

**CHAPTER 3
TOWN OF OSCEOLA ZONING ORDINANCE
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**TOWN OF OSCEOLA
FOND DU LAC COUNTY, WISCONSIN
CHAPTER 3
ZONING ORDINANCE**

3.1 Statutory Authority and Purpose

3.1.1 Authority.

In accordance with the authority granted by Sections 60.61, 60.62, 61.35, 62.23, and 295.14 and Chapter 91 of the Wisconsin Statutes and for the purpose listed in Section 62.23 (7)(c) of the Wisconsin Statutes, and having been granted village powers pursuant to Section 60.10 of the Wisconsin Statutes, the Town Board of Osceola, Fond du Lac County, Wisconsin, does hereby ordain these zoning regulations.

3.1.2. Purpose.

The purpose of this Ordinance is to adopt minimum requirements to promote the health, safety, morals, prosperity, aesthetics, and general welfare of the Town; to aid in implementing the Town of Osceola Comprehensive Plan, to regulate and restrict the height, number of stories and size of yards, the density of population, location and use of buildings, structures and land for agriculture, trade, industry, residence or other purposes; and for said purposes to divide the Town into districts of such number, shape and area as are deemed best suited to carry out said purposes.

3.1.3 Compliance.

No land shall hereafter be used; and no structure or part thereof shall hereafter be used, located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without full compliance with the provisions of this ordinance.

3.1.4 Abrogation and Greater Restrictions.

It is not the intent of this Ordinance to repeal, impair, or interfere with any existing private covenants or public ordinances, except that it shall apply whenever it imposes more severe restrictions on land use.

3.1.5 Interpretation.

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

3.1.6 Title.

This Ordinance shall be known as and may be cited as the "Zoning Ordinance, Town of Osceola, Fond du Lac County, Wisconsin."

3.2 Reserved

3.3. Glossary of Terms

3.3.1 General Terms.

For the purposes of this ordinance, certain words and terms are defined as follows - words used in the present tense include the future; the singular number includes the plural number and the plural number includes the singular number; the word "building" includes the word "structure"; the word "shall" is mandatory and not directory.

3.3.2 Definitions.

The definitions of terms throughout this ordinance shall be interpreted to have the following meanings except where a definition is shown with an asterisk, which means it is a definition that applies to livestock facility regulations in Section 3.11):

Adult-oriented establishment shall have the meaning given in the Town of Osceola Adult Oriented Establishments Ordinance

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

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

Airport, Private - An airport which is privately owned and which is not open or intended to be open to the public.

Alley A street or thoroughfare less than 21 feet wide and affording only secondary access to abutting property.

Base Farm Tract

- a. All land, whether one parcel or two or more contiguous parcels, that is in the Farmland Preservation zoning district and that is part of a single farm as of January 6, 2011, regardless of any subsequent changes in the size of the farm.
- b. Any other tract that DATCP by rule defines as a base farm tract.

Boathouse A permanent structure used exclusively for the storage of watercraft for noncommercial purposes and associated materials and includes all structures which are totally enclosed, having roofs or walls or any combination of these structural parts. Boathouses shall not be used for human habitation.

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

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

Building, Height of The vertical distance from the average curb level in front of the lot or the finished grade at the building line, whichever is higher, to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or to the average height of the highest gable of a gambrel, hip or pitch roof.

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

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

Channel A natural or artificial watercourse of perceptible extent, with definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow is water which is flowing within the limits of the defined channel.

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

Conditional Use A use which is necessary or desirable for the public welfare, but which is potentially incompatible with the uses normally permitted in the Zoning District. Conditional Use as applied is synonymous with past terms such as special exception or special use.

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

DATCP An abbreviation for the Wisconsin Department of Agriculture, Trade, and Consumer Protection.

Dwelling Unit A room or rooms connected together, constituting a separate, independent housekeeping establishment for one family only, for owner occupancy or for rental, lease, or other occupancy on a weekly or longer basis, physically separated from any other rooms or dwelling units, and containing independent cooking and sleeping facilities.

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

Dwelling, Multiple-Family A building or portion thereof designed for and occupied by more than two families including tenement houses, row houses, and apartment houses.

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

Farmland Preservation Zoning District means a farmland preservation zoning district designated under s. 91.38 (1) (c) Wis. Stats. in an ordinance described in s. 91.32 (2) Wis. Stats.

Family A group of persons related by blood, marriage, or adoption and living together as a single housekeeping entity.

Farm means a parcel of land, or a collection of 2 or more contiguous parcels of land, which meets all of the following conditions:

- a. All of the land is under common ownership.
- b. More than half of the entire land area is assigned for property tax purposes to one or more of the following use classifications as defined by the Wisconsin Department of Revenue pursuant to s. 70.32(2), Wis. Stats.:
 1. Agricultural land (class 4)
 2. Agricultural forest (class 5m)
 3. Productive forest (class 6)

Farm Acreage means, for the purposes of 3.7.3.b.1, acreage that is part of a farm, except that farm acreage does not include any nonfarm residential acreage.

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

Farm residence means any of the following structures that are located on a farm:

- a. A single-family or duplex 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.
- b. A migrant labor camp that is certified under s. 103.92 Wis. Stats.

Frontage All the property abutting on one side of a road or street between 2 intersecting roads or streets or all of the property abutting on one side of a road or street between an intersecting road or street and the dead end of a road or street.

Gross Income The meaning given for Wisconsin adjusted gross income in s. 71.01 (13) Wis. Stats.

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

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

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

Junk Yard A lot, land, building, or structure, or part thereof used primarily for the collecting, storage, and/or sale of waste paper, rags, scrap metal, or discarded material or for the collecting, dismantling, storage, and salvaging of machinery or vehicles not in running condition and for sale of parts therefrom.

Livestock For use in determining compliance with ch 91 Wis. Stats, livestock means bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, camelids, ratites, and farm-raised fish.

Lot, Corner A lot located:

- a. At the junction of and abutting 2 or more intersecting streets; or
- b. At the junction of and abutting a street and the nearest shoreline or highwater line of a storm or floodwater runoff channel or basin; or
- c. At the junction of and abutting 2 or more storm or flood water runoff channels or basins; or
- d. At and abutting the point of abrupt change of a single street where the interior angle is less than 135 degrees and the radius of the street is less than 100 feet.

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

Lot, Interior A lot other than a corner lot.

Lot Width The width of a lot shall be considered to be the average distance between straight lines connecting front and rear lot lines at each side of the lot, measured as straight lines between the foremost points of the side lot lines in front (where they intersect with the street right-of-way) and the rear most points of the side lot lines in the rear, provided however that the width between the side lot lines at their foremost points in the front shall not be less than eighty (80%) percent of the required lot width except in the case of lots on the turning circle of a cul-de-sac, where the width shall not be less than sixty (60%) percent of the required lot width. . In the case of a shoreland lot, the lot width is the width of the lot 75 feet from the waterline.

Lot, Zoning A single property, parcel, unit, tract, plot or otherwise designated to be used, as a unit under single ownership or control, and which may be occupied by 1 or more structures and the accessory structures, or uses customarily incidental to it, including such open spaces as are arranged and designed to be used in connection with such structure. A "zoning lot" boundary may or may not coincide with a lot of record.

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

- a. Is set on an enclosed continuous foundation in accordance with s. 70.43(i), Wis. Stats., and ILHR 21, Subchapters 111, IV, and V, Wis. Adm. Code, or is set on a

- comparable enclosed continuous foundation system approved by the Permit Officer, who may require a plan for such foundation to be certified by a registered architect or engineer to ensure proper support for such structure;
- b. Is installed in accordance with the manufacturer's instructions;
 - c. Is properly connected to utilities; and
 - d. Meets other applicable standards of this Chapter.

Manure means excreta from livestock kept at a livestock facility. "Manure" includes livestock bedding, water, soil, hair, feathers, and other debris that becomes intermingled with livestock excreta in normal manure handling operations.

Mobile Home A transportable factory built structure designed for long term occupancy built prior to enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976, and which is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway, and designed, equipped and used primarily for sleeping, eating and living quarters, or is intended to be so used; including any additions, attachments, annexes, foundations and appurtenances. In the purpose of this section, a mobile home shall remain classified as a mobile home regardless of whether its wheels or other rolling devices have been removed or not, even though assessable value of additions, attachments, annexes, foundations and appurtenances or other added investments to the mobile home equal or exceed fifty percent (50%) of the assessable value of the mobile home. Excluded from this definition are "manufactured homes" as defined above. Mobile homes can be required to be located in a mobile home park. Manufactured homes cannot be required to be located in a mobile home park.

Modular Home A structure which is partially pre-assembled at a manufacturing plant and placed together on a lot or parcel as a dwelling unit or units. A double-wide structure transported and assembled at the site on a permanent foundation shall be construed as a modular home. For the purpose of this Ordinance, modular homes must meet the requirements of all applicable State and Local Building Codes. A modular home is subject to SPS 320.13, Wis. Adm. Code. A modular home is considered a single-family home in the Rural District or a non-farm residence in the Farmland Preservation District.

Nonconforming Use A building or premises lawfully used or occupied at the time of the passage of this ordinance or amendments thereto, which use or occupancy does not conform to the regulations of this ordinance.

Nonfarm Residence means a one or two family residence other than a farm residence.

Nonfarm Residential Acreage. For purposes of section 3.7.3.b.1, the combined total acreage of all parcels on which nonfarm residences are located, all parcels on which the Town of Osceola has approved nonfarm residences, all parcels that do not qualify as farms, and the parcel to which the Special Use permit application pertains.

Permit Officer A local government official or designated agent which administers and enforces the Osceola Zoning Ordinance and land development regulations, including the issuance of zoning permits.

Person means an individual, corporation, partnership, limited liability company (LLC),

trust, estate or other legal entity.

Property line means a line that separates parcels of land on record with the Fond du Lac County Register of Deeds..

Prime farmland means any of the following:

- a. An area with a class I or class II land capability classification as identified by the Natural Resources Conservation Service of the Federal Department of Agriculture.
- b. Land, other than land described in par. a, that is identified as prime farmland in the Fond du Lac County Farmland Preservation Plan

Protected farmland means land that is any of the following:

- a. Located in an Farmland Preservation zoning district certified under ch. 91, Wis. Stats.
- b. Covered by a Farmland Preservation Agreement under ch. 91, Wis. Stats.
- c. Covered by an agricultural conservation easement under s. 93.73, Wis. Stats.
- d. Otherwise legally protected from nonagricultural development as evidenced by documentation provided by the landowner who claims that the land is legally protected from nonagricultural development.

Road All property dedicated or intended for public or private street purposes must have a right-of-way width of 66 feet and a hard surfaced area of at least 20 feet in width.

Road Right-of-Way line A dividing line between a lot, tract or parcel of land and an abutting road.

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

Service-Type Businesses include such businesses as barbershops, beauty parlors, Laundromats, music, dancing, arte or photography studios, servicing, repair, home appliance or equipment and similar uses.

Setback The minimum horizontal distance between any lot line, including a road right-of-way line, and the nearest point from the front, back or side of a building foundation, excepting uncovered steps of a building that faces a public right-of-way.

Sign Any structure or device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge, or insignia of any government or governmental agency, or any civic, charitable, religious, patriotic, fraternal or similar organization, or any sign indicating address. Each display surface of a sign shall be considered a sign.

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

Structure Anything constructed or erected, the use of which requires a more or less permanent location on or in the ground. A structure may include, but is not limited to

objects such as buildings, factories, sheds, cabins, wells, septic tanks, and disposal fields.

Temporary Structure A structure which is built of such materials and in such a way that it would commonly be expected to have a relatively short useful life, or is built for a purpose that would commonly be expected to be relatively short-term and not to be habitable.

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

Traffic Lane A strip of roadway intended to accommodate a single line of moving vehicles.

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

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

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

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

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

Zoning District An area or areas within the corporate limits for which the regulations and requirements governing use, lot and bulk of buildings and premises are uniform.

3.4 Zoning Districts and Map

3.4.1 Establishment of Zoning Districts.

- a. In order to carry out the purpose and provisions of this ordinance, the following zoning districts in Sections 3.4.3 through 3.4.8 and their purposes are hereby established, and may be known by the accompanying abbreviations.
 1. FP - Farmland Preservation District
 2. RD - Rural Development District
 3. B - Business District
 4. I - Industrial District
 5. R - Residential District
- b. Permitted and Conditional Uses are identified for each District in Section 3.5.
- c. Regulations for each District including Density, Lot Size, Setbacks, and Building Height are identified for each District in Section 3.6.
- d. Parking requirements for each land use are within Section 3.13.

3.4.2 Zoning Map.

The boundaries of the aforesaid districts are hereby established as shown on the map entitled "Zoning Map for the Town of Osceola, Fond du Lac County, Wisconsin," which map is made a part of this ordinance and is on file and viewable in the Town of Osceola Town Hall. All notations and references shown on the District Map are as much a part of this ordinance as though specifically described herein. Changes to the District Map must be made only as described in Section 3.18 of this ordinance. When uncertainty exists with respect to the boundaries of the various zones as shown on the zoning maps, the following rules shall apply:

- a. The district boundaries, unless otherwise indicated, are street or highway center lines, lines parallel or perpendicular to such street, highway lines, the shore line of lakes or streams, lot or alley lines, section lines, quarter section lines, or quarter-quarter section lines, and when the designation on the district map indicates that the various districts are approximately bounded by any of the above lines, such lines shall be construed to be the district boundary line.
- b. When the width or lengths of boundaries are not clear, the scale of the map shall determine the approximate dimensions.
- c. When uncertainty exists as to the precise location of the zone boundary line, the boundary maps shall govern, in general, and the zoning text shall govern specifically.
- d. The Board of Appeals, in accordance with the provisions of this ordinance, shall hear and decide the precise location of a zone boundary line when such line cannot otherwise be determined.

3.4.3 FP - Farmland Preservation District Purpose.

- a. The intent of the Farmland Preservation District is to:
 1. Preserve productive agricultural land for food and fiber production;
 2. Preserve productive farms by preventing land use conflicts between incompatible uses and controlling public services;
 3. Maintain a viable agricultural base to support agricultural processing and service industries;
 4. Prevent conflicts between incompatible uses; reduce costs of providing services to scattered, non-farm uses; pace and shape urban growth;
 5. Implement the policies of the Fond du Lac County Farmland Preservation Plan;
 6. Comply with the provisions of the Farmland Preservation Law to permit eligible landowners to receive tax credits under Ch. 91 Wis. Stats.
- b. To comply with the Farmland Preservation Law, only uses identified in s. 91.42 Wis. Stats. are allowed.
- c. No building or use shall hereafter be established or enlarged within the Farmland Preservation District unless it conforms to the following regulations.
- d. This district serves as Osceola's Farmland Preservation Zoning District.

3.4.4 RD - Rural Development District Purpose.

- a. The purpose of the RD Rural Development District is to (1) provide for the orderly transition of agricultural land to other uses in areas planned for eventual urban expansions, (2) defer urban development until the appropriate local governmental bodies determine that adequate public services and facilities can be provided at a reasonable cost, (3) ensure that urban development is compatible with local land use plans and policies, and (4) provide periodic review to determine whether all or part of the lands should be transferred to another zoning district.
- b. The periodic review called for in (4) above shall occur:
 1. A minimum of every five years;
 2. Upon completion or revision of the Fond du Lac County Farmland Preservation Plan or municipal land use plan which affects lands in the district; or
 3. Upon extension of public services, such as sewer and water, necessary to serve urban development.

3.4.5 B - Business District Purpose.

- a. To accommodate rural commercial development that serves the general area or tourism oriented areas.
- b. Whatever commercial land use is involved will be properly buffered from residential or other conflicting land uses.

3.4.6 I - Industrial District Purpose.

- a. To accommodate rural industrial development with a variety of lot sizes that is generally light intensity (in terms of noise, dirt, smoke, odor, physical appearance, traffic generated, etc.).
- b. Industrially zoned areas shall be in areas that are well-served by the transportation system, and provide buffering techniques that will minimize conflict with adjacent land uses

3.4.7 R - Residential District Purpose.

- a. To accommodate existing and future residential development that relies on private on-site wastewater treatment systems and private wells in a rural setting.
- b. Residential development shall be placed on the landscape in a fashion that allows the concentration of local services while minimizing the consumption of agricultural land, forested land, and open space.

3.5 Zoning District Permitted and Conditional Uses

The following table identifies the Permitted Uses (P), or Conditional Uses (C) within the Osceola Zoning Districts. A number inside a set of parentheses, for example “(1)”, means there is a note at the bottom of the table that provides additional information. Please note that descriptions of the land uses and related regulations are found in 3.7 District Uses and Regulations.

Table 1: Permitted and Conditional Use by Zoning District

	Farmland Preservation	Rural Development	Business	Industrial	Residential
Open Land/Agricultural Uses					
Agricultural Uses	P(1)	P	P		
Agricultural-Related Uses	P(2)	P	P	C	
Accessory Uses	P(3)	P	C	C	
Roadside Stand	P(5)	P	P	P	P
Residential Uses					
Single-Family Residence (farm)	P(3)	P	P		P
Single-Family Residence (nonfarm)	C or P(6)	P	P		P
Two-Family Residence (farm)	P(3)	P	P		P
Two-Family Residence (nonfarm)	C or P(14)	P	P		P
Multi-Family Residence					C
Nonfarm Residential Cluster	C(7)				
Single-Family Residence (accessory)			P	P	
Accessory Uses	P	P	P	P	P
Home Occupation	P(3)	P			P(15)
Family Day Care Home	P(8)	P			P
Manufactured/Mobile Home Park					C
Business Uses					
Personal and Professional Service	P(3)	P	P		P(15)
Indoor Sales and Service	P(3)	P	P		P(15)
Long Term Outdoor Display and Sale			P		
Maintenance Service	P(3)	P	P		P(15)
In Vehicle Sales and Service			P		
Indoor Business Entertainment and Service			P		
Indoor Lodging Facility			P		P(15)
Resort Establishment			P		
Bed and Breakfast Establishment	P(3)	P	C		C(15)
Group Day Care Center Facility	P(3)	P	C		C(15)
Animal Boarding or Breeding Facility	P(3)	P	C		
Adult Oriented Establishments			P		
Personal Storage Facility			C		
Portable Storage Facility			C		
Indoor Storage or Wholesaling			P		
Outdoor Storage or Wholesaling		C	C		
Indoor Retail Sales Activity as Accessory to Industrial or Indoor Storage & Wholesaling			P	P	
Marinas and Boat Liveries			P		

Table 1 Permitted and Conditional Uses (continued)

	Farmland Preservation	Rural Development	Business	Industrial	Residential
Industrial					
Light Industrial Accessory to Retail Sales/Service			P	P	
Light Industrial			C	P	
Heavy Industrial				C	
Contractor Shop		C		P	
Nonmetallic Mining	C(9)	C		C	
Salvage or Junk Yard				C	
Solid or Hazardous Waste Facility				C	
Public/Institutional/Parks/Recreation					
Governmental, Institutional, Religious, or Nonprofit Community Uses	C(10)	C	P		P
Outdoor Public Recreation-Passive	C(10)	C	P		C
Outdoor Public Recreation-Active	C(10)	C	P		C
Miscellaneous Uses					
Solar Energy Systems	C(11)	C	C	C	C
Transportation, Communications, Pipeline, Electric Transmission, Utility, or Drainage Uses	C(12)	C(13)	C(13)	C(13)	C(13)

- (1) Must comply with 3.7.2.a
- (2) Must comply with 3.7.2.b
- (3) Must comply with 3.7.2.c
- (4) Must comply with 3.7.2.d.
- (5) Must comply with 3.7.2.c and d
- (6) Must comply with 3.7.3.b
- (7) Must comply with 3.7.3.e
- (8) Must comply with 3.7.2.c and 3.7.3.h
- (9) Must comply with 3.7.5.e
- (10) Must comply with s. 91.46(5)
- (11) Must comply with s. 91.46(4)
- (12) Must comply with s. 91.46(4) unless state or federal law preempts the requirement for a conditional use permit
- (13) Unless state or federal law preempts the requirement for a conditional use permit
- (14) Must comply with 3.7.3.b and c
- (15) Must comply 3.8.7

3.6 Zoning Area and Setback Requirements

Table 2: Area and Setback Requirements

Land Uses within the Districts	Minimum Lot Size	Frontage on public R.O.W.	Minimum Lot Width	Minimum Front Yard Setback	Minimum Side Yard Setback	Min Rear Yard Setback	Maximum Height
Single- Family Residential	1 acre	30' frontage	100' at setback	See Sec. 3.12.6	25' combined, 10 feet minimum one side	25'	35' or 3 stories
Two-Family Residential	1 acre	30' frontage	100' at setback	See Sec. 3.12.6	25' combined, 10 feet minimum one side	25'	35' or 3 stories
Multi-Family Residential*	1 acre	200'	200'	See Sec. 3.12.6	25' combined, 10 feet minimum one side	25'	35' or 3 stories
Farmland Preservation (other than nonfarm residence)	10 acres	100'	100'	See Sec. 3.12.6	25'	25'	35' or 3 stories Farm Structures are Exempt
Farmland Preservation (Nonfarm Residence)	1 acre	30'	100' at setback	See Sec. 3.12.6	25'	25'	35' or 3 stories
Rural Development	5 acres	100'	100'	See Sec. 3.12.6	25' for Residence/ Outbuildings	25'	35' or 3 stories Farm Structures Exempt
Business	1 acre	100'	100'	See Sec. 3.12.6	15' per side	25' with loading area	60'
Business with Residential.	1 acre plus area for type of Residential Use	200'	200'	See Sec. 3.12.6	15' per side	25'	None
Industrial	1 acre	100'	100'	60', See note c.	10' per side for existing. 30' for new with buffer	25'-see note c.	None

* These conditions apply to a Multi-Family Conditional Use permit, if granted by the Town Board

Notes and exceptions:

- a. The minimum lot size, height, and yard requirements for a conditional use shall be as specified in the Conditional Use permit, but in no case shall any setback be less than 50 feet from a lot line and the front yard setback be at least the distance specified in Section 3.14 of this ordinance.
- b. If a building is to be constructed in an established block where there are existing buildings, the front yard depth shall be the average of the front yard depths of buildings existing on the block face where the building is to be located, but no less than 15 feet from the right-of-way line.
- c. A parcel in the Business or Industrial abutting the Residential district shall provide a suitable buffer of plant materials, fencing or both, to shield the residential area from the business or industrial area. Where the transition from industrial to residential is a public street, the front yard of a business or industrial

district use shall be substantially landscaped, as recommended by the Plan Commission and approved by the Town Board.

- d. Any permitted industrial zoned use shall be so constructed and operated as to create no nuisance with respect to noise, vibration, emission of smoke or particulate matter, glare and heat or as to create fire or explosive hazards.
- e. All riparian lots must meet the DNR setback of 75 feet from the ordinary high water mark.
- f. The following reviews must be made by Fond du Lac County reviewing authorities before the Town Permit Officer can issue a building permit:
 - 1. A sanitary permit issued by the County Sanitarian under the County Sanitary Ordinance (County Sanitarian Office)
 - 2. If within 300 feet of a navigable stream or 1,000 feet of a lake, a Shoreland Zoning Permit (County Planning Department)
 - 3. If close to a mapped Wetland area, County review of wetland maps or a requirement for certified wetland mapping (County Planning Department)
- g. Zoning permits are valid for 12 months from the date of issuance unless the applicant appeals to the Town Board for an extension.

3.7 District Uses and Regulations

3.7.1 Determination of Use

- a. The Permit Officer shall determine if a proposed use can be classified as a principal use already listed for any of the zoning districts. If a proposed use can be so classified, then the use shall be regulated as specified by this chapter.
- b. If a proposed use cannot be classified as a listed principal use, it shall be considered an unclassified use and shall be regulated as follows:
 - 1 The Permit Officer shall determine if the proposed unclassified use is similar to other uses listed for the zoning district applicable to the site of the proposed unclassified use. If so, the application for the proposed unclassified use shall be processed as specified by this chapter.
 - 2 If the Permit Officer determines otherwise, then the application for the proposed unclassified use shall be denied and the applicant shall be notified in writing.
- c. The Permit Officer may refer unclassified uses to the Town Plan Commission if the Administrator is uncertain how to classify any uses not listed.
- d. After making a determination regarding an unclassified use, the Permit Officer shall recommend an amendment to this chapter adding the previously unclassified use to the applicable zoning district.

3.7.2 Open Land/Agriculture Uses.

- a. **Agricultural Uses:** 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 DATCP, by rule, identifies as an agricultural use.
- b. **Agricultural Related Use:** A facility, whether or not located on a farm, that has at least one of the following as a primary and not merely incidental purpose:
 1. Providing agricultural supplies, agricultural equipment, agricultural inputs or agricultural services directly to farms, including farms in the Farmland Preservation zoning district.
 2. Storing, processing or handling raw agricultural commodities obtained directly from farms, including farms in the Farmland Preservation zoning district.

3. Marketing livestock to or from farms, including farms in the Farmland Preservation zoning district.
 4. Processing agricultural by-products or wastes received directly from farms, including farms.
 5. Any other use that the Department of Agriculture, Trade, and Consumer Protection, by rule, identifies as an Agricultural Related Use.
- c. **Accessory uses:** Any of the following that occur on a farm.
1. A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use. This includes:
 - i. A facility used to store or process raw agricultural commodities, all of which are produced on the farm.
 - ii. A facility used to keep livestock on the farm.
 - iii. A facility used to store or process inputs primarily for agricultural uses on the farm.
 - iv. A facility used to keep or service vehicles or equipment primarily employed in agricultural uses on the farm.
 - v. A manure digester, bio-fuel facility, or other facility that produces energy primarily from materials grown or produced on the farm, primarily for use on the farm.
 - vi. A waste storage or processing facility used to store or process animal waste.
 2. An activity or business operation that is an integral part of, or incidental to, an agricultural use.
 3. A farm residence, including normal residential appurtenances.
 4. A business, activity, or enterprise, whether or not associated with an agricultural use, which meets all of the following requirements:
 - i. It is conducted on the farm by the owner or operator of the farm
 - ii. It requires no buildings, structures, or improvements other than those described in par. 1. and 3.
 - iii. It employs no more than 4 full-time employees annually
 - iv. It does not impair or limit the current or future agricultural use of the farm or of other protected farmland.
- d. **Roadside Stand:** Any roadside stand or similar use shall meet the definition of a roadside stand in 3.3.2, shall be limited to the sale of products and shall conform to setback, sign and other provisions of this ordinance. Any roadside stand in the FP Farmland Preservation District must meet the requirements of s. 91.01(1) Wis. Stats.

3.7.3 Residential Uses

- a. **Single-Family Residence:** Land uses consisting of a single detached building containing one dwelling unit.
1. This land use includes modular and manufactured homes as defined in section 3.3.2 of this ordinance.
 2. This land use does not include mobile homes as defined in s. 101.91(10) Wis. Stats.
 3. All homes shall meet the following requirements:

- i. Secured to a permanent enclosed foundation that meets all applicable state building codes or full basement, not having more than 12 inches of exposed concrete foundation above the exterior finished grade of the lot. An exception is when the grade of the lot slopes, in which case only that portion of the foundation which is on the highest point of the lot must meet the requirements of this paragraph.
 - ii. Minimum structure width (i.e. short side) shall be at least twenty-four (24) feet. Attached garages, carports and open decks shall not be included in the measurement of the width of the dwelling. Any home less than 24 feet in width shall require a Conditional Use permit.
 - iii. Roof pitch shall not be less than a nominal 3:12 (rise to run).
 - iv. Roof overhang shall not be less than a nominal 6 inches excluding any gutter.
- b. **Nonfarm Residence in the FP Farmland Preservation District:** A nonfarm residence existing prior to January 1, 2014 shall be determined to be a permitted use within this district. After this date, a proposed new nonfarm residence or a proposal to convert a farm residence to a nonfarm residence through a change in occupancy is a Conditional Use in the Farmland Preservation Zoning District provided all of the following apply:
 1. The ratio of nonfarm residential acreage to farm acreage on the base farm tract on which the residence is or will be located will not be greater than 1 to 20 after the residence is constructed or converted to a nonfarm residence.
 2. There will not be more than 4 dwelling units in nonfarm residences, nor, for a new nonfarm residence, more than 5 dwelling units in residences of any kind, on the base farm tract after the residence is constructed or converted to a nonfarm residence.
 3. The location and size of the proposed nonfarm residential parcel, and, for a new nonfarm residence, the location of the nonfarm residence on that nonfarm residential parcel will not do any of the following:
 - i. Convert prime farmland from agricultural use or convert land previously used as cropland, other than a woodlot, from agricultural use if on the farm there is a reasonable alternative location or size for a nonfarm residential parcel or nonfarm residence.
 - ii. Significantly impair or limit the current or future agricultural use of other protected farmland.
 4. The creation of a nonfarm residence on a parcel of less than 21 acres that was legally recorded with the Fond du Lac County Register of Deeds on January 6, 2011, was not part of a single farm on January 6, 2011 and is in the FP Farmland Preservation District shall be subject to the following:
 - i. The parcel cannot be further divided unless it is rezoned to a zoning district other than Farmland Preservation.
 - ii. The location of the nonfarm residence will not do any of the following:

- (a) Convert prime farmland from agricultural use or convert land previously used as cropland, other than a woodlot, from agricultural use if on the farm there is a reasonable alternative location or size for a nonfarm residential parcel or nonfarm residence.
 - (b) Significantly impair or limit the current or future agricultural use of other protected farmland.
- c. **Two-Family Residence:** Land uses consisting of a building containing two (2) dwelling units. This includes dwelling units that are enclosed within a building or attached by a common floor or wall. A nonfarm two-family residence existing prior to January 1, 2014 shall be determined to be a permitted use within this district. After this date, a proposed new nonfarm two-family residence or a proposal to convert a farm residence to a nonfarm two-family residence through a change in occupancy is a Conditional Use in the Farmland Preservation Zoning District subject to the construction and ratio provisions requirements of Section 3.7.3,a & b above. All two-family residences shall meet the standards for a single-family residence except that the minimum livable area of each unit shall be not less than 800 square feet, exclusive of attached garages, carports, or open decks.
- d. **Multi-Family Residence:** Land uses consisting of a building holding 3 or more dwelling units. This includes apartment buildings and other dwelling units that are enclosed within a building or attached by a common floor or wall. Each dwelling unit may be owner-occupied or renter-occupied, with the building, lot, and/or unit in fee simple or condominium ownership. Each building shall be subject to the following standards:
 - 1. Ground Floor Area. Minimum ground floor area per dwelling unit shall be for each 1-bedroom unit, 600 square feet; for each 2-bedroom unit, 800 square feet; for each 3-bedroom unit, 1,000 square feet - exclusive of common use hallways.
 - 2. Off-Street Parking Space. Off-street parking spaces of not less than 300 square feet for each space required shall be provided on the same lot or tract of land as the dwelling served, located not less than 10 feet from any front, lot line and not less than 5 feet from any side or rear lot line: 1.5 spaces for each 1-bedroom unit; 1.5 spaces for each 2-bedroom unit and 2 spaces for each 3-bedroom unit and no such space shall be rented or leased to a non-resident of the premises.
 - i. Parking areas shall be screened with decorative fence or shrubbery from adjacent single family homes and shall provide sufficient vehicular maneuvering to allow a vehicle to re-enter the public highway in a forward direction.
 - 3. Dimension of Building Sites.
 - i. Minimum area for a 3-family unit shall be 50,000 square feet.
 - ii. Minimum lot width shall be 200 feet.
 - iii. For more than a 3-family unit, 50,000 square feet plus 10,000 square feet per family unit in excess of 3 with a minimum lot width of 200 feet.
 - 4. Site Improvements.

- i. Refuse disposal shall be in suitable containers in the rear yard and appropriately screened and accessible for removal from a driveway or a yard serviced driveway.
 - ii. Such additional screening shrubbery and the like as shall be necessary and reasonable in order to retain the esthetic values of the area and to protect adjacent property.
 - iii. Such fencing as may be necessary for the safety of the occupants and the public generally.
- e. **Nonfarm Residential Cluster in the FP Farmland Preservation District:** A nonfarm residential cluster is a grouping of no more than four nonfarm residences in the FP Farmland Preservation District. It is a conditional use and must meet the following standards:
 1. It must be created on a base farm tract.
 2. The parcels on which the nonfarm residences would be located must be contiguous.
 3. The nonfarm residences constructed, must satisfy the requirements under 3.7.3.b.
- f. **Single-Family Residence Accessory to a Principal Use:** Land uses consisting of a single-family residence that is accessory to a principal use in the Business or Industrial districts (for shopkeeper or employee, for example). This residence may be freestanding or attached to the building in which the principal use is conducted.
- g. **Accessory Uses:** Land uses clearly incidental to the primary residential use including normal residential appurtenances such uses as garages, carports, storage sheds, and decks.
- h. **Home Occupation:** Land uses consisting of economic activities performed as an accessory to a residential use and are compatible with the character of nearby rural and residential areas. See 3.8.7 for standards.
- i. **Family Day Care Home:** A dwelling unit where supervision and care and/or instruction for not more than 8 children under the age of 7 is provided for periods of less than 24 hours per day, and which is licensed by the Wisconsin Department of Children and Families.
- i. **Manufactured/Mobile Home Park:** Land uses meeting the definitions and requirements of Wisconsin Administrative Code SPS 326. The following standards shall apply to the design, construction and maintenance of any new manufactured/mobile home community or park and to the enlargement or addition to an existing community or park after the effective date of this Chapter. These standards shall be additional to all state statutes, codes and regulations. Although the following standards are mandatory, nothing herein shall be construed to prevent or limit the submission of unique, innovative designs to the Plan Commission.

1. Minimum size of any manufactured/mobile home park shall be 10 acres.
2. Lot dimensions and area shall not be less than as follows:
 - i. Minimum width: 50 feet
 - ii. Minimum depth: 100 feet
 - iii. Minimum area: 6,500 square feet
3. All lots shall abut on a street within the park for at least 15 feet and shall have unobstructed street access. No lot shall abut on a public street, right-of-way, or property line of the park.
4. Corner lots located on the inside of any corner shall be of extra width sufficient to maintain front set back requirements on both streets.
5. No more than one manufactured/mobile home shall be placed on a lot.
6. No manufactured/mobile home unit shall be parked outside of a designated lot.
7. The minimum width of each manufactured/mobile home shall be a nominal 14 feet.
8. Setbacks applicable to each lot:
 - i. Minimum front yard setback: 20 feet (All yards which abut a street are "front yards")
 - ii. Minimum rear yard setback: 10 feet
 - iii. Minimum distance between homes: 20 feet
9. Streets:
 - i. Each street and parking area shall be paved.
 - ii. A streetlight shall be placed at each street corner within the park, at each entrance to the park, and at such other places along the street so that the distance between each light does not exceed 225 feet as measured down the centerline of the street.
 - iii. All streets shall be maintained and plowed by the owner.
10. Parking:
 - i. Each lot shall have an off-street parking space having either (a) a minimum width of 20 feet and a minimum depth of 24 feet, or (b) a minimum width of 12 feet and a minimum depth of 40 feet.
 - ii. If parking on any street is prohibited within the park, an additional parking area within the park shall be established containing one parking space for every 5 lots (of fraction thereof) which abut on a street where parking is prohibited.
 - iii. All parking shall be paved.
 - iv. Parking will only be allowed on streets or paved areas.
11. Walkways not less than 3 feet wide and comprised of a hard surface shall be provided from the parking area of each lot up to and including the steps to the front door of each mobile and manufactured home.
12. Utilities:
 - i. Water, domestic waste disposal, natural gas (where available) and electrical utilities shall be provided to each lot.
 - ii. All utilities, including telephone and cable TV, shall be placed underground.
 - iii. Each lot shall be furnished with a minimum 200 amp electrical service.
 - iv. The owner shall install one large water meter for the entire park contained in a manhole. The design and construction of the park

- water distribution systems, the water meters, and the manhole shall meet such requirements as may be established.
13. Open Areas:
 - i. Each park shall have one or more designated open area which shall be easily accessible to all park residents, which shall not include a street or the Park Boundary/Buffer, and which shall be so located as to be free of traffic hazards.
 - ii. The total size of such open areas shall be a minimum of 5% of the total land area of the park.
 - iii. For every 25 lots in the park, there shall be at least one open area in the park having a minimum size of 50 feet by 100 feet.
 14. Landscaping:
 - i. Each lot shall be planted with at least 1 tree and 1 shrub. The tree shall be a deciduous tree.
 - ii. All lots shall be sodded or planted in grass.
 - iii. Trees, grass and landscape material shall be properly maintained and replaced to conform to the approved landscape plans and specifications.
 15. Park Boundary/Buffer:
 - i. A 30-foot wide buffer zone shall be established around the entire perimeter of the park.
 - ii. The buffer zone shall not be part of any lot.
 - iii. A visual screen of compact hedges, decorative fences, coniferous trees and shrubs and other landscape materials recommended by the Plan Commission and approved by the Town Board, shall be installed and maintained in the buffer zone, to substantially hide the interior of the park from view from any adjacent street or property.
 - iv. The buffer zone shall be maintained by the owner free of rubbish, debris and weeds.
 16. Home Installation:
 - i. Each manufactured/mobile home shall be secured with tie-downs and anchoring equipment.
 - ii. All manufactured/mobile home units shall have skirts around, or other product which makes the home appear to be built upon a basement or foundation, the entire manufactured/mobile home made of plastic, fiberglass, aluminum, metal or vinyl, and shall be of a permanent color or painted to match the manufactured/mobile home so as to enhance the general appearance thereof.
 17. Accessory buildings:
 - i. Only one (1) out-building may be placed on each lot.
 - ii. The following set back requirements apply to each accessory building:
 - (1) Minimum front yard setback: 20 feet
 - (2) Minimum rear yard setback: 3 feet
 - (3) Minimum side yard setback: 3 feet
 - iii. All accessory buildings, except for automobile garages, shall be located in the rear one-half (1/2) of the lot,

- iv. No accessory building shall exceed one story in height or 400 square feet in area.
- 18. No structure may be attached or added to any manufactured/mobile home (additions), except as follows:
 - i. The proposed design and construction standards shall be submitted to the Permit Officer before commencement of work on the structure.
 - ii. The Permit Officer shall review and approve the project only if the structure is designed to architecturally blend with the manufactured/mobile home.

3.7.4 Business Uses.

Please note that Business Uses listed as Permitted Uses in the Farmland Preservation District are permitted only if they are an accessory use as described in 3.7.2 c.

- a. **Personal or Professional Service:** Land uses that are exclusively indoor whose primary function is the provision of services directly to an individual on a walk-in or on-appointment basis. Examples of such land uses include, but are not limited to, professional services, insurance services, realty offices, financial services, medical offices and clinics, veterinary clinics, barber shops, beauty shops, and related land uses.
- b. **Indoor Sales and Service:** Land uses which conduct or display sales or rental merchandise or equipment, or non-personal or non-professional services, entirely within an enclosed building. This includes general merchandise stores, grocery stores, bait shops, sporting goods stores, antique stores, gift shops, Laundromats, artisan and artist studios, bakeries, and the like. Artisan craft production such as consumer ceramics, custom woodworking, or other production activities directly associated with retail sales are regulated as "light industrial activities as an accessory to retail sales or service."
- c. **Long Term Outdoor Display and Sale:** Land uses which conduct sales or display merchandise or equipment on a long term basis outside of an enclosed building as a principal accessory use of the lot. Examples of such land uses would include vehicle and equipment sales and rental, manufactured housing sales, monument sales, and garden centers. Such land uses do not include the storage or display of inoperative vehicles or equipment, or other materials typically associated with a junk or salvage yard or other permanent outdoor land uses specifically defined by the zoning Ordinance. All storage of equipment shall be at least 100 feet from highways or roads and at least 200 feet from any residential property. If the Plan Commission and Town Board deems the operations will take on characteristics of a junkyard, they may require a hedge planting of sufficient size to screen the area from the public right-of-way.
- d. **Maintenance Service:** Land uses which perform maintenance services (including repair) either within or outside an enclosed building.

- e. **In-Vehicle Sales and Service:** Land uses which perform sales and/or services to persons in vehicles, or to vehicles which may be occupied at the time of such activity. Such land uses often have traffic volumes which exhibit their highest levels concurrent with peak traffic flows on adjacent roads. Examples of such land uses include drive-in, drive-up, and drive-through facilities, vehicular fuel stations, and all forms of car washes.
- f. **Indoor Business Entertainment and Service:** Land uses which provide entertainment services entirely within an enclosed building. Such activities often have operating hours that extend significantly later than most other Business land uses. Examples of such land uses include restaurants, taverns, theaters, health or fitness centers, all forms of training studios (dance, art, martial arts, etc.) bowling alleys, arcades, roller rinks, and pool halls. Such land uses do not include adult oriented establishments. See paragraph l. of this section for regulation of adult oriented establishments
- g. **Indoor Lodging Facility:** Land uses which provide overnight housing in individual rooms or suites of rooms, each room or suite having a private bathroom. Such land uses may provide in-room or in-suite kitchens, and may also provide indoor recreational facilities for the exclusive use of their customers. Restaurant, arcades, fitness centers, and other on-site facilities available to non-lodgers are not considered accessory uses and therefore require review as a separate land use.
- h. **Resort Establishment:** Land uses which provide overnight housing in individual rooms, suites of rooms, cabins, or cottages. Such land uses may also provide indoor and outdoor recreational facilities for the exclusive use of their customers. Restaurants, arcades, fitness centers, and other on-site facilities available to non-lodgers are not considered accessory uses and therefore require review as a separate land use. The maximum number of occupancy units in a resort shall not exceed a density of 10 units per acre in any zoning district.
- i. **Bed and Breakfast Establishment:** Land uses which provide lodging facilities that are operator-occupied residences providing accommodations for a charge to the public with no more than five guest rooms for rent, in operation for more than 10 nights in a 12 month period, provide meals only to renters of the place, and are clearly residential structures in design, scale, and appearance.
- j. **Group Day Care Center Facility:** Land uses in which qualified persons provide child care services for nine or more children. Examples of such land uses include day care centers and nursery schools. Such land uses shall not be located within a residential building. Such land uses may be operated on a for-profit or a not-for-profit basis. Such land uses may be operated in conjunction with another principal land use on the same environs, such as a church, school, business, or civic organization. In such instances, group day care centers are not considered as accessory uses and therefore require review as a separate land use.
- k. **Animal Boarding or Breeding Facility:** Land uses where five (5) or more animals six (6) months of age or older are bred by a person providing facilities for breeding and the offspring are sold, or where such animals are received for care,

training, and boarding for compensation, not including a small animal hospital, clinic, or pet shop. These uses may include exercise yards, fields, training areas, and trails.

- l. **Adult Oriented Establishments:** Land uses that include any facility involving the display of sexually-oriented materials such as videos, movies, slides, photos, books, or magazines; or actual persons displaying and/or touching sexually specified areas. This type of activity is a permitted use but is regulated by the Town of Osceola's Adult Oriented Establishments Ordinance.
- m. **Personal Storage Facility:** Land uses oriented to the indoor storage of personal items entirely within partitioned buildings having an individual access to each partitioned area. Such storage areas may be available on either a condominium or rental basis. Also known as "mini-warehouses."
- n. **Portable Storage Facility:** Land uses that include shipping containers, semi-trailers, portable on demand storage (PODS), and store and move (SAM) containers that are intended for temporary storage while an individual or business is relocating. Such storage facilities shall need a permit which regulates the length of time a portable storage facility is allowed on the specified premise.
- o. **Indoor Storage or Wholesaling:** Land uses primarily oriented to the receiving, holding, and shipping of materials for a single business or a single group of businesses. With the exception of loading and parking facilities, such land uses are contained entirely within an enclosed building. Examples of this land use include conventional warehouse facilities, long-term indoor storage facilities, and joint warehouse and storage facilities. It does not include uses described in the "personal storage facility" land use category. Retail outlets associated with this principal use shall be considered an accessory use.
- p. **Outdoor Storage or Wholesaling:** Land uses primarily oriented to the receiving, holding, and shipping of materials for a single business or a single group of businesses. Such a land use, in which any activity beyond loading and parking is located outdoors, is considered an outdoor storage and wholesaling land use. Examples of this land use include equipment yards, lumber yards, coal yards, landscaping materials yard, tank farms, construction materials yards, and shipping materials yards. Such land uses do not include the storage of inoperative vehicles or equipment, or other materials typically associated with a junkyard or salvage yard. Contractors' storage yards are considered accessory in the "contractor shop" land use category. Retail outlets associated with this principal use shall be considered an accessory use.
- q. **Indoor Retail Sales Activity as an Accessory to Industrial or Indoor Storage and Wholesaling:** Land uses that include any retail sales conducted exclusively indoors which is clearly incidental to an industrial facility or indoor storage and wholesaling facility, on the same site.
- r. **Marinas and Boat Liveries:** Land uses including a dock or basin providing secure moorings for watercraft or the rental of watercraft. This use may also include boat repair, chartering, supply, fueling, boat ramps, and other facilities.

3.7.5 Industrial Uses.

- a. **Light Industrial Activity as an Accessory to Retail Sales or Service:** Land uses that include any light industrial activity conducted exclusively indoors which is clearly incidental to indoor sales or service, on the same site.
- b. **Light Industrial:** Land uses which operations (with the exception of loading operations):
 1. are conducted entirely within an enclosed building;
 2. are not potentially associated with nuisances such as odor, noise, heat, vibration, and radiation which are detectable at the property line;
 3. do not pose a significant safety hazard (such as danger of explosion); and
 4. comply with all of the applicable performance standards.

Light industrial land uses may conduct retail sales activity as an accessory use.

- c. **Heavy Industrial:** Land uses which meet one or more of the following criteria: 1) are not conducted entirely within an enclosed building; 2) are potentially associated with nuisances such as odor, noise, heat, vibration, and radiation which are detectable at the property line; and 3) pose a significant safety hazard (such as danger of explosion). Examples of heavy industrial land uses include meat product producers; alcoholic beverage producers; paper, pulp or paperboard producers; chemical and allied product producers (except drug producers) including poison or fertilizer producers; petroleum and coal product producers; asphalt, concrete or cement producers; tanneries; stone, clay or glass product producers; primary metal producers; heavy machinery producers; electrical distribution equipment producers; electrical industrial apparatus producers; transportation vehicle producers; commercial sanitary sewage treatment plants; railroad switching yards; and recycling facilities not involving the on-site storage of salvage materials.
- d. **Contractor Shop:** Land uses that include businesses engaged in contract services or labor, such as contractors involved with landscaping: building construction or carpentry: and electrical, plumbing, or heating systems. Often involves accessory equipment storage yards and rental of equipment commonly used by contractors. Retail outlets associated with this principal use shall be considered an accessory use.
- e. **Non-Metallic Mining:** Non-metallic land uses include operations or activities for extraction from the earth, for sale or use by the operator, of mineral aggregates such as stone, sand and gravel, and nonmetallic minerals, related operations or activities such as drilling and blasting, excavations, grading or dredging if the purpose of those operations or activities is the extraction of mineral aggregates and nonmetallic minerals and related processes such as crushing, screening, scalping, dewatering and blending.

1. Non-Metallic Mining, provided mineral extraction operations shall take place for less than four years, the land shall be restored to agricultural production within another two years (unless the Town Board grants a renewal of the license), and that paragraphs i through vi, which only relate to the Farmland Preservation Zoning District would be met, while the remaining non-metallic mining operation regulations would be applicable to Farmland Preservation, Rural Development, and Industrial zoned lands:
 - i. The operation complies with sub ch. I of ch. 295 and rules promulgated under that subchapter, with applicable provisions of the local ordinance under s. 295.13 or 295.14, and with any applicable requirements of the department of transportation concerning the restoration of nonmetallic mining sites.
 - ii. The operation and its location in the Farmland Preservation zoning district are consistent with the purposes of the Farmland Preservation zoning district.
 - iii. The operation and its location in the Farmland Preservation zoning district are reasonable and appropriate, considering alternative locations outside the Farmland Preservation zoning district, or are specifically approved under state or federal law.
 - iv. The operation is reasonably designed to minimize the conversion of land around the extraction site from agricultural use or open space use.
 - v. The operation does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
 - vi. The operator shall restore the land consistent with the Fond du Lac County “Non-Metallic Reclamation Ordinance” (consistent with s.s. 295.13) adopted on July 19, 2007 when extraction is completed.
 - vii. Non-Metallic Mining Application. Non-metallic mining may include washing, crushing, quarrying, borrow pits, or other processing or removal of mineral resources, the erection of buildings and the installation of necessary machinery used in the said extraction and processing, and the preparation of hot black top mix or ready-mix concrete, and the operation of lime kilns.
 - viii. Nonmetallic mining operations are subject to the following additional standards, which apply to all nonmetallic mining operations in the Town.
 - (a) Excavations below the grade of the nearest abutting public street or highway shall be set back from said street or highway a distance not less than that required for buildings and structures under this ordinance; all final slopes shall be covered with topsoil and seeded to prevent future erosion; the plan shall require that after completion of the anticipated operation the area shall be cleared of all debris and be left in a clean condition, subject to the approval of the Town Board or its agent. The reclamation plan shall indicate the proposed future use or uses of the site;

- however, the proposed re-use of the site for a dumping grounds shall have the concurrence of the Town Board.
- (b) Application for a permit for mineral extraction operations proposed to be located within 600 feet of a residential district or residential subdivision, or within 300 feet of any building occupied for residential purposes; or for a hot blacktop mix or a ready-mix concrete plant, shall not be granted except on approval of the Town Board given after the public hearing has been held.
 - (c) The permit shall be for a period of time as stated in the application or as modified by the Plan Commission and Town Board. The Plan Commission and Town Board, where such approval is required, shall consider the effect of the proposed operation and the proposed reclamation upon existing and future conditions, including streets, neighboring land development, land use drainage, water supply, water pollution, air pollution, soil erosion, natural beauty and land value of the locality. The application and/or reclamation plan may be approved, approved conditionally, or rejected.
 - (d) No permit shall be granted for a period of time exceeding 4 years, unless approved by the Town Board. A renewal may be granted upon application provided that the applicant has fully complied with the terms of this ordinance and the permit issued hereunder. A public hearing will be required prior to renewal.
 - (e) The Osceola Town Board will set a filing fee annually for the initial application and renewal application, and said fees will be on file in the Town Clerk's office.
 - (f) All existing mineral extraction operation lawfully operated prior December 13, 1982 shall be considered non-conforming uses and may be continued provided that they have been worked prior to the date of the adoption of this provision of this ordinance.
 - (g) For new quarry operations, the site cannot be used solely as a transfer site for non-metallic materials from other quarries. (12-10-19)
- f. **Salvage or Junk Yard:** Land uses that include any land or structure used for a salvaging operation including, but not limited to the above-ground outdoor storage, collection, recycling, dismantlement, and/or sale of items listed in Section 3.7.5.f.1. Licensed recycling facilities involving on-site outdoor storage of salvage materials are not included in this land use.
- 1. "Junk" shall include, but is not limited to: old iron, steel, brass, copper, tin, lead, or other base metals; old cordage, ropes, rags, fibers, or fabrics; old rubber; old bottles or other glass; wastepaper and other waste or discarded material which might be prepared to be used again in some form; and any or all of the foregoing; inoperable appliances and machinery; and three (3) or more unlicensed motor vehicles or no longer

- used as such, to be used for scrap metal or stripping of parts; but "junk" shall not include materials or objects accumulated by a person as by-products, waste, or scraps from the operation of his own business or materials or objects held and used by a manufacturer as an integral part of his own manufacturing process.
2. The area on the premises where junk is kept (other than indoors) shall be enclosed by a wall or fence except for entrances and exits.
 - i. Entrances and exits shall not be wider or more numerous than reasonably necessary for the conduct of the business.
 - ii. When two or more vehicle dismantling yards, junk and salvage yards, and/or vehicle impounding yards have a common boundary line, a solid wall or solid fence shall not be required on such common boundary line; provided, however, that a solid wall or solid fence shall enclose the entire combined area devoted to such uses.
 - iii. Fences and walls shall be of uniform heights in relation to the ground upon which they stand. They shall be a minimum of 8 feet high or a height sufficient to screen salvage from view and shall not exceed 12 feet in height. They shall be of wood or metal painted one inconspicuous earth-tone color, and shall enclose the entire site.
 - iv. Junk or salvage materials shall not be piled higher than the height of the fence, not against the fence.
 - v. An unobstructed interior firebreak 16 feet in width shall be maintained adjacent to the fence or wall and completely surrounding the junk or salvage yard.
 3. A vegetated buffer area is required to create additional screening and containment of salvage and to soften the appearance of the fence or wall.
 - i. The buffer area cannot substitute for a fence or wall and berms cannot substitute for either.
 - ii. No buildings, structures, outdoor storage areas or other facilities shall be located in any part of a buffer area.
 - iii. The buffer area must be at least 25 feet wide adjacent to the exterior of the fence or wall.
 - iv. The buffer area shall be planted and maintained with a continuous stand of mixed trees and shrubs sufficient to extend above the fence or wall and obscure the majority of it from view within 5 years.
 4. All buildings, structures, outdoor storage areas, other facilities and the required fence or wall shall be set back at least 300 feet from public roadways and 100 feet from rear and side lot lines.
 5. No oil, grease, tires, gasoline, rubber, plastic asphalt or similar material shall be burned at any time, and all other burning shall be in accordance with applicable state and local regulations.
 6. All junk and salvage yards shall be maintained so as to avoid creating a public or private nuisance, including but not limited to any offensive or noxious sounds or odors and breeding or harboring of rats, flies, mosquitoes, or other vectors.
 7. Drainage facilities shall be established to protect surface and groundwater resources.

8. Noxious weeds shall be controlled.
 9. All materials or wastes which might cause fumes or dust or which constitute a fire hazard or which may be edible or otherwise attractive to rodents or insects may be stored outdoors only if enclosed in containers which are adequate to eliminate such hazards.
 10. No materials or wastes shall be deposited on a site so as to allow their transportation off the site by normal natural causes.
 11. No such facility shall discharge at any point into any public or private sewage disposal system or waterway, or into the ground, any liquid or solid materials except in accordance with the regulations of the Wisconsin Department of Natural Resources and the Wisconsin Department of Public Health.
 12. Toxic and hazardous materials including, but not limited to, gasoline, oil, antifreeze, brake fluids, freon and transmission oil shall be removed from any scrapped engines, vehicles, appliances or containers on the premises and shall be recycled or disposed of in compliance with applicable regulations.
- g. **Solid or Hazardous Waste Facility:** Land uses that include any area, lot, land, parcel, building, or structure, or part thereof, used for deposit, disposal, processing, or transfer of solid, demolition, or hazardous waste.
1. Existing facilities and expansion of existing facilities by adding not more than 50 percent additional capacity, provided that continuing operations and operations of expanded areas follow basically the same operating patterns as current and comply with applicable laws and rules.
 2. Transfer, treatment and disposal of farm manure and similar farm animal waste generated from farms in Osceola or immediately adjoining lands.
 3. Solid or hazardous waste facilities that otherwise would meet the tests of applicability, but that are on the same land where the waste is generated and are conducted as part of the farm or business (other than waste treatment/disposal business) on that land.
 4. Any waste facility to which this ordinance applies must have advance approval and the issuance of a Conditional Use permit by Osceola before operations may be commenced.
 5. To approve such a facility, the Town must determine that the facility will not harm the health, safety and welfare of the community and the good order and convenience of the community and the public.
 6. In making approvals, the Town is encouraged to impose reasonable requirements on applications in order to avoid nuisance conditions.
 7. The intent of this ordinance is that dumps and waste facilities will be regulated within the process of the Wisconsin Waste Facility Siting Law and that precise application of standards and conditions will be determined within that process.

3.7.6 Public/Institutional/Parks/Recreation Uses

- a. **Governmental, institutional, religious, or nonprofit community uses:** This type of use can generally be compatible with residential land uses, such as small churches, small private schools, small clinics, post offices, Town Hall, fire

stations, funeral homes, and recreational or fraternal facilities such as clubs and lodges, meeting halls, and community centers.

- b. **Outdoor Public Recreation - Passive:** Land uses that include recreational uses located on public or private property which involves passive recreational activities that are open to the public or to customers, patrons, or members.
1. Passive uses include arboretums, natural areas, wildlife areas, hiking trails, bike trails, ski trails, horse trails, open grassed areas not associated with any particular active recreational land use, picnic areas, picnic shelters, gardens, fishing areas, and similar land uses.
 2. Waterfront recreational uses shall adhere to the following provisions:
 - i. The area shall be compatible with adjacent land or water uses.
 - ii. The provisions of The Fond du Lac County Shoreland Zoning Ordinance (Chapter 44) shall apply.
 - iii. Entrances and exits are designed and located as to not interfere with the public's or adjacent landowner's access to public waters.
 - iv. Any lighting facilities are designed as to minimize reflection or glare on or over the water except navigation aids.
- c. **Outdoor Public Recreation - Active:** Land uses that include recreational uses located on public or private property which involves active recreational activities that are open to the public or to customers, patrons, or members.
1. Active uses include play courts (such as tennis courts and basketball courts), playfields (such as ball diamonds, football fields, and soccer fields), tot lots, outdoor swimming pools, swimming beach areas, fitness courses, golf courses, and similar land uses.
 2. Provisions of 3.7.6.b.2 apply.
 3. Waterfront recreational uses that include bleachers, spectator stands, motor driven rides, concession stands and similar uses are effectively screened from adjacent properties by vegetative growth.

3.7.7 Miscellaneous Uses

- a. **Solar Energy Systems.** Equipment that directly converts and then transfers or stores solar energy into usable forms of thermal or electrical energy. "Solar energy system" excludes solar powered light fixtures that are ground or wall mounted, solar powered electric fences, and portable solar energy systems as well as any solar powered system that does not convert and then transfer or store solar energy into usable forms of thermal or electrical energy.
1. Every application for a solar energy system Conditional Use permit shall be made in writing and shall, upon request, include the following information:
 - i. Name and address of applicant.
 - ii. Evidence that the applicant is the owner of the property involved or has the written permission of the owner to make such an application.
 - iii. Scaled drawing of the solar energy system and its dimensions, its

- height above ground level, orientation, and slope from the horizontal.
- iv Site plan showing lot lines and dimensions of the solar energy system user's lot and neighboring lots that will be affected by the solar energy system.
 - v Documentation showing that no reasonable alternative location exists for the solar energy system that would result in less impact on neighboring lots.
 - vi Documentation showing that removing or trimming vegetation on the applicant's lot will not permit an alternative location for the solar energy system that would result in less impact on neighboring lots.
 - vii Such additional information as may be reasonably requested.
 - viii Any of the information required by this section may be waived by the Town at its discretion.
2. The Town will consider each solar energy system on a case-by-case basis. The Town may deny a Conditional Use permit for a solar energy system or may impose restrictions on a solar energy system if the Town finds that the denial or restrictions satisfy one of the following conditions:
 - i The denial or restriction serves to preserve or protect the public health or safety.
 - ii The denial or restriction does not significantly increase the cost of the system or significantly decrease its efficiency.
 - iii The denial or restriction allows for an alternative system of comparable cost efficiency.
 3. The Town may impose restrictions on a solar energy system relating to any of the following:
 - i Setbacks from inhabited structures, property lines, public roads, communication and electrical lines, and other sensitive structures and locations.
 - ii Wiring and electrical controls of the solar energy system.
 - iii Reimbursement for emergency services required as a result of the solar energy system.
 - iv Solar energy system ground clearance.
 - v Solar energy system height.
 - vi Any other matters that the Town finds appropriate.
 4. Any Conditional Use permit for the installation or maintenance of a solar energy system may be revoked by the Town if the permit holder, its heirs, or assigns, violates the provisions of this ordinance or the provisions of a Conditional Use permit granted pursuant to this ordinance.
- b. **Transportation, Communications, Pipeline, Electric Transmission, Utility, or Drainage Uses:** These uses require a conditional use permit unless the use is required under state or federal law to be located in a specific place or that is authorized to be located in a specific place under a state or federal law that preempts the requirement of a conditional use permit for that use.

3.8. General Provisions

3.8.1 Existing Conditions

Nothing herein contained shall require any change in the plans, construction, size or designated use of any building or part thereof the construction of which shall have been started prior to the effective date of this ordinance.

3.8.2 Area, Yard and Height

- a. The use and height of a building hereafter erected, converted, enlarged or structurally altered and the use of any land shall be in compliance with the regulations established herein for the district in which such land or building is located.
- b. No alterations to any building, except uncovered steps or handicap ramps, may project into the front yard established at the time of the original construction of such building beyond a line connecting the nearest points on the setback lines of the next existing buildings on each side of such building.
- c. Where a housing project consisting of a group of 2 or more buildings containing 4 or more dwelling units is to be constructed on a site not subdivided into customary lots and streets, or where an existing lot and street layout make it impractical to apply the requirements of this ordinance to the individual building units, the Town Board, following recommendation from the Plan Commission, may approve a development plan provided it complies with the regulations of this ordinance as applied to the entire project.
- d. Every part of a required yard shall be open to the sky unobstructed, except the accessory buildings in a yard, and the ordinary projections of sills, belt courses, cornices and ornamental features projecting not more than 24 inches, and/or up to 48 inches for solar heating systems.
- e. All dwellings shall conform to minimum floor size and be securely anchored to a permanent footed foundation or slip.
- f. Accessory buildings which are not a part of the main building shall not occupy more than 30% of the area of the required rear yard and shall not be nearer than 5 feet to any lot line. Where an accessory building is a part of the main building or is substantially attached thereto, the side yard and rear yard regulations applicable to the main building shall be applied to the accessory building.
- g. Open or enclosed fire escapes and fire towers may project into a required yard not more than 5 feet provided they be so located as not to obstruct light and ventilation.
- h. No lot area shall be so reduced that the yards and open spaces shall be smaller than is required by this ordinance, nor shall the density of population be increased in any manner except in conformity with the area regulations hereby established for the district in which a building or premises is located.

- i. No part of a yard or other open space provided about any building for the purpose of complying with the provisions of this ordinance shall be included as a part of a yard or other open space required for another building.
- j. Every building hereafter erected, converted, enlarged or structurally altered shall be located on a lot and in no case shall there be more than one main building on one lot.
- k. Any side yard or rear yard abutting a district boundary line shall have a minimum width and depth in the less restricted district equal to the average of the required minimum widths and depths for such yards and courts in the two districts which abut the district boundary line.

3.8.3 Exceptions

- a. The regulations contained herein relating to the heights of buildings and the size of yards and other open spaces shall be subject to the following exceptions:
 - 1. Churches, schools, hospitals, sanatoriums and other public and quasi-public buildings may be erected to a height not exceeding 65 feet nor 5 stories, provided the front, side and rear yards required in the district in which such building is to be located are each increased at least 1 foot for each foot of additional building height above the height limit otherwise established for the district in which such building is to be located.
 - 2. Chimneys, cooling towers, elevator bulkheads, fire towers, silos, monuments, penthouses, setbacks, scenery lofts, tanks, water towers, ornamental towers, spires, wireless, television or broadcasting towers, masts or aerials, telephone, telegraph and power poles and lines, microwave radio relay structures, and necessary mechanical appurtenances are hereby excepted from the height regulations of this ordinance and may be erected in accordance with the other regulations or ordinances of the Town of Osceola.
 - 3. Residences in the Residential and Farmland Preservation District may be increased in height by not more than 10 feet when all yards and other required open spaces are increased by 1 foot for each foot by which such building exceeds the height limit of the district in which it is located.
 - 4. Where a lot abuts on 2 or more streets or alleys having different average established grades, the higher of such grades shall control only for a depth of 120 feet from the line of the higher average established grade.
 - 5. Buildings on through lots and extending from street to street may waive the requirements for a rear yard by furnishing an equivalent open space on the same lot in lieu of the required rear yard, provided that the setback requirements on both streets be complied with.

3.8.4 Manufactured Home

- a. A manufactured home as defined in 3.3.2 moved into the Town of Osceola after June 9, 2014 must meet the following requirements:
 1. That the manufactured home is secured to a permanent enclosed foundation that meets all applicable state building codes or full basement, not having more than 12 inches of exposed concrete foundation above the exterior finished grade of the lot. An exception is when the grade of the lot slopes, in which case only that portion of the foundation which is on the highest point of the lot must meet the requirements of this paragraph.
 2. Minimum structure width (i.e. short side) shall be at least twenty-four (24) feet. Attached garages, carports and open decks shall not be included in the measurement of the width of the dwelling.
 3. The structure shall have a minimum of a 3/12 pitched roof on a minimum of seventy-five (75) percent of the structure.

3.8.5 Mobile Home

A mobile home as defined in 3.3.2 that currently is on a lot that is not located in a mobile home park on June 9, 2014 shall be permitted to remain in its original location except that the mobile home may not be extended, enlarged, reconstructed, moved or structurally altered, or replaced with a different mobile home, unless the Permit Officer determines that such action (a) will be an aesthetic improvement to the mobile home; (b) will be in fundamental harmony with surrounding uses; and (c) will comply to the extent feasible with requirements for mobile home installation in manufactured/mobile home parks.

3.8.6 Fences

- a. In all districts, the following fence regulations apply:
 1. Two and a half feet maximum height within any vision-triangle.
 2. Barbed wire fencing may not be used in residential districts, except between residential and agricultural properties.
 3. Electric fences may only be used between agricultural and residential properties when agreeable to both parties.
 4. Fences shall be maintained in good repair as to structure and appearance.
 5. Notwithstanding anything to the contrary in the Town's Zoning Ordinance, fences between a Rural District and any other zoning district shall be not less than 10 feet off of the property line.
 6. The party initiating construction of a fence must place the finished side toward neighboring properties.

3.8.7 Home Occupation Standards

- a. These uses shall have limited outward appearance, including limited signage, outdoor storage, parking, and customer traffic. Examples include personal and professional services, handicrafts and other items produced on-site, and the sale of direct marketing products or other similar activities that are customarily conducted from a residence.
- b. Home occupations shall include the employment of no more than two (2) additional persons other than the resident occupants.
- c. The use shall not involve the serving of any beverage, food, the on-lot retail or wholesale of goods or materials; nor the removal of sand, gravel, stone, topsoil, peat or moss for commercial purposes.
- d. Any off-street parking area provided shall be maintained reasonably dustless, and adequately screened from adjoining residential properties.
- e. The use shall not include the operation of any machinery; power tools or other appliances, or produce excessive noise or odors unless a Conditional Use permit is obtained.
- f. The use shall not involve more than 20 percent of the classified floor area of the principal building or utilize any secondary buildings or structures unless a Conditional Use permit is obtained.

3.8.8 Miscellaneous

- a. In any agricultural or residential zoning district, a homeowner shall be permitted only one recreational vehicle to be parked outside of the residence for storage purposes. Units in storage are not to be rented or leased for habitation purposes at any time.
- b. Hunting cabins are allowed, provided the hunting cabin is no larger than 800 square feet. Such structures may be manufactured for the specific temporary use as a hunting cabin without sanitary facilities and therefore cannot become a place of permanent occupancy.

3.9 Conditional Uses

3.9.1 Purpose. Conditional Uses may be appropriate within a specific zone, provided conditions can be met that ensure no adverse effects to the Town's and immediate vicinity's health, general welfare, safety, and economic prosperity. Considerations for these uses include, but are not limited to, established character and quality of the area, general compatibility with surroundings, traffic impact and circulation, environmental impacts, the demand for related services, and the possible hazardous, harmful, noxious, offensive, or nuisance effects resulting from noise, dust, smoke, or odor. It is hereby declared the policy and purpose of this ordinance to employ the Conditional Use as a flexible means of permitting certain exceptions to the districts established and the rules and regulations adopted herein, in cases where the public benefit of such uses outweighs the potential harm, and under such conditions imposed as are necessary to protect the public health, safety and welfare and individual property rights.

3.9.2 Procedure and Meetings. The following procedure shall be followed to obtain a Conditional Use permit:

- a. **Application.** An owner or owner's designated agent shall complete and file a Conditional Use application form with the Permit Officer accompanied by a nonrefundable application fee which may be amended from time to time, as established by the Town Board by resolution, to cover costs of public notice and administrative review. Ten copies of a scalable development plan will be required with the written application.
- b. **Public hearing.** After receiving the request, the Town Clerk shall refer the matter to the Plan Commission, which shall hold a public hearing advertised by a Class 2 notice.
- c. **Action by Plan Commission.** The Plan Commission shall, within thirty (30) days of the public hearing, make a report and recommendation of approval or denial of the Conditional Use permit with any conditions it may deem appropriate to the Town Board. In making its decision, the Commission shall keep a written record of findings relative to the standards for considering a Conditional Use application, as listed in 3.9.5. and 3.9.6.
- d. **Action by Town Board.** The Town Board shall, within thirty (30) days of Plan Commission action, act to approve or deny the Conditional Use permit by resolution.

3.9.3 Application Requirements. The applicant shall provide the following information on the Conditional Use application form:

- a. Applicant and property owner's name, address, and telephone number.
- b. Parcel information, including tax key number, legal description, street address, if any, dimensions and existing zoning and land use designations.

- c. Description of Conditional Use being requested.
- d. Written justification for the Conditional Use being requested and supporting documentation describing how the applicant believes that the request conforms to the standards for Conditional Uses listed in subsection 3.9.5.

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

- a. North arrows, date of preparation, and scale on 8½" x 11" size paper
- b. Name(s) of all adjacent or surrounding streets and right-of-way width(s) and recorded property lines and their dimensions
- c. All existing and proposed buildings and structures accessory to the principal use, including the use of each building or structure, dimensions and their locations on the parcel
- d. Dimensions of existing and proposed yard setbacks for buildings and structures
- e. Dimensions of existing and proposed parking, loading, and unloading areas, and size of existing and proposed driveways
- f. The location of proposed and existing signage and the location and type of all proposed and existing exterior lighting fixtures
- g. The location, height and materials of all proposed and existing fences or retaining walls
- h. Other additional information that may be deemed appropriate by the Plan Commission.

3.9.5 Standards for Granting Conditional Use Permits. No Conditional Use permit shall be recommended by the Plan Commission or approved by the Town Board unless it shall find that:

- a. **Detrimental Impact** That it is so designed, located and proposed as to be operated so that it will not be injurious to the district in which it shall be located or otherwise detrimental to the public welfare.
- b. **Zoning** The proposed use conforms to the general purposes and intent of the Osceola Zoning Ordinance.
- c. **Comprehensive Plan** The proposed use is consistent with the goals and objectives of the Osceola Comprehensive Plan.
- d. **Traffic** Access to the property can meet access control requirements, if any.
- e. **Landscaping and Screening.** Appropriate landscaping and screening has been or will be provided to protect adjacent uses or properties from light, noise and

other visual impacts that are associated with the proposed use.

- f. **Sanitary Facilities** The sanitary facilities will be sufficient for the intended Conditional Use being applied for.

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

- a. Increased setbacks and yards
- b. Specifications for water supply, liquid waste, and solid waste disposal facilities
- c. Sureties, operational controls, erosion prevention measures
- d. Location of the use
- e. Other requirements found necessary to fulfill the purpose and intent of this ordinance
- f. A performance bond may be required to insure compliance with such requirements

3.9.7 No Title: Reserved for Future Use

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

- a. Prior to the granting of any Conditional Use permit, the Plan Commission may recommend and the Town Board may place such conditions and restrictions upon the establishment, location, construction, maintenance and method or hours of operation as deemed necessary for the protection of the public interest and to secure compliance with the standards specified in 3.9.5 and 3.9.6. In all cases in which Conditional Uses are subject to conditions, the Plan Commission may recommend and the Town Board may require evidence and guarantees as it may deem necessary (as proof that the stipulated conditions are being and will be complied with).
- b. Conditional Use permits shall be issued permanently or for a specified period of time as may be specified by the Town Board upon recommendation of the Plan Commission and shall be an obligation of any party to whom a property may be transferred or assigned.
- c. A Conditional Use permit shall expire if the use is discontinued for a period of twelve (12) consecutive months. If a building permit has not been obtained or the Conditional Use has not been established within twelve (12) months of the issuance of the Conditional Use permit, the Conditional Use permit expires.
- d. Any party who has been issued a Conditional Use Permit by the Town shall notify the Town, in writing, that they are seeking a continuance or extension of any Conditional Use Permit that has an expiration date as established by Town

Board. Such notification shall be submitted to the Zoning Administer thirty (30) days prior to the Conditional Use Permit expiration date.

- e. A Conditional Use permit shall become effective upon approval by the Town Board. A record of the Conditional Use permit shall be maintained in the Town Hall.
- f. A Conditional Use permit may be revoked by the Town Board for failure to comply with all provisions of such permit, provided that a thirty (30) days notice has been given by first class mail to the operator or owner of such use of the intent to revoke.

3.10 Nonconforming Uses, Structures, Lots, and Signs

3.10.1 Applicability and Intent.

Any use of land or structures, or any lot or structure which lawfully existed at the effective date of adoption or amendment of this ordinance which would not be permitted or permissible by the provisions of this ordinance as adopted or amended, shall be deemed nonconforming. It is the intent of this ordinance to permit such nonconformities to continue, subject to certain restrictions.

3.10.2 Abolishment.

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

3.10.3 Nonconforming Uses of Land.

- a. Where at the effective date of adoption or amendment of this ordinance a use of land exists which would not be allowed as a permitted or conditional use in the district in which it is located as adopted or amended, such use may be continued subject to the following restrictions:
 1. Such use shall not be enlarged, increased, nor extended to occupy a greater area of the lot than was occupied at the effective date of adoption of this ordinance.
 2. Such use shall not be moved in whole or part to any other portion of the lot other than the portion occupied by such use at the effective date of adoption of this ordinance.
 3. When such use is discontinued or abandoned for a period of more than twelve consecutive months for any reason whatever, or when such use is replaced by a use allowed as a permitted or conditional use, a nonconforming use shall not thereafter be resumed.
 4. No additional structure in connection with such use shall be erected.

3.10.4 Nonconforming Uses of Structures.

- a. Where at the effective date of adoption or amendment of this ordinance the use of a structure exists which would not be allowed as a permitted or conditional use in the district in which it is located as adopted or amended, such use may be continued subject to the following restrictions:
 1. No existing structure devoted to a use not permitted or permissible shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use that is a permitted or conditional use in the district in which it is located.
 2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the

effective date of adoption of this ordinance. Any nonconforming use that occupied a portion of a building not originally designed or intended for such use shall not be extended to any part of the building. No nonconforming use shall be extended to occupy any land outside the building, nor any other building not used for such nonconforming use.

3. There may be a change in tenancy, ownership, or management of a nonconforming use provided there is no change in the nature or character of such nonconforming use.
4. When such use of a structure is discontinued or abandoned for a period of more than twelve consecutive months for any reason whatever, or when such use is replaced by a permitted or conditional use, a nonconforming use shall not thereafter be resumed.
5. If such structure is destroyed or damaged due to violent wind, vandalism, fire, flood, ice, snow, mold, or infestation, the structure may be restored to the size and use that it had immediately before the damage or destruction occurred or to a larger size if necessary for the structure to comply with applicable state or federal requirements.

3.10.5 Nonconforming Structures.

- a. Where at the effective date of adoption or amendment of this ordinance a structure exists which could not be erected in the district in which it is located as adopted or amended by reason of restriction on area or coverage, height, yards, its location on the lot or other requirements concerning the structure, such structure may continue in existence subject to the following restrictions:
 1. Such structure shall not be altered in any manner which would increase the degree of nonconformity.
 2. If such structure is destroyed or damaged due to violent wind, vandalism, fire, flood, ice, snow, mold, or infestation, the structure may be restored to the size and use that it had immediately before the damage or destruction occurred or to a larger size if necessary for the structure to comply with applicable state or federal requirements.

3.10.6 Nonconforming Characteristics of Use.

If characteristics of use such as lighting, parking, noise or other matters pertaining to the use of land, structures and premises are made nonconforming by the provisions of this ordinance as adopted or amended, no change shall thereafter be made in such characteristics of use which increases the nonconformity; provided, however, that changes may be made which do not increase, or which decrease, such nonconformity.

3.10.7 Nonconforming Lots of Record.

- a. In any district, any permitted or permissible structure may be erected on a single lot of record at the effective date of adoption of this ordinance. This provision shall apply even though such lot fails to meet the requirements of lot area, lot width, or both for the district in which it is located, provided such lot shall be in separate ownership and not of continuous frontage with other lots in the same ownership, and provided all other requirements for the district are met.

- b. If two or more lots, or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the effective date of adoption of this ordinance, the lands involved shall be considered to be in individual parcel for the purposes of this ordinance, and no portion of such parcel shall be used, divided, or sold which does not meet the lot area and lot width requirements for the district in which it is located.

3.10.8 Nonconforming Signs.

- a. No nonconforming sign shall be altered in any manner that would increase the degree of nonconformity.
- b. If a nonconforming sign is destroyed or damaged, it may be reconstructed provided any reconstruction does not increase the degree of nonconformity that previously existed.

3.10.9 Casual, Temporary, or Illegal Use.

The casual, temporary, or illegal use of land or structures, or land structures in combination, shall not be sufficient to establish the existence of a nonconforming use or to create rights in the continuance of such use.

3.10.10 Repairs and Maintenance.

Nothing in this ordinance shall be deemed to prevent normal maintenance or repair of any structure or to prevent restoring to a safe condition any structure declared to be unsafe.

3.11 Parking and Loading Requirements

3.11.1 Purpose. Adequate off-street parking facilities shall be provided for all uses which generate vehicular traffic and all required parking spaces shall have adequate access to a public road or street. Specific parking requirements are identified for the land uses defined in Sections 3.7.2 through 3.7.6. When a particular use is not listed, the parking requirement shall be that of the most similar use. When two or more uses are combined, the total parking requirement shall be equal to the sum of the spaces required for each use, unless it is demonstrated by the applicant to the satisfaction of the Plan Commission that the combined uses result in a reduction of necessary parking spaces.

- a. Parking access aisles shall have the following minimum widths:
 1. Two-way aisles:
 - i. Perpendicular parking: 24 feet
 - ii. Angled or parallel parking: 18 feet
 2. One-way aisles:
 - i. Perpendicular parking: 20 feet
 - ii. 60 degree angled parking: 18 feet
 - iii. 45 degree angled parking: 13 feet
 - iv. 30 degree angled parking: 11 feet
 - v. Parallel parking 12 feet
- b. If the degree of angle of parking provided is not listed, the aisle width required shall be the next largest angle of parking shown above.
- c. All required parking spaces shall have minimum area of 162 square feet with a minimum width of nine (9) feet and a minimum length of 18 feet.
- d. Parking that meets the number, location, and configuration required by the Americans with Disabilities Act (ADA) Standards for Accessible Design shall also be provided. These spaces count toward the number otherwise required for each use.
- e. All Business and industrial uses shall provide sufficient off-street loading space so that no public street, road or alley will be blocked by such activities.

3.11.2 Number of Parking Stall by Land Use

Table 3: Parking Requirements by Land Use

Land Uses	Required Parking Spaces
Open Land/Agricultural Uses	
Agriculture Uses	1 space for each employee on the largest shift
Agriculture-Related Use	1 space for each employee on the largest shift 1 space for each 200 sq. ft for display area
Roadside Stand	4 spaces and maneuvering space out of the public row
Residential	
Single-Family Residence	2 spaces per dwelling unit
Two-Family Residence	2 spaces per dwelling unit
Multi-Family Residence	1.5 spaces per dwelling unit
Single-Family Residence when an accessory use in the Business District	2 spaces per dwelling unit
Manufactured Home Community/Park	2 spaces per dwelling unit in the Park
Business	
Personal and Professional Services	1 space for every 300 sq. ft. of gross floor area of principal building(s)
Indoor Sales and Service	1 space for every 300 sq. ft. of gross floor area of principal building(s)
Long Term Outdoor Display and Sale	1 space for every 300 sq. ft. of gross floor area of principal building(s) plus one space per 2,000 sq. ft. of outdoor sales or display area
Maintenance Service	1 space for every 300 sq. ft. of gross floor area of principal building(s)
In Vehicle Sales and Service	1 space for every 150 sq. ft. of gross floor area of principal building(s)
Indoor Entertainment and Service	1 space for every 3 patron seats or 1 space per 3 persons at the maximum capacity of the establishment, whichever is greater
Indoor Lodging Facility	1 space per room or suite, plus 1 space per employee on largest shift
Resort Establishment	1 space per room, cabin, cottage, plus 1 space for each employee on largest shift
Bed and Breakfast Establishment	1 space per bedroom
Group Day Care Center Facility	1 space per 6 person capacity, + 1 space per employee on largest shift
Animal Boarding or Breeding Facility	1 space for every 1,000 sq. ft. of gross floor area
Adult Oriented Establishments	1 space for every 300 sq. ft. or 1 space per person at the maximum capacity of the establishment, whichever is greater
Personal Storage Facility	1 space in front of each storage unit.
Portable Storage Facility	1 space for every 2,000 sq. ft. of gross floor area
Indoor Storage or Wholesaling	1 space for every 2,000 sq. ft. of gross floor area
Outdoor Storage or Wholesaling	1 space for every 10,000 sq. ft. of gross storage floor area plus 1 space per employee on largest shift
Indoor Retail Sales accessory to Industrial or Indoor Storage & Wholesaling	1 space per 200 sq. ft. of indoor sales or display area

Table 3: Parking Requirements by Land Use (continued)

Industrial	
Light Industrial accessory to Retail Sales/Service	1 space per employee on largest shift plus 1 parking space for each truck or other vehicle incidental to the use of such parcel.
Light Industrial	1 space per employee on largest shift plus 1 parking space for each truck or other vehicle incidental to the use of such parcel.
Heavy Industrial	1 space per employee on largest shift plus 1 parking space for each truck or other vehicle incidental to the use of such parcel.
Contractor Shop	1 space per employee on largest shift plus 1 parking space for each truck or other vehicle incidental to the use of such parcel.
Nonmetallic Mining	1 space per employee on largest shift plus 1 parking space for each truck or other vehicle incidental to the use of such parcel.
Salvage or Junk Yard	1 space for every 20,000 sq. ft. of gross storage area plus 1 space per employee on largest shift
Solid or Hazardous Waste Facility	1 space per employee on largest shift plus 1 parking space for each truck or other vehicle incidental to the use of such parcel.
Public/Institutional/Parks/Recreation	
Governmental, institutional, religious, or nonprofit community uses	1 space for every 4 seats in any kind of place of assembly A school will need 1 space per teacher and 1 space per 2 classrooms
Outdoor Public Recreation-Passive	1 space for every 4 expected patrons at maximum capacity
Outdoor Public Recreation-Active	1.5 spaces per camping site, 1 space for each employee on largest shift, temporary maneuvering space to park a camper, and no occupancy of any public or private roadway space by a trailer or camper
Miscellaneous	
Solar Energy Systems (Commercial)	1 space for service vehicle
Transportation, Communications, Pipeline, Electric Transmission, Utility or Drainage	1 space for service vehicle

3.12 Highway Setback Lines

3.12.1 Purpose. In order to promote and enhance the public safety, general welfare and convenience, it is necessary that highway setback lines be and they are hereby established in the Town of Osceola, Fond du Lac County, Wisconsin, outside the limits of incorporated cities and villages; along all public highways; at the intersections of highways with highways; and highways with railways; as hereafter provided.

3.12.2 Applicability. Where a highway is located on a village boundary, this section is not intended to be effective on the side within the village, nor on the side within another town where the highway is located on a town boundary.

3.12.3 Classes of Highways and Center Lines. Highways are classified and the position of the center line shall be determined as follows:

a. **Class 1 Highways.**

1. Town roads not otherwise classified that have not been improved in accordance with engineering surveys and plans accepted by the County or Town Board. The center line is the midway point between the edges of the road surface.
2. Town roads not otherwise classified that have been improved in accordance with engineering surveys and plans accepted by the County or Town Board. The center line is at the center of the surfacing or pavement, or, if there be none, the center of the graded roadbed.
3. Roads and streets in platted subdivisions not otherwise classified. The center line is the midpoint between the edges of the road surface.
4. Private roads. The center line is at the mid-point between the edges of the road surface.

b. **Class 2 Highways.**

1. County trunk highways that have not been improved in accordance with engineering surveys or plans accepted by the County Board or their agent, the County Highway Committee. The center line is at the midway point between fences or other markers indicating the boundary on opposite sides thereof.
2. County trunk highways that have been improved according to engineering surveys and plans accepted by the County Board or their agent, the County Highway Committee. The center line is the center of the surfacing or pavement, or if there be none, the center of the graded roadbed.

c. **Class 3 Highways.** State Trunk Highways that have been approved according to surveys and plans of the State Highway Commission or plans accepted by the County Board, and United States highways. The center line is the center of the roadbed, or the center of the surfacing or pavement of the adjacent lane if the highway is to be paved as a double- divided road.

3.12.4 Structures Prohibited Within Setback Lines. No new building, mobile home, or other structure or part thereof shall be placed between the setback lines established by this ordinance and the highway, except as provided by this ordinance, and no building, mobile home, sign or structure or part thereof existing within such setback lines on the

effective date of this ordinance shall be altered, enlarged or added to in any way that increases or prolongs the permanency thereof, or be reconstructed in its original existing location after having been destroyed by fire, storm or other catastrophe to the extent of 75% or more of its current value as determined by the local assessor.

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

- a. Open fences.
- b. Telephone, telegraph and power transmission poles and lines and micro-wave radio relay structures may be constructed within the setback lines, and additions to and replacements of existing structures may be made, provided the owner files with the Town Board an agreement in writing to the effect that the owner will remove all new construction, additions and replacements erected after the adoption of this ordinance at his expense, when necessary for the improvement of the highway.
- c. Underground structures not capable of being used as foundations for future prohibited overground structures.
- d. Access or service highways constructed according to plans as approved by the Town Board. In giving such approval, the Town Board shall give due consideration to highway safety and maximum sight distances.
- e. 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 the intersections shall be obstructed.

3.12.6 Setback Distances. Except as otherwise provided, the distances from the center line to the setback line applicable to the various classifications of highways as defined in Paragraph 3.12.3 of this section, shall be as provided by the following paragraphs of this subsection, respectively.

- a. Whenever a highway is improved to a classification requiring a greater setback distance than that required by this ordinance prior to such improvement, the setback distance shall be that applicable to the latter classification.
- b. In cases where the provisions of this section may be interpreted to provide for different setback distances, the greater setback distance shall prevail.
- c. Along Highways Generally. The setback distances from the center line, at any point for the respective classes of highways, shall be as follows:
 1. Class 1 highway, 100 feet, except in platted subdivision where the setback distance shall be 30 feet from the right-of-way lines as shown on the recorded plat; also excepting lots abutting on private roads where the setback distance shall be 50 feet from right-of-way line but not less than 75 feet from the center line of said road as shown on the instrument creating said road or road easement.

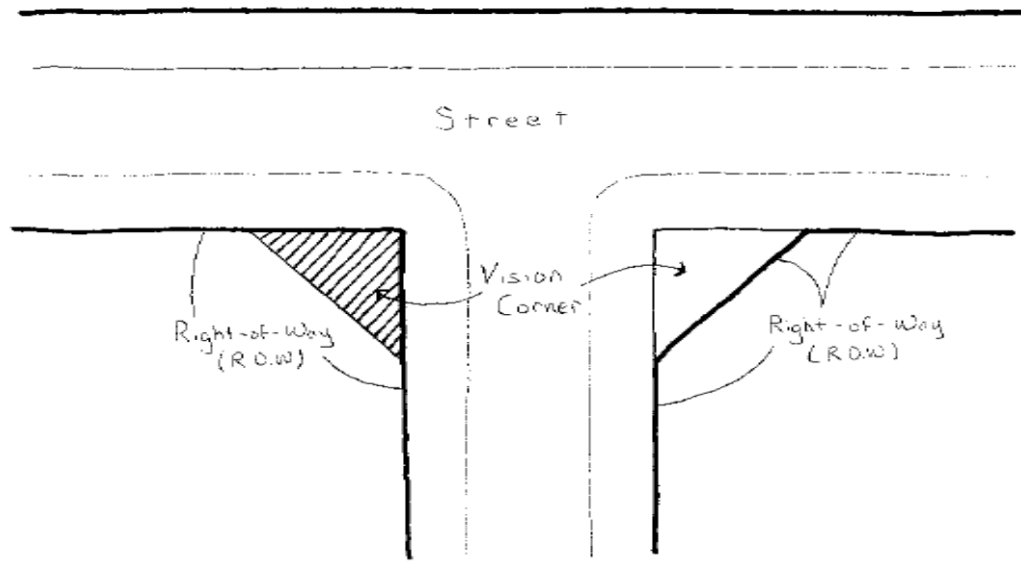
2. Class 2 and Class 3 highways, 100 feet; provided, however, that in no case shall the distance of setback line outside of and from the nearest point in the boundary line of the highway, be less than 60 feet for Class 2 and Class 3 highways.
 3. On the radius (bulb) of a cul de sac, frontage width within the "RD" and "R" Districts shall be a minimum of 30 feet at the right-of-way lines as shown on the recorded plat.
- d. **Exceptions.** Where buildings, structures or uses are to be erected or established between buildings existing at the time of the adoption of this ordinance which buildings are located not more than 150 feet apart and have setback lines less than are established by this section, the setback line for each such proposed building, structure or use shall be the average of the setback lines of the nearest existing buildings on both sides of the proposed building, structure or use, provided that a setback line of more than 100 feet from the center line of the highway, or 65 feet from the right-of-way line, shall not be required in any case. The Board of Appeals may further vary this regulation in appropriate cases, provided that the Board of Appeals shall establish such conditions as will save the town harmless from additional improvement damages which might accrue when and if the highway is improved, and provided further that no such variation shall permit a setback less than the average setback of the adjacent buildings.

3.12.7 At Ordinary Highway Intersections. At grade intersections of highways with highways, except those roads and streets in platted subdivisions which do not intersect Class 2 Highways or Class 3 Highways, there shall be vision clearance triangles in each sector of such intersections. Each such vision clearance triangle shall be established by a supplementary setback line, which shall be a straight line connecting points on the setback lines along the intersecting highways and 50 feet back from the intersection of such setback lines.

3.12.8 At Highway Intersections with Transitional Widening. At intersections provided with transitional widening of pavement or surfacing, such transitional widening shall be considered as additional width, and the setback line on the side which is widened shall be increased by an amount equal to the width of the additional pavement.

3.12.9 At Highway Intersections with Curve Connections. At intersections where the intersecting highways are connected with pavement or surfacing constructed on a curve, the setback distance along the curve shall be measured from the center of the curved section.

3.12.10 Vision Triangle. No obstruction permitted. No visual obstructions, such as structures, parking or vegetation, shall be permitted in any zoning district between the heights of three (3') feet and ten (10') feet within the triangular space formed by any two (2) existing or proposed intersecting roads or road and private driveway 25 feet from the intersection.



3.12.11 Road Access Permit. A Road Access permit applies to all Town, County and State Roads in addition to any other requirements and permits that are required by the Fond du Lac County Highway Department and the State of Wisconsin Department of Transportation (petitioner is responsible to contact County and State representatives to file the necessary documents when applicable), based on the following criteria:

- a. A Town permit will be issued specifically for construction of a driveway (with not greater than zero pitch for the first 15 feet of the driveway) that connects to a town road to ensure that there is no hazard to snowplows.
- b. Property owners are required (when possible), to construct driveways with a downward pitch leading away from the town road.
- c. The actual pitch is to be determined by individual circumstances interpreted by a representative of the Osceola Town Board.
- d. A new single-lane driveway shall be constructed as to provide a 14-foot wide base and shall have a minimum clearance width of 24 feet. (3/13/18)
- e. A Road Access permit must be issued regardless of whether the property is agricultural, residential, or business use.
- f. The Osceola Town Board will set a reasonable cost for the permit, reviewed annually, and will be on file in the Town Clerk's office.
- g. At least one segment of road surface width shall be 25 feet in length, and 18 feet in width shall be provided for at midpoint of a driveway 500 feet or longer to provide for safe passage of meeting vehicles. (3/13/18)
- h. At the end of a driveway which is longer than 500 feet, a circle drive or cul-de-sac of 50 foot radius (100 foot diameter) shall be provided as a turning area for service or emergency vehicles. (3/13/18)

- i. A culvert must be installed unless otherwise deemed unnecessary by the Town Board. It must be a minimum of 18 feet long and 15 inches in diameter. Culvert size will be determined by the Town Board. (4/16/19)
- j. Pavement of driveway access within right of way shall consist of blacktop or compacted road gravel. Concrete shall not be allowed within the right of way. (4/16/19)
- k. Angle of access shall be as close to 90 degrees with the centerline of the roadway as possible, but not less than 75 degrees. (4/16/19)

3.13 Zoning Board of Appeals

Under the provisions of Section 62.23 (7) (e) Wisconsin Statutes, there is hereby established a Board of Appeals.

3.13.1 Organization of Board of Appeals. The Board of Appeals shall consist of 5 members appointed by the Town Chairperson and subject to confirmation of the Town Board for terms of 2 years. The members of the board shall serve at such compensation to be fixed by resolution. The Town Chairperson shall designate one of the members Chairperson. Vacancies shall be filled for the unexpired terms of members whose terms become vacant.

3.13.2 Meetings of the Board of Appeals. The Board shall adopt rules in accordance with the provisions of this section. Meetings of the Board shall be held at the call of the Chairperson and at such other times as the board may determine. Such Chairperson, or in his absence the acting Chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board 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 and shall be a public record.

3.13.3 Power of the Board of Appeals. The Board of Appeals shall have the following powers:

- a. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination by an administrative official in the enforcement of this ordinance.
 1. Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer of the town affected by any decision of the Permit Officer. Such appeal shall be filed with the Town Clerk within 20 days of decision specifying the grounds thereof. The Town Clerk shall forthwith transmit to the Board all the papers constituting the record upon which the appeals action was taken.
 2. The Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and give public notice thereof by a Class 1 notice under Chapter 985, Wisconsin Statutes, in an official paper or a paper of general circulation, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon hearing any party may appear in person or by agent or by attorney.
- b. To permit the extension of a district where the boundary line of a district divides a lot in single ownership as shown of record.
- c. To interpret the provisions of this ordinance where the street layout on the ground differs from Official Zoning Map.
- d. To authorize upon appeal in specific cases, a variance from the standards of the ordinance as will not be contrary to the public interest. A variance for uses shall not be granted by the Board of Appeals.

3.13.4 Application for a Variance.

- a. An application for one of the Variances of land specified in this ordinance shall be made by filing a written application on a form provided by the Town or its representative and pay a processing fee as identified on the form. Such applications shall:
 1. State the name and address of applicant and owner.
 2. State the location of property for which the Variance is sought.
 3. State the specific Variance desired.
 4. State the facts sufficient and demonstrate that the findings prescribed in Section 3.13.5 exist and support such statements with any plans and/or data as are required by the Board.
- b. The Board shall hold a public hearing on such matter and give notice as provided in the state statutes.

3.13.5 Findings by the Board of Appeals.

The power to authorize a variance from the requirements of the ordinance shall be sparingly exercised and only under peculiar and exceptional circumstances. No variance shall be granted for actions which require an amendment to this ordinance. Variances shall only be granted when the Board of Appeals finds that:

- a. The variance is not contrary to the public interest and that such variance will be in general harmony with the purposes and intent of this ordinance.
- b. That the granting of the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands or structures in the same district.
- c. Special circumstances and conditions exist which are peculiar to the land, structure or building involved and which are not generally applicable to other lands, structures, or buildings in the same district.
- d. The hardship results from the strict application of this ordinance and is not the result of self-created or self-imposed circumstances.
- e. Greater profitability, lack of knowledge of restrictions and other variances granted under similar circumstances are not being considered as sufficient cause for a variance.
- f. Nonconforming uses of neighboring lands, structures or buildings in the same district, and permitted or nonconforming uses of lands, structures or buildings in other districts are not being considered as grounds for issuance of a variance.

- g. That the variance is compatible with adjacent existing uses and structures or uses and structures likely to develop which are permitted in the district.

3.13.6 Exercise of Power.

- a. In exercising the above mentioned powers such Board may, in conformity with the provisions of such section, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken, and may issue or direct the issuance of a variance.
- b. The concurring vote of a majority of members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in such ordinance. The grounds of every such determination shall be stated.
- c. Reasonable special conditions and safeguards for the protection of the public health, safety and welfare may be imposed by the Board if it grants the application for variance.
- d. Nothing herein contained shall be construed to give or grant to the Board of Appeals the power or authority to alter or change the zoning ordinance or the district map; such power and authority being reserved to the Town Board.
- e. No variance shall be issued unless the Board shall find that the variance is consistent with the spirit, purpose and intent of this ordinance, will not substantially and permanently injure the appropriate use of neighboring property, and will serve the public convenience and welfare and that such building or use shall comply with all other regulations in the district in which it is proposed to be located.

3.14 Enforcement and Penalties

3.14.1 Permit Officer-Duties and Powers.

The duties and powers of administering this ordinance shall be carried out by the Permit Officer, who will enforce the provisions of this ordinance. The Permit Officer shall:

- a. Examine all applications for Zoning Permit and approve such certificate only where there is compliance with the provisions of this ordinance.
- b. Conduct inspections to determine compliance or non-compliance with the provisions of this ordinance.
- c. Subject to Town Board approval, issue stop, cease, and desist orders, and orders requiring the correction of all conditions found to be in violation of the provisions of this ordinance. Such written orders shall be served personally or by certified mail upon persons deemed by the Permit Officer to be violating the provisions of this ordinance. It shall be unlawful for any persons to violate any such order issued by the Permit Officer.
- d. With approval of the Town Board, or when directed by them, institute in the name of the Town any appropriate action or proceedings to prevent any violation of this ordinance.
- e. Revoke by order any zoning permit approved under a misstatement of fact or contrary to the law or provisions of this ordinance.
- f. Maintain a map or maps of all Conditional Uses and maintain a file on each.
- g. Upon request of the Town Board, Town Board Chairperson, Plan Commission, or Board of Appeals, present to such persons or bodies facts, records, or reports which are requested to assist in making decisions, or in any other way as requested.

3.14.2 Zoning Permit.

- a. No vacant land shall be occupied or used, and no building or mobile home hereafter erected, altered or moved shall be occupied until the Zoning Permit shall have been issued by the Permit Officer. Such certificate shall show that the building or premises or part thereof and the proposed use thereof are in conformity with the provisions of this ordinance. Such certificate shall be issued only when the building or premises and the proposed use thereof conforms to all the requirements of this ordinance.
- b. Under such rules and regulations as may be established by the Town Board, the Permit Officer may issue a temporary Zoning Permit for part of a dwelling.
- c. Upon written request from the owner, the Permit Officer shall issue a Zoning Permit for any building or premises existing at the time of the adoption of this ordinance, certifying after inspection, the extent and kind of use made of the building or premises and whether or not such use conforms to the provisions of the ordinance.

- d. All dimensions shown relating to the location and size of the lot being issued a Zoning Permit shall be based upon an actual survey. The lot and the location of the building thereon shall be staked out on the ground before construction is started.

3.14.3 Enforcement - Town Attorney.

Any building, structure or mobile home hereafter erected, enlarged, structurally altered, or moved or any use hereafter established in violation of any of the provisions of this ordinance shall be deemed an unlawful building, structure, or mobile home or use. The Permit Officer shall promptly report all such violations to the Town Board, which has the option of instructing the Town Attorney to bring an action to enjoin the erection, enlargement, alteration, repair or moving of such building, structure or manufactured or mobile home or the establishment of such use, or to cause such building, structure, manufactured or mobile home or use to be removed.

3.14.4 Penalties.

At the discretion of the court, such person, firm or corporation may also be required, upon conviction, to forfeit not less than \$50 nor more than \$500 for each offense, together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution, may be imprisoned in the county jail of Fond du Lac County until said forfeiture and costs are paid, but not to exceed 30 days for each violation. Each day that a violation continues to exist shall constitute a separate offense.

3.14.5 Fond du Lac County Ordinances

The following Fond du Lac County ordinances may affect land regulated under this Zoning Ordinance. In a situation where the Town and County regulations conflict, the more restrictive regulations shall apply.

- a. **Shorelands.** Fond du Lac County has a Shoreland Zoning (Chapter 44) that regulates any development or building of a structure within 300 feet of a navigable waterway or 1,000 feet of a lake. Before construction begins within these distances, a land use permit must be applied for at the Fond du Lac County Code Enforcement office. Shoreland Zoning Maps are available for visual inspection in the Fond du Lac Code Enforcement Department. If necessary, a conclusive determination can be made through an on-site visit by Fond du Lac Code Enforcement office staff or Wisconsin Department of Natural Resources staff.

The Osceola Zoning Ordinance also regulates land use within the County Shoreland Zoning jurisdiction, and a building permit must be obtained from Town's Permit Officer prior to construction within the Shoreland Zoning boundary. Before a permit can be issued, the applicant must provide the Permit Officer with correspondence from Fond du Lac County that the proposed use of the property is in compliance with the County's Shoreland Zoning Ordinance.

- b. **Wetlands.** The DNR has established setback requirements based on the quality of a wetland area. The Fond du Lac County Code Enforcement Office can provide information on those setback regulations from wetland areas. The general location of wetlands can be found on the Fond du Lac County Shoreland Maps and are also shown on the Town of Osceola's Land Use Plan in the Town's Comprehensive Plan. Hydric soil testing (which may be an indicator that wetlands exist) is advised. A conclusive determination of the location of a possible wetland area can only be made through an
- c. **Subdivision Ordinance.** All existing, undeveloped parcels of land of record in the County Register of Deeds office, and any new land divisions or subdivisions as defined in the Subdivision Ordinance of Fond du Lac County (Chapter 48), shall conform in full with the provisions of that ordinance. No permit shall be issued for any lot until such compliance is assured.
- d. **Erosion Control Post Construction Stormwater Management Ordinance.** Parcels may be subject to the Erosion Control and Stormwater Management Ordinance of Fond du Lac County (Chapter 27). Any permit required by said County ordinance shall be obtained from Fond du Lac County prior to the issuance of any permit under this ordinance.
- e. **Floodplain Zoning Ordinance.** Parcels may be subject to the Floodplain Zoning Ordinance of Fond du Lac County (Chapter 28). Any permit required by said County ordinance shall be obtained from Fond du Lac County prior to the issuance of any permit under this ordinance.

3.15 Fees

3.15.1 Building Permit.

A fee in an amount determined by the Town Board is required to be paid by the applicant for a building permit, or for a certificate of occupancy where no building permit was required. The fee shall be paid to the Town Treasurer.

3.15.2 Board of Appeals.

All persons, firms, or corporations that petition to the Board of Appeals shall pay a fee that will defray administrative costs of elected or appointed town officials, Planning Consultant/Town Attorney's time (if necessary), and legally required advertising costs. This fee shall not be required if the Town Board initiates a petition.

3.15.3 Plan Commission Amendments.

All persons, firms, or corporations that petition for a change in zoning or conditional use shall pay a fee that will defray administrative costs of elected or appointed town officials, Planning Consultant/Town Attorney's time (if necessary), and legally required advertising costs. This provision shall not apply to amendments initiated by the Town Plan Commission.

3.16 Code Administration

3.16.1 Administration of the Ordinance.

The administration of this ordinance is hereby vested in the following offices of the Town of Osceola:

- a. Town Board of Osceola.
- b. Plan Commission.
- c. Board of Appeals.
- d. Permit Officer
- e. Town Constable, when granted authority by action of the Town Board.

3.16.2 Duties.

The duties of the Town Board, Plan Commission, or designated staff include:

- a. Provide necessary forms and applications for permits.
- b. Issue zoning and sign permits where the provisions of this Ordinance have been complied with.
- c. Issue conditional use permits and certificates of compliance.
- d. Identify and keep an accurate file of all nonconforming uses and structures.
- e. Review at public hearings all petitions for rezoning and amendments to this ordinance and make recommendations to the Town Board.
- f. Maintain complete files of applications, permits, and other relevant information.
- g. Upon reasonable cause to revoke any land use permit and issue cease and desist orders requiring the cessation of any building, moving, alteration or use which is in violation of the provisions of this Ordinance.

3.16.3 Zoning Ordinance Amendments.

Anyone that desires to amend the zoning district boundaries or of the regulations contained in this ordinance must obtain a petition from the Town Clerk, filling out the petition completely, and file the petition with the appropriate fee and a list of property owners within 500 feet of the petitioned property. All fees are non-refundable. No application shall be accepted by the Permit Officer until deemed complete as judged by the Permit Officer and until the application is signed and all fees established have been paid in full.

3.16.4 Public Hearing and Notice.

- a. **Required Hearing:** Once the petition is filed, the Town Clerk will establish a meeting date and forward the petition to the Plan Commission for their review and recommendation. Once the Plan Commission forwards their recommendation to the Town Board, a public hearing is scheduled to allow parties in interest and citizens to be heard. If the Plan Commission does not provide a recommendation within 90 days, the Town Board may proceed to hold a public hearing without the recommendation.
- b. **Notice of Hearing:** A Class 2 notice in accordance with Chapter 985 of the Wisconsin Statutes shall be published in the Town of Osceola's official newspaper once during each of the two weeks prior to the Town Board hearing. The Town Clerk will also notify property owners within 500 feet of the petitioned property by first-class mail.
- c. **Notification to Adjoining Municipality:** At least 10 days before the public hearing, a written notice of such hearing shall also be given to the clerk of any municipality whose boundaries are within 1,000 feet of any lands included in the proposed amendment. Failure to give such notice shall not invalidate such amendment.

3.16.5 Final Approval by Town Board.

An amendment shall become effective upon a majority vote of the members of the Town Board voting on the proposed change.

3.16.6 Rezoning Findings of Fact.

- a. **Applicant Documentation:** The applicant who desires to rezone land from an Exclusive Agriculture Zoning District to another Zoning District will be responsible for documenting how section 91.48(1) of the Wisconsin State Statutes will be met. Such documentation must be submitted as part of the rezoning application before the Town of Osceola's Permit Officer will accept the petition as complete.
- b. **Plan Commission Findings of Fact:** The Plan Commission shall include a "findings of fact" in their recommendation to rezone land out of the Farmland Preservation Zoning District. If a petitioner is rezoning lands out of the Farmland Preservation Zoning District, all of the following criteria will need to be considered in the Plan Commission's "findings of fact", based on 91.48 (1) (a) of the Wisconsin State Statutes:
 1. The rezoned land is better suited for a use not allowed in the Farmland Preservation zoning district.
 2. The rezoning is consistent with the Town's Comprehensive Plan adopted by the Town of Osceola in effect at the time of the rezoning.
 3. The rezoning is substantially consistent with the county certified farmland preservation plan, certified under ch. 91, Wis. Stats., which is in effect at the time of the rezoning.
 4. The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.

- c. **Town Board Findings of Fact:** Upon consideration of the Plan Commission's recommendations and "findings of fact", the Town Board must make a motion to send the rezoning back to the Plan Commission for further consideration, approve the rezoning, or deny the rezoning. The Town Board has the option of revising the Plan Commission's "finding of fact" in their motion. The Town Board's decision to grant a rezoning out of the Farmland Preservation Zoning District shall also include "findings of fact" in writing, based on 91.48(1) of the Wisconsin State Statutes as referenced in 3.16.6.b.1 through b.4.
- d. The Town will enforce the "findings of fact" according to Section 3.16 in the Enforcements, Remedies and Penalties section of this ordinance.

3.16.7 Notification of Amendment to the Zoning Text.

- a. This zoning ordinance must be certified in accordance with s. 91.36 Wis. Stats. in order for owners of farms in the Town of Osceola to claim tax credits under the Farmland Preservation Program.
- b. An amendment to a certified Farmland Preservation zoning ordinance is automatically considered to be certified as part of the ordinance, except for the amendments described in s. 91.36(8)(b) Wis. Stats.
- c. By March 1 of each year, the Town of Osceola will provide to DATCP and the Fond du Lac County Planning Department a report of the number of acres that the Town of Osceola has rezoned out of a farmland preservation zoning district during the previous year and a map that clearly shows the location of those acres.

3.17 Validity and Conflicts

3.17.1 Severability. Should any section, clause or provisions of this ordinance be declared by courts to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid.

3.17.2 Conflict with Other Ordinances. All ordinances or parts of ordinances in conflict with any of the provisions of this ordinance are hereby repealed.