted the attached Ordinance 97-2, creating a Code of Ordinances, in the following three locations:

1. Quick Stop, 1888 Barber Drive, Stoughton
2. Christy's Landing, 2952 Waubesa Avenue, Madison
3. Dunn town hall, 4156 CTH B, McFarland

Dated the 26 day of June, 1997.

Rosalind Gausman  
Rosalind Gausman, Clerk Treasurer

Subscribed and sworn to before me

this 26 day of June, 1997.

Jean Anderson  
Notary Public, State of Wisconsin  
Commission expires: 05-16-99

**ORDINANCE NO. 20-03**

**TOWN OF DUNN  
DANE COUNTY, WISCONSIN**

**AN ORDINANCE TO PROTECT AND PRESERVE THE TOWN'S URBAN FOREST**

- 20.03-1 Intent and Purpose
- 20.03-2 Pruning Restrictions
- 20.03-3 Damage to Trees on Public Property
- 20.03-4 Designated Preferred Tree Species List
- 20.03-5 Heritage Trees
- 20.03-6 Penalty for violation

**20.03-1 Intent and Purpose**

Trees are a valuable resource, which enhance the aesthetics of the Town, prevent soil erosion, filter airborne pollutants, reduce atmospheric carbon dioxide, produce oxygen, improve water quality, reduce noise pollution, and contribute significantly to property values, quality of life, and our sense of community. It is hereby declared to be the policy of the Town of Dunn to regulate trees within the Town to promote the public welfare, reduce the spread of harmful insects and disease affecting trees, and encourage the preservation of valuable trees.

NOW, THEREFORE, pursuant to the Wisconsin Statutes, including Wis. Stat. §§ 60.22, the Town Board of the Town of Dunn hereby ordains as follows:

**20.03-2 Pruning Restrictions**

In an effort to control the overland spread of Oak Wilt, pruning, cutting, or other wounding of Oaks is prohibited from April 1 until October 15 of any year without written permission from the Town of Dunn Tree Board. Ongoing research may cause amendments to the restriction dates from time to time. During the period from April 1 until October 15, if wounding occurs or pruning is necessary in response to an emergency, such as storm damage, a tree wound dressing shall be applied immediately to each wound. The cut surface of stumps from living non-infected Oaks shall be immediately painted with a wound dressing.

**20.03-3 Damage to Trees on Public Property**

It shall be a violation of the provisions of this section for any person to abuse, cut, harvest, destroy, or mutilate any tree, shrub, or plant on public property, including Town parks, greenways, and Town-owned roadsides. It shall be a violation to attach a rope, wire, animal leash, sign, poster, or any other objects to trees on public property, or to allow any chemical or natural substance which is harmful to trees to come in contact with the roots, trunks or leaves of trees on public property.

Trees growing on private property in Town road right-of-way easements shall be similarly protected against damage from the public, however, the owner of the land under the easement maintains the rights to remove, prune and otherwise manage the trees on their property pursuant to Wis. Stats. 66.1035.

#### **20.03-4 Designated Preferred Tree Species List**

The Town has designated a preferred Tree list to encourage native species to be planted on public and private lands within the Town. The list is provided by the University of Wisconsin Extension and will be updated periodically. The preferred tree list is attached as **Exhibit A** to this ordinance.

#### **20.03-5 Heritage Trees**

Any tree, grove of trees, or shrub, growing on public or private property within the Town of Dunn which meets the following criteria, may be added to the Town's registry of Heritage Trees, and have priority for preservation:

- a. Any Oak over 36 inches in diameter, any Hickory over 24 inches in diameter, any tree over 48 inches in diameter when measured four and one-half feet above existing grade.
- b. Any tree or shrub with historical significance, such as those planted to commemorate an event, planted during a significant historical era, or marking the location of a historical event.
- c. Trees identified by the Town Board as having significant arboricultural value to the citizens of the Town, whether the tree meets the size criteria or not.
- d. The overall health and condition of the tree shall be criteria for Heritage Tree designation. Trees in poor health or condition shall not be designated as Heritage Trees.

Nomination of Heritage Trees: Only the current landowner may nominate a tree for Heritage Tree designation. Nominations are accepted by the Tree Board at least annually. Tree owners must submit a signed nomination with information about the tree's qualifications, such as measurements, species, commemorative status, or unique arboricultural value. Heritage Tree status is binding on future owners of the tree.

No Heritage Tree may be removed without written permission of the Tree Board. If removal is permitted, the person responsible for its removal may be required to remediate the tree(s) removed by replanting. Construction of new buildings and structures shall not cause Heritage Trees to be removed without written permission of the Tree Board and shall not significantly infringe upon the root system of Heritage Trees to an extent that is likely to damage the tree or jeopardize its survival. Guidelines in **Exhibit B** of this ordinance shall be used to determine the area required to protect the root system. No replacement is required for the removal of dead, diseased, or potentially hazardous Heritage Trees.

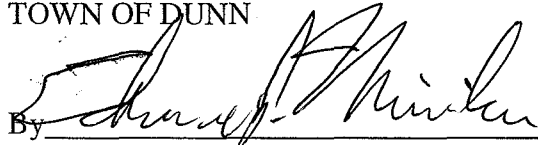
**20.03~~6~~ Penalty for Violation**

Any person violating any provision of this Chapter or failing to comply with any order issued pursuant to the provisions of the Chapter shall be subject to a forfeiture pursuant to Section 21.07 of the Town of Dunn Code of Ordinances.

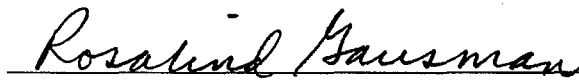
Any person who damages or destroys any tree or shrub on public property or on a Town right-of-way, shall be liable for the cost of repairing the damage or replacing the tree or shrub of comparable age and similar species and diameter at 4 feet above grade, up to a 4 inch diameter. For trees above a 4-inch diameter a maximum replacement value will be established not to exceed \$2,000.

*Effective Date of Ordinance.* This ordinance shall take effect the day after passage and posting or publication pursuant to law. The above and foregoing ordinance was adopted by the Town Board of the Town of Dunn at its meeting held on November 19, 2007.

TOWN OF DUNN

By   
Edmond P. Minihan, Town Chair

ATTEST:

  
Rosalind Gausman, Town Clerk/Treasurer

Approved: 11-19-2007

Posted: 11-21-2007

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## Exhibit A- Commercially Available Species and Cultivars

Dr. Laura G. Jull  
Dept. of Horticulture, University of Wisconsin-Madison

Santamour (1990) established guidelines for tree planting within a city:

Plant no more than 30% of a family: i.e. Aceraceae

Plant no more than 20% of a genus: i.e. *Acer* × *freemanii*, *Acer rubrum*, *Acer platanoides*, *Acer saccharum*, etc.

Plant no more than 10% of a species: i.e. *Acer platanoides*

### Large to medium-sized Street/Urban Trees

***Acer* × *freemanii*:** Freeman maple, Zone 3b-4 (depends on cultivar), native hybrid of red and silver maple, oval to rounded form, ascending branches, 40-60' tall, 35-40' wide, moderate to fast growth rate, yellow, orange to red fall color, smooth, light gray bark when young, red samaras in spring, not fall, adaptable to most soils and pH, some cultivars can get chlorotic at very high pH, tolerant to wet soils, drought and urban conditions, moderate salt tolerance, can get verticillium wilt and leaf hoppers, some cultivars prone to included bark formation and narrow branch crotch angles, dioecious (separate male and female flowers produced on separate plants)

'Armstrong': narrow, fastigate form, 45' tall, 15' wide, yellow fall color, female, produces seeds

'Celzam' (Celebration®): upright to oval form, 45' tall, 25-30' wide, better branch angles and straight central leader, yellow fall color, fast grower, male, seedless, drought tolerant

'DTR 102' (Autumn Fantasy®): broadly oval form, upright branches, 50' tall, 40' wide, bright to dark red fall color, female, produces seeds

'Indian Summer' or 'Morgan': broadly oval to rounded form, 45' tall, 40' wide, early, bright rosy-red fall color, vigorous, female, produces seeds, very sensitive to flooded soils

'Jeffersred' (Autumn Blaze®): broadly oval form with upright branches, 50' tall, 40' wide, bright orange-red to red fall color that is longer lasting, male, seedless, drought tolerant, tends to develop narrow crotch angles, included bark, and multiple leaders

'Marmo': upright, oval form, 55' tall, 45' wide, early, fair, mottled blend of deep red and green fall color starts at leaf tips and gradually works its way down leaf, good branching with straight central leader, male, seedless, slower grower

'Scarsen' (Scarlet Sentinel®): upright form becoming oval, 40' tall, 20' wide, yellow-orange to orange-red fall color, fast grower, male, seedless

'Sienna' (Sienna Glen®): pyramidal form, 50' tall, 35' wide, rusty orange to burgundy fall color, male, seedless, wider branch angles, from northern seed source, less susceptible to frost crack, hardy to zone 3

***Acer miyabei*:** Miyabei maple, Zone 4a, native to Japan

'Morton' (State Street®), 40' tall, 25' wide, upright, oval form, dark green foliage, late, yellow fall color, corky-looking bark, faster grower, grafted higher up than straight species for street tree clearance, very adaptable to soils and pH, urban tolerant, moderate salt tolerance, not invasive, no pests

***Acer nigrum*:** black maple, Zone 4, used to be considered a subspecies of sugar maple, native to central U.S.

'Greencolumn': upright, narrow form, 50' tall, 20' wide, straight central leader, light green, thick, leathery leaves, yellow orange fall color, slow grower, more heat and drought tolerant than sugar maple

***Acer platanoides*:** Norway maple, Zone 4b, native to Europe, wide-spreading, rounded, dense form, 40-50' tall, 35-40' wide, dark green, large leaves, late, yellow fall color, adaptable to most soils and pH, easy to transplant, will not tolerate wet soils, salt and urban tolerant, susceptible to verticillium wilt, girdling roots, basal rot, leaf scorch, frost crack, very invasive, do not use near any natural area, shallow roots

'Cleveland': upright, oval, dense form, fast grower, 40' tall, 30' wide, older cultivar  
 'Columnarbroad' (Parkway®): oval form with straight central leader, broader and faster growing than 'Columnare', 40' tall, 25' wide  
 'Columnare': upright, narrow-columnar form, ascending branches, 40' tall, 15' wide  
 'Conzam' (Conquest™): narrow oval form, 40' tall, 20' wide, maroon-red leaves in spring turn bronzish  
 'Crimson King': older cultivar, oval becoming rounded, dark purple leaves all season, 40' tall, 35' wide, slower growing, hardy only to zone 5a  
 'Crimson Sentry': but sport off of 'Crimson King', dense, compact, pyramidal to oval form, deep purple leaves all season, 35' tall, 15' wide  
 'Deborah': common, broadly oval to rounded, reddish-purple leaves in spring turn dark green, 40-60' tall, 40' wide, straight leader  
 'Drummondii': variegated leaves with white margins, reverts readily to all green leaves, rounded to broadly oval form, 30-40' tall, 25' wide, slow grower, tends to scorch in hot sun and drought  
 'Ezestre' (Easy Street™): pyramidal to narrow oval form, 40' tall, 20' wide, faster grower  
 'Fairview': narrow, upright-oval form, reddish purple leaves in spring turn bronzish, 45' tall, 35' wide  
 'Globosum': dense, globular form, 15-20' tall, 18' wide, slow grower, formal looking  
 'Jade Glen': broad, rounded, open form, 45' tall, 40' wide, faster growing, says it is verticillium wilt resistant but it is not  
 'McGill No. 42' (Emerald Queen®): dense, oval to rounded form with upright, spreading branches, deep green, glossy leaves, 50' tall, 40' wide, good branch pattern, straight trunk  
 'National 2000' (Champtree™): upright spreading to broadly oval form, 50-60' tall, 40' wide  
 'Pond' (Emerald Lustre®): upright, spreading to rounded form, 45' tall, 40' wide, faster grower, good branching  
 'Princeton Gold': oval form, bright yellow leaves in spring that turn bright green, bright yellow fall color, 35' tall, 30' wide  
 'Royal Red': more cold hardy version of 'Crimson King', deep maroon leaves during growing season, oval to rounded form, 40' tall, 30' wide  
 'Schwedleri': bronzy-purple leaves in spring fade to dark green, broad-rounded form, 40' tall, 30' wide, older cultivar, not recommended, has multiple leaders and twisted look to trunk, prone to frost crack  
 'Summershade': broad, rounded form, lighter green leaves, 40-50' tall, 40' wide, fast grower, heat tolerant, leathery leaves are scorch resistant  
 'Superform': broadly oval to rounded form, 45' tall, 40' wide, fast grower, uniform habit

***Acer rubrum***: red maple (in acidic soils (pH below 7) only or else very chlorotic), hardy to zone 3b-5b (depends on cultivar), native to eastern and central U.S., Canada, and Wisconsin, oval to rounded to irregular form, 40-60' tall, 25-35' wide, moderate to fast grower, yellow, orange to bright red fall color, smooth, light gray bark when young, reddish flowers in early spring, red samaras in spring, not fall, dioecious (separate male and female flowers produced on separate plants), adaptable to most soils, requires acid pH or else develops serious chlorosis due to lack of manganese, not iron, easy to transplant, tolerant to wet soils (some cultivars), sensitive to salt and air pollution, susceptible to verticillium wilt, leaf hoppers, frost crack, girdling roots, prone to included bark formation and narrow, branch crotch angles, shallow roots

**Autumn Flame®**: dense, rounded with spreading branches, 40' tall, 35' wide, early, bright red fall color, male, seedless, slower grower  
**Autumn Radiance®**: rounded, open, symmetrical form, 60' tall, 40' wide, early red-orange fall color  
**'Autumn Spire'**: narrow to oval form, 40-50' tall, 30' wide, bright red fall color, male, seedless, from a northern seed source, newer cultivar, Zone 3  
**'Bailcraig' (Scarlet Jewel™)**: upright form, 60' tall, 30' wide, early, deep crimson-red fall color, from a northern seed source, Zone 3, new cultivar  
**'Bowhall'**: upright, very narrow form, 40-50' tall, 15' wide, yellowish-orange to reddish fall color, female, produces seed, prone to included bark formation  
**'Brandywine'**: oval form 40' tall, 30' wide, deep red fall color for a longer period, male, seedless, newer cultivar  
**Fairview Flame™**: good branching, 45' tall, fast growing, later, orange-red fall color  
**'Frank Jr.' (Redpointe™)**: broadly pyramidal form, 45' tall, 30' wide, bright red fall color, faster growing, straight central leader, better branch crotch angles, new cultivar  
**'Franksred' (Red Sunset®)**: upright, dense, oval form, symmetrical form, bright red to orange fall color, fast grower, 45-50' tall, 35' wide, female, produces seeds, dark green, glossy leaves, older cultivar

Karpick<sup>®</sup>: narrow, oval, dense form, 40' tall, 20' wide, yellow to orange fall color, male, seedless, prone to included bark formation

'Magnificent Magenta' (Burgundy Belle)<sup>®</sup>: oval to rounded form, 45' tall, 40' wide, bright red fall color that changes to burgundy, symmetrical form, heat tolerant, prone to leafhoppers and witches' broom

'New World': upright, narrow-oval form, 40' tall, 20' wide, orange-yellow to orange-red fall color, male, seedless

'Northwood': symmetrical, broadly oval to rounded form, ascending branches, 40' tall, 35' wide, early orange to reddish fall color, male, seedless, from a northern seed source, Zone 3

'Olson' (Northfire)<sup>®</sup>: oval form, 50' tall, 35' wide, early, bright red fall color, northern seed source, Zone 3

'PNI 0268' (October Glory)<sup>®</sup>: not hardy, zone 5b-6a, broadly oval to rounded form, 40' tall, 35' wide, red fall color for a longer period, female, produces seeds, old cultivar

'Polara' (Ruby Frost)<sup>™</sup>: upright, dense, broad oval form, 45' tall, 40' wide, ruby-red fall color, selected in NW Wisconsin, Zone 3

'Red Rocket': narrow, columnar form, 35' tall, 8' wide, red fall color, northern seed source, tolerant to leaf hopper

'Schlesinger': broadly vase-shaped to rounded, 45' tall, 35' wide, very early orange to purplish-red fall color, female, produced seed

'Somerset': broadly oval to rounded form, 45' tall, 35' wide, red fall color, leaf hopper resistant newer cultivar

Summer Red<sup>®</sup>: dense, broad oval form, 20' tall, 10' wide, burgundy red new leaves that turn purplish-green, yellow to orange to purple fall color, leaf hopper resistant, Zone 5

'Sun Valley': oval, symmetrical form, densely branched, 40' tall, 35' wide, bright red fall color

***Acer saccharum***: sugar maple, hardy to zone 3a-5 (depends on cultivar), native to eastern U.S., Canada, and Wisconsin (our state tree), upright, oval to rounded form, 60-75' tall, 35-50' wide, showy, bright yellow to orange-red fall color, prefers a fertile, moist, well-drained soil, will not tolerate heavy clay, poorly drained, or dry soils, sensitive to drought, salt and air pollution, susceptible to leaf tatter and leaf scorch, verticillium wilt, basal rot, girdling roots, leaf hoppers

'Astis' (Steeple)<sup>®</sup>: narrow oval form, 45' tall, 20' wide, yellow-orange fall color

'Autumn Splendor': broadly oval to rounded form, 45' tall, 40' wide, glossy leaves, orange-red fall color, resistant to heat drought and leaf tatter, Zone 5, newer cultivar

'Bailsta' (Fall Fiesta)<sup>®</sup>: broadly ovate to rounded form, 50' tall, 40' wide, glossy, leathery leaves, yellow-orange to red fall color, leaf tatter and leaf hopper resistant, faster grower, newer cultivar

'Barrett Cole' (Apollo)<sup>®</sup>: symmetrical, narrow, columnar form, 35' tall, 10' wide, yellow-orange to red fall color

Bonfire<sup>™</sup>: broadly oval form, 50' tall, 40' wide, orange to red fall color, more heat tolerant, fast grower

Commemoration<sup>®</sup>: oval to rounded, dense form, 50' tall, 35' wide, thick, glossy, dark green leaves, yellow-orange to red fall color, vigorous, faster grower, resistant to leaf tatter

'Endowment': broad columnar form, 50' tall, 20' wide, bright yellow fall color, no leaf scorch

'Heartland' (Autumn Faith)<sup>™</sup>: oval to vase-shape, dense form, 35' tall, 20' wide, new leaves are bronze opening to dark green, bronze fall color, slow grower

'Flax Mill' (Majesty)<sup>®</sup>: broadly oval, symmetrical form, 50' tall, 40' wide, thicker leaves, orange to reddish fall color

'Jefcan' (Unity)<sup>®</sup>: upright, oval form, 50' tall, 30' wide, yellow to orange-red fall color, selected for harsh prairie climate, from Canada, slower grower, resistant to frost crack, newer cultivar, zone 3

Legacy<sup>®</sup>: oval to rounded, dense form, 50' tall, 35' wide, glossy, thick, dark green leaves, later reddish-orange to red fall color or none, leaf scorch and leaf tatter resistant, faster grower, heat tolerant,

'Morton' (Cresendo)<sup>™</sup>: broadly oval form, 45' tall, 40' wide, orange-red to red fall color, heat tolerant

'PNI 0285' (Green Mountain)<sup>®</sup>: broadly oval form, 45-50' tall, 35' wide, reddish-orange to red fall color, leathery leaves less subject to leaf scorch, faster growing, more heat tolerant

'Wright Brothers': oval form, 50' tall, 35' wide, yellow-orange to red fall color, resistant to leaf scorch and frost crack, faster growing

***Acer 'Keithsform'***: Norwegian Sunset<sup>®</sup>: not reliably hardy in zone 5, hybrid of Norway and Shantung maples, may not develop any fall color

**Acer 'Warrenred':** Pacific Sunset<sup>®</sup>: zone 4b, hybrid of Norway and Shantung maples, upright, oval to spreading form, good branching, 30-40' tall, 20-25' wide, glossy leaves, late yellow to bright orange-red fall color, heat, drought, and urban tolerant

**Celtis occidentalis:** common hackberry, zone 3b, native to eastern and central U.S., Canada, and Wisconsin, vase-shaped when young becoming rounded with drooping branches, moderate to fast growth rate, 50-70' tall, 40-60' wide, corky, warty looking bark, small, pea-sized, purplish-black fruit in fall, adaptable to most soils and pH, tolerates dry, sandy, rocky, and compact, heavy clay soils, slow to establish, plant in spring, drought, urban, wind, and wet soils tolerant, but sensitive to salt, susceptible to hackberry nipple gall on leaves, witches' brooming of twigs, resistant to DED, sensitive to Dicamba herbicides used near tree, branches tend to break in storms, prone to included bark formation, need to train to develop good branch structure

'Chicagoland': broad pyramidal form with upright branches, 55' tall, 40' wide, forms a straight central leader, rich green leaves, yellow fall color, warty bark

'Windy City': upright, spreading form, straight, central leader, fast grower

**Corylus colurna:** Turkish filbert, hardy to zone 4b, native to southeastern Europe and western Asia, broad, pyramidal form, formal looking even with age, dense, coarse texture, 40-50' tall, 20-25' wide, no fall color, scaly to corky, gray-brown bark, long, pendulous catkins in early spring are showy, may produce nuts, difficult to transplant, heat, urban, and drought tolerant, once established, sensitive to salt

**Ginkgo biloba:** ginkgo, maidenhair tree, hardy to zone 4b, native to eastern China, living fossil, found in fossil records dating back 150 million years ago, deciduous gymnosperm, pyramidal when young, becoming wide-spreading with age to upright, slow grower, 50-80' tall, 30-60' wide, very interesting, fan-shaped leaves, golden-yellow fall color, dioecious (separate male and female flowers produced on separate plants), female trees produce smelly, messy fruit, but not until 20 years old, so plant male cultivars only, tolerant to most soils and pH, prefers a sandy, deep soil, difficult to transplant, plant in spring, heat, salt, urban, and drought tolerant, no pests

'Autumn Gold': broadly pyramidal, symmetrical form, 45' tall, 35' wide, golden yellow fall color, male, no fruit, good, uniform branching

'Fairmount': dense, upright, pyramidal form, straight central leader, male, no fruit

'Halka': broadly pyramidal becoming oval, 45' tall, 40' wide, bright yellow fall color, male, no fruit

'Golden Globe'<sup>™</sup>: broad, rounded form, 60' tall, 40' wide, slightly faster growth rate, male, no fruit, dense form, golden yellow fall color, Zone 5

'Magyar': upright form, 50' tall, 30' wide, bright yellow fall color, male, no fruit

'PNI 22720' (Princeton Sentry)<sup>®</sup>: narrow pyramidal, upright form, 50' tall, 20-30' wide, bright yellow fall color, male, no fruit

'Saratoga': compact, dense, rounded form, with straight central leader, 20-30' tall, 15-20' wide, pendulous leaves, soft yellow fall color, slower and smaller than other ginkgos, male, no fruit

'Shangri-La'<sup>®</sup>: moderately pyramidal form, 45' tall, 25' wide, slightly faster growth rate, bright yellow fall color, male, no fruit

'Windover Gold'<sup>®</sup>: upright, oval form, 40-60' tall, 30-40' wide, golden yellow fall color, strong grower, male, no fruit

'Woodstock' (Emperor)<sup>™</sup>: uniform, oval form, strong, central leader, good branching, male, no fruit

**Gleditsia triacanthos var. inermis:** thornless honeylocust, hardy to zone 4a, native to central U.S. and southern Wisconsin (thorny type native, not var. *inermis*), fine texture, fast growing, vase-shaped form becoming flat-topped, spreading branches, open, 50-70' tall, 40-50' wide, early, bright golden-yellow fall color, no thorns, dioecious (separate male and female flowers produced on separate plants), female plants produce long, twisted, black pods that make a slippery, litter mess, tolerant to most soils and pH, tolerant to compacted, heavy clay soil, drought, salt, and urban tolerant, tolerant to periodic flooding, susceptible to leaf hoppers, plant bug, cankers, sunscald on trunk, high maintenance pruning, tends to develop co-dominant branches, can break in storms

'Christie' (Halka)<sup>™</sup>: broad, oval to rounded form, 40' tall, 40' wide, horizontal branches, some pods, fast growing, yellowish fall color

'Emerald Cascade': irregular, weeping form with pendulous branches, grafted, 16' tall, male, no pods  
'Harve' (Northern Acclaim<sup>®</sup>): symmetrical, upright, spreading form, 45' tall, 35' wide, yellow fall color, male, no pods, developed in North Dakota, hardy to zone 3b

'Impcole' (Imperial<sup>®</sup>): rounded form, symmetrical, wide-spreading, with good branching, 35' tall, 35' wide, seedless but can throw a few pods, susceptible to leaf hoppers and plant bug

'Moraine': uniform, rounded crown with vase-shaped branching, male, no pods, older cultivar

'PNI 2835' (Shademaster<sup>®</sup>): vase-shaped to rounded, irregular form, 45' tall, 35' wide, uniform, ascending branches, occasionally, some trees may produce pods

'Skycole' (Skyline<sup>®</sup>): broadly pyramidal form, ascending branches with wider crotch angles, 45' tall, 35' wide, develops a strong, central leader better than any other cultivar, male, no pods, bright golden yellow fall color

'Suncole' (Sunburst<sup>®</sup>): irregular, oval form, 40' tall, 35' wide, 8" of new leaves are bright yellow then fades to green, yellowish fall color, susceptible to leaf hoppers, plant bug, and canker, male, no pods

True Shade<sup>®</sup>: broadly oval form, 40' tall, 35' wide, wider branch angles, yellow fall color, faster grower, male, no pods

'Wandell' (Perfection<sup>™</sup>): develops a good crown at a younger age, 35' tall, 30' wide, dark green leaves, male, no pods

***Gymnocladus dioica***: Kentucky coffeetree, hardy to zone 4a, native to central U.S., southern Ontario, and Wisconsin (scattered distribution), vase-shaped form with upright branches becoming irregular and open, 50-75' tall, 40-50' wide, slow to moderate grower, coarse texture in winter with sparse branching when young, lacy texture when in leaf, yellow fall color, large, bluish-green leaves, ashy-gray, deeply furrowed bark with exfoliating plates, dioecious (separate male and female flowers produced on separate plants), females produce thick, sausage-like, pendulous pods, that can be a litter problem along with the leaf rachis in fall, adaptable to most soils and pH, slow to establish, tolerates compacted, heavy clay soil, salt, drought, periodic flooding, and urban conditions, no pests, can look a bit "gauntly" when young due to sparse branching

'Espresso': oval to vase-shaped form with arching branches, 50' tall, 35' wide, large, blue-green leaves, yellowish fall color, male, no pods, newer cultivar

'J.C. McDaniel' (Prairie Titan<sup>™</sup>): oval to vase-shaped form, 50' tall, 35' wide, large, blue-green leaves, yellowish fall color, male, no pods, newer cultivar

***Phellodendron amurense*** '**Macho**': Macho Amur corktree, hardy to zone 3b, native to northern China and Japan, broadly vase-shape, upright form, 40' tall, 30' wide, ascending branches, thick, dark green leaves, yellowish-green fall color, male, no fruit, corky bark when older, adaptable to most soils and pH, slow to establish, urban tolerant, moderate salt tolerance, no pests, shallow roots, low branching, avoid female trees as they produce invasive seeds

***Phellodendron lavalleyi*** '**Longenecker**': Eyestopper<sup>™</sup> Lavalley corktree, hardy to zone 4b, native to Japan, upright, wide spreading form, 40' tall, 35' wide, bright yellow fall color, male, no fruit, corky bark when older, same culture as Amur corktree

***Phellodendron sachalinense*** '**His Majesty**': His Majesty Sakhalin corktree, hardy to zone 3b, native to Korea, northern Japan, and western China, broadly vase-shaped to rounded, open form, 35-40' tall, 35' wide, yellow fall color, male, no fruit, same culture as Amur corktree

\***Sweating**: Most bare root oaks require sweating before planting to break bud. This involves dormant tree liners laid down and covered with wet packing material such as straw, shingle tow, and covered with a sheet of plastic. This should be done indoors, if possible, or in the shade. Temperatures should be between 45-70°F with high humidity (under plastic). Once the buds have begun to swell, usually within a few days, but usually not more than a week, the trees are ready to be lined out. The key to success is after the sweating process. Delay planting of oaks until the weather is warmer and humid (May) for better success after the sweating process. This is critical for success of sweated oak liners. Oaks are best transplanted in spring, rather than fall. It is best to move oaks at 2-2 1/2" caliper or lower, rather than bigger caliper as transplant shock reduces chances for survival. Other species that benefit from the sweating process include: birch, especially river birch, hawthorns, hackberry, ironwood (*Ostrya*), and redbud

**Quercus bicolor:** swamp white oak, hardy to zone 4a, native to eastern U.S. and Wisconsin, pyramidal when young, becoming broad, rounded, wide-spreading with age, 50-60' tall, 50-60' wide, slow to moderate growth rate, easier to transplant than bur oak, prefers acidic to neutral pH, but will tolerate a bit higher, but at very high pH, it will get chlorotic, adaptable to most soils including heavy clay, tolerant to wet soil, drought, and urban conditions

**Quercus × bimundorum 'Crimschmidt':** Crimson Spire™ oak, hardy to zone 4b, hybrid of *Q. alba* × *Q. robur*, columnar to tightly fastigate form, 45' tall, 15' wide, dark green to blue green leaves, rusty-reddish fall color, supposed to be mildew resistant, zone 5

**Quercus macrocarpa:** bur oak, hardy to zone 3a, native to eastern and midwestern U.S. and Wisconsin, pyramidal when young, becoming very wide-spreading, rounded, 70-80' tall, 60-80' wide, slow growing, coarse texture, deeply furrowed bark, no fall color, adaptable to most soils and pH, drought and urban tolerant, difficult to transplant

**Quercus × macdenielli 'Clemon's':** Heritage® oak, hardy to zone 4, hybrid of *Q. robur* × *Q. macrocarpa*, broadly pyramidal becoming oval form, 60-80' tall, 40-50' wide, dark green, glossy leaves, no fall color, mildew resistant, vigorous, zone 4

**Quercus muehlenbergii:** chinkapin oak, hardy to zone 4b, native to eastern and midwestern U.S. and Wisconsin, wide-spreading, rounded, open form, 40-60' tall, 50-60' wide, yellow to orangish-brown fall color, ashy-gray, flaky bark, adaptable to most soils and pH, difficult to transplant, drought and urban tolerant

**Quercus robur:** English oak, hardy to zone 5a, native to Europe, northern Africa, and western Asia, oval to rounded form, short trunk, slow to moderate growth rate, 40-60' tall, 40-50' wide, no fall color, smaller leaves than other oaks, deeply furrowed bark, adaptable to most soils and pH, does not like compacted soils, urban tolerant, susceptible to powdery mildew, especially fastigate forms, two-lined chestnut borer, scale, basal canker

'Fastigiata' (Skyrocket®): narrow, fastigate form, 45' tall, 15' wide, tight branching, susceptible to mildew  
'Pyramich' (Skymaster®): hardy to zone 5, narrow when young becoming pyramidal, 50' tall, 25' wide, straight central leader, good branch crotch angles, fast grower, may be a hybrid as it is vigorous  
'Wandell' (Attention®): narrow, pyramidal to columnar form, 50' tall, 15' wide, resistant to powdery mildew, smaller leaves

**Quercus Rosehill®:** Rosehill oak, hybrid of *Q. robur* × *Q. bicolor* 'Asjes', fastigate to narrow-oval form, 40' tall, 20' wide, mildew resistant, zone 4b

**Quercus × schuettei:** swamp bur oak, hybrid of *Q. bicolor* × *Q. macrocarpa*, broad, rounded form, 75' tall, 70' wide, faster growing, better tolerance to high pH and easier to transplant, may be susceptible to leaf/twig galls, zone 3b

**Quercus × warei 'Long':** Regal Prince® oak, broad columnar becoming upright oval form, 40-60' tall, 20-25' wide, hybrid of *Q. robur* 'Fastigiata' × *Q. bicolor*, dark green leaves with silvery undersides, holds leaves late, no fall color or mildew, zone 4b

**Taxodium distichum:** baldcypress, northern provenance is critical, hardy to zone 4b, pyramidal form with straight terminal leader, 50-70' tall, 25-35' wide, fine texture, native to southeastern and southcentral U.S. into southern IL, mainly in swamps, needs training in nursery or it grows like a large bush, deciduous gymnosperm, feathery, soft, bright green leaves, with rusty-brown to orangish-bronze fall color, reddish-brown to grayish, fibrous, shreddy bark, does not form "knees" in urban conditions, only if grown near water, adaptable to most soils, prefers slightly acidic to neutral soils, can get chlorotic at very high pH, easy to transplant, heat, drought, salt, wet soil, and urban tolerant, few, if any pests

'Mickelson' (Shawnee Brave®): narrowly pyramidal form, 55' tall, 20' wide, richer green leaves, more upright form

***Tilia americana***: American linden, basswood, hardy to zone 3a, native to northeast and central U.S., Canada, and Wisconsin, pyramidal when young becoming upright-oval with age, 60-80' tall, 40-50' wide, fragrant, pale yellow flowers in early summer, small nutlet fruit attached to bract, large, heart-shaped leaves, prefers a deep, fertile soil, pH adaptable, easy to transplant, tolerant to wetter soils, sensitive to salt and air pollution, susceptible to Japanese beetle, linden borer, gypsy moth, basal and stem rots, sunscald on bark, tends to sucker at base, can break in storms, prone to included bark formation and narrow, branch crotch angles, girdling roots

'**Bailyard**' (**Front Yard**<sup>®</sup>): broadly pyramidal when young becoming rounded and dense, symmetrical form, 60-75' tall, 40' wide

'**Boulevard**': narrowly pyramidal form, 50' tall, 25' wide, ascending branches, yellow fall color

'**DTR 123**' (**Legend**<sup>®</sup>): broadly pyramidal form, 40' tall, 30' wide, well-spaced branches, thicker leaves, single leader, yellow fall color

'**Lincoln**': pyramidal, compact, dense form, 40' tall, 25' wide, upright branches, dark green leaves, yellow fall color

'**Mcksentry**' (**American Sentry**<sup>™</sup>): symmetrical, pyramidal form with straight central leader, 45' tall, 30' wide, better branch angles, lighter gray bark, yellow fall color

***Tilia cordata***: littleleaf linden, hardy to zone 3b, native to Europe, pyramidal when young becoming oval to round with age, formal, dense habit, 50-70' tall, 35-50' wide, fragrant, pale yellow flowers in early summer, small nutlet fruit attached to bract, small, heart-shaped leaves, prefers a fertile soil, but is adaptable, pH adaptable, easy to transplant, sensitive to poorly-drained, compacted soils and road salt, urban and air pollution tolerant, same pests as American linden

'**Bailey**' (**Shamrock**<sup>®</sup>): symmetrical, pyramidal form, 40' tall, 30' wide, stouter branches, more open canopy, uniform branching no fall color

'**Chancole**' (**Chancellor**<sup>®</sup>): upright, narrow, pyramidal form, 40' tall, 20' wide, good branching, faster growing, wider branch crotch angles, yellowish fall color

'**Corzam**' (**Corinthian**<sup>®</sup>): narrowly pyramidal form, 45' tall, 15' wide, dense branching, evenly spaced branches, thick, glossy leaves, yellowish fall color

'**Halka**' (**Summer Sprite**<sup>®</sup>): dense, narrow, pyramidal form, dwarf, 16' tall, 8' wide, yellowish fall color

'**Norbert**' (**Prestige**<sup>®</sup>): broad, pyramidal form, good branching, wider branch crotch angles, shiny leaves, fewer seeds produced, harder to find, but much better form than 'Greenspire'

'**PNI 6025**' (**Greenspire**<sup>®</sup>): pyramidal, symmetrical form becomes rounded with age, 40' tall, 30' wide, yellowish fall color, very prone to narrow crotch angles and included bark formation, tight branching, needs a lot of training pruning, old cultivar

'**Ronald**' (**Norlin**<sup>™</sup>): broad, pyramidal form, 40-45' tall, 30' wide, faster grower, resistant to sunscald, more cold hardy

***Tilia × euchlora***: Crimean linden, hardy to zone 4b, hybrid of *T. cordata* × *T. dasystyla*, broadly pyramidal form to oval, 40-60' tall, 35' wide, can sucker from base of tree, yellowish fall color

***Tilia × flavescens*** '**Glenleven**': Glenleven linden, hardy to zone 4, hybrid of *T. americana* × *T. cordata*, pyramidal form, 50' tall, 30' wide, yellowish fall color, better branching, more open, larger leaves, faster growing, straight trunk and leader

***Tilia*** '**Harvest Gold**': Harvest Gold linden, hardy to zone 3, hybrid of *T. cordata* × *T. mongolica*, more cold hardy, upright, oval form, 30-40' tall, 20-25' wide, leaves are deeply lobed, resistant to sunscald, exfoliating bark, golden buds and fall color

***Tilia*** '**Redmond**': Redmond linden, hardy to zone 4, hybrid of *T. americana* × *T. × euchlora*, pyramidal to oval form, upright branches with terminal leader above the foliage, reddish stems and buds, can sucker at base, 50-70' tall, 30-40' wide, fragrant, pale yellow flowers in early summer, small nutlet fruit attached to bract, large, heart-shaped leaves

***Tilia tomentosa***: silver linden, hardy to zone 4b, native to southeastern Europe and western Asia, broad-pyramidal form becoming upright-oval, formal looking, dark green leaves with silvery-white undersides, pale yellow flowers in summer, small nutlet fruit attached to a bract, no fall color, prefers a deep, fertile soil, but is

adaptable, pH adaptable, easy to transplant, more heat, drought, and urban tolerant than other lindens, does not tolerate poorly-drained, compacted soils, same pests as American linden

'PNI 6051' (Green Mountain®): broadly pyramidal to oval form, 50' tall, 35' wide, dark green leaves with silvery undersides, yellowish fall color, prone to included bark formation

'Wandell' (Sterling®): broadly pyramidal form, 45' tall, 35' wide, green leaves with silvery undersides, yellowish fall color, prone to included bark formation

***Ulmus americana***: American elm (DED resistant cultivars), hardy to zone 3a, native to eastern and central U.S., Canada and Wisconsin, all have vase-shaped form with pendulous branches, 70-80' tall, 60-70' wide, yellow fall color, adaptable to most soils and pH, tolerant to compacted, heavy clay soils, easy to transplant, tolerant to periodic flooding, salt, urban, air pollution, and drought tolerant, pest prone

'New Harmony' (from U.S. National Arboretum): broad, vase-shaped form, arching branches, good form, easier to grow

'Princeton': (from Princeton Nursery) large, leathery leaves, vase-shaped form, more resistant to elm leaf beetle

'Valley Forge' (from U.S. National Arboretum): broad, vase-shaped form with arching branches, 70' tall, 70' wide, wild looking form and branching, vigorous, needs training

***Ulmus hybrids***: hybrid elms, most are hardy to zone 4-5, all Dutch elm disease resistant, needs pruning in nursery to develop good form, adaptable to most soils and pH, tolerant to compacted, heavy clay soils, moderate salt tolerance, drought, urban, and air pollution tolerant

'Cathedral' (UW-Madison intro): hybrid of *U. japonica* × *U. pumila*, broadly vase-shaped, spreading form, 40-50' tall, 40-60' wide, prone to elm leaf beetle, zone 4

'Frontier' (from U.S. National Arboretum): hybrid of *U. carpinifolia* × *U. parvifolia*, broadly oval form, 35' tall, 25' wide, ascending branches, glossy, small, dark green, glossy leaves, late, burgundy fall color, can get elm leaf beetle, Zone 5

'Homestead' (from U.S. National Arboretum): hybrid of *U. pumila* × (*U. × hollandica* × *U. carpinifolia*), upright, narrow to oval form, 55' tall, 35' wide, upright, arching branches, prone to elm leaf beetle, fast growing, Zone 4b

'Morton' (Accolade®) (from Morton Arboretum): hybrid of *U. japonica* × *U. wilsoniana*, vase-shaped form with arching branches, 70' tall, 60' wide, resistant to elm leaf beetle, vigorous, resistant to elm leaf beetle, dark green, glossy leaves, zone 4

'Morton Glossy' (Triumph™) (from Morton Arboretum): hybrid of *U. 'Morton Plainsman'* × *U. 'Morton'*, upright oval to vase-shape, 55' tall, 45' wide, very glossy, dark green leaves, good form, some elm leaf beetle, excellent drought tolerance, zone 4

'Morton Plainsman' (Vanguard™) (from Morton Arboretum): hybrid of *U. japonica* × *U. pumila*, rounded, vase-shaped form, 45' tall, 40' wide, glossy, dark green leaves, prone to elm leaf beetle, zone 4

'Morton Red Tip' (Danada Charm™) (from Morton Arboretum): complex hybrid of (*U. japonica* × *U. wilsoniana*) × *U. pumila* vase-shape form with arching branches, 70' tall, 60' wide, reddish new leaves, new leaves, prone to elm leaf beetle, zone 4

'Morton Stalwart' (Commendation™) (from Morton Arboretum): complex hybrid of *U. 'Morton'* × (*U. pumila* × *U. carpinifolia*), upright, oval form, 60' tall, 50' wide, zone 5

'New Horizon' (UW-Madison intro): hybrid of *U. japonica* × *U. pumila*, upright, compact form, 50' tall, 25' wide, dark green leaves, wide crotch angles, susceptible to verticillium wilt, zone 3b

'Patriot' (from U.S. National Arboretum): complex hybrid of *U. wilsoniana* × *U. pumila* × *U. carpinifolia* × *U. glabra*, stiffly upright branches, narrow, vase-shape form, 50' tall, 40' wide, dark green leaves, straight central leader, zone 5

'Pioneer' (from U.S. National Arboretum): hybrid of *U. glabra* × *U. carpinifolia*, rounded form, 50' tall, 50' wide, dark green, glossy leaves, prone to elm leaf beetle, zone 5

'Regal' (UW-Madison intro): complex hybrid of *U. carpinifolia* × (*U. pumila* × *U. × hollandica*), upright, pyramidal form, 50-60' tall, 30' wide, prone to double leaders and narrow crotches, stiff branches, zone 4



***Ulmus japonica* 'Discovery'**: Discovery Japanese elm, hardy to zone 3, native to Japan and Asia, upright, vase-shape, compact form, 35-40' tall, 35-40' wide, resistant to DED and elm leaf beetle, yellow fall color

***Ulmus parvifolia***: lacebark elm, Zone 5b, native to China, Korea, and Japan, semi-exfoliating bark with mottled colors of gray, green, orange, and brown inner bark and orange lenticels, adaptable to most soils and pH, easy to transplant, tolerant to compacted, clay soils, urban, air pollution, tolerant, DED resistant

**'Dynasty'** (from U.S. National Arboretum), more cold hardy, zone 5a, upright, vase-shaped to rounded form, 40-45' tall, 40' wide, orange-yellow to red fall color, bark not as exfoliating as other cultivars

***Ulmus wilsoniana* 'Prospector'** Prospector elm (from U.S. National Arboretum): hardy to zone 4, dense, broad, vase-shaped form, slightly pendulous branches, 40' tall, 30' wide, resistant to elm leaf beetle, DED, and phloem necrosis, deep green, glossy leaves, yellow fall color

## Small Urban Area or Street Trees

***Acer tataricum***: Tatarian maple, Zone 3a, native to southeastern Europe and central Asia, invasive, do not plant near any natural areas, single or multi-stemmed, upright form, 25' tall, 20' wide, yellow to reddish-brown fall color, pinkish-red samaras in summer changing to brown in fall, adaptable to most soils and pH, easy to transplant, drought, salt, and urban tolerant, very susceptible to verticillium wilt

'GarAnn' (Hot Wings<sup>™</sup>): upright, spreading form, 20-25' tall, 15-20' wide, bright red samaras, yellow to red fall color, drought tolerant

'Patdell' (Pattern Perfect<sup>™</sup>): upright form, 20' tall, 15-20' wide, bright red samaras, red stems, red-orange fall color

'Summer Splendor<sup>™</sup>': upright, spreading form, 15-20' tall, 15' wide, bright red fruit in summer

***Acer tataricum* subsp. *ginnala***: Amur maple, Zone 3a, native to China, Manchuria, and Japan, very invasive, do not plant near any natural areas, multi-stemmed, rounded form, low branches, 15-18' tall and wide (smaller cultivars are available), dagger-shaped leaves, orange to bright red fall color, red samaras in summer turn brown in fall, adaptable to most soils and pH, easy to transplant, drought, salt, and urban tolerant, very susceptible to verticillium wilt

'Compactum' or 'Bailey Compact': dense, compact, rounded, shrubby form, 6-8' tall, 6-8' wide, slower grower, orange to scarlet fall color

'Embers': rounded form, 15-20' tall, 15' wide, bright red samaras, scarlet fall color

'Emerald Elf': compact, rounded, dense, shrubby form, 5-6' tall and wide, scarlet to purple fall color

'Flame': multi-stemmed, spreading, irregular form, 15-20' tall, 20-25' wide, bright orange-red to deep red fall color

'JFS-UGA' (Red November<sup>™</sup>): multi-stemmed, low, rounded form, 18' tall, 24' wide, later, bright red fall color, heat tolerant, Zone 5

***Acer truncatum***: Shantung maple, Zone 3b, use a northern provenance (seed source), native to northern China, Russia, Korea, and Japan, broad-rounded, dense, symmetrical form, 20-30' tall, 20-30' wide, yellowish-orange to purple fall color, star-shaped leaves, adaptable to most soils and pH, drought, salt, heat and urban tolerant, no pest problems, harder to find, but worth trying

***Amelanchier* × *grandiflora***: apple serviceberry, hardy to zone 3a, native hybrid of downy and Allegheny serviceberry, multi or single-stemmed tree to large shrub, upright to irregular form, no suckers, 15-30' tall, 15-25' wide, produces bronze to purplish-red, fuzzy leaves in spring that turn smooth and green, white flowers in early spring, edible fruit in June, smooth, gray bark, yellowish-orange to red fall color, can develop chlorosis at high pH, prefers loamy soil, does poorly in poorly drained soils, difficult to transplant, plant in spring

'Autumn Brilliance': upright, spreading form, 20-25' tall, 15' wide, orange-red fall color, leaf spot resistant, multi-stemmed

'Cole's Select': upright, spreading form, 15-20' tall, 15' wide, multi-stemmed, orange-red fall color, leaf spot resistant, thicker, glossier leaf

'Forest Prince': oval form, 20' tall, 15' wide, red-orange fall color

'Princess Diana': wide spreading form, 15-20' tall, 15' wide, multi-stemmed, red-orange fall color, leaf spot resistant

'Robin Hill': upright, open form, 20-30' tall, 15-20' wide, flowers pink in bud open to pale pink fading to white, red fall color, single-stemmed

***Amelanchier laevis***: Allegheny serviceberry, hardy to zone 4a, native to eastern and central U.S., Canada, and Wisconsin, upright form, single or multi-stemmed tree, 15-25' tall, 15-20' wide, can sucker, produces white flowers in early spring, bronze to purplish-red new leaves in spring that turn green, edible fruit in June, orange to reddish-bronze fall color, prefers moist, loamy soils, does poorly in poorly drained soils, difficult to transplant, plant in spring

Cumulus<sup>®</sup>: upright, open form, 20-30' tall, 15' wide, orange-red fall color, minimal suckering, single-stemmed

JFS-Arb' (Spring Flurry®): upright, oval form, 30-35' tall, 20' wide, orange fall color, single-stemmed, straight central leader, newer cultivar

Rogers' (Lustre®): upright, open form, 20-30' tall, 15-20' wide, orange-red fall color, minimal suckering, single-stemmed

Snowcloud': upright, oval form, 25' tall, 15' wide, scarlet fall color, single-stemmed

**Cornus mas**: Corneliancherry dogwood (more of a boulevard tree), hardy to zone 4b, native to Europe and western Asia, bright yellow flowers in early spring, long lasting, fruit is in summer and is bright red changing to dark purple and becoming edible, but tart, adaptable to most soils, but prefers rich soils, pH adaptable, easy to transplant, tolerates partial shade, straight species is sensitive to drought, but cultivars are more tolerant, sensitive to salt, no pest problems, hardy to zone 4b

Golden Glory': narrow, upright form, 20-25' tall, 10' wide, much better form and darker green, glossy, thicker leaves, more flowers and fruit, good substitute to invasive tall hedge buckthorn!

Pyramidalis': upright, pyramidal to upright form, 20' tall, 10-15' wide, dark green leaves

**Crataegus crus-galli var. inermis**: thornless cockspur hawthorn, hardy to zone 4a, native to eastern and central U.S., Canada, and Wisconsin, multi-stemmed tree, broad, spreading, horizontal, low branches, flat-topped crown, 20-30' tall, 20-35' wide, adaptable to most soils and pH, difficult to transplant, plant in spring, drought, salt, and urban tolerant, susceptible to cedar quince rust (on fruit) or cedar hawthorn rust (leaves), this variety has no thorns, white flowers in late spring, deep red fruit in early to mid fall that drops creating a litter problem, bronzish-orange to reddish fall color, dark green, leathery, spoon-shaped leaves

Cruzam' (Crusader®): rounded form, 15' tall, 15' wide, thornless, bright red fruit, orange fall color

**Crataegus phaenopyrum**: Washington hawthorn, hardy to zone 4b, native to eastern U.S. and Canada, multi-stemmed tree, vase-shaped to broadly oval form, horizontal, low branches, 20-30' tall, 20-25' wide, adaptable to most soils and pH, difficult to transplant, plant in spring, tolerant to poor, sandy soils, drought and urban tolerant, moderate salt tolerance, susceptible to cedar quince rust (on fruit) or cedar hawthorn rust (leaves), has long, sharp thorns, white flowers in late spring to early summer, showy, persistent, glossy, bright-orange-red fruit fall to winter

Westwood I' (Washington Lustre®): rounded, upright form, 20-25' tall, 20-25' wide, has fewer thorns than species, vigorous

**Crataegus viridis 'Winter King'**: Winter King hawthorn, hardy to 4b, native to eastern U.S., vase-shaped to rounded, wide-spreading form, horizontal, low branches, adaptable to most soils and pH, difficult to transplant, plant in spring, drought and urban tolerant, moderate salt tolerance, less susceptible to cedar hawthorn rust but can get cedar quince rust on fruit, white flowers in late spring, very showy, bright orange-red, persistent fruit from mid fall to winter, silvery-gray bark that exfoliates on the trunk revealing orange inner bark, has few if any thorns, yellowish-purple fall color

**Maackia amurensis**: Amur maackia, hardy to zone 4a, native to Manchuria, vase-shaped to rounded form, upright, arching branches, 20-30' tall, 20-30' wide, slow grower, silvery and fuzzy leaves in spring turn olive-green and smooth, coppery-green to bronzish-brown, slightly exfoliating bark, off-white flowers in summer, small pods in fall, tolerant to most soils and pH, roots fix atmospheric N, tolerant to poor, infertile soils, urban and salt tolerant, prone to included bark formation, needs pruning when young, no pests, not invasive

Starburst': upright, vase-shaped form with rounded crown, 25-30' tall, 20' wide, dark green leaves

Summertime®: upright, rounded form, 18-20' tall, 12-15' wide, white flowers in summer

**Malus spp.**: flowering crabapple, most are hardy to zone 4a and are hybrids with parents originating from Asia, Europe and U.S., size and form are quite variable, adaptable to most soils and pH, prefers low nitrogen to decrease disease susceptibility, drought and urban tolerant, apple scab resistant species and cultivars listed below and have smaller fruit, some cultivars prone to suckering and watersprouts on branches

White Flowers/Red Fruit

'Adirondack': narrow, upright form, 18' tall, 10' wide, persistent fruit  
'Guinzam' (Guinevere<sup>®</sup>): rounded form, 8-10' tall, 10' wide, persistent fruit  
'Jewelcole' (Red Jewel<sup>®</sup>): upright, pyramidal form, 15' tall, 12' wide, persistent fruit, can get fireblight  
'Kinarzam' (King Arthur<sup>®</sup>): upright, rounded form, 12' tall, 10' wide, can sucker from base  
'Sutyzam' (Sugar Tyme<sup>®</sup>): upright, spreading, oval form, 18' tall, 15' wide, persistent fruit  
*Malus baccata* 'Jackii': Jackii crabapple, hardy to zone 3, rounded form, 20' tall, 20' wide, glossy leaves, zone 3

*Malus sargentii*: Sargent crabapple, low, spreading form, 8' tall, 12' wide, alternate bearing, persistent fruit

'Select A' (Firebird<sup>®</sup>): rounded, spreading form, 7' tall, 9' wide, persistent fruit, bears annually, persistent fruit

'Tina': small, rounded, dwarf form, 5' tall, 6' wide, slow growing

*Malus x zumi* var. *calocarpa*: redbud crabapple, rounded, spreading form, 20' tall, 24' wide, persistent fruit

#### White Flowers/Yellow Fruit

'Bob White': dense, rounded form, 20' tall, 20' wide, persistent fruit, but is a watersprouter

'Cinzam' (Cinderella<sup>®</sup>): dwarf, rounded to upright form, 8' tall, 5' wide, persistent fruit

'Excazam' (Excalibur<sup>™</sup>): upright form, 10' tall, 8-10' wide, good form

'Hargozam' (Harvest Gold<sup>®</sup>): upright, oval form, 22' tall, 18' wide, persistent fruit, may get some scab

'Lanzam' (Lancelot<sup>®</sup>): compact, upright, dense form, 8-10' tall, 8' wide, persistent fruit

'Ormiston Roy': broad, rounded form, 20-25' tall, 25' wide, furrowed, orangish bark, yellow fruit with a rosy blush turn orange-brown after a hard frost

#### Pink or Reddish Flowers/Red to Purplish-Red Fruit

'Camzam' (Camelot<sup>™</sup>): rounded form, 10' tall, 8' wide, pinkish-white flowers, burgundy-green leaves, persistent fruit

*Malus sargentii* 'Candy mint': low, spreading, horizontal form, 10' tall, 15' wide, purple tinted foliage becoming bronze-green

'Canterzam' (Canterbury<sup>™</sup>): rounded, compact form 10' tall, 8-10' wide, light, pinkish-white flowers

'Cardinal': irregular, spreading form, 16' tall, 22' wide, dark purplish-red, glossy leaves

'JFS-KW5' (Royal Raindrops<sup>®</sup>): upright, spreading form, 20' tall, 15' wide, cutleaf, purple leaves, orange-red fall color, persistent fruit

'Orange Crush': spreading form, 12-15' tall, 12-15' wide, bronze to purplish-green leaves

'Parsi' (Pink Princess<sup>®</sup>): low, spreading form, 8' tall, 12' wide, purple leaves become bronze-green

'Prairifire': upright, spreading to rounded form, 20' tall, 20' wide, slower growing, purple leaves become reddish-green

'Prairie Maid': rounded to spreading form, 20' tall, 25' wide, burgundy tinged leaves in spring, but is a watersprouter

'Purple Prince': rounded form, 20' tall, 20' wide, purple leaves become bronzish-green, persistent fruit

#### Weeping Form

'Coral Cascade': semi-weeping form, 15' tall, 20' wide, white flowers, coral fruit, persistent fruit

'Louisa': graceful weeper, 15' tall, 15' wide, pink flowers, fruit are yellow turning orange-brown, not showy or persistent

'Luwick': graceful, low weeper, 7' tall, 14' wide, deep pink buds open to light pink to whitish flowers, bright red fruit

'Manbeck Weeper' (Anne E.<sup>®</sup>): wide spreading, horizontal weeper, 10-12' tall, 10-12' wide, white flowers, cherry-red fruit, persistent fruit, is difficult to find, but is one of the nicest crabs

'Molazam' (Molten Lava<sup>®</sup>): broadly weeping form, 14' tall, 20' wide, white flowers, bright red fruit

***Prunus sargentii***: Sargent cherry, hardy to zone 4b, native to Japan, oval to vase-shaped form, 25-35' tall, 20-30' wide, showy, single, pink flowers in clusters in early spring, small, purplish-black fruit in summer, bronze to orange-red fall color, reddish-gray to chestnut-brown, polished bark, adaptable to most soils and pH, does not tolerate compacted, heavy-clay soils, plant in spring, likes roots kept cool, must have good drainage, resistant to black knot, may form included bark

'Columnaris': narrow, columnar to narrow, vase-shape form, 25-35' tall, 15' wide, orange to orange-red fall color

'JFS-KW58' (Pink Flair<sup>®</sup>): upright, narrow, vase-shape form, 25' tall, 15' wide, orange-red fall color

***Prunus 'Accolade'***: Accolade cherry (hybrid with *P. sargentii* and *P. subhirtella*), hardy to zone 4b, 20-25' tall, 20-25' wide, horizontal branching with vase-shaped form, semi-double, early, pink flowers in drooping clusters before the leaves in early spring, no fruit, golden to orange fall color

***Pyrus calleryana***: callery pear, hardy to zone 4b, native to China and Korea, upright, pyramidal to oval form, 25-35' tall, 20-30' wide, adaptable to most soils and pH, drought, urban, and salt tolerant, can get fireblight, fast grower, dark green, glossy, leathery leaves, late, reddish-orange to purple fall color, white flowers in mid spring, small, brown, rounded fruit

'Aristocrat'<sup>®</sup>: pyramidal form with open branching, 35' tall, 25' wide, yellow to red fall color but is inconsistent for fall color, wider branch crotch angles

'Autumn Blaze': rounded form, 30' tall, 25' wide, earlier, bright red to purplish fall color, wide crotch angles, less prone to included bark formation

'Cambridge': upright, narrowly pyramidal form, 35' tall, 15' wide, bright orange fall color

'Capital': narrow, columnar form, 30' tall, 12' wide, reddish-purple fall color, susceptible to limb breakage in storms, susceptible to fireblight, zone 5

'Cleveland Select' or 'Glenn's Form' (Chanticleer<sup>®</sup>): formal, upright, narrowly pyramidal form, 25-30' tall, 15' wide, late orangish to reddish fall color, not as good as other cultivars for fall color, rarely produces fruit

'Redspire': pyramidal, dense, symmetrical form, 35' tall, 25' wide, yellow to reddish fall color or none at all, susceptible to fireblight, slower grower

'XP-005' (Trinity<sup>®</sup>): broadly oval to rounded form, 30' tall, 25' wide, glossy, lighter green leaves, orange-red fall color

***Pyrus 'Edgedell'***: Edgewood<sup>®</sup> pear, hardy to zone 5, hybrid of *P. calleryana* x *P. betulifolia*, rounded, open form, 30' tall, 25' wide, silvery leaf undersides, white flowers, good branch crotch angles, reddish-purple fall color

***Syringa pkinensis***: Peking lilac, Pekin lilac, hardy to zone 4a, native to northern China, loose, rounded form, 20-25' tall, 15-20' wide, moderate to fast grower, no fall color, reddish-brown, shiny bark, creamy-white, large flowers in early summer that do not smell like lilacs but rather like a privet, tends to flower heavily every other year, adaptable to most soils and pH, easy to transplant, salt and urban tolerant, susceptible to bacterial blight and verticillium wilt, resistant to mildew

'DTR 124' (Summer Charm<sup>®</sup>): upright, spreading, better form, 20' tall, 15' wide, single-stemmed

'Morton' (China Snow<sup>®</sup>): upright, spreading, wild form, big crown, 25' tall, 20' wide, vigorous, showy, showy, exfoliating, coppery to orangish-brown bark, single-stemmed

'Zhang Zhiming' (Beijing Gold<sup>™</sup>): upright, rounded form, 25' tall, 20' wide, vigorous, single or multi-stemmed, yellow flowers instead of white

***Syringa reticulata***: Japanese tree lilac, hardy to zone 3a, native to Japan and Manchuria, upright with a rounded to oval form, 20-25' tall, 15-20' wide, no fall color to yellowish, reddish-brown, shiny bark, creamy-white, large flowers in early summer that do not smell like lilacs but rather like a privet, tends to flower heavily every other year, adaptable to most soils and pH, easy to transplant, salt and urban tolerant, susceptible to bacterial blight and verticillium wilt, resistant to mildew

'Elliott' (Snowcap<sup>™</sup>): upright, more compact form, 15-20' tall 10-12' wide, uniform branching, thick, dark green leaves, good form

'Golden Eclipse': upright, compact form, 18-24' tall, 8-14' wide, new leaves in spring emerge green with a darker center, the edge of the leaf gradually turns bright gold with the dark green center remaining

'Ivory Silk': over used, upright, spreading becoming oval to rounded, 20' tall, 15' wide, susceptible to bacterial blight

'Summer Snow': broad, rounded, compact form, 20' tall, 15' wide, good form, glossy, dark green leaves

'Williamette' (Ivory Pillar<sup>™</sup>): upright, pyramidal, narrower form, 20-25' tall, 10-15' wide

Wholesale nursery sources used in this guide (does not imply endorsement by me of nurseries named, nor criticism of similar nurseries not mentioned)

Bailey Nurseries: St. Paul, Minnesota, [www.baileynurseries.com](http://www.baileynurseries.com), (800) 829-8898  
Beaver Creek Nursery: Poplar Grove, Illinois, [www.beavercreeknursery.com](http://www.beavercreeknursery.com), (815) 737-8758  
Carlton Plants: Dayton, Oregon, [www.carltonplants.com](http://www.carltonplants.com), (800) 398-8733  
Femrite Nursery: Aurora, Oregon, [www.femrite.com](http://www.femrite.com) (800) 547-2161  
Heritage Seedlings: Salem, Oregon, [www.heritageseedlings.com](http://www.heritageseedlings.com) (503) 371-9688  
J. Frank Schmidt and Son: Boring, Oregon, [www.jfschmidt.com](http://www.jfschmidt.com), (800) 825-8202  
Johnson's Nursery: Menomonee Falls, Wisconsin, [www.johnsonsnursery.com](http://www.johnsonsnursery.com), (262) 252-4980  
Mariani Nurseries: Kenosha, Wisconsin, (866) 627-4264  
McKay Nursery: Waterloo, Wisconsin, [www.mckaynursery.com](http://www.mckaynursery.com), (920) 478-2121  
Meadow Lake Nursery, McMinnville, Oregon, [www.meadow-lake.com](http://www.meadow-lake.com) (503) 435-2000  
Silver Creek Nurseries: Manitowoc, Wisconsin, (920) 684-6267

#### U.S.D.A. Cold Hardiness Zones

Zone 3a (cold hardy to -35 to -40°F): northwestern Wisconsin

Zone 3b (cold hardy to -30 to -35°F): most of northern Wisconsin

Zone 4a (cold hardy to -25 to -30°F): northern central and extreme northwestern Wisconsin

Zone 4b (cold hardy to -20 to -25°F): southwestern and central Wisconsin and along shore of Lake Superior

Zone 5a (cold hardy to -15 to -20°F): southeastern and eastern Wisconsin up to Door County and Madison near the lakes

Zone 5b (cold hardy to -10 to -15°F): Milwaukee, Racine, and Kenosha areas near Lake Michigan



## Preserving trees during construction

Stan Binnie

Wooded lots are in high demand by people seeking home building sites. The price of a building lot with trees is usually much higher than one without, and buyers are willing to pay 5 to 10 percent, even up to 20 percent more for an existing home with trees. However, home construction can damage and even kill the much-desired trees, turning them into an economic liability.

### Plan before you build

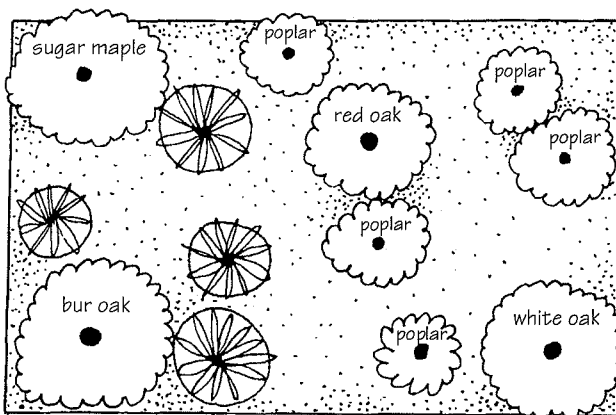
Protecting the existing trees begins when you plan your home. Select a building site that is large enough to accommodate your house and still allows room for undisturbed areas of trees. Small wooded lots are not practical. Many of the trees will have to be removed to make room for the house, and the remaining trees may be damaged by grading and other activities that go with home building.

Trees vary in their ability to tolerate construction damage. Among the most sensitive are red oak, white

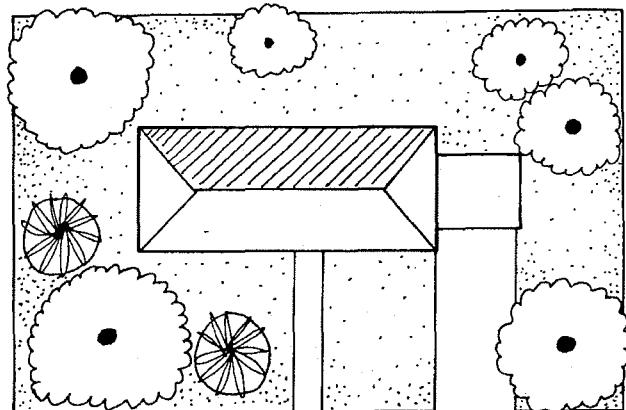
oak, and sugar maple. These species will need more protection during construction. More tolerant trees include bur oak, silver maple, poplars, and willows. In general, young trees are better able to withstand the changes that construction brings than are large, mature trees.

Select a home design that will disturb the area around the trees as little as possible. Keep in mind the trenches dug to install underground water pipes, electric and gas service, telephone and sewer lines will damage or destroy part of a tree's root system. With your blueprints in hand, consult the different utilities to plan service installations as far from the trees as possible.

Plan your driveway to minimize damage. Locate it as far from trees as possible. Limestone gravel placed over the tree's root system will change the chemical makeup of the soil, resulting in poor growth or yellow leaf color. Paving a driveway shuts off the supply of air and water to the root system and suffocates the tree.



Trees on a wooded lot lived many undisturbed years before construction.



Before you build, work with the builder to prevent damage to valuable trees.

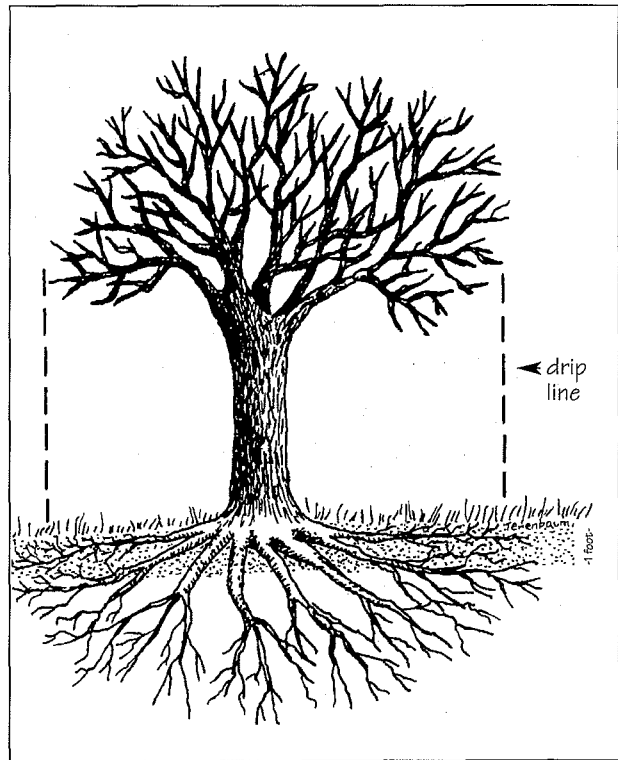
## Work with builder to avoid damage

Most of a tree's feeder root system is within the top foot of soil. In fact, many roots grow in the organic litter that has accumulated under the tree. The root system extends at least as far (often farther) than the ends of the branches. Remember, mature trees have been growing in the same place for many years. The tree developed roots at a soil depth optimum for absorbing the nutrients, moisture, and oxygen that are necessary for the growth and survival of the tree. If the root zone is disturbed by adding fill, cutting away soil or moving heavy equipment over the root zone, the tree is almost sure to suffer.

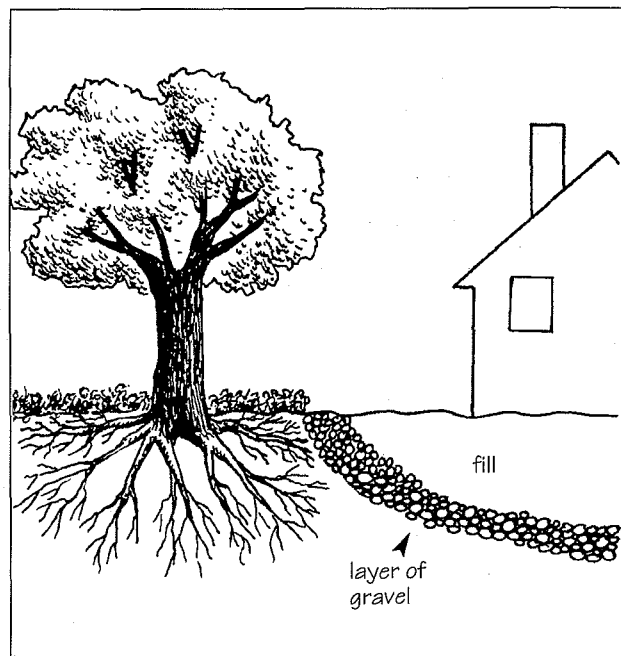
One of the most common (and most destructive) causes of construction damage to mature trees is to add soil, thereby burying the roots. When this happens, the roots lose their supply of oxygen and water. If you must add soil fill around the tree, use a porous soil, like a sandy loam, that will let the roots "breathe." Or, put a layer of gravel (*not* crushed limestone) over the root zone before adding soil. Small, circular pits dug around trees to keep soil fill away from the base of the trunk seldom preserve trees, because the soil fill outside the well covers the major portion of the fine root system. Avoid stockpiling topsoil or construction materials around trees during construction. On the other hand, removing topsoil during home construction will damage the feeder roots. Without their protective soil covering, the roots are subject to drying and injury.

Ask your contractor to keep heavy equipment away from the trees. Build a fence around the root zone if necessary. Broken branches, torn bark, and crushed roots not only hurt the tree, but make it more open to disease and insect invasion. Driving heavy equipment near trees will compact soil and damage the roots. Before construction begins, you may want to cover the root area with several inches of wood chips to minimize compaction.

If at all practical, preserve the natural habitat of the tree, both during and after construction. For example, oak trees thrive in acid soils. Their fallen leaves help create and maintain acidic surface layers of soil that differ significantly from the alkaline material below. If you clear away the natural undergrowth, establish a lawn and rake up the leaves each fall, you will eventually change the upper soil surface, and the oaks will decline and possibly die. Try to maintain the natural drainage pattern of the site. When grading changes the underground flow of water that the tree is accustomed to, the tree will suffer.



The tree's feeder roots grow in the top foot of soil and often extend as far or farther than the ends of the branches.



If fill must be placed over tree roots, put a layer of gravel over the roots before adding fill. This allows water and oxygen to get to the roots.



## What to do if construction damages trees

Symptoms of trees suffering from construction damage may appear the next growing season, or may take two or three years to appear. When the roots are damaged, the tree is not able to take up enough water and nutrients to feed all the branches. The result is die-back in the top of the tree and at the ends of the branches as the areas farthest from the root system begin to die. Some trees develop yellow foliage as a result of nutrient deficiencies. Foliage may be small and sparse. Tree growth may slow down.

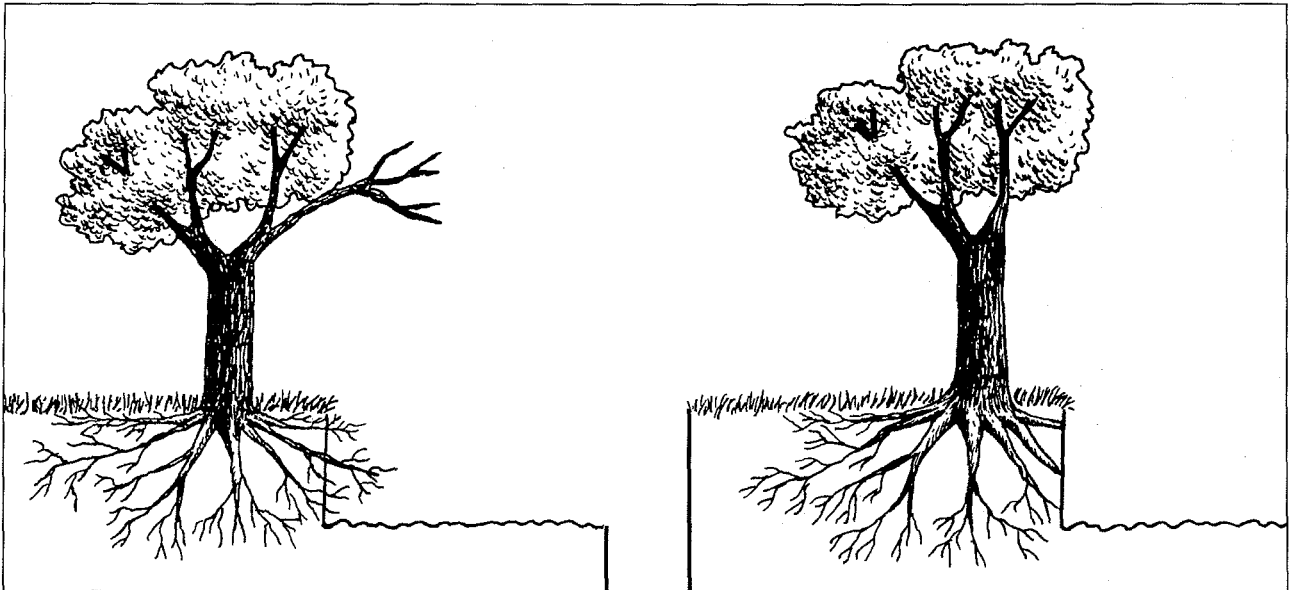
To revitalize trees suffering from construction damage, you can thin the crown, place mulch over the root system of the tree and fertilize. Thinning the crown may be the most effective way to help a tree in decline. A tree with a damaged root system is not able to sustain all of its branches and leaves. Removing dead or dying branches will help to bring the crown to root ratio back into balance. This may

increase the tree's chances for survival. However, do not remove healthy, growing branches.

Mulching with organic material, such as wood chips or shredded bark over the root zone will simulate the forest floor environment. This soft, fertile covering encourages the growth of fine roots which absorb more nutrients, water, and oxygen. Fertilizing may seem to bring trees back to life by stimulating more luxuriant foliage, but no amount of fertilizer will save the tree if root damage is extensive.

Even if no symptoms appear, give extra care to trees following construction work. Water well during dry spells and fertilize once a year in early spring or late fall.

Trees add value to your home. The cost and care of preventing tree damage during construction protects those assets to your home. For more information on preventing construction damage to trees or revitalizing damaged trees, contact your county Extension office or a local arborist.



Trees cannot support all their branches when roots are cut during construction.

Prune dead branches, thin the crown, and water, fertilize, and mulch trees damaged by construction.

## Additional information

For more information about selecting, planting, and caring for trees, consult the following Extension publications:

<i>A Guide to Selecting Landscape Plants for Wisconsin</i>	(A2865)
<i>Caring for Deciduous Shrubs</i>	(A1771)
<i>Caring for Your Established Shade Trees</i>	(A1817)
<i>Dutch Elm Disease in Wisconsin</i>	(A2392)
<i>Evergreens—Planting and Care</i>	(A1730)
<i>Fertilization of Trees and Shrubs</i>	(A2308)
<i>Landscape Plants that Attract Birds</i>	(G1609)
<i>Salt Injury to Landscape Plants</i>	(A2970)
<i>Selecting, Planting and Caring for Your Shade Trees</i>	(A3067)

**<sup>UW</sup>Extension**

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**A3072 Preserving Trees During Construction**

SR-10-94

**ORDINANCE NO. 20.04**  
**TOWN OF DUNN**  
**DANE COUNTY, WISCONSIN**

**AN ORDINANCE TO ADOPT TOWN FEE SCHEDULE**

**SECTION 1 – AUTHORITY**

The Town Board of the Town of Dunn, Dane County, Wisconsin, has the specific authority under Chapter 60, Wis. stats., to adopt this ordinance.

**SECTION 2 – TITLE/PURPOSE**

The title of this ordinance is 20.04 of the Town of Dunn Code of Ordinances. The purpose of this ordinance is to repeal and recreate a fee schedule for the Town of Dunn.

**SECTION 3 – SEVERABILITY**

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

**SECTION 4 – EFFECTIVE DATE**

This ordinance is effective on publication. The town clerk shall properly post or publish this ordinance as required under s. 60.80, Wis. stats.

Adopted this 21<sup>st</sup> day of March 2022.

TOWN OF DUNN

By \_\_\_\_\_  
Steve Greb, Town Chair

By \_\_\_\_\_  
Jeffrey Hodgson, Town Supervisor

By \_\_\_\_\_  
Rosalind Gausman, Town Supervisor

ATTEST: \_\_\_\_\_  
Cathy Hasslinger, Town Clerk Treasurer/Business Manager

Approved: \_\_\_\_\_ Posted: \_\_\_\_\_

# Chapter 21

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## Construction and Enforcement of Code

21.01	Title of Code
21.02	Principles of Construction
21.03	Conflict of Provisions
21.04	Severability of Provisions
21.05	Citations
21.06	Party to an Offense
21.07	General Penalty Provisions

### Sec. 21.01 Title of Code.

These collected ordinances shall be known as the "Code of Ordinances" of the Town of Dunn, Dane County, Wisconsin.

### Sec. 21.02 Principles of Construction.

The following principles shall be applied in the construction and enforcement of this Code, unless such application would be inconsistent with the Code's intent:

- (1) **Acts by Agents.** When an ordinance requires a person to perform an act that may be legally performed by an authorized agent of that principal person, the requirement shall be construed to include all acts performed by such agent.
- (2) **Code.** The word "Code" refers to this Code of Ordinances unless the context indicates otherwise.
- (3) **General Rule.** All words and phrases shall be construed according to their plain meaning in common usage. However, words and phrases with a technical or special meaning shall be understood and construed according to that technical or special meaning if such is the intent of the Code.
- (4) **Person.** The word "person" means any natural person, corporation, partnership, association, body politic, and all other entities that are capable of being sued.
- (5) **Repeal.** When any ordinance having the effect of repealing a prior ordinance is itself repealed, such repeal shall not be construed to revive the prior ordinance or any part thereof, unless expressly so provided.

- (6) **Singular and Plural.** Every word in this Code referring to the singular number only shall also be construed to apply to multiple persons or things, and every word in this Code referring to a plural number shall also be construed to apply to one person or thing.
- (7) **Tense.** The use of any verb in the present tense shall not preclude the interpretation of the verb in the future tense where appropriate.
- (8) **Time.** In computing any period of time prescribed or allowed by this Code, and unless the Code provision states to the contrary, the day of the act or event from which the period of time begins to run shall not be included, but the last day of the period shall be included, unless it is a Saturday, a Sunday or a legal holiday. If the period of time prescribed or allowed is less than 7 days, Saturdays, Sundays and legal holidays shall be excluded in the computation. As used in this Section, "legal holiday" means any statewide legal holiday specified by state law.
- (9) **Town.** The word "Town" means the Town of Dunn, Dane County, Wisconsin.
- (10) **Wisconsin Administrative Code.** The term "Wisconsin Administrative Code" and its abbreviation "Wis. Adm. Code" mean the Wisconsin Administrative Code as it existed at the time the Code of Ordinances provision containing that term was adopted, as the Wisconsin Administrative Code is amended.
- (11) **Wisconsin Statutes.** The term "Wisconsin Statutes" means the 1995-1996 Wisconsin Statutes, as amended.

### **Sec. 21.03            Conflict of Provisions.**

- (1) If the provisions of different chapters of this Code conflict with each other, the provisions of each individual chapter shall control all issues arising out of the events and persons intended to be governed by that chapter.
- (2) If the provisions of different sections of the same chapter of this Code conflict with each other, the provision that is more specific in its application to the events or persons raising the conflict shall control over the more general provision.

### **Sec. 21.04            Severability of Provisions.**

If any provision of this Code is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other provisions of this Code.

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**Sec. 21.05 Citations.**

- (1) **Authorization for Use of Citations.** The Town hereby elects to adopt and authorize the use of citations to be issued for violations of ordinances, including ordinances for which a statutory counterpart exists.
- (2) **Officials Authorized to Issue Citations.** Citations authorized by this Code may be issued by Town and Dane County law enforcement officers and by the following designated Town officials with respect to matters directly related to each official's area of responsibility. The officials granted authority to issue citations under this Section may delegate that authority to other Town employees only with the approval of the Town Board:
  - (a) Building Inspector
  - (b) Weed Commissioner
- (3) **Forms of Citations.** Each citation shall contain the information required by Wisconsin law and may contain additional information.
- (4) **Receipt for Cash Deposits.** Deposits shall be made by cash, money order, personal check, or certified check to the clerk of the municipal court. A receipt shall be given for each cash deposit received.
- (5) **Deposit Schedule.** The Town's deposit schedule shall be a part of this Chapter.

**Sec. 21.06 Party to an Offense.**

A person may be charged with and convicted of the commission of an offense if that person directly committed an offense or if that person aided and abetted the commission of an offense.

**Sec. 21.07 General Penalty Provisions.**

- (1) **General Penalties.** Except where a penalty is provided elsewhere in this Code:
  - (a) **General Penalties.** Any person found guilty of having violated any provision of this Code shall be subject to a forfeiture of not less than Twenty Dollars (\$20.00) nor more than One Thousand Dollars (\$1,000.00); shall be ordered to pay all costs, fees, penalties, assessments, surcharges, and other charges which are or can be imposed by state law; and shall be ordered to pay the costs of prosecution whenever such costs are allowed by state law.
  - (b) **Adopted Penalties.** Any person found guilty of having violated any provision of this Code that is adopted from a state provision shall be subject to a minimum forfeiture equal to the minimum forfeiture or fine permitted for violation of the state provision and for a maximum forfeiture equal to the maximum forfeiture or fine permitted for violation of the state provision, provided that the maximum forfeiture shall not exceed Two Thousand Dollars (\$2,000.00); shall be ordered to pay all costs, fees, penalties, assessments, surcharges, and other charges which are or can be imposed

by state law; and shall be ordered to pay the costs of prosecution whenever such costs are allowed by state law. If an adopted state provision has no penalty provision, the general penalty provisions of this Code shall apply.

- (2) **Juvenile Dispositions and Sanctions.** For a juvenile adjudged to have violated an ordinance, the municipal court is authorized to impose any of the dispositions listed in secs. 938.343 and 938.344, Wis. Stats., in accordance with the provisions of those statutes. For a juvenile adjudged to have violated an ordinance who violates a condition of a dispositional order of the court under secs. 938.343 or 938.344, Wis. Stats., the municipal court is authorized to impose any of the sanctions listed in sec. 938.355(6)(d), Wis. Stats., in accordance with the provisions of those statutes.
- (3) **Continued Violations.** Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Code shall preclude the Town from maintaining any appropriate action to prevent or remove a violation of any provision of this Code.
- (4) **Other Remedies.** The Town shall have any and all other remedies afforded by Wisconsin law in addition to the remedies, terms, and penalties described in this Code.