

1.0 **INTRODUCTION**

THE TOWN BOARD OF THE TOWN OF THERESA DO ORDAIN AS FOLLOWS:

AN ORDINANCE PROVIDING ZONING REGULATIONS FOR THE TOWN OF THERESA, DODGE COUNTY, WISCONSIN.

1.1 Authority

These regulations are adopted under the authority granted by Section 60.62 of the Wisconsin State Statutes and amendments thereto. The Town Board of the Town of Theresa, Dodge County, Wisconsin having been granted village powers pursuant to Section 60.10(2) of the Wisconsin State Statutes.

1.2 Purpose

The purpose of this Ordinance is to promote the health, safety, morals, prosperity, aesthetics and general welfare of the Town of Theresa.

1.3 Intent

It is the general intent of the Ordinance to regulate and restrict the use and development of all structures, lands and water; to regulate and restrict lot coverage, population distribution and density, tree cutting, dredging and lagooning in shoreland areas and the size and location of all structures, so as to: lessen congestion, and promote safety from fire, flooding, panic and other danger; provide adequate light and air; prevent overcrowding; avoid undue population concentration; facilitate the adequate provision of public facilities and utilities; stabilize and protect property values; prevent water pollution; protect spawning grounds, fish and aquatic life and otherwise further the appropriate use of land and conservation of natural resources; preserve and promote the beauty of the Town; and implement the Town's comprehensive master plan and plan components. It is further intended to provide for the administration and enforcement of this Ordinance and to provide penalties of its violation.

1.4 Abrogation and Greater Restrictions

It is not intended by this Ordinance to repeal, abrogate, annul, impair or interfere with any existing easement, covenants, deed restrictions, agreement, ordinances, rules, regulations or permits previously adopted or issued pursuant to law. However, wherever this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.

1.5 Interpretation

The provisions of this Ordinance shall be interpreted and applied as minimum requirements, shall be liberally construed in favor of the Town, and shall not be deemed a limitation of repeal of any other power granted by the Wisconsin Statutes.

1.6 Severability

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

1.7 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.

1.8 Title

Ordinance shall be known as, referred to, or cited as the "ZONING ORDINANCE, TOWN OF THERESA, DODGE COUNTY, WISCONSIN."

1.9 Effective Date

This Ordinance shall be effective after a public hearing, adoption by the Town Board, approval by the Dodge County Board of Supervisors and publication or posting as required by law.

## 2.0 **GENERAL PROVISIONS**

### 2.1 Jurisdiction

The jurisdiction of this Ordinance shall include all land and waters within the boundaries of the Town of Theresa lying outside the limits of incorporated cities and villages. In the wetland, shoreland, and floodplain areas under the dual jurisdiction of the Town of Theresa and Dodge County, this Ordinance and the County regulations shall be in full effect and all requirements shall be met.

### 2.2 Compliance

No structure, land or water shall hereafter be used and no structure, or part thereof shall hereafter be located, erected, moved reconstructed, extended, enlarged, converted or structurally altered except for normal repairs of existing structures, without a Land Use Permit and without full compliance with the provisions of this Ordinance and all other applicable Town, County and State regulations. Minor structures shall be exempt.

Where the terms and objectives of this Ordinance have been substantially addressed and fulfilled by the Wisconsin Department of Natural Resources where concurrent jurisdiction with this Ordinance exists, so as to avoid duplication of effort, the terms of this Ordinance shall not be imposed. If within the A-1 Farmland Preservation Zoning District, the terms of this Ordinance shall continue to be enforced. The concurrent jurisdiction with the Department of Natural Resources only includes land under specific jurisdiction of the Department of Natural Resources, Army Corp of Engineers and Dodge County.

The board shall not issue a permit for relocation of a building unless it finds that the exterior appearances and design of the building to be moved or moved and altered, will be consistent with the exterior appearance and design of the buildings already constructed or in the course of construction in the immediate neighborhood, or with the character of the applicable district established by the zoning ordinances of the municipality. No permit shall be granted if the relocation will cause substantial depreciation of the property values of the neighborhood to which the buildings is proposed to be relocated.

### 2.3 Land Use Administrator

There is hereby created the office of Land Use Administrator for the Town of Theresa. Essential functions and responsibilities are as follows:

1. Provide to the general public, applicants and their representatives, the necessary land use permit applications, variance, and appeal forms.
2. Answer general questions, assist them in preparing permit applications, and direct them to the proper agencies for other needed permits.
3. Accept and review applications for land use permits, variances, conditional use permits, and zoning changes.
4. Determine the completeness of the applications and their compliance with the provisions of the Zoning Ordinance, Comprehensive Plan and other ordinances and regulations.
5. Review all complaints made relating to the location of structures and the use of structures, lands, and waters; give notice of all violations of this

Ordinance to the owner, resident, agent, or occupant of the premises; provide information and permits needed for compliance; and report uncorrected violations to the Town Board.

6. Prepare information for the Plan Commission and attend committee meetings and public hearings as necessary.
7. Submit records of all land use permits issued or denied, inspections made, work approved and other official actions to the Town Clerk on a regular basis.
8. Give final approval and sign all certified survey maps.
9. Report to the Town Board quarterly with data regarding land use permits issued or denied, appeals, requests for amendments, requests for variances, and other pertinent zoning administration activity and information.

## 2.4 Land Use Permits

Applications for a Land Use Permit shall be made to the Land Use Administrator on forms furnished by his or her office and shall include the following where applicable:

**Names and Addresses** of the applicant, owner of the site or agent for the owner.

**Description of the Subject Site** by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure, existing and proposed operation or use of the structure or site; number of occupants or employees; and the zoning district within which the subject site lies.

**Sketch** showing dimensions of the lot and locations of proposed and existing buildings from the lot lines, center line of abutting highways and the highwater mark of abutting water course.

**Additional Information** as may be required by the Land Use Administrator.

**Fee** in the amount as set by the Town Board.

Any application for a Land Use Permit shall be granted or denied in writing by the Land Use Administrator within forty-five (45) days. If denied, the reasons for such denial shall clearly appear upon the face of the notification of denial. The permit shall expire within twelve (12) months unless substantial work has commenced. Any permit issued in conflict with the provisions of this Ordinance shall be null and void.

## 2.5 Letter of Zoning Compliance

(1) No land or building, or addition thereto, constructed after the effective date of this Ordinance and no addition, alteration, reconstruction, extension, enlargement, conversion or structural alteration to a previously existing building shall be occupied or used for any purposes unless in conformity with the plans and specifications upon which the Land Use Permit was issued. A Letter of Zoning Compliance may be issued by the Land Use Administrator upon request of the applicant. Every Letter of Zoning Compliance shall state that the use or occupancy complies with all the provisions of this Ordinance.

(2) Any person, firm, or corporation having a legal or equitable interest in a property which is a legal nonconforming use may request a Letter of Zoning Compliance. The applicant shall present documentary proof that said use was a permitted use at the time

it originated and was made nonconforming by the adoption of this Zoning Ordinance or amendment thereto. After verifying that the use in question is in fact a legal nonconforming use, the Land Use Administrator shall issue a Letter of Zoning Compliance stating the use in question and the zoning of the property.

2.6 Site Restrictions

**All Principal Structures** shall be located on a lot; and only one principal structure shall be located, erected or moved onto a lot.

**No Land Use Permit** shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width and located on that site from which the required dedication has not been secured.

**Minimum Area and Width.** Except as otherwise specifically required or permitted the minimum lot area shall be two (2) acres and a minimum lot width of 125 feet at the building setback line and 200 feet at the water's edge along a navigable waterway. Lots served by public sanitary sewer shall have a minimum lot area of 20,000 square feet and 100 feet of lot width at the building setback line.

**Side Yards.** There shall be a 10 foot side yard for each principal structure.

2.7 Use Restrictions

The following use restrictions and regulations shall apply:

**Principal Uses.** Only those principal uses specified for a district, their essential services and the following uses shall be permitted in the district.

**Accessory Uses** and structures are permitted in any district, but not until their principal structure is present or under construction.

**Conditional Uses** and their accessory uses are those which require review, public hearing and approval by the Town Plan Commission. The only conditional uses and structures permitted by this Ordinance shall be those enumerated in the District Regulations, Section 3.5 of this Ordinance.

**Temporary Uses** such as real estate field offices, roadside stands or shelters for materials and equipment being used in the construction of a permanent structure may be permitted by the Land Use Administrator through the issuance of a Letter of Zoning Compliance for a period not to exceed six (6) months. This temporary approval letter may be renewed semi-annually but in no case shall the effective time span of the Certificates exceed two years.

2.8 Reduction of Joint Use

No lot, yard, parking area, building area or other space shall be reduced in area or dimension, so as not to meet the provisions of this Ordinance.

2.9 Pet and Animal Regulations

In platted residential subdivisions no animals other than household pets shall be allowed.

In all zoning districts, household pets shall be allowed provided that not more than four (4) dogs are kept on any one premise. However, offspring of permitted household pets may be kept and sold from the premises for a period of up to eight (8) months.

On parcels less than thirty-five (35) acres in area, the number of animals kept on any one premise shall not exceed the ratio of one animal unit for each acre of land owned or leased.

#### 2.10 Violations

It shall be unlawful to construct any structure or building or to use any structure, building, land or water in violation of any of the provisions of this Ordinance. In case of any violation, the Town Plan Commission, Town Board, Land Use Administrator or any property owner who would specifically be damaged by such violation may institute appropriate action or proceeding to enjoin a violation of this Ordinance.

#### 2.11 Penalties

Any person, firm or corporation who fails to comply with the provisions of this Ordinance shall upon conviction thereof, forfeit not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500) and cost of prosecution for each violation and in default of payment of such forfeiture and costs shall be imprisoned in the County jail until payment thereof, for a period not to exceed thirty (30) days. Each day a violation exists or continues shall constitute a separate offense.

#### 2.12 Outdoor Storage of Inoperable or Unlicensed Vehicles

Any motor vehicle without a current, valid license or which is incapable of being driven, shall not be stored on any premises except in a properly authorized salvage yard, within an enclosed structure or unless it is not visible from a public road or adjacent dwelling. This provision shall apply to any vehicle subject to the above provisions regardless of when it was placed on the premises, but shall not apply to farm vehicles and equipment.

The Dodge County Circuit Court may, upon the petition of and at the request of the Town, order removal of the violating vehicle(s), at Town expense. The Town shall then invoice the property owner for all such costs incurred. If that invoice is not paid within thirty (30) days, the Town may place the amount of the invoice on the tax rolls as special assessment against the property in question.

The Land Use Administrator may submit any such case in question to the Town Board for its determination.

3.0 **ZONING DISTRICTS**

3.1 Establishment

For the purpose of this Ordinance, the following primary use districts are hereby established within the Town of Theresa.

**Primary Use Districts**

- |    |     |   |                           |
|----|-----|---|---------------------------|
| 1. | A-1 | - | Farmland Preservation     |
| 2. | A-2 | - | General Agricultural      |
| 3. | R-1 | - | Single Family Residential |
| 4. | R-D | - | Rural Development         |
| 5. | C-1 | - | Commercial                |
| 6. | I-1 | - | Industrial                |

3.2 Official Zoning Map

A certified copy of the Official Zoning Map is adopted and approved with the text of this Ordinance. Said map and any certified amendments or changes thereto are as much a part of this Ordinance as this text and shall have full force and effect on the adoption of this Ordinance.

The boundaries of the zoning districts enumerated in Sec. 3.1 are hereby established as shown on the Official Zoning Map of the Town of Theresa, Dodge County, Wisconsin adopted and incorporated herewith by reference. The Official Zoning Map shall be on file and available for public inspection at the office of the Town Clerk, Town of Theresa. The Official Zoning Map shall be revised promptly upon the approval of any zoning map amendment requests.

3.3 Interpretation of District Boundaries

When uncertainty arises concerning the boundaries of the zoning districts, the following rules shall apply:

- (1) Where district boundaries are depicted as approximately following the centerlines of streets, highways, or road right-of-way lines, or centerlines of streams or drainage ways, such center, road right-of-way lines shall be constructed to be such boundaries.
- (2) Where district boundaries are depicted as approximately following lot lines, such lot lines shall be constructed to be such boundaries.
- (3) Where district boundaries are depicted as running parallel to centerlines of streets, highways or road right-of-way lines, such parallel lines shall be constructed to be such boundaries at a distance from the centerlines that fulfills the intent of drawing such lines.
- (4) Where boundaries do not follow property lines and distances are not specified, boundaries shall be reviewed and interpreted by the Theresa Town Board.

### 3.4 Uses Regulated

No building, structure or use of land shall hereafter be initiated or altered except in conformity with the regulations specified for the district in which it is located. Uses not specified in this Ordinance may, nonetheless, be allowed by the Town Board after application, only if such uses are substantially similar in character to specific permitted or conditional uses in the applicable district.

Uses and structures may be subject to Dodge County shoreland-wetland and floodplain regulations, where applicable. In addition, Army Corp of Engineers and Wisconsin Department of Natural Resources regulations may apply in wetland and floodplain areas.

### 3.5 District Regulations

#### **A-1 Farmland Preservation Zoning District**

The purpose of this district is to promote areas for uses of a generally exclusive agricultural nature in order to protect farmland and to allow participation in the state's farmland preservation program.

##### A. Permitted Uses

1. Agricultural uses, except livestock facilities housing more than 500 animal units of cattle, poultry, swine, sheep, or goats or any other animal confinement facilities housing other types of animals (e.g. mink).
2. Accessory uses, which means any of the following land uses on a farm:
  - a. A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use.
  - b. An activity or business operation that is an integral part of, or incidental to, an agricultural use.
  - c. A farm residence.
  - d. A business, activity, or enterprise, whether or not associated with an agricultural use, that is conducted by the owner or operator of a farm, that requires no buildings, structures, or improvements other than those described in 2.a or 2.c above, that employs no more than 4 full-time employees annually and that does not impair or limit the current or future agricultural use of the farm or of other protected farmland.
3. Home occupations, subject to the requirements of Accessory Use under Wis. Stats 91.01(1).
4. Prior legal nonconforming uses that were in existence as of **[enter date of ordinance]**, subject to the nonconforming use provisions of this Ordinance.
5. Transportation, utility, communication, or other uses that are required under state or federal law to be located in a specific place or that are authorized to be located in a specific place under a state or federal law that preempts the requirement of a conditional use permit for those uses.
6. Undeveloped natural resource and open space areas.



B. Conditional Uses

1. Livestock Facilities with 500 or more animal units that meet the siting standards in Wis. Adm. Code ch. ATCP 51 and other animal confinement facilities.
2. Agriculture-related uses.
3. Conversion of a farm residence to a nonfarm residence through a change in occupancy.
4. Governmental, institutional, religious, or nonprofit community uses that qualify under Wis. Stats. 91.46 (5).
5. Non-metallic mineral extraction that qualify under Wis. Stats. 91.46 (6).
6. Oil and gas exploration or production that is licensed by the Department of Natural Resources under subch. II of ch. 295, Wis. Stats., and that meet the requirements of s.91.46(6), Stats.
7. Transportation, communications, pipeline, electric transmission, wind energy systems, utility, or drainage uses that qualify under Wis. Stats. 91.46 (4).
8. Any accessory building or structure not related to an agricultural use that exceeds 960 square feet in area.

C. Area, Height and Yard Requirements

- Lot: Width and area of all lots to be determined in accordance with Section 2.6.
- Height: 35 Feet Maximum, Agricultural Structures Exempt
- Yards:
- |        |   |                 |
|--------|---|-----------------|
| Rear   | - | Minimum 25 Feet |
| Side   | - | Minimum 10 Feet |
| Street | - | See Section 5.0 |

**A-2 - General Agricultural District**

The purpose of this district shall be to promote an area for uses of a generally agricultural nature on lands of good agricultural quality.

A. Permitted Uses

1. Agricultural uses;
2. Single family residences existing as of the date of this amendment to the ordinance and additions thereto;
3. Home Occupations;
4. Telephone and electrical power transmission lines and necessary accessory structures;

B. Conditional Uses

1. Aircraft landing fields and hangers;
2. Animal confinement facilities;
3. Bed and breakfast establishments;
4. Churches; cemeteries;
6. Commercial greenhouses, landscape and nursery businesses;
7. Dog kennels;
8. Duplexes subject to the provisions of Section 4.11 of this Ordinance;
9. Farm machinery repair;
10. Farms operated for the disposal or reduction of garbage, sewage or any other waste material;
11. Governmental and cultural uses such as town halls, fire and police stations, community centers, libraries, public emergency shelters, parks and playgrounds;
12. Mobile home parks;
13. New single family residences subject to the provisions of Section 4.11 of this Ordinance;
14. Public, parochial and private elementary and secondary schools;
15. Quarries and earth borrow pits, mineral extraction;
16. Sanitary landfills, junk or salvage yard operations;
17. Self-service storage facilities;
18. Trap and skeet and sporting clay shooting facilities;
19. Utilities;
20. Veterinary clinics;
21. Any similar use subject to the approval of the Town Board.
22. Any accessory building or structure not related to an agricultural use that exceeds 960 square feet in area.

C. Area, Height and Yard Requirements

- Lot: Width and area of all lots to be determined in accordance with Section 2.6 of this Ordinance.
- Height: 35 Feet Maximum, Agricultural Structures Exempt
- Yards:
- |        |   |                 |
|--------|---|-----------------|
| Rear   | - | Minimum 25 Feet |
| Side   | - | Minimum 10 Feet |
| Street | - | See Section 5.0 |

**R-1 - Single Family Residential District**

The primary purpose of this district shall be to promote an area of a generally exclusive single family residential nature.

A. Permitted Uses

1. Single family dwellings and accessory buildings, including private garages and buildings clearly incidental to the residential use of the property, provided that no such accessory buildings may be used as dwelling units;
2. Home occupations;
3. Telephone and electrical power distribution poles and lines and necessary accessory equipment and structures.

B. Conditional Uses

1. Churches, cemeteries;
2. Governmental and cultural uses such as fire and police stations, community centers, libraries, public emergency shelters, parks and playgrounds;
3. Golf courses;
4. Public, parochial and private elementary and secondary schools;
5. Planned unit developments;
6. Utilities;
7. Any accessory building or structure not related to an agricultural use that exceeds 960 square feet in area.
8. Any similar use subject to the approval of the Town Board.

C. Area, Height and Yard Requirements

Lot:	Width and area of all lots to be determined in accordance with Section 2.6		
Height:	35 Feet Maximum		
Yards:	Rear	-	Minimum 25 Feet
	Side	-	Minimum 10 Feet
	Street	-	See Section 5.0

**RD - Rural Development District**

The purpose of this district shall be to promote an area of a rural residential, agricultural and selected rural commercial nature.

A. Permitted Uses

1. Agricultural uses;
2. Single family dwellings and accessory buildings, including private garages and buildings clearly incidental to the residential use of the property, provided that no such accessory buildings may be used as dwelling units;
3. Home occupations;
4. Telephone and electrical power distribution poles and lines and necessary accessory equipment and structures.

B. Conditional Uses

1. Antique shops;
2. Commercial greenhouses, landscape and nursery businesses;
3. Sanitary landfills, incinerators and salvage yards;
4. Duplexes;
5. Mobile home parks;
6. Planned unit developments;
7. Multi-family dwellings;
8. Bed and breakfast establishments;
9. Golf courses;
10. Quarries and earth borrow pits;
11. Aircraft landing fields and hangers;
12. Churches; cemeteries;
13. Public, parochial and private elementary and secondary schools;
14. Planned unit developments;
15. Governmental and cultural uses such as fire and police stations, community centers, libraries, parks and playgrounds;
16. Utilities;
17. Any accessory building or structure not related to an agricultural use that exceeds 960 square feet in area.
18. Any similar use subject to the approval of the Town Board.

C. Area, Height and Yard Requirements

Lot:	Width and area of all lots to be determined in accordance with Section 2.6		
Height:	35 Feet Maximum		
Yards:	Rear	-	Minimum 25 Feet
	Side	-	Minimum 10 Feet
	Street	-	See Section 5.0

**C-1 - Commercial District**

The purpose of this district shall be to promote an area for retail and service oriented establishments.

A. Permitted Uses

1. Agricultural uses;
2. Parking lots;
3. Personal and business service establishments, excluding motor vehicle and farm equipment repair, with no more than 3,500 square feet of floor space;
4. Professional offices with no more than 3,500 square feet of floor space;
5. Retail businesses, excluding motor vehicle and farm equipment sales, with no more than 3,500 square feet of floor space;

B. Conditional Uses

1. Retail businesses, professional offices and personal and business service establishments exceeding 3,500 square feet in floor space;
2. Contractors storage yards;
3. Farm equipment sales and service;
4. Hospitals, clinics and nursing homes;
5. Motor vehicle sales and service;
6. Residential quarters for the owner, commercial tenant, employee or caretaker located in the same building as the business;
7. Self-service storage facilities;
8. Uses conditionally allowed in the RD - Rural Development District;
9. Any similar use subject to the approval of the Town Board.

C. Area, Height and Yard Requirements

Lot:	Width and area of all lots to be determined in accordance with Section 2.6		
Height:	35 Feet Maximum		
Yards:	Rear	-	Minimum 25 Feet
	Side	-	Minimum 10 Feet
	Street	-	See Section 5.0

D. Off-Street Parking Requirements

Off-street parking shall be provided in accordance with Section 5.6 of this Ordinance.

## **I-1 Industrial District**

The purpose of this district shall be to promote an area for manufacturing and industrial operations.

### **A. Permitted Uses**

1. Manufacturing establishments engaged in the fabrication, processing, assembly or packaging of a product which is not specified as a conditional use in the Industrial District;
2. Agricultural uses;
3. Automobile repair facilities;
4. Contractors office and/or storage yards;
5. Farm machinery sales, service and storage facilities;
6. Food storage warehouses;
7. Freight yards and trucking terminals;
8. Gas stations;
9. Governmental uses such as but not limited to, police or fire stations, community centers or buildings used for the storage or repair of road maintenance equipment;
10. Nurseries, greenhouses and landscaping businesses;
11. Parking lots;
12. Printing and publishing establishments;
13. Processing and packaging of food products;
14. Processing and packaging of recyclable materials;
15. Recycling collection points;
16. Self-service storage facilities;
17. Telephone and electrical power distribution poles and lines;
18. Warehousing, except the storage of chemicals, explosives, flammables and radioactive materials;
19. Wholesale establishments;
20. Retail sale of products if accessory to and in the same structure as the principal use.

### **B. Conditional Uses and Structures**

1. Manufacturing, processing, packaging or storage of chemicals, explosives, batteries, asphalt, cement, flammables, paint, poison, rubber, dyes, plastics and radioactive materials;
2. Airports, aircraft landing fields and hangars;
3. Salvage yards and storage of inoperable vehicles;
4. Dumps and waste disposal areas;
5. Farms operated for the disposal of sewage, rubbish or any waste material;
6. Feed mills, granaries and elevators;
7. Incinerators;
8. Mineral extraction, quarrying;
9. Planned unit developments;
10. Sanitary landfill operations;
11. Sewage treatment facilities;
12. Utilities;
13. One single family residence or watchman's quarters per site for the owner or proprietor, caretaker/watchman and their family, which is incidental to a permitted or conditional use;
14. Any similar use subject to the approval of the Town Board.

C. Area, Height and Yard Requirements

Lot Size:	Width and area of all lots to be determined in accordance with Section 2.6		
Height:	Maximum 60 feet		
Yards:	Rear	-	Minimum 25 feet
	Side	-	Minimum 10 feet
	Street	-	See Section 5.0

In addition, all new structures or extensions to existing structures shall be located a minimum distance of 50 feet from any zoning district boundary line.

D. Off-Street Parking Requirements

Off-street parking shall be provided in accordance with Section 5.6 of this Ordinance.

E. Site Plan Approval Requirement

To encourage a business and industrial use environment that is compatible with the character of the surrounding area, land use permits for permitted and conditional uses shall not be issued without prior review and approval or conditional approval of the site plan by the Plan Commission. Said review and approval shall be concerned with surrounding land uses, signs, general layout, building plans, building materials, ingress and egress, traffic congestion, parking, loading and unloading areas, screening and landscaping plans, lighting and provisions for utilities including surface drainage.

## 4.0 **CONDITIONAL USES**

### 4.1 Permit

The Town Plan Commission may authorize the Land Use Administrator to issue a Conditional Use Permit for conditional uses after review and a public hearing, provided that such conditional uses or structures are in accordance with the purpose and intent of this Ordinance and are found not to be hazardous, harmful, offensive or otherwise adverse to the environment or the value of the area.

### 4.2 Application

**Applications** for Conditional Use Permits shall be made to the Land Use Administrator on forms provided by him or her. Such applications shall be forwarded to the Plan Commission by the Land Use Administrator. Such applications shall include where applicable;

**Names and Addresses** of the applicant, owner of the site, architect, professional engineer, contractor and all opposite and abutting property owners of record.

**Description of the Subject Site** by lot, block and recorded subdivision, certified survey map number or by metes and bounds; address of the subject site; type of structure; number of employees; proposed operation or use of the structure or site; and the zoning district within which the subject site lies.

**Sketch** showing all of the information required under Section 2.4 for a Land Use Permit and existing and proposed landscaping.

**Additional Information** as may be required by the Plan Commission or by the Land Use Administrator.

**Fee** in the amount as set by the Town Board.

### 4.3 Review and Approval

In reviewing a Conditional Use Permit, the Town Plan Commission shall evaluate the proposed use on:

1. The maintenance of safe and healthful conditions;
2. The prevention and control of water pollution including sedimentation;
3. Existing topographic and drainage features and vegetation cover on the site;
4. The location of the site with respect to floodplains and floodways of rivers or streams;
5. The erosion potential of the site based upon degree and direction of the slope, soil type and vegetation cover;
6. The location of the site with respect to existing or future access roads;
7. The need of the proposed use for a shoreline location;
8. Its compatibility with use on adjacent land;
9. The amount of liquid wastes to be generated and the adequacy of the proposed disposal system;



10. Structures or improvements within the prime agricultural district shall be consistent with agricultural uses.

#### 4.4 Conditions

The Town Plan Commission may attach such conditions, in addition to those required elsewhere in this Ordinance, that it deems necessary in furthering the purpose of this Ordinance. Violation of any of these conditions shall be deemed a violation of this Ordinance. Such conditions may include, without limitation because of specific enumeration, specifications for:

- type of shore cover;
- increased setback and yards;
- specified sewage disposal and water supply facilities;
- landscaping and planting screens;
- hours of operations;
- operational control;
- sureties;
- deed restrictions;
- locations of piers, docks, parking and signs;
- type of construction or any other requirement necessary to fulfill the purpose and intent of this Ordinance.

In order to secure information upon which to base its determination, the Plan Commission may require the applicant to furnish, in addition to the information required for a Land Use Permit, the following information:

1. A plan of the areas showing contours, soil types, highwater mark, groundwater conditions, bedrock, slope and vegetative covers.
2. Location of buildings, parking areas, traffic access, driveways, walkways, open spaces, landscaping, lighting;
3. Plans for buildings, sewage disposal facilities, water supply systems and arrangements of operations;
4. Specifications for areas of proposed filling, grading or dredging;
5. Other pertinent information necessary to determine if the proposed use meets the requirements of this Ordinance.

The Town Plan Commission is evaluating each application, may request assistance from other local, county, state or federal agencies.

#### 4.5 Public Hearings

Public hearings on applications shall be held by Town Plan Commission. There shall be a published Class One (1) notice as provided in Chapter 985 of the Wisconsin Statutes. The Commission shall notify all abutting or opposite property owners as listed by the developer in the original application of the time, date and subject matter of the hearing.

4.6 Compliance

Compliance with all other provisions of this Ordinance, such as lot width and areas, yards, height, parking, loading, traffic, highway access and performance standards, shall be required of all conditional uses except as modified by this Section. Variances shall only be granted as provided in Section 10.0.

4.7 No Permit

No permit shall be granted where the proposed use is deemed to be inconsistent or conflicting with neighboring uses for reasons of smoke, odors, noise, vibration, lighting, health hazards or possibility of accidents.

4.8 Expiration of Conditional Use Permits

A conditional use permit shall expire one year after its effective date or at such alternate time specified in the approval unless the use is established or construction has been diligently pursued. A conditional use permit may be renewed by the Plan Commission for a period not to exceed one year. A conditional use permit shall also expire upon termination of a project or if the rights granted by the permit are discontinued for 180 consecutive days.

4.9 Planned Unit Development

Planned unit developments (PUD) are allowed as conditional uses in all zoning districts except any Agricultural District. PUD is intended to permit the development of planned developments containing not less than ten (10) contiguous acres under one ownership or control.

Within such planned communities, the location of all residential, commercial, industrial, governmental uses, school sites, parks, playgrounds, recreation areas, parking areas and other open spaces shall be controlled in such a manner as to permit a variety of housing accommodations and land uses in orderly relationship to one another.

1. The procedure for obtaining a permit for the development of a PUD shall be as outlined in Sections 4.1, 4.2 and 4.3 of this Ordinance, except that the following requirements shall also apply;
  - a. The applicant shall provide proof that the site under consideration contains a minimum land area of not less than ten (10) acres under one ownership or control. Additional land area may be added to an existing PUD if it is adjacent or forms a logical addition to an existing PUD. The procedure for an addition shall be the same as if an original application were filed, and all of the requirements of this article shall apply except the minimum acreage requirement of ten (10) acres.
  - b. The applicant shall furnish twelve (12) copies of a preliminary plan, prepared or certified by a surveyor or engineer duly authorized by the State to practice as such, showing the proposed general layout, the general location of the various types of land uses, the proposed densities of population in the residential areas, a major

thoroughfare plan, a public utility plan if public utilities are proposed or required, a storm drainage plan and a plan showing the location of recreation spaces, parks, schools and other public or community uses.

- c. Following approval of the preliminary plan by the Town Plan Commission, the applicant shall furnish twelve (12) copies of the final plan prepared or certified by a surveyor or engineer duly authorized by the State to practice as such, showing the layout of all major and local thoroughfares and local streets, the location of all buildings, parking areas, pedestrian ways, utility easements, lot lines, open spaces, parks, recreation areas, school sites, playgrounds, the proposed use of all buildings and the metes and bounds of all dedicated areas and lots. The applicant shall also furnish a proposed deed of dedication including restrictions safeguarding the use of open spaces and preventing encroachment upon open spaces between buildings. The applicant shall furnish a deed, or deeds, to land determined by the Town to be needed for public elementary and intermediate school purposes. When the final plan and deed of dedication have been approved by the Town Plan Commission as being in conformity with this section and with any changes or requirements of the Town Plan Commission on the preliminary plan it shall be approved for recordation and recorded. Thereafter, no modification may be made in any final plan except by an amended final plan submitted in accordance with this Ordinance.

2. In granting a permit for the development of a PUD the Town Plan Commission shall make the following determinations:

- a. That the uses shall be as shown on the preliminary plans as required by Section 4.4(1);
- b. That the location of all structures and designated building envelopes shall be as shown on the final plans as required by Section 4.4(1). Building envelopes must be protected by adequate covenants, running with the land, conveyances or dedications;

The proposed location and arrangement of structures shall not be detrimental to existing or prospective adjacent dwellings or to the existing or prospective development of the neighborhood. Open spaces between structures shall be protected where necessary by adequate covenants, running with the land, conveyances or dedications. There shall be no minimum lot size, no minimum setback lines, no maximum percentage of lot coverage and no minimum lot width in a PUD.

- c. That the owner and contractors have been bonded to make the required improvements within a reasonable length of time.

4.10

Mobile Home Parks

In granting a permit for the development or improvement of a mobile home park, the Plan Commission shall make the following determinations:

1. The minimum size of a mobile home park shall be ten (10) acres;
2. The maximum number of mobile homes shall be seven per acre;
3. Minimum dimensions of a mobile home site shall be sixty (60) feet wide by one hundred (100) feet long;
4. All drives, parking areas and walkways shall be hard surfaces;
5. In addition to the requirements of Section 5.0 of this Ordinance, there shall be a minimum yard setback of forty (40) feet from all lot lines of the mobile home park;
6. It shall conform to the requirements of Chapter H77, Wisconsin Administrative Code which shall apply until amended and then apply as amended, except where the provisions of this Ordinance are stricter;
7. No mobile home site shall be rented for a period of less than 30 days;
8. Each mobile home shall be situated on a site so that there is a minimum of 15 feet of yard space between the home and each adjacent site.
9. "Skirting", fire resistant material enclosing all area between the lower edge of the outside walls of a mobile home and the ground, shall be installed on each mobile home within one hundred twenty (120) days after placement on a site.
10. There shall be two (2) surfaced automobile parking spaces for each mobile home;
11. Unless adequately screened by existing vegetative cover it shall be screened by:

A temporary planting of fast growing materials, capable of reaching a height of fifteen (15) feet or more, such as hybrid poplar; and a permanent evergreen planting, such as White or Norway Pine, the individual trees to be such a number and so arranged that within ten (10) years they will have formed a screen equivalent in opacity to a solid fence or wall. Such permanent planting shall be grown or maintained to a height of not less than fifteen (15) feet.

12. Each park shall contain a recreation area. A minimum of one-half acre for such use shall be provided for each fifty (50) sites, and for any remaining number of sites in excess of a multiple of fifty (50).
13. Each park shall provide a sub-ground level storm shelter for the protection of those persons living within the park. Said shelter shall be based upon the following criteria or a protection plan equivalent as approved by the Dodge County Civil Defense Director.
  - a. Storm shelters in mobile home parks shall be provided on a ratio of one shelter for every sixty (60) sites. A minimum of one (1) shelter shall be provided for each mobile home park.
  - b. A minimum of six hundred seventy-five (675) cubic feet of air space shall be provided in the storm shelter for each mobile home site with auxiliary forced air ventilation system.

- c. Storm shelters shall have a minimum of four (4) inch reinforced concrete walls and six (6) inch reinforced concrete ceilings with adequate support.

#### 4.11 Trailer Courts and Campgrounds

Prior to granting a permit for the development or improvement of a trailer court or campground the Town Plan Commission shall make the following determinations:

1. The minimum size of a travel trailer park or campground shall be five (5) acres.
2. The maximum number of travel trailers or campsites shall be fifteen (15) per acre.
3. Minimum dimensions of a travel trailer site or campsite shall be twenty-five (25) feet wide by forty (40) feet long.
4. Each travel trailer site or campground be separated from other travel trailer spaces or campsites by a yard not less than fifteen (15) feet wide.
5. There shall be one and half (1½) automobile parking spaces for each trailer site and one (1) for each campsite.
6. In addition to the requirements of Section 5.0 of this Ordinance, there shall be a minimum yard setback of forty (40) feet from all exterior lot lines of the travel trailer park or campground.
7. It shall conform to the requirements of Chapter 78, Wisconsin Administrative Code which shall apply until amended and then apply as amended.
8. The screening provisions for mobile home parks are met.

#### 4.12 Residential Uses in the A-2 General Agricultural District

In granting a Conditional Use Permit for residential uses in the A-2 General Agricultural District, the Commission shall make the following determinations:

1. The proposed residential uses will not adversely affect agricultural operations in surrounding areas or be situated that future inhabitants of such residence might adversely be affected by agricultural operations in surrounding areas;
2. That the site(s) of the proposed residential uses are not well suited for agricultural use by virtue of wooded areas, topography, shape of parcel, soil characteristics, and similar factors;
3. That the site(s) proposed for residential use is particularly well suited for such use as indicated by rolling topography, wooded areas, soil types, vistas, proximity to lakes or streams, or other similar factors, proximity to school bus routes, traffic access and safety and adequacy of area schools to accommodate increased enrollment that might result from such development.
4. The proposed residential use would be in conformance with the Town of Theresa Comprehensive Plan.

4.13 Conditional Uses in the A-1 Farmland Preservation Zoning District

The Town Plan Commission may issue a Conditional Use Permit for those conditional uses listed under the A-1 Farmland Preservation District in this Ordinance, provided that such conditional uses are in accordance with Section 4.0 of this Ordinance and Wis. Stats. 91.46.

4.14 Salvage and Junk Yards

No junk or salvage yards shall be permitted in the Town of Theresa unless they comply with the following requirements:

1. No salvage or junk materials shall be located within five hundred (500) feet of the centerline of all Federal, State or County Trunk Highways or the boundary of a public park, or within three hundred (300) feet of the centerline of all Town roads unless written permission is first obtained from the Town Plan Commission;
2. No salvage yard shall present a nuisance to public health;
3. All junk and salvage materials shall be screened by natural objects, plantings fences or other appropriate means so as not to be visible from the highway, road, adjacent properties or park;
4. A fifteen (15) foot fire lane shall be maintained as follows: No junk or salvage materials shall be located closer than fifteen (15) feet to any object screening the salvage or junk yard;
5. Old farm machinery shall not be included within the meaning of “junk” or “salvage” materials.

5.0 **SETBACKS, ACCESS AND OFF-STREET PARKING**

5.1 Highway and Road Setbacks

For the purpose of determining the distance structures shall be setback from highways and roads, the following setbacks shall apply unless the yard regulations or modifications in this ordinance allow a lesser yard or setback requirement.

This section shall not be interpreted so as to prohibit the planting and harvesting of field crops, shrubbery or trees; provided, however, that no building or structure, trees or shrubbery shall be so located, maintained or permitted to grow so that the view across the sectors at intersections shall be obstructed.

5.2 Highway and Road Setback Distances

The setback distance shall be as follows:

**Town Roads** - Minimum seventy-five (75) feet from the centerline of the road or 42 feet from the edge of the right-of-way, whichever distance is greater.

**State or County Highways** - Minimum one hundred (100) feet from the centerline of the highway or sixty-seven (67) feet from the edge of the right-of-way, whichever distance is greater.

5.3 Building Setbacks from the Water

For lots that abut on navigable water:

5.31 There shall be setbacks from both the streets and water.

5.32 All buildings and structures, except piers, wharves and boathouses shall be setback at least seventy-five (75) feet from all points along the normal highwater line and two (2) feet above the normal highwater elevation unless otherwise specified by this Ordinance.

5.33 The Land Use Administrator shall determine the normal highwater elevation or line where not established.

5.34 A setback from water less than the setback required may be permitted where there are at least five (5) existing main buildings within five hundred (500) feet of the proposed site that are built to less than the required setback. In such case the setback shall be the average of the nearest main buildings on each side of the proposed site or if there are no buildings on one side, the average of the setback from the main building on one side, and the required setback.

5.4 Loading Requirements

In all districts adequate loading areas shall be provided so that all vehicle loading, maneuvering or unloading does not project into traffic lanes.

5.5 Driveways

All driveways installed, altered, changed, replaced or extended after the effective date of this Ordinance shall require the approval of the Town Board.

5.6

Off-Street Parking

Each use shall provide the following minimum off-street parking spaces. Each parking space shall be at least two hundred (200) square feet in area.

**Dwellings** - Two (2) spaces for each dwelling unit.

**Restaurants, Taverns and Similar Establishments** - One (1) space for each fifty (50) square feet of floor space devoted to patrons.

**Motels and Resorts** - One (1) space for each unit.

**Retail Business and Service Establishments** - One (1) space for each two hundred (200) square feet of floor area.

**Industrial Uses and Warehouses** - One (1) space for each two (2) employees on the premises at a maximum employment on the main shift.

**Convenience Stores** - One (1) space for each two hundred (200) square feet of floor area; plus two (2) spaces for each gas pump.

**Any Use Not Specifically Named** - shall be assigned to the most appropriate classification by the Land Use Administrator.

**Combinations** of any of the above uses shall provide the total of the number of spaces required for each individual use.

**Location** of off-street parking shall be on the same lot as the principal use, or on a lot adjacent to the principal use.



6.0 **MODIFICATIONS**

6.1 Height

The district height limitations stated elsewhere in this Ordinance may be exceeded, but such modification shall be in accord with the following:

**Architectural Projections**, such as spires, belfries, parapet walls, domes, flues, and chimneys, are exempt from the height limitations of this Ordinance.

**Special Structures**, such as elevator penthouses, gas tanks, grain elevators, scenery lofts, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations, smoke stacks, and flag poles, are exempt from the height limitations of this Ordinance.

**Essential Services**, utilities, water towers, electric power and communication transmission lines are exempt from the height limitations of this Ordinance.

**Communication Structures**, such as radio and television transmission and relay towers, aerials, and observation towers, shall not exceed in height three (3) times their distance from the nearest lot line. In addition, no tower or structure or any projecting aerial shall exceed 500 feet in height in any area of the Town.

**Agricultural Structures**, such as barns, silos, and windmills, are exempt from the height limitations of this Ordinance.

**Public or Semi-Public Facilities** such as schools, churches, hospitals, monuments, libraries, governmental offices and stations, may be erected to a height of sixty (60) feet.

**Wind Energy Systems** shall not exceed 500 feet in height.

6.2 Yards

The yard requirements stated elsewhere in this Ordinance may be modified as follows:

**Architectural Projections**, such as chimney flues, sills, eaves, belt courses, and ornaments, may project into any required yard; but such projection shall not exceed two (2) feet.

**Accessory Uses and Detached Accessory Structures** in aggregate, shall not exceed 960 square feet in platted residential subdivisions or on individual residential lots of one (1) acre or less. Detached accessory structures shall not be closer than ten (10) feet to the principal structure; shall not exceed twenty (20) feet in height and shall not be closer than ten (10) feet to any lot line.

**Essential Services**, utilities, electric power and communication transmission lines are exempt from the yard requirements of this ordinance.

**Trees and Shrubs** may be planted as close as 2 feet behind the road right-of-way. Trees and Shrubs at a mature age shall not extend more than 4 feet over the property line.

6.3 Additions

Additions in the street yards to existing structures shall not project beyond the average of the existing street yards on the abutting lots or parcels.

6.4 Average Street Yards

The required street yards may be decreased to an average of the street yards of the abutting structures on each side, if within two hundred (200) feet of the proposed structure. However, in no case shall a structure be allowed within the road right-of-way.

7.0 **SIGNS**

7.1 Permit Required

No signs shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without obtaining a sign permit, except those signs allowed under Section 7.2.

7.2 Signs Allowed in all Zoning Districts Without a Sign Permit

The following signs are allowed in all zoning districts without a sign permit, but are subject to the following regulations:

**Signs Over Show Windows or Doors of a Nonconforming Business Establishment** announcing without display or elaboration only the name and occupation of the proprietor, not to exceed two (2) feet in height and ten (10) feet in length.

**Agricultural Signs** pertaining to the sale of agricultural products on a farm or to membership in agricultural or agricultural-related organizations, not to exceed thirty-two (32) square feet in display area on all sides for any one farm.

**Real Estate Signs** not to exceed eight (8) square feet in display area on any one side nor sixteen (16) square feet in display area on all sides which advertise the sale, rental or lease of the premises upon which said signs are temporarily located and limited to one such sign for each premises.

**Name, Occupation and Warning Signs** not to exceed twelve (12) square feet in display area on any one side nor twenty-four (24) square feet in display area on all sides; limited to one such sign for each premises.

**Bulletin Boards** of public, charitable or religious institutions, not to exceed twenty-four (24) square feet in display area on all sides; limited to one such sign for each premises.

**Memorial Signs**, tablets, names of buildings, and date of erection when cut into any masonry surface or when constructed of metal and affixed flat against a structure.

**Official Signs**, such as traffic control, parking restrictions, information and notices.

**Temporary Signs** or banners when authorized by the Land Use Administrator for a period not to exceed 90 days.

**No Such Sign** mentioned in Section 7.2 shall be located closer than two (2) feet from any public road right-of-way or exceed ten (10) feet in height. These requirements shall not apply to Official Signs.

7.3

Signs Allowed in all Zoning Districts with a Sign Permit

The following signs are allowed in all zoning districts providing a sign permit has been issued and shall be located a minimum of forty (40) feet from the edge of the traveled way or two (2) feet from the road right-of-way, whichever distance is greater:

**Off-Premise Directional Signs** which contain only the name of the establishment, logo or directional information useful to the traveler in locating the site, such as mileage, route numbers or exit numbers providing that:

- a. No more than two such signs relating to any one establishment shall be located in the approaching direction along any one highway.
- b. Such sign shall be located within five (5) air miles of the subject site.
- c. No two directional signs facing the same direction of travel shall be spaced less than one mile apart. However, more than one sign may be placed on the same support provided the total square footage does not exceed the allowable area.
- d. No such sign shall be located within three hundred (300) feet of a highway interchange, intersection at grade, rest area or wayside.
- e. No such sign shall exceed ten (10) feet in height.
- f. No such sign or signs in aggregate if facing the same direction of travel, shall exceed twelve (12) square feet in display area.

**On-Premise Identification Signs** for residential subdivisions, parks, multi-family dwelling units, mobile home parks, industrial parks, schools, hospitals and for community identification not to exceed thirty-two (32) square feet in display area on all sides and not to exceed ten (10) feet in height; limited to one such sign for each premises; and shall indicate only the name and/or address of the premises, logo, slogan, motto or other information pertinent to identifying the premises. Community identification signs may include service club organization symbols as part of the sign.

7.4

Signs Permitted in the Commercial, Recreational and Industrial Districts

The following signs are permitted in the Industrial, Commercial and Recreational Districts with a permit and are subject to the following regulations:

**Wall Signs** placed against the exterior walls of buildings shall not extend more than twelve inches outside of a building's wall surface, shall not exceed two hundred (200) square feet in display area for any one premises, and shall not exceed twenty (20) feet in height above the mean centerline street grade.

**Projecting Signs** fastened to, suspended from, or supported by buildings shall not exceed one hundred (100) square feet in display area on all sides for any one premises; shall not extend more than six (6) feet in any direction; shall not be less than ten (10) feet from any side or rear lot line; shall not exceed a height of twenty (20) feet above the mean centerline street grade; and shall not be less than ten (10) feet above a sidewalk or other pedestrian way nor fifteen (15) feet above a driveway or an alley.

**Ground Signs**, limited to one sign for each premises; shall not exceed twenty (20) feet in height; shall not be located closer to the road right-of-way than twenty-seven (27) feet; shall meet all side and rear yard setback requirements; and shall not exceed one hundred (100) square feet in display area on any one side nor two hundred (200) square feet in display area on all sides.

**Window Signs** shall be placed only on the inside of commercial buildings and shall not exceed twenty-five (25) percent of the glass area of the pane upon which the sign is displayed.

**Combinations** of any of the above signs shall meet all the requirements for the individual sign.

7.5 Determining Area of Signs

The area of a sign shall be measured by the smallest square, rectangle, triangle, circle or combination thereof which will encompass the entire sign, including the border and trim, but excluding supports.

7.6 Traffic

Signs shall not resemble, imitate, or approximate the shape, size, form or color of railroad or traffic signs, signals, or devices. Signs shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals, or traffic devices. No signs shall be erected, relocated or maintained so as to prevent free ingress to or egress from any door, window, or fire escape; and no sign shall be attached to a standpipe or interfere with traffic visibility nor be lighted in such a way as to cause glare or impair driver visibility upon public ways.

7.7 Moving or Flashing Signs

No sign shall be erected which has any flashing or moving parts except those giving public service information such as time, date, temperature, weather, or similar information.

7.8 Existing Signs

Signs lawfully existing at the time of the adoption or amendment of this Ordinance may be continued although the use, size, or location does not conform with the provisions of this Ordinance. However, it shall be deemed a nonconforming use or structure and the provisions of Section 8.0 shall apply.

7.9 Signs Not In Use

Signs which advertise or identify a business or similar activity must be removed within sixty (60) days of the date said business or similar activity ceases operation or vacates the premises. The removal of the sign shall be the responsibility of the owner of the property on which the sign is located.

7.10 Sign Location

No sign mentioned in Section 7.0 shall be located in, on or above a public road right-of-way or navigable body of water, except for Official Signs.

8.0 **NONCONFORMING USES, STRUCTURES AND LOTS**

8.1 Existing Nonconforming Uses

The lawful nonconforming use of a structure, land or water, existing at the time of the adoption or amendment of this Ordinance may be continued although the use does not conform with the provisions of this Ordinance; however, only the portion of the land or water in actual use may be so continued and the structure may not be extended, enlarged, reconstructed, substituted, moved, or structurally altered except when required to do so by law or order or so as to comply with the provisions of this ordinance.

**Total Lifetime Structural Repairs or Alterations**, shall not exceed fifty (50) percent of the municipality's assessed value of the original structure at the time of its becoming a nonconforming use unless it is permanently changed to conform to the use provisions of this ordinance.

8.2 Abolishment or Replacement

If such nonconforming use is discontinued or terminated for a period of twelve (12) months, any future use of the structure, land or water, shall conform to the provisions of this ordinance.

8.3 Existing Nonconforming Structures

The lawful nonconforming structure existing at the time of the adoption or amendment of this Ordinance may be continued although its size or location does not conform with the lot width, lot area, yard, height, setback, parking and loading, and access provisions of this ordinance.

**Additions and Enlargements** to existing nonconforming structures are permitted and shall conform with the required buildings setback lines along roads, water and highways and the yard, height, parking, loading and access provisions of this Ordinance.

**Existing Nonconforming Structures** which are damaged or destroyed by fire, explosion, flood or any other event, may be reconstructed and in so far as is practicable shall conform with the required building setback lines along streets and highways and the yard, height, parking, loading and access provisions of this Ordinance

8.4 Changes and Substitutions

Once a nonconforming use or structure has been changed to conform, it shall not revert to a nonconforming use or structure. Once the Board of Appeals has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use the substituted use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the Board of Appeals.

## 8.5

### Vacant Substandard Lots

In any zoning district, except the Commercial and Industrial District, a single family dwelling and its accessory structures may be erected on any vacant legal lot or parcel of record in the County Register of Deeds office before the effective date or amendment of this Ordinance subject to the following requirements:

- a. The lot must be in separate ownership from abutting lands. If abutting lands and the substandard lot are owned by the same owner, the substandard lot shall not be sold or used without full compliance with the area requirements of this ordinance;
- b. The lot must be at least fifty (50) feet wide and seven thousand five hundred (7,500) square feet in area;
- c. All the dimensional requirements of this ordinance shall be complied with in so far as practical, as determined by the Land Use Administrator;
- d. If such lot is located within any Agricultural Zoning District, any dwelling or structure shall be consistent with agricultural use and shall be considered a conditional use subject to the provisions of Section 4.0.

## 9.0 **BOARD OF APPEALS**

### 9.1 Establishment

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

1. **Terms:** Terms shall be for three (3) years, except that of those first appointed; one (1) shall serve one (1) year, two (2) shall serve two (2) years and two (2) for three (3) years.
2. **Chairman:** Chairman shall be designated by the Town Chairman.
3. **Alternate:** Two (2) alternate members may be appointed by the Town Chairman for a term of three (3) years and shall act only when a regular member is absent or refuses to vote because of interest.
4. **Secretary:** Secretary shall be as designated by the Board of Appeals.
5. **Vacancies:** Vacancies shall be filled for the unexpired term in the same manner as appointment for a full term.

### 9.2 Organization

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

### 9.3 Rules

**The Board of Appeals** shall meet at the call of the chairperson, and at such other times as the Board of Appeals may determine, at a fixed time and place.

**All meetings** of the Board of Appeals shall be open to the public.

**Any public hearings** which the Board of Appeals is required to hold shall be held in the town hall or other place convenient to the location or locations to be considered at such public hearing, and a full description of the location of such place of hearing by name, address or other commonly known means of identification, shall be included in the notice given of such hearing. Other matters upon which the Board of Appeals is required to act may also be heard to any such hearing provided that no undue hardship is created for any appellant by reason of the location of such hearing, and provided further that such matters are included in the notice given of such hearing.

**The Board of Appeals** shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Appeals and shall be a public record.

**The Board of Appeals** may adopt such other rules as are necessary to carry into effect the regulations of the Town Board.

**In the case of all appeals**, the Board of Appeals may call upon the Town Board, Plan Commission or Land Use Administrator for all information pertinent to the decision appealed from.

### 9.4 Powers



The Board of Appeals shall have the following powers:

- To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by administrative official in the enforcement of this Ordinance.
- To hear and decide special exception to the terms of the Ordinance upon which such board is required to pass under this Ordinance.
- To authorize upon appeal in specific cases such variances from the terms of the Ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the Ordinance will result in practical difficulty or unnecessary hardship, so that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done.
- The Board may permit in appropriate cases, and subject to appropriate conditions and safeguards in harmony with the general purpose and intent of the Ordinance, a building or premises to be erected or used for such public utility purposes in any location which is reasonably necessary for the public convenience and welfare.
- The Board may reverse, affirm, or wholly or partly modify the requirements appealed from and may issue or direct the issuance of a permit.

**Assistance** - the Board may request assistance from other town or county officers, departments, commissions and boards.

**Oaths** - the chairperson may administer oaths and compel the attendance of witnesses.

#### 9.5 Appeals and Applications

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

**Names and Addresses** of the appellant or applicant and all abutting and opposite property owners of record.

**Sketch** showing all the information required under Section 2.4 for a Land Use Permit.

**Additional Information** which was required for the decision appealed from or may be required by the Board of Appeals.

**Fee** in the amount as set by the Town Board.

#### 9.6 Hearings

The Board of Appeals shall fix a reasonable time and place for the hearing, give a Class One (1) notice thereof as provided in Chapter 985 of the Wisconsin Statutes, and give due notice to the parties in interest, the Land Use Administrator and the Town Board. At the hearing the applicant or the appellant may appear in person, by agent, or by attorney.

9.7 Decisions

The Board of Appeals shall decide all appeals and applications within thirty (30) days after the final hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant, the Land Use Administrator and the Town Board.

**Conditions** may be placed upon any Land Use Permit ordered or authorized by this Board.

9.8 Review by Court of Record

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

## 10.0 **CHANGES AND AMENDMENTS**

### 10.1 Authority

Whenever the public necessity, convenience, health, safety or general welfare require, the Town Board may by Ordinance, change the district boundaries or amend, change or supplement the regulations established by this Ordinance or amendments thereto in accordance with Section 62.23(7) of the Wisconsin Statutes. Comprehensive revisions to the ordinance need to be certified by the State Land and Water Conservation Board in order for landowners in the Exclusive Agricultural Zoning District to be eligible to receive tax credits.

Such Change or Amendment shall be subject to the review and recommendation of the Town Plan Commission.

### 10.2 Initiation

A petition for amendment may be made by any property owner in the area to be affected by the amendment, by the Town Board or by the Town Plan-Commission.

### 10.3 Petitions for Amendment

Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the Town Clerk, who shall refer them to the Town Plan Commission. Such petitions shall describe the premises to be rezoned or the regulations to be amended, list the reasons justifying the petition, specify the proposed use and have attached the following:

**Plot Plan** draw to a scale of one (1) inch equals a hundred (100) feet showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts and the location and existing use of all properties within one hundred (100) feet of the area proposed to be rezoned.

**Owners' Names and Addresses** of all properties lying within one hundred (100) feet of the area proposed to be rezoned.

**Additional Information** required by the Town Plan Commission or the Town Board.

**Fee** in the amount as set by the Town Board.

### 10.4 Hearings and Board Action

1. The Town Plan Commission shall hold a public hearing upon each petition. Notice of the time and place of such a hearing shall be given by publication in the Town of a Class Two (2) Notice, under Chapter 985 of the Wisconsin Statutes.

2. Recommendations. Within 45 days after the public hearing, the Town Plan Commission shall act on such petition either approving, modifying or disapproving the petition. The recommendation shall be made in writing to the Town Board.
3. Action by the Town Board After careful consideration of the Town Plan Commission recommendations, the Town Board shall vote on the passage of the proposed change or amendment within 45 days after receiving the Plan Commission recommendation.
4. Approval by the County Board After approval by the Town Board, the County Board shall approve the proposed change or amendment to become effective.

#### 10.5 Protest

In case of a protest against an amendment proposed duly signed and acknowledged by the owners of twenty percent (20%) or more either of the areas of the land included in such proposed amendment, or by the owners of twenty percent (20%) or more of the area of the land immediately adjacent extending one hundred (100) feet therefrom, or by the owners of twenty percent (20%) or more of the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of three-fourths of the members of the Board voting on the proposed change.

#### 10.6 A-1 Farmland Preservation District Rezoning

The Town must submit a report on A-1 Farmland Preservation District rezonings to the Department of Agriculture, Trade, and Consumer Protection and to the County by March 1 of each year. Land may be rezoned out of the A-1 Farmland Preservation Zoning District if the Town Board finds that all of the following apply:

1. The land is better suited for a use not allowed in the A-1 Farmland Preservation Zoning District;
2. The rezoning is consistent with the Town of Theresa Comprehensive Plan and substantially consistent Dodge County Farmland Preservation Plan;
3. The rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use;

## 11.0 **PLAN COMMISSION**

### 11.1 Composition

The Plan Commission shall consist of seven members, all of whom shall be appointed by the Town Board Chairperson, who shall also choose the presiding officer. The Town Board Chairperson may appoint himself or herself to the Commission and may appoint other Town elected or appointed officials to the Commission, except that the Commission shall always have at least one citizen member who is not a Town official. All other provisions of State Statutes 61.35 and 62.23 shall apply.

Members of the Commission shall be appointed to hold office for a period of three years. Appointments shall be made by the Town Board Chairperson during the month of April or at any other time if a vacancy occurs during the middle of a term.

### 11.2 Rules and Organization

The Plan Commission may adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings and determinations. Such record shall be a public record. Meetings of the Commission shall be held at the call of the chairperson and at such other times as the Commission may determine.

### 11.3 Functions

The Plan Commission shall have the following functions and duties:

1. To make a recommendation to the Town Board on a comprehensive plan for the physical development of the Town.
2. To authorize the issuance of a conditional use permit in accordance with Section 4.0 of this Ordinance.
3. To make a recommendation to the Town Board on any petition to amend this Ordinance or change the zoning district boundaries.

## 12.0

### DEFINITIONS

For the purpose of this Ordinance, certain words and terms are defined as listed below. Also, words used in the present tense include the future; the singular number includes the plural number and the plural number includes the singular number; the word "building" includes the word "structure"; the word "shall" is mandatory and not directory.

#### **Accessory Building or Structure**

A use or detached structure subordinate to the principal use of a structure, land or water and located on the same lot or parcel serving a purpose customarily incidental to the principal structure.

#### **Agricultural Use**

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

1. Crop or forage production.
2. Keeping livestock.
3. Beekeeping.
4. Nursery, sod, or Christmas tree production.
5. Floriculture.
6. Aquaculture.
7. Fur farming.
8. Forest management.
9. Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.
10. Any other use that the Department of Agriculture, Trade and Consumer Protection, by rule, identifies as an agricultural use.

#### **Agriculture-related use:**

An agricultural equipment dealership, facility providing agricultural supplies, facility for storing or processing agricultural products, or facility for processing agricultural wastes. In addition, any use that the Department of Agriculture, Trade and Consumer Protection identifies by rule as an agriculture-related use.

#### **Animal Confinement Facility:**

Any animal, livestock or poultry operation with 500 or more animal units that are used in the production of food, fiber, or other animal products or that will be fed, confined, maintained, or stabled for a total of 45 days or more in any 12-month period.

**Animal Unit:**

Animal Unit has the following meaning that was given in s. NR 243.03 (3) Wisconsin Administrative Code as of April 27, 2004: "Animal Unit" means a unit of measure used to determine the total number of single animal types or combination of animal types, as specified in s. NR 243.11, Wisconsin Administrative Code, which are fed, confined, maintained or stabled in an animal feeding operation. The total number of animal units for a given type of animal shall be calculated by multiplying the number of animals for each animal type by the appropriate equivalency factor from the following table, and summing the products. The number of combined animal units shall be the sum of the number of animal units for each animal type. For animal types not listed in the following table, the equivalency to animal units shall be based on live animal weights. In these cases, 1,000 pounds of live weight is equivalent to one animal unit.

<b>Animal Unit Calculation Table</b>		
Number Equivalent to 500 Animal Units		
Number Equivalent to 500 Animal Units	Animal Type	Animal Equivalency Factor
	<b>Dairy Cattle:</b>	
350	Milking and Dry Cows	1.4
455	Heifers (800 to 1200 lbs)	1.1
835	Heifers (400 to 800 lbs)	0.6
2500	Calves (under 400 lbs)	0.2
	<b>Beef Cattle:</b>	
500	Steers or Cows (600 lbs to Mkt.)	1.0
1000	Calves (under 600 lbs)	0.5
350	Bulls	1.4
	<b>Swine:</b>	
1250	Pigs (55 lbs to Mkt.)	0.4
5000	Pigs (up to 55 lbs)	0.1
1250	Sows	0.4
1000	Boars	0.5
	<b>Sheep:</b>	
5000	Per Animal	0.1
	<b>Horses:</b>	
250	Per Animal	2.0
	<b>Ducks:</b>	
2500	Per Bird (Wet Lot)	0.2
50000	Per Bird (Dry Lot)	0.01
	<b>Chickens:</b>	
50000	Layers	0.01
100000	Broilers	0.005
50000	Broilers (continuous over flow watering)	0.01
15000	Layers or Broilers (Liquid Manure System)	0.033
	<b>Turkeys:</b>	
27500	Per Bird	0.018
	<b>Combined Animal Units:</b>	
500	Calculated Total	

**Arterial Street**

A public road or highway used or intended to be used primarily for fast or heavy through traffic. Arterial streets and highways shall include freeways and expressways as well as arterial streets, highways and parkways.

**Basement**

That portion of any structure located partly below the average adjoining lot grade.

**Building Area**

Total ground coverage in square feet of all buildings and structures including garages, carports and others attached or accessory structures.

**Building Height**

The vertical distance measured from the mean elevation of the furnished lot grade along the street yard face of the structure to the highest point of flat, gabled, gambrel, hip, pitched or mansard roof.

**Certified Farmland Preservation Plan:**

A farmland preservation plan that is certified as determined under Wis. Stats. 91.12.

**Certified Farmland Preservation Zoning Ordinance:**

A zoning ordinance that is certified as determined under Wis. Stats. 91.32.

**Conditional Uses:**

Uses of a special nature as to make impractical their predetermination as a permitted use in a district. Conditional uses as used in the A-1 Farmland Preservation Zoning District must meet the requirements of Wis. Stats. 91.01(10).

**Corner Lot**

A lot abutting two or more streets at their intersection.

**Density**

Number of living units per acre allowable under the schedule of district regulations.

**Duplex**

A dwelling containing two dwelling units.

**Dwelling**

A building designed or used exclusively as a residence or sleeping place, but does not include boarding or lodging houses, motels, hotel, tents, cabins or mobile homes except mobile homes on permanent foundations.

**Dwelling, Multiple Family**

A dwelling containing three or more dwelling units.

**Dwelling, One Family**

A dwelling containing one dwelling unit.





**Dwelling Unit**

One or more rooms which are arranged, designed or used as living quarters for one family only.

**Essential Service**

Services provided by public and private utilities necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface or overhead gas, electricity, steam, water, sanitary sewage, storm water drainage and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations and hydrants, but not including buildings.

**Family**

Any number of persons related by blood, adoption, or marriage or not to exceed four (4) persons not so related, living together in one dwelling as a single housekeeping entity.

**Farm:**

All land under common ownership that is primarily devoted to agricultural use. Contiguous land under common ownership that produced at least \$6,000 in gross farm revenues in the previous year, or at least \$18,000 in gross farm revenues in the preceding 3 years, is presumed to be “primarily devoted to agricultural use”.

**Farm Acreage:**

The size of a farm in acres. “Farm acreage” does not include non-farm residential acreage.

**Farm Residence:**

A single-family residence that is the only residential structure on the farm or is occupied by any of the following:

1. An owner or operator of the farm.
2. A parent or child of an owner or operator of the farm.
3. An individual who earns more than 50 percent of his or her gross income from the farm.

**Floor Area**

Area in square feet of all floors in a building including elevators and stairways, measured by perimeter or outside walls multiplied by the number of floors, including basements which are used in the primary function of the building.

**Foundation**

A wall that is below the frost line with a basement.

**Gross Farm Revenues:**

Means gross receipts from agricultural use of a farm, excluding rent receipts, less the cost or other basis of livestock or other agricultural items purchased for resale which are sold or otherwise disposed of during the taxable year.

**Home Occupation**

Any occupation for gain or support conducted entirely within buildings by resident occupants, which is clearly incidental to the principal use of the premises, does not exceed twenty-five percent (25%) of the area of any floor and no product sold except that made on the premises.

**Household Pets**

Animals commonly found in residences as pets, such as dogs, cats, song birds and other small animals, providing that they are not raised or reared for commercial resale or as a source of staple supplement. Household pets shall not include horses, chickens, cows, goats, sheep, hogs or other animals not commonly found in residences.

**Junk Yard**

A parcel of land on which waste material or inoperative vehicles and other machinery are collected, stored, salvaged or sold. Three (3) or more unlicensed or inoperable vehicles on the same premises shall be evidence of operation of a junk yard. Old farm machinery located on an operating farm shall not be included within the meaning of a junk yard.

**Kennel**

The use of land, with related buildings or structures, for the commercial breeding, rearing, or boarding of more than four (4) dogs.

**Land Use Administrator**

The Land Use Administrator for the Town of Theresa or such person designated to perform the duties of the Land Use Administrator.

**Livestock Facilities with More Than 500 Animal Units:**

Means facilities covered by Wis. Adm. Code ch. ATCP 51.

**Loading Area**

A completely off-street space or berth on the same lot for the loading or unloading of freight carriers, having adequate ingress and egress to a public road.

**Lot**

A parcel of land having frontage on a public road, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area, parking area, and other space provisions of this Ordinance.

**Lot Lines and Area**

The peripheral boundaries of a parcel of land and the total area lying within such boundaries under one ownership. Public roads and navigable waterways are considered lot dividers.

**Lot Width**

The horizontal distance between side lot lines.

**Minor Structures**

A structure which is one hundred (100) square feet in area or less and is accessory to the principal use of the lot.

**Mobile Home**

A transportable, factory built, single-family dwelling unit suitable for year-round occupancy and containing the same water supply, waste disposal, and electric conveniences as immobile housing. A mobile home shall be located on a foundation.

**Mobile Home Lot**

A parcel of land designed for the exclusive use of the occupants of a single mobile home.

**Mobile Home Park**

A parcel of land under single ownership which has been planned and improved for the placement of mobile homes for nontransient use.

**Motel**

A series of attached, semi-attached or detached sleeping units for the accommodation of transient guests.

**Nonconforming Uses or Structures**

Any structure, land or water, lawfully used, occupied or erected at the time of the effective date of this Ordinance or amendments thereto which does not conform to the regulations of this Ordinance or amendments thereto. Any such structure conforming in respect to use, but not in respect to frontage, width, height, area, yard, parking, loading, or distance requirements shall be considered a nonconforming structure and not a nonconforming use.

**Nonfarm Residence:**

A single family residence other than a farm residence.

**Nonfarm Residential Acreage:**

The total number of acres of all parcels on which nonfarm residences are located. If a nonfarm residence is located on one of 2 or more adjoining parcels owned by the same person, the adjoining parcels are also considered "nonfarm residential acreage" unless clearly devoted to non-residential use other than open space use.

**Prime Farmland:**

An area with a class I or II land capability classification as identified by the natural resources conservation service of the federal department of agriculture or land that is identified as prime farmland in a certified farmland preservation plan.

Prime farmland soils are not necessarily associated with the boundaries of the A-1 Farmland Preservation Zoning District.

**Protected farmland:**

Land that is located in a farmland preservation zoning district, is covered by a farmland preservation agreement, or is otherwise legally protected from nonagricultural development.

**Rear Yard**

A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and the nearest point of the principal structure. The rear yard shall be considered to be at the opposite end of the lot from the street yard. On corner lots, only one rear yard shall be required.

**Road**

A public right-of-way intended to be used for passage or travel by motor vehicles.

**Salvage Yard**

A parcel of land on which waste material or inoperative vehicles and other machinery are collected, stored, salvaged or sold. Three (3) or more unlicensed or inoperable vehicles on the same premises shall be evidence of operation of a salvage yard. Old farm machinery located on an operating farm shall not be included within the meaning of a salvage yard.

**Side Yard**

A yard extending from the street yard to the rear yard of the lot, the width of which shall be the minimum horizontal distance between the nearest point of any structure and the side lot line.

**Sign**

Any words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names, or trade marks by which anything is made or known and which are used to advertise or promote an individual firm, association, corporation, profession, business, commodity, or product and which are visible from any public road or highway.

**Street Yard**

A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing or proposed street or highway line and a line parallel thereto through the nearest point of the principal structure. Corner lots shall have two (2) such yards.

**Structure**

Any erection or construction, such as buildings, towers, masts, poles, booms, signs, decorations, carports, machinery and equipment, including all buildings.

**Structural Alterations**

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

**Travel Trailer**

A travel trailer is a vehicular, portable structure, built on a chassis and designed as a temporary dwelling for travel, recreation and vacation.

**Trailer Space**

A parcel of land in a travel trailer parking area for the placement of a single trailer and the exclusive use of its occupants.

**Utilities**

Public and private facilities such as water wells, water and sewage pumping stations, water storage tanks, power and communication transmission lines, electrical power and substations, static transformer stations, wireless communication facilities, TV and radio towers and gas regulation stations, but not including sewage disposal plants, municipal incinerators, warehouses, shops and storage yards.

**Wind Energy System:**

Wind Energy System shall mean equipment that converts and then stores or transfers energy from the wind into usable forms of energy and includes all of the land, buildings, structures and equipment used by the wind energy system and its support facilities including the wind turbine, tower, access roads, control and office facilities, meteorological towers, maintenance and all power collection and transmission systems.

**Wooded**

Covered with trees and not planted with a field crop for at least the preceding twenty years.

**Yard**

An open space on the same lot with a structure, unoccupied and unobstructed from the ground upward except for vegetation. The street and rear yards extend the full width of the lot.