

TOWN OF TEXAS

MARATHON COUNTY, WISCONSIN

ZONING CODE

Chapter 17, Town Code of Ordinances

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Table of Contents

Town of Texas Zoning Ordinance

INTRODUCTION

17.01	Objectives	1
17.02	Short Title	1
17.03	Purpose and Intent	1
17.04	Application of Overlapping Regulations	1
17.05	General Interpretations.....	1
17.06	Severability and Nonliability	1
17.07	Applicability	1
17.08	Definitions	2

GENERAL REGULATIONS

17.10	Jurisdiction.....	13
17.11	Compliance	13
17.12	Permits	13
17.13	Conditional Use Permits	14
17.14	(Reserved for future use)	15
17.15	Fee Schedule	15
17.16	Expiration or Conflict	16
17.17	Exemptions	16
17.18	Use Regulations	16
17.19	Nonconforming Structures and Uses	17
17.20	Accessory Uses and Structures	18
17.21	Area Regulations.....	18
17.22	Height Regulations and Exceptions	20
17.23	Highway and Railroad Setbacks	20
17.24	Reduced Building Setbacks	21
17.25	Vision Clearance Triangle	21
17.26	Structures Permitted Within Setback Lines	22
17.27	Mobile Home Limitation	22
	Vision Clearance Triangle - examples.....	23

DISTRICTS AND MAPS

17.40	Zoning Districts	24
17.41	Maps.....	24
17.42	Boundaries of Districts	24
17.43	RS-1/20 and RS-1/40 Residence Districts	24
17.44	RS-2 Single Family Residence District	26
17.45	RM Multiple Family Residence District.....	27
17.46	RP Residential Planned Development District	29
17.47	CV Conservancy District	30
17.48	RC Recreation District.....	31
17.49	A-1 General Agricultural District	33
17.50	A-3 Exclusive Agricultural District.....	39
17.52	RR Rural Residential and RE Rural Estate Districts	44

DISTRICTS AND MAPS (continued)

17.54	C-1 Commercial District.....	45
17.55	M-1 Light Industrial District.....	47
17.56	M-2 Heavy Industrial District.....	49
17.59	Wellhead Protection Overlay District.....	51

MOBILE HOME PARKS

17.60	Districts Allowed	58
17.61	Application for Permit	58
17.62	Requirements	58
17.63	Mobile Home Use Restrictions	59
17.64	Registers.....	59

MOTOR VEHICLE AND PARKING REGULATIONS

17.70	Loading Requirements	60
17.71	Parking Requirements.....	60
17.72	Driveways	61

SIGNS

17.80	General.....	62
17.81	Signs in Residential, Conservancy, and Agricultural Districts	62
17.82	Signs in Recreational, Commercial and Industrial Districts	63
17.83	Unsafe and Unlawful signs and Advertising Devices.....	64
17.84	Existing Signs/Special Provisions.....	64

ADMINISTRATION

17.90	Planning Commission	65
17.91	Board of Appeals	65
17.92	Ordinance Amendment	67
17.93	Administration	68
17.94	Violations and Penalties.....	69

INTRODUCTION

17.01 OBJECTIVES.

To achieve the objectives outlined in §60.61, 60.62, 61.35 and 62.23 Wis. Stats., the Town of Texas adopts the zoning regulations contained in this chapter.

17.02 SHORT TITLE.

This chapter shall be known and cited as the Town of Texas Zoning Code.

17.03 PURPOSE AND INTENT.

This chapter is adopted to promote and protect public health, safety, comfort, convenience, aesthetics and other aspects of the general welfare; and, more specifically, to fix reasonable standards to which buildings and structures shall conform, to regulate and restrict lot coverage and population density, to guide the proper distribution and location of various land uses by the establishment of zoning districts which are applied where the Town has zoning jurisdiction, to promote the safety and efficiency of the streets and highways, to provide for adequate light, air, sanitation and drainage, to conserve natural resources, to provide safety from fire, flooding, water pollution, contamination and other hazards, to define the powers and duties of the administrative bodies as provided in this chapter, and to prescribe penalties for the violation of the provisions of this chapter or any amendment to this chapter.

17.04 APPLICATION OF OVERLAPPING REGULATIONS.

(1) This chapter shall not repeal, impair or modify private covenants or other ordinances, except that it shall apply whenever it imposes stricter regulations.

17.05 APPLICABILITY.

The Town of Texas has legally adopted this independent comprehensive zoning ordinance.

The Town of Texas shall be subject to all the provisions of the Marathon County Zoning Code within the floodplain, shoreland and wetland areas as these areas are defined in §17.30, §17.31 and §17.32. of the Marathon County Zoning Code.

17.06 SEVERABILITY AND NONLIABILITY.

Should any section, clause, provision or portion of this chapter be adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

17.07 GENERAL INTERPRETATIONS.

The following rules of construction shall apply to this chapter:

(1) The particular shall control the general; in case of any difference of meaning or implication between the text of this chapter and any caption or illustration, the text shall control; "shall" is mandatory, "may" is permissive; words used in the present tense shall include the future and words used with singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary; "building" or "structure" includes any part thereof; "used for"; includes "arranged for", "person" includes an individual, corporation, partnership, incorporated association or any other similar entity; unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions or events connected by the conjunction "and","or" or "either/or," the conjunction shall be interpreted as follows: "and" indicates that all the connected items, conditions, provisions or events shall apply; "or" indicates that the connected items, conditions, provisions or events shall apply singly or in any combination; "either/or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination. All measured distances shall be to the nearest integral foot. If a fraction is ½ foot or more, the integral foot next above shall be taken. The masculine gender includes the feminine and neuter.

(2) The provisions of this chapter shall be held to be minimum requirements and shall be

liberally construed in favor of the Town and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes and related administrative codes.

17.08 DEFINITIONS.

The following words, phrases and terms, wherever they occur in this chapter shall be interpreted as defined in this section:

ADMINISTRATOR, TOWN ZONING. A person appointed by the Town Board to administer and enforce this ordinance.

ANIMAL FEEDING OPERATION. A feedlot or facility other than a pasture, where animals have been, are, or will be fed, confined, maintained, or stabled for a total of 45 days or more in any 12-month period.

ANIMAL UNITS. As defined in NR 243, or as amended as follows:

# Equivalent to 1,000 Animal Units	Subcategory of Animal Types	Animal Equivalency Factor	# Equivalent to 1,000 Animal Units	Subcategory of Animal Types	Animal Equivalency Factor
	DAIRY CATTLE			SHEEP	
700	Milking & Dry Cows	1.4	10,000	Per Animal	0.1
910	Heifers (800-1200 lbs)	1.1			
1,670	Heifers (400-800 lbs)	0.6		HORSES	
5,000	Calves (under 400 lbs)	0.2	500	Per Animal	2.0
	BEEF CATTLE			DUCKS	
1,000	Steers/Cows (1000-Mkt)	1.0	5,000	Per Bird (Wet Lot)	0.2
1,250	Steers/Cows (600-1000 lb)	0.8	100,000	Per Bird (Dry Lot)	0.01
2,000	Calves (under 600 lbs)	0.5		CHICKENS	
700	Bulls	1.4	100,000	Layers	0.01
	SWINE		200,000	Broilers	0.005
2,500	Pigs (55 lbs-Mkt)	0.4		TURKEYS	
10,000	Pigs (up to 55 lbs)	0.1	55,000	Per Bird	0.018
2,500	Sows	0.4			
2,000	Boars	0.5		COMBINED ANIMAL UNITS	
			1,000	Calculated Total	

Examples for determining maximum allowable animals:		$\frac{5 \text{ animal units/acre (number of acres)}}{\text{Animal Equivalency Factor (AEF)}} = \text{Number of animals}$
Example #1	40 acres/ 400-800 lb. heifers:	$\frac{5 \text{ animal units/acre (40) acres}}{.6 \text{ AEF}} = 333 \text{ (400-800 lb. heifers)}$
Example #2	40 acres / Milking or dry cows:	$\frac{5 \text{ animal units/acre (40) acres}}{1.4 \text{ AEF}} = 142 \text{ (Milking or dry cows)}$

Animal unit density equivalents for non-typical species or exotics such as bison, llamas, emu and ostriches shall be determined based on recommendation from the Marathon County Land Conservation Committee or DNR.

ANIMAL WASTE FACILITY. Any site or area specifically designed and/or constructed for the purpose of storage or holding of animal waste and manure.

APARTMENT HOUSE. A building containing accommodations for more than two families living independently of each other.

AQUIFER. A saturated, permeable, geologic formation that contains and will yield significant quantities of water.

AUTO DEALER. Any person may sell, offer to sell, or display three (3) vehicles per year on property which they own or control providing the vehicles are part of their personal fleet. Sale of, offer to sell, or display of more than three (3) vehicles requires proper zoning for an auto dealership.

AUTO LAUNDRY/CAR WASH. A building or portion thereof containing facilities for washing vehicles using a steam cleaning device, cleaning solutions and water under pressure, blower, chain conveyor or other mechanical devices.

AUTOMOBILE SERVICE STATION. Any building, structure or premises or other place used for the dispensing, sale or offering for sale of any motor fuel or oils, having pumps and storage tanks; also where battery, tire and similar services are rendered, but not including buildings and premises where such business is incidental to the conduct of a public garage used for the repair or storage of motor vehicles.

AUTOMOBILE WRECKING YARD, JUNK YARD, OR SALVAGE YARD. Any area of land where three or more vehicles, unlicensed and/or not in running condition, an accumulation of auto parts, or both, are stored in the open and are not being restored to operation. Any land, building or structure used for the wrecking or storing of such motor vehicles, or parts thereof, not in running condition. Any area where tire carcasses are stored or recycled. Any area where 3 or more pieces of unlicensed or inoperative construction equipment, motorcycles, snowmobiles, boats or appliances or their parts are stored and are not being restored to operation, or any land or structure for the wrecking or storing of such vehicles, equipment or appliances, or parts thereof, not in working condition. The examples listed by this definition are examples and not intended to be an inclusive list.

BED AND BREAKFAST ESTABLISHMENT. A business as defined in Wis. Stats. §254.61(1).

BOARD OF APPEALS. The body established under §62.23(7)(e), Wis. Stats..

BOARDING HOUSE. A building other than a hotel or restaurant where meals or lodging are regularly furnished by prearrangement for compensation for 5 or more persons not members of a family, but not exceeding 20 persons and not open to transient customers.

BOAT LIVERIES. Establishments offering the rental and repair of boats and fishing equipment.

BOATHOUSE. A residential accessory building designed and used for storage of boats and boating accessories belonging to the resident. A boathouse shall not be used for storage of land vehicles, lawn, garden or shop equipment or supplies.

BUILDING. A building” is any structure built, used, designed, or intended for the support, shelter, protection, or enclosure of persons, animals, chattels, or property of any kind, and which is permanently affixed to the land. When a building is divided into separate parts by unpierced fire or party walls extending continuously from the ground through all stories to and above the roof, each part shall be deemed a separate building.

BUILDING, ACCESSORY. A subordinate or supplemental building, the use of which is

incidental to that of the principal building on the same lot or incidental to the use of the premises on which it is located.

BUILDING HEIGHT. Unless otherwise specified in this ordinance, the vertical distance from the average grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridges for gable, hip and gambrel roofs.

BUILDING SITE AREA. The ground area of a building or buildings, together with all open spaces required by this chapter.

CAMPGROUNDS. Any premises established for overnight habitation by persons, not the owner of the property, using equipment designed for the purposes of temporary camping and whether or not a fee is charged.

CAMPING UNIT. Any portable device, no more than 400 square feet in area, used as a temporary shelter, including, but not limited, to a camping trailer, motorhome, bus, van, pickup truck, tent or other mobile recreational vehicle.

CERTIFICATE OF COMPLIANCE. A certification issued by the Town Zoning Administrator stating that the construction and the use of land or a building is in compliance with all of the provisions of this ordinance.

CHANNEL. A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.

CLUB. An association for some common purpose, but not including a group organized for or which is actually engaged in rendering a service which is customarily carried on as a business. A roadhouse or tavern shall not be construed as a club.

CONDITIONAL USE. Uses which may be permitted in a district through the granting of a Conditional Use by the Town Board, upon finding and recommendation by the Planning Commission that specified conditions are met.

CONDOMINIUM. For the purpose of this code, condominium shall have the same definition as contained in §703.02(4) Wis. Stats.

CONE OF DEPRESSION. The area around a well in which the water level has been lowered at least one tenth (1/10) of a foot by pumping of the well.

CONSERVANCY AREA. An area of land where the water table is generally at, near or above the land surface.

DAY CARE OR CHILD CARE FACILITY. For the purpose of this code a day care or child care facility shall have the same definition as contained in §48.65(1) Wis. Stats..

DETENTION BASIN. An artificial depression or diked structure designed to be part of a stormwater and/or sediment control project which may or may not have permanent shallow water.

DEVELOPMENT. Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures: the construction of additions or substantial improvements to buildings, structures or accessory structures: the placement of building or structures; mining, dredging, filling, grading, paving, excavation or drilling operations; and the storage, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities.

DISTRIBUTION EQUIPMENT. Poles, towers, wires, cable, conduits, vaults, laterals, pipes, mains, valves for telephone or other communications and electric power, gas, water and sewer lines, the sole purpose of which is to connect the utility service to retail customers. Distribution

equipment does not include transmission equipment as further defined herein

DISTRICT. A designated area of the Town of Texas for which the regulations governing the use of the land and buildings are uniform.

DOG KENNEL, BREEDING AND/OR BOARDING (Land Use). More than three (3) dogs that are more than six (6) months old and/or a business where dogs are bred and sold and/or boarded, cared for, and/or trained, generally for a fee.

DOG KENNEL, STRUCTURE. The pen(s), run(s), and accessory structure(s) associated with land used for the harboring of dogs.

DRAINAGE SYSTEM. One or more artificial ditches, tile drains or similar devices which collect surface runoff on ground water and convey it to a point of discharge.

DRYLAND ACCESS. A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.

DUPLEX. A dwelling divided into two (2) living units or residences, usually having separate entrances.

DWELLING. A building or portion thereof designed exclusively for residential occupancy, including one family, two family and multiple family dwellings.

ENCROACHMENT. An encroachment is any fill, structure, building, accessory use, principle use or development in the floodway.

FAMILY. One or more persons living as a single housekeeping unit, as distinguished from a group occupying a hotel, club, fraternity or sorority house.

FARM. An area of land devoted to the production of field or truck crops, livestock or livestock products, which constitute the major use of such property. This includes fur farms in which the animals are housed and fed under artificial conditions.

FARM OPERATOR. An owner occupant of a parcel of land as defined in §91.01 (6) Wis. Stats..

FEEDLOT. A feedlot shall be determined to be any of the following facilities, when they are a business and means of livelihood:

1. Any tract of land or structure wherein any type of fowl or the byproducts thereof are raised in close quarters for sale at wholesale or retail.
2. Any structure, pen or corral wherein cattle, horses, sheep, goats, swine, and other animals domestic and/or exotic are maintained in close quarters for the purpose of fattening, milking or production of other animal products for final sale and/or shipment to market.

FLOOR AREA. The gross horizontal areas of the several stories within the outer lines of the exterior walls of a building or from the centerline of party walls; provided that the floor area of a dwelling shall not include space not usable for living quarters, such as attics, utility or unfinished basement rooms, garages, breezeways and unenclosed porches or terraces.

FUR FARM. Any property comprising land or building or both, used for the purpose of raising or harboring fur bearing animals including those defined in §29.001(30), Wis. Stats., and also including chinchillas and other fur bearing animals, whether the animals are kept for breeding or slaughtering or pelting purposes.

GARAGE, PRIVATE. An accessory building or accessory portion of the main building, used or designed or intended to be used for the storage of private motor vehicles.

GARAGE, PUBLIC. A building or portion thereof other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling or storing motor driven vehicles.

GRADING. The physical disturbance of the ground by the addition, removal, or re-distribution of soil.

HABITABLE STRUCTURE. Any structure, or portion of a structure, used or intended to be used for permanent or intermittent human occupancy.

HEARING NOTICE. A publication or posting which meets the requirements of Ch. 985, Wis. Stats.

HISTORIC STRUCTURE. Any structure that is listed preliminarily determined to meet the requirements for listing, as an individual structure part of a district, or on an inventory of the National Register, determined by the Secretary of the Interior, or on a State or local inventory of Historic Places.

HOME OCCUPATION. Any occupation for gain or support, when such occupation is incidental to the residential use of the premises and does not involve any external alteration that would effect a substantial change in the residential character of the building; provided further that no article is sold or offered for sale that is not produced by such home occupation, that no stock in trade is kept or sold, that no person other than a member of the resident family is employed on the premises and that no more than 25% of the floor area of any floor of the residence or accessory building is used for the home occupation. A home occupation includes uses such as babysitting, millinery, dressmaking, canning, laundering and crafts, but does not include the display of any goods nor such occupations as barbering, beauty shops, non-retail cabinet making, real estate brokerage or photographic studios.

HOME PROFESSIONAL BUSINESS. Any professional occupation for gain or support when such occupation is incidental to the residential use of the premises and does not involve any external alteration that would effect a substantial change in the residential character of the building; provided further that such business is conducted solely by a member or members of the resident family entirely within the residence, that not more than 50% of only one floor of the dwelling shall be devoted to such business and that no more than two persons not members of the resident family are employed in nonprofessional capacities in any such office. A home professional business includes uses such as attorneys, doctors and dentistry offices, real estate brokerages, photographic studios and service oriented shops such as beauty and barber shops, offices for tax preparation and licensed children's day care for no more than twelve (12) children. Before any home professional business may be opened, a complete septic system evaluation shall be conducted and any improvement to or replacement of the system must be completed before the business may commence.

HOTEL. A building in which board and lodging are provided to the transient public for compensation.

HOUSEBOAT. A water craft intended for temporary occupancy.

HUMAN HABITATION. The act of occupying a structure as a dwelling or sleeping place, whether intermittently or as a principal residence.

INTERCHANGE. A grade separated intersection with one or more turning lanes for travel between intersecting highways.

LAND USE. Any nonstructural use made of unimproved or improved real estate. Also see: "DEVELOPMENT".

LANDING. An uncovered platform at the end of a flight of stairs or a platform for ingress and egress to a structure or a jump platform. A landing is a structural appurtenance not more than six (6) feet wide unless further restricted in this Chapter.

LOT. A parcel of land occupied or designed to be occupied by one principal structure or use and its accessory structures or uses, including the open spaces required by this chapter, and abutting on a public street or other officially approved means of access. A lot may be a parcel designated in a plat or described in a conveyance recorded in the Office of the Register of Deeds, or any part of a large parcel when such part complies with the requirements of this chapter as to width and area for the district in which it is located. No land included in any street, highway or railroad right-of-way shall be included in computing lot area.

LOT, CORNER. A lot located at the intersection of two streets, any two corners of which have an angle of 120 degrees or less, or is bounded by a curved street, any two chords of which, on the inside of the curve, form an angle of 120 degrees or less.

LOT, WATERFRONT. Any lot where any developments including stairs, grading, tree-cutting, etc are taking place within 100 feet of the OHWM.

LOT, WIDTH. For the purpose of this chapter the width of a lot shall be the shortest distance between the side lines at the building setback line. Such building line may be the setback line or a line designated on a plat or in a conveyance of an unplatted parcel.

MAINTENANCE AND REPAIR. Includes the replacement of windows, doors, roofing, wiring and siding; upgrading of insulation; internal remodeling and improvements; repair, but not replacement, of an existing foundation.

MANUFACTURED HOME. A home certified and labeled as a manufactured home under 42 USC Sections 5401 to 5426, which is set upon a foundation constructed at a minimum to the requirements of Wisconsin Administrative Code DILHR 21.18, or a comparable foundation as approved by the local Zoning Administrator or Building Inspector, is installed according to manufacturer's instructions, and is properly connected to utilities. For purposes of this Code, a "manufactured home" shall be treated the same as a "single-family residence" and, where appropriate, a "two-family residence."

MOBILE HOME. Is a vehicle manufactured or assembled before June 15, 1976, designed to be towed as a single unit or in sections upon a highway by a motor vehicle and equipped and used, or intended to be used, primarily for human habitation, with walls of rigid uncollapsible construction, which has an overall length in excess of 45 feet. "Mobile home" includes the mobile home structure, its plumbing, heating, air conditioning and electrical systems, and all appliances and all other equipment carrying a manufacturer's warranty.

MOBILE HOME PARK. Any park, court, site, lot, parcel or tract of land designed, maintained, intended or used for the purpose of supplying a location or accommodations for two or more mobile homes and shall include all buildings used or intended for use as part of the equipment thereof, whether or not a charge is made for the use of the mobile home park and its facilities. Mobile home park shall not include automobile or mobile home sales lots on which unoccupied mobile homes are parked for purposes of inspection and sale.

MOBILE RECREATIONAL VEHICLE. A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use.

MOTEL OR TOURIST CABIN. A building or group of buildings which contain living or sleeping accommodations used primarily for transient occupancy, and have individual entrances from outside the building to serve each such living or sleeping unit.

NONCONFORMING STRUCTURE. Any structure conforming in respect to use but not in respect to frontage, width, height, area, yard, parking, or distance requirements shall be considered a nonconforming structure and not a nonconforming use.

NONCONFORMING USE: A use, building or structure *existing* at the time of enactment of this Code and which does not conform to the requirements set by the District in which said use, building or structure exists.

NONMETALLIC MINERAL EXTRACTION. The removal of rock, gravel, decomposed granite, sand, topsoil or other natural material from the earth by excavating, stripping, leveling or any other process whereby these materials are substantially removed from the site.

NOXIOUS MATTER. Material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the physical or economic well-being of individuals.

OCCUPANCY. Pertains to and is the purpose for which a building is used or intended to be used. A change of occupancy is not intended to include a change of tenants or proprietors.

OPEN SPACE USE. Those uses having a relatively low flood damage potential and not involving structures.

PARK. A pleasure ground set apart for recreation of the public, to promote its health and enjoyment.

PARK, AMUSEMENT. An area publicly or privately owned, containing amusement and recreational facilities and devices, whether operated for profit or not.

PARKING LOT. A lot where automobiles are parked or stored temporarily, but not including the wrecking of automobiles or other vehicles or storage for the purpose of repair or wrecking.

PARK (MODEL) UNIT. A structure resembling a mobile home or manufactured home in construction and design, generally having less than 400 square feet of total floor area, and not a travel trailer due to its inability to be towed by conventional cars or trucks.

PASTURE. Grazing animals on growing vegetation with no supplemental feed at up to five animal units per acre. Also rotational grazing systems designed periodically to exceed five animal units per acre, which comply with the standards in the County Technical Guide adopted by the Marathon County Land Conservation Committee.

PERSON. An individual, or group of individuals, corporation, partnership, association, municipality or state agency.

PIER. Any structure extending into navigable waters from the shore with water on both sides, built or maintained for the purpose of providing a berth for watercraft or for loading or unloading cargo or passengers onto or from watercraft.

POND. A seasonal or permanent body of water, created by excavation, by dike construction or by a combination of both. The only ponds within this definition subject to shoreland regulations by this chapter are those which have been excavated within 500 feet of a navigable body of water under §30.19, Wis. Stats., or which are navigable in fact. Pursuant to §30.19, Wis. Stats., ponds constructed within 500 feet of navigable waters are defined as public waters.

PRINCIPAL BUILDING. The main structure of a lot which houses the principal use of the premises.

PRIVATE SEWAGE SYSTEM/PRIVATE ON-SITE WASTE TREATMENT SYSTEM (POWTS). For the purpose of this code a private sewage system shall have the same definition as contained in §145.01(12) Wis. Stats.

PROFESSIONAL OFFICE. The office of a doctor, practitioner, dentist, minister, architect, landscape architect, professional engineer, lawyer, author, musician or other recognized profession.

PUBLIC UTILITIES. Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.

RECHARGE AREA. Area in which water reaches the zone of saturation by surface infiltration and encompasses all areas or features that supply groundwater recharge to the well.

RECREATION OR YOUTH CAMP. An area containing one or more permanent buildings used occasionally or periodically for the accommodation of members of associations or groups for recreational purposes.

RENDERING PLANT. A plant for the reduction of dead animals or slaughtered animals not suitable for human consumption to by-products such as hide, skin, grease, bones, glue and soap and for the storage of such by-products.

RIDING STABLE. A building or premises used for the rent or lease of horses or animals for hire.

ROADSIDE STAND. A structure having a ground area of not more than 300 square feet, readily removable in its entirety, not fully enclosed and to be used solely for the sale of farm products more than ½ of which were produced on the premises or adjacent premises. There shall not be more than one such roadside stand on any single premise.

SETBACK LINE / BUILDING LINE. The minimum allowable distance from a given point or line of reference, such as a thoroughfare right-of-way, water line or property line to the nearest vertical wall or other element of a building or structure.

SHOPPING CENTER. A group of contiguous retail stores, originally planned and developed as a single unit, with immediate adjoining off street parking facilities.

SHOOTING RANGE, PUBLIC. Any permanent or semi-permanent target shooting range for use by the general public and/or for competitive shoots, whether or not a charge/fee/donation is required to use the facility.

SIGN. Any advertisement, announcement, direction or communication produced in whole or in part by the construction, erection, affixing or placing of a structure on any land or on any other structure or produced by painting on or posting or placing any printed, lettered, pictured, figured or colored material on any building, structure or surface. Signs placed or erected by governmental agencies or nonprofit civic associations for a public purpose in the public interest shall not be included herein.

SIGN, BILLBOARD, DIRECTIONAL. Signs which direct potential patrons or visitors to a specific place of business interest or community and which may indicate either goods or services offered or both.

SIGN, FLASHING. Any illuminated sign on which the artificial light is not maintained

stationary, or constant in intensity and color at all times when such sign is in use.

SLAUGHTERHOUSE. Any building or premises used for the killing or dressing of fowl, cattle, sheep, swine, goats or horses and the storage, freezing and curing of meat and preparation of either meat products, by-products or both.

STORY. The vertical distance between the surface of any floor and the floor next above it, or if there be no floor above it, the space between such floor and the ceiling next above it.

STREET. A public or private thoroughfare which affords a primary means of access to abutting property. A driveway to a farm building shall not be considered a street for the purpose of determining setback, even though such driveway may have been designated a town road for the purposes of maintenance.

STRUCTURAL ALTERATIONS. Any changes in the supporting members of a structure such as bearing walls, columns, beams or girders, footing and piles.

STRUCTURE. Anything constructed or erected, the use of which requires a location in or on the premises, or any other attachment to something having a permanent location on the ground, which includes, but is not limited to, objects such as buildings, factories, sheds and cabins, mobile homes, gas or liquid storage tanks, bridges, culverts, decks, satellite dishes or swimming pools. Also included are items of personal property that may have been designed as transportable or as a vehicle, but stand in a seasonal or permanent location for storage or intermittent human habitation. Such incidental structures may include (but are not limited to) truck campers, travel trailers, buses, and motor homes.

STRUCTURE, ACCESSORY. A structure which is incidental or subordinate to the principal structure on the same parcel and may be desirable but not necessary for the use of the parcel as permitted by this code.

STRUCTURE, NONCONFORMING. A structure erected prior to the effective date of this chapter or amendment thereto, that conforms to use limitations but does not conform to dimensional or other standards including setbacks, floor area, parking, distance, or floodproofing.

STRUCTURE, PRINCIPAL. A structure which contains or is directly related to the main use of the property on which it is located, conforms to the purpose section of the zoning district in which it is or is to be located and is a structure listed as a permitted or Conditional Use in the zoning district. Only one principal structure is permitted on each lot or parcel.

SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction or improvement of a structure, the value of which equals or exceeds 50% of the present equalized assessed value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. The term does not, however, include either any project for improvement of a structure to comply with existing State or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a structure or site documented as deserving preservation by the State Historical Society or listed on the National Register of Historic places. Ordinary maintenance repairs are not considered structural repairs, modifications or additions; such ordinary maintenance repairs include internal and external painting, decorating, paneling and replacement of doors, windows and other nonstructural components.

TRANSMISSION EQUIPMENT. Poles, towers, wires, cables, conduits, vaults, laterals, pipes, main valves for high voltage electrical transmission, natural gas, and other utility products and services not intended for direct access by retail customers, but whose purpose is transmission from point of origin to distribution stations or similar locations.

UNNECESSARY HARDSHIP. A circumstance where special conditions, which are not self-created, affect a particular property and make strict conformity with restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of this chapter.

USE, ACCESSORY. A use customarily incidental and accessory to the principal use of a lot or parcel, or building or structure on the same lot or parcel as the principal use.

USE, CONDITIONAL. Uses which may be permitted in a district through the granting of a Conditional Use by the Town Board, upon finding and recommendation by the Planning Commission that specified conditions are met.

USE, NONCONFORMING. A use, building or structure *existing* at the time of enactment of this Code and which does not conform to the requirements set by the District in which said use, building or structure exists.

USE, PRINCIPAL. A principal use is the main use of land or building as distinguished from a subordinate or accessory use.

UTILITIES. Any public or private water supply, waste collection or disposal system including, but not limited to, septic systems, private and public wells and their attendant facilities, public sewage collection systems and treatment facilities.

VARIANCE. A departure from the dimensional standards of this chapter as applied to a specific building, structure or parcel of land, which the Board of Appeals may permit, contrary to the regulations of this chapter for the district in which such building, structure or parcel of land is located, when the Board finds that a literal application of such regulation will effect a limitation on the use of the property which does not generally apply to other properties in the same district and for which there is not compensating gain to the public health, safety or welfare. (See also 17.91(4)(c))

VISUAL CLEARANCE. A triangular space which permits an unobstructed view at the intersection of highways or streets with other highways, streets or roads, or at the intersection of highways or streets with railroads.

WAREHOUSE - MINI. Units rented to store residential personal property, sporting equipment such as snowmobiles & boats and other similar non hazardous materials.

WATERSHED. The entire region or area contributing runoff or surface water to a particular watercourse or body of water.

WELL. An excavation opening in the ground made by digging, boring, drilling, driving or other methods, for the purpose of obtaining groundwater regardless of its intended use.

WELL FIELD. A parcel of land used primarily for the purpose of locating wells to supply a municipal water system.

WETLANDS. Those areas where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have soils indicative of wet conditions. Administration and enforcement of zoning provisions for wetlands is under the jurisdiction of Marathon County.

WHARF. Any structure in navigable waters extending along the shore and generally connected with the uplands throughout its length, built or maintained for the purpose of providing a berth for watercraft or for loading or unloading cargo or passengers onto or from watercraft.

WIND ELECTRICAL GENERATION TOWERS (WEGT), PRIVATE. Any WEGT to be

primarily used to provide electricity to a structure at the site of generation.

WIND ELECTRICAL GENERATION TOWER (WEGT), COMMERCIAL. Any WEGT to be primarily used to produce electricity that will ultimately be sold and/or used not at the site of generation.

YARD. An open space on a lot which, except for vegetation or specified structures, is unoccupied and unobstructed from the ground up. On a parcel which has a conforming principal building, the street, side and rear yards are presumed to extend from the minimum setback line to the nearest point of the principal structure.

YARD, REAR. A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest point of the principal structure. This yard shall generally be opposite the street yard but may be the yard opposite the yard used to gain access to the property.

YARD, SIDE. A yard extending from the street yard to the rear yard of the lot, the width of which shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of the principal structure.

YARD, FRONT (STREET). A yard extending across the full width of the lot between the side lot lines, and is the yard fronting on the street for which the address is assigned.

YARD, CORNER SIDE. A side yard which adjoins a public street.

ZONE A. For wellhead protection Zone A equals the five year time of travel (TOT). The five year TOT is the recharge area inside the boundary from which it is determined or estimated that groundwater will take five years to reach the pumping well. Where estimates or engineering are not available Zone A may be determined to be a set distance from the municipal well(s)

ZONE B. For wellhead protection Zone B equals the ten year time of travel (TOT). The ten year TOT is the recharge area between the five year time of travel and a boundary from which it is determined or estimated that groundwater will take ten years to reach a pumping well. Where estimates or engineering are not available Zone B may be determined to be a set distance from Zone A boundary.

ZONE C. The outer edge of the recharge area where any portion of the recharge area is farther from the municipal well(s) than the Zone B boundary.

ZONING PERMIT. The zoning permit, as used in this chapter, shall be considered a “certificate of compliance” as issued by the Town of Texas.

GENERAL REGULATIONS

17.10 JURISDICTION.

The provisions of this chapter shall apply to the land, water, air and all structures both above and below ground within the Town of Texas, Marathon County, Wisconsin.

17.11 COMPLIANCE.

- (1) No structure, land, water or air shall hereafter be used without full compliance with the provisions of this chapter and all applicable local, County and State regulations. No structure (with the exception of certain minor structures), or part thereof shall hereafter be located, erected, moved, reconstructed or altered and no substantial land use change made without a zoning, special zoning, or Conditional Use permit. The Town Zoning Administrator, or his/her appointed deputies, shall accept all applications, issue or deny all zoning permits, investigate all complaints, give notice of violations and enforce the provisions of this chapter. The Zoning Administrator shall have access to premises and structures during reasonable hours to make those inspections as deemed necessary by him/her to ensure compliance with this chapter. If, however, he/she is refused entry after presentation of identification, he/she shall procure a special inspection warrant in accordance with §66.0119, Wis. Stats., except in case of emergency.

No permit or approval pursuant to this chapter shall be issued where the applicant is in violation of this or any code administered by the Town, nor for any parcel(s) of land which have an outstanding violation until the violation has been corrected. A request for waiver of these provisions may be made, to grant or deny a permit or approval on the merits of the application, to the Town Attorney and the Town Zoning Board of Appeals.

Where issuance of an after-the-fact permit or approval would have the effect of correcting a violation it may be granted if all conditions required for issuance can be complied with.

- (2) Municipalities and State Agencies Regulated.
Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this code and obtain all necessary permits.
- (3) Either the Town of Texas or any owner or owners of property within the district affected by a particular regulation may sue to enforce by injunctive order compliance with this chapter.
- (4) An application filed or permit issued pursuant to this Chapter shall authorize access by the Town Zoning Administrator or his/her appointed deputies onto the property for the purpose of inspecting the site prior to permit issuance and/or for compliance with the terms of the permit and this Chapter. [Also see §17.93(2)(f)]

17.12 PERMITS.

- (1) Zoning Permits.
 - (a) Permits are required for construction, alteration, remodeling or relocation of any structure greater than \$500.00, and showing compliance with State and County regulations.
 - (b) Applications for a zoning permit shall be made to the Town Zoning Administrator or his/her appointed deputies on forms furnished by the Town Zoning Administrator and

shall include the following where applicable:

1. Names and addresses of the applicant, agent or owner of the site, architect, professional engineer or contractor.
 2. Description of the subject site by Parcel I.D. number from tax rolls, lot and block numbers and recorded subdivision or by metes and bounds, section, township and range, address of the subject site, property boundaries, dimensions, elevations, uses and size of the following:
 - a. Subject site, existing and proposed structures.
 - b. Existing and proposed easements, streets and other public ways.
 - c. Off street parking, loading areas and driveways.
 - d. Existing highway access restrictions.
 - e. Existing and proposed street, side and rear yards.
 - f. The use of any abutting lands and their structures within 50 feet of the subject site.
 - g. If applicable, the location of the ordinary high water mark, channel, floodway, floodplain and shoreland boundaries.
 - h. The location of any well(s) and/or septic system(s).
 - i. The zoning district within which the subject site lies.
 - j. Payment of the appropriate fee as prescribed at §17.15.
 3. A County sanitary permit issued pursuant to Ch. 15 of the Marathon County General Code.
 4. Additional information as required by the Town Zoning Administrator.
- (b) Zoning Permit. A zoning permit shall be obtained when there is a change of any nonconforming use. The occupancy permit shall be issued by the Town Zoning Administrator or his duly appointed deputies. Such permit shall show that the building or premises or part thereof and the proposed use thereof are in conformity with the provisions of this chapter or with the Town Board determination where applicable.
- (c) The zoning permit shall be granted or denied in writing within 30 days.

17.13 CONDITIONAL USE PERMITS.

(1) GENERAL APPLICATION.

- (a) Applications for conditional use permits shall be made on forms furnished by the Town and shall include: the information required in §17.12(1) and payment of the fee to the Town for a public hearing before the Planning Commission.
- (b) Notification by the Town to property owners having land adjacent to the boundaries of the property for which the Conditional Use permit is requested may be notified pursuant to the requirements of Section 62.23, Wis. Stats.

(2) CONDITIONS ATTACHED TO CONDITIONAL USE PERMITS.

Upon consideration of the factors listed above and the purpose of this chapter, the Planning Commission shall attach such conditions, in addition to those required by specific permits, as it deems necessary in furthering the purposes of this chapter. Such conditions may include specifications for, without limitation because of specific enumeration, modification of sewage disposal and water supply facilities, modification of other waste disposal methods and facilities, landscaping, periods of operation, operational controls, sureties and deed restrictions.

(3) REVIEW AND APPROVAL BY TOWN BOARD.

- (a) The Town Zoning Administrator shall provide to the Town Clerk a copy of all maps, plans and other documents submitted by the applicant for a Conditional Use permit and notice of the time and place of the public hearing to be held on the proposed conditional use. Such information shall be provided at least 10 days prior to the hearing. The Town Board may attend the hearing and in any event may then or earlier indicate its position with regard to granting, denying, granting in part or conditionally, the application.
- (b) If, at such hearing, the Town Board or its representative requests an extension, it may be granted by the Planning Commission for a period it considers reasonable.

(5) STANDARDS IN REVIEWING SPECIAL USES.

In reviewing the proposed conditional uses, the Planning Commission shall be guided by the following standards and requirements:

- (a) All conditional uses shall be in accordance with the purpose and intent of this chapter and shall not be hazardous, harmful, offensive or otherwise adverse to the environmental quality, water quality, or property values in the Town of Texas.
- (b) Compliance with all other provisions of this chapter, such as lot width and area, yards, height, parking, loading, traffic, highway access and performance standards, shall be required for all conditional uses.

(6) DECISION.

- (a) The Planning Commission shall decide all applications within 30 days after the public hearing and shall transmit its written decision to the applicant, and to the Town Clerk and the Town Board.
- (b) The Town Board shall act upon the recommendation within 30 days of the receipt of the recommendation from the Planning Commission.

17.14. (RESERVED FOR FUTURE USE).

17.15 FEE SCHEDULE.

- (1) Fees: All persons, firms, or corporations performing work which, by this Ordinance, requires the issuance of a permit, review of plans, or public hearing shall pay a fee for such permit or hearing to the Town to help defray the cost of administration, investigation, advertising, and processing of such actions. All fees shall be established by a separate resolution of the Town Board and amended from time to time as deemed appropriate. Fee schedules are available from the Town Clerk or Zoning Administrator.
 - (a) Fee Required: No public hearing shall be held, no plans reviewed, and no permit shall be granted or issued until all fees required under this ordinance have been paid.
 - (b) Permit Fees: A fee shall be required for the following permits:
 - i. Zoning Permit.
 - ii. Industrial/Commercial Building Permit.
 - iii. Residential Building Permit.
 - iv. Occupancy Permit.
 - v. Sign Permit.
 - vi. Culvert/driveway permit.
 - (c) Zoning Ordinance Amendments: A fee shall be required for a zoning text or map amendment, conditional use, zoning appeal or variance.

- (d) Third Party Consultant Fees: In the event that the Town determines that it is necessary to consult with a third party, such as planner, attorney, or engineer in review and considering the application, all reasonable costs and expenses associated with such consultation shall be charged to the applicant.
- (e) Public Hearing: A fee shall be required for all public hearings.
- (2) Double Fees: At the discretion of the Town, a double fee shall be charged by the Town if work is started before a permit is applied for and issued. Such double fee shall not release the applicant from full compliance with this Ordinance nor from prosecution for violation of this Ordinance.

17.16 EXPIRATION OR CONFLICT.

- (1) If, within 6 months of the date of issuance of a zoning or Conditional Use permit, the proposed construction or preparation of land for use has not commenced, such permit shall expire, except that the Town Zoning Administrator may grant one renewal of such permit for a period not to exceed 6 months, upon the showing of valid cause. No habitation shall be permitted within an incomplete dwelling in excess of one year, unless an additional extension for a period of one year is granted by the Board of Appeals.
- (2) Any permit issued in conflict with the provisions of this chapter shall be null and void.

17.17 EXEMPTIONS.

- (1) Except where otherwise stated, the following uses are exempt from the terms of this chapter and permitted in any zoning district: poles, towers, wires, cables, conduits, vaults, laterals, pipes, mains, valves or any other similar distribution equipment for telephone or other communications and electric power, gas, water and sewer lines.
- (2) Wherever practicable, transmission equipment shall be prohibited from residential districts, as set forth in Sec. 17.40, first sentence, and conservancy zoning districts. Transmission equipment shall likewise be prohibited, wherever practicable, from bisecting agricultural parcels. Whenever practicable, transmission equipment shall be located on or in close proximity to property lines and shall follow existing easements and/or right-of-ways.
- (3) In the event that either distribution equipment or transmission equipment needs to be relocated in the public interest, it shall be relocated at the sole expense of the utility company in accordance with a signed Agreement as set forth in Sec. 17.26(2) which shall be filed with the Town Zoning Administrator prior to initial installation.

17.18 USE REGULATIONS.

- (1) USES RESTRICTED. In any district no building or land shall be used and hereafter no building shall be erected, structurally altered or relocated except for one or more of the uses stated in this chapter for that district.
- (2) TEMPORARY USES. Uses such as real estate sales field office or shelters for materials and equipment being used in the construction of a permanent structure, may be permitted by the Town Zoning Administrator.
- (3) UNCLASSIFIED USES. In case of a question as to the classification of a use, the question shall be submitted to the Town Planning Commission for determination. Uses already classified in any district are not eligible for a determination.

17.19 NONCONFORMING STRUCTURES AND USES.

- (1) Pre-existing structures - dimensional non-conformance.
 - (a) Structures erected prior to the effective date of this chapter or amendment thereto which are conforming to this chapter as to use but do not conform to dimensional rules (setbacks, height, yard spaces, separation, etc.) and which are proposed to be altered are subject to the following requirements:
 - 1. Repairs and improvements of a maintenance nature are allowed.
 - 2. Alterations, additions and expansions which change the exterior dimensions of the structure and which conform to the dimensional rules of this chapter and other applicable regulations are allowed. In addition, roof replacement is allowed on nonconforming structures, including changing the pitch within height limits and provided no overhang exceeds two (2) feet or is no greater than the existing overhang, whichever is greater, and no additional living space is added by the roof pitch change.
 - 3. Alterations, additions and expansions which change the exterior dimensions of the structure and which do not conform to this chapter, but which do not increase the dimensional non-conformity beyond what currently exists may be allowed provided that the improvements do not exceed 50 percent of the floor area of the existing structure on all levels over the life of the structure and a zoning permit is obtained from the Town.
 - 4. No alterations, additions or expansions may occur which will increase the dimensional nonconformity.
- (2) Pre-existing uses and structures - use nonconformance.
 - (a) Land uses or uses of structures which were established prior to the effective date of this chapter or amendment thereto which are nonconforming as to use may be continued, provided that:
 - 1. If a nonconforming use is discontinued for a period of 12 months, any future use of the property shall be in conformity with this chapter.
 - 2. Nonconforming uses shall be subject to the provisions of section 17.19(1) as to any dimensional nonconformity and section 17.19(3).
- (3) Pre-existing structures and uses - other standards and requirements.
 - (a) When a structure which is nonconforming as to dimensional standards or a structure containing a nonconforming use is demolished, removed, or damaged to the extent of more than 50% of its current equalized assessed value it shall not be restored except as a conforming use and at a conforming location.
 - (b) Mobile homes and other structures which are legally nonconforming in the zoning district in which they are located may be added to, provided the addition does not exceed 50% of the equalized value of the original structure at the time of application and a permit is issued by the Town Zoning Administrator for residential uses and a Conditional Use Permit is granted by the Board of Appeals for all non-residential uses.
 - (c) The size and shape of a lot shall not be altered so as to increase the degree of nonconformity of a structure or use.
 - (d) The effective dates for application of the nonconforming structure or use provisions are the date of County Board approval of the Town Zoning map or map amendment.

- (e) Existing Conditional Uses. All uses existing on the effective date of this chapter which would be classified as conditional uses in the particular zoning district concerned if they were to be established after the effective date of this chapter, are hereby declared to be conforming conditional uses to the extent of the existing operation only. Any proposed change in the existing use shall be subject to the conditional use procedures as if such use were being established anew.

17.20 ACCESSORY USES AND STRUCTURES.

- (1) Accessory structures and uses customarily incidental to and compatible with permitted principal structures and uses shall be permitted subject to the district requirements. Accessory structures and uses shall not be established prior to the principal structure or use unless:
 - (a) A Conditional Use permit is granted by the Town Board, or;
 - (b) The accessory structure is a permitted single family home in an agricultural district, or;
 - (c) The accessory structure is on a parcel zoned A-1 or A-3 and will be used to store tools or machinery used on the land.
- (2) Except in the A-1 or A-3 District, no accessory building or structure with a footprint of more than 1200 square feet and a height of 20 feet from the lowest grade to the highest structural member shall be erected or altered or moved to a location within the required area of a front, side, or rear yard. An accessory building, structure or use in a rear yard that
 - (a) has a 150 square foot footprint or less, and is less than 20 feet high shall be not less than 7' from any property line.
 - (b) has a larger than 150 square foot footprint and is less than 20 feet high shall be not less than 25' from any property line.
 - (c) However, on a corner lot or a through lot, such accessory building shall be subject to the same highway or street setback requirements as the principal building, unless otherwise provided herein for a specific permitted or conditional use.
- (3) In the A-1 and A-3 Districts, no accessory building or structures shall be erected or altered or moved to a location within the required area of a front, side or rear yard. An accessory building, structure or use in a rear yard shall be subject to the following additional requirements.
 - (a) An accessory structure that has a 150 foot square footprint or less shall have a height of less than 20' from the lowest grade to the highest structural member and shall be set back a minimum of 7' from any lot line.
 - (b) An accessory building or structure that has a 150 foot to a 1200 foot square footprint or less, shall have a height of less than 20' from the lowest grade to the highest structural member and shall be set back minimum of 25' from any lot line.
 - (c) An accessory building or structure that has a footprint of greater than a 1200 square feet and less than 2500 square feet, shall have a height not exceeding 35' from the lowest grade to the highest structural member and shall be set back a minimum of 50' from any lot line.

17.21 AREA REGULATIONS.

- (1) LOT REDUCTION. After adoption of this chapter, no lot area shall be reduced so that the area, dimensional and yard requirements of this chapter cannot be met.

(2) EXISTING LOT. Lots existing and of record prior to the adoption of this chapter or the establishment or change of zoning districts, but of substandard size, may be devoted to uses permitted in the district in which located, providing the requirements of applicable Wisconsin Administrative Codes can be satisfied and further provided all dimensional setback requirements can also be satisfied. No existing lot shall have its boundaries altered in any way without the resulting parcel(s) being in full compliance with this code and the zoning district in which the parcel(s) are located. The Board of Appeals may waive this requirement where there is not sufficient contiguous ownership to comply but where the parcel(s) to be created will be less nonconforming.

(3) YARD AND OPEN SPACE REGULATIONS.

(a) All yards and other open spaces allocated to a building or group of buildings comprising one principal use shall be located on the same lot as such building. No legally required yards, other open space or minimum lot area allocated to any building shall, by virtue of change of ownership or for any other reason, be used to satisfy yards, other open space or minimum lot area requirements for any other building.

(b) The yard requirements stipulated elsewhere in this chapter may be modified as follows:

1. Within the RS 1/20, RS 1/40, R2 and RM zoning districts uncovered stairs, landings and fire escapes may project into any yard but not to exceed 6 feet and not closer than 4 feet to any lot line. For all other districts, the projection may not exceed 6 feet, and not closer than 30 feet to any lot line.
2. Marquees, awnings and chimneys adjoining the principal building, as well as overhanging roof eaves and architectural projections may project into any side yards, provided that the projections do not include side walls which enclose any space.
3. Ornamental light standards, flag poles, trees and outdoor fuel-dispensing equipment are permitted in any yard.
4. Residential fences are permitted on the property lines in residential districts to separate residential parcels but shall not, in any case, exceed a height of 6 feet, nor shall they be constructed using barbed wire and shall not be electrified. (Note: This shall not apply to parcel boundaries between agricultural and residential parcels). Fences shall not exceed a height of 4 feet in any required street yard or shore yard and shall not be closer than 2 feet to any public right-of-way. Security fences are permitted on the property lines in all districts except residential districts, but shall not exceed 10 feet in height and shall be of an open type similar to woven wire or wrought iron fencing.
5. All fences, whether or not requiring a permit shall present the non-structural face outward.

(c) A setback less than the setback required for the appropriate district for a rear yard may be permitted where there are legally established principal buildings on adjacent lots. In such cases, the setback shall be no less than the average of the setbacks of the nearest principal building on each side of the proposed site. When there is no principal building within 200' on one side, the minimum setback for the district shall be used on that side to calculate the average. The average is not to include any building now within 10' of the rear lot line.

For the purpose of this section, measurements shall be the shortest distance from the

rear property line to the building foundation or that part of the building which is totally enclosed. The intent is to discount such additions and appurtenances (not limited by enumeration) as roof overhangs, patios, decks, landings, open porches, stoops, etc. All buildings and structures shall be constructed behind the averaged setback line. Construction between the averaged building setback line and the rear property line may only be authorized by a variance pursuant to §17.91(4)(c) of this code. NOTE: Since this is a section dealing with rear yards, 'behind' implies 'toward the front of the lot'.

- (d) The owner of two or more lots shall comply with the yard requirements of each individual lot unless the lots are legally combined into a single lot or redivided to maintain minimum yard setbacks.
- (4) MINIMUM LOT AREA. In all districts the minimum lot area shall be calculated without including any road right-of-way or any other easements for streets or utilities which are greater than 20' wide.

17.22 HEIGHT REGULATIONS AND EXCEPTIONS.

- (1) Height of the following structures may exceed limits for the district in which they are located: cooling towers, stacks, barns, lookout towers, silos, windmills, water towers, church spires, radio and television aerials, masts, antennas and similar mechanical appurtenances.
- (2) Churches, schools, hospitals, sanatoriums and other public and quasi-public buildings may be erected to a greater height not exceeding 60 feet provided the front, side and rear yards required in the district in which such building is to be located are each increased at least one 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.

17.23 HIGHWAY AND RAILROAD SETBACKS.

For the purpose of determining the distance buildings and other structures shall be setback from streets and highways, the streets and highways of the County are divided into the following classes:

- (1) CLASS A HIGHWAYS.
 - (a) All State and federal highways are hereby designated as Class A highways.
 - (b) The setback for Class A highways shall be 110' from the centerline of the highway or 50 feet from the right-of-way line, whichever is greater, except that for any freeway or divided Class A highway the setback distance shall be 50 feet from the right-of-way line.
- (2) CLASS B HIGHWAYS.
 - (a) All County trunk highways are hereby designated as Class B highways. For the purpose of this chapter any road will be considered as a County trunk after it has been placed on the County trunk system by the County Board and approved by the State Department of Transportation.
 - (b) The setback for Class B highways shall be 83 feet from the centerline of such highway or 42 feet from the right-of-way line, whichever distance is greater. Buildings which were legally built at a setback of 75 feet to 83 feet from the centerline may be added to or rebuilt on the existing foundation subject to the limitations in section 17.19(1)(a)4 and 17.25.

(3) CLASS C HIGHWAYS.

- (a) All town roads, public streets and highways not otherwise classified are hereby designated Class C highways.
- (b) The setback from Class C highways shall be 83 feet from the centerline of such highway or 42 feet from the right-of-way line, whichever is greater. Dedicated public accesses to navigable water shall not be considered Class C highways for setback purposes unless they serve a dual purpose of access to navigable water and vehicular access to adjoining parcels of land.

17.24 REDUCED BUILDING SETBACKS.

- (1) A setback less than the setback required for the appropriate class of highway may be permitted where there are existing principal buildings within 200 feet of the proposed building site that are built to less than the required setbacks. In such cases, the setback shall be no less than the average of the setbacks of the nearest principal building on each side of the proposed site. When there is no principal building within 200 feet on one side, the setback required in §17.23 shall be used to calculate the average. The average is not to include any building now within 10 feet of the right-of-way.

For the purpose of this section measurements shall be the shortest distance from the centerline or right-of-way to the building foundation or that part of the building which is totally enclosed. The intent is to discount such additions or appurtenances (not limited by enumeration) as roof overhangs, patios, decks, landings, open porches, stoops, etc. All buildings and structures shall be constructed behind the averaged setback line.

- (2) Any modification of other highway setbacks may be permitted by the Board of Appeals according to the variance provisions of this chapter. See §17.21(3)(d) for modification of rear yard setbacks.

17.25 VISION CLEARANCE TRIANGLE (VCT).

- (1) Purpose: The VCT setbacks are intended to provide motorists a safe braking and stopping distance to avoid accidents and to provide motorists turning onto roads, streets, and highways a safe accelerating distance to merge with traffic to reduce traffic congestion. As essential as they are to the traffic safety, VCT regulations cannot guarantee unobstructed vision due to topography, natural vegetative growth, and development that may encroach. Obstacles to be kept out of VCTs need only be capable of causing a traffic hazard, they need not actually be shown to cause unsafe traffic conditions. Obstacles which may be allowed are ones which a typical motorist in a vehicle can be expected to see over, under or through reasonably enough to see approaching traffic (See §17.26)

(2) Standards for VCTs

- (a) At each uncontrolled road intersection or road-railroad intersection there shall be a vision clearance triangle (VCT) bounded by the road centerlines and a line connecting points on them 300 feet from a Class A highway intersection, 200 feet from a Class B highway intersection, and 150 feet from a Class C highway and private easement road intersections.
- (b) At controlled intersections vegetation and landscape restrictions shall be as follows:
 - 1. When one road has a stop or yield sign: The leg of the VCT following the centerline of the road that has no stop or yield sign shall be the length as required in (2)(a). The VCT line shall extend from the end of that line to a point on the

center line of the street which has the stop or yield sign and which is 100 feet from the intersection of the centerlines of the two streets.

2. When both roads have stop signs , yield signs or traffic lights, or the intersection is in a non-agricultural zone, vegetation and landscape restrictions shall be as follows: The VCT line shall be bounded by the street centerlines and a line connecting points on them 100 feet from their intersection.
- (3) Within a VCT, no structure shall be constructed and no vegetative material shall be planted or landscaping done that causes or will cause an obstruction to view between a height of 2½ feet and 10 feet above the elevation of the road or highway. Vegetation or landscaping occurring in the VCT may be ordered to be pruned, thinned and/or removed if it is capable of causing a traffic hazard and removal of the obstacle to view has been requested by the unit of government having jurisdiction over one or more of the intersecting roads, streets or highways, or by a law enforcement agency having jurisdiction.
- (4) The planting and harvesting of field crops is permitted but not so as to constitute a substantial obstruction to the view of motorists and pedestrians across the vision clearance triangle from one highway or street to another.

17.26 STRUCTURES PERMITTED WITHIN SETBACK LINES.

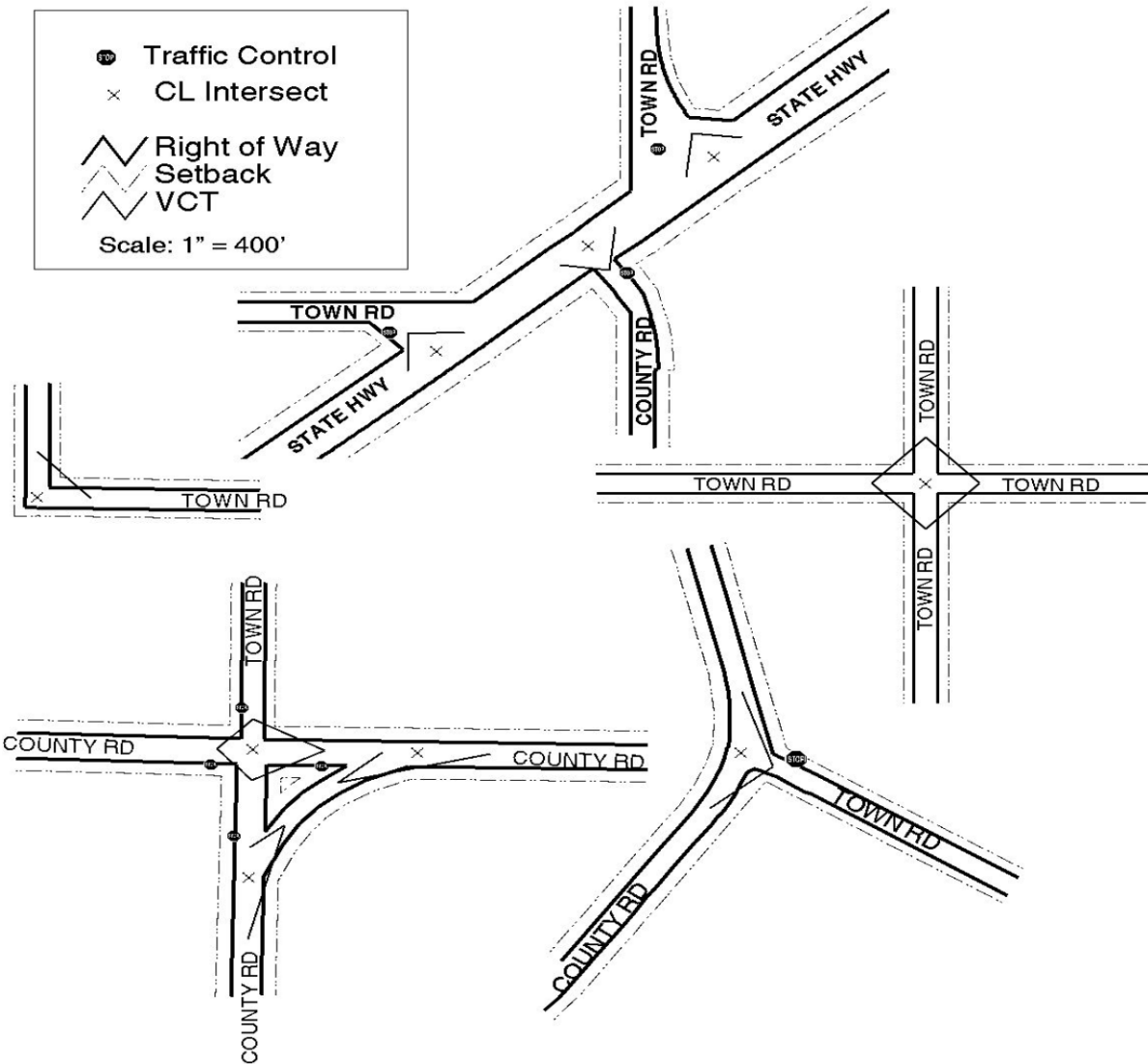
- (1) Open fences.
- (2) Petroleum and gas transmission lines, telephone, telegraph, cable television and power transmission poles and lines and portable equipment both above and below ground that is readily removable in its entirety. Additions to and replacement of all such structures may be made, provided the owner will file with the Town Zoning Administrator an agreement in writing that the owner will move or remove all new construction, additions and replacements erected after the adoption of this chapter at his expense, when necessary to the public interest, i.e. highway construction, airport, sewer and water lines, etc.
- (3) Underground structures not capable of being used as foundations for future prohibited above-ground structures.
- (4) On waterfront properties, bridges, piers, wharves, erosion control structures which are part of an approved grading plan, and one paved walkway and/or stairway leading to the OHWM using the most direct route practical within the view corridor. Stairs and walkways shall not exceed a width of four (4) feet. Landings not exceeding four (4) feet by six (6) feet may be authorized where the vertical rise is sixteen (16) feet or more or where a break in the slope necessitates a horizontal offset in a stairway.
- (5) Access or frontage roads constructed by the public to plans approved by the Town Board.
- (6) Permitted signs and signs placed by the public authorities for the guidance or warning of traffic.

17.27 MOBILE HOME LIMITATION.

Within those districts contained in this code where mobile homes are allowed as independent dwelling units, the mobile home and the land upon which it is located shall be owned in common.

VISION CLEARANCE AND SETBACK REQUIREMENTS

The following example drawings are samples and are not intended to depict all possible combinations of intersections which may include but are not limited by enumeration to “T” intersections, “Y” intersections, curved roads, street and railroad intersections and/or any other configuration which may exist or which may be constructed in the future, as applicable to Section 17.25.



DISTRICTS AND MAPS

17.40 ZONING DISTRICTS.

For the purpose of determining separation of uses, the RS-1/20, RS-1/40, RS-2, RM, RP, AR, and AE are all considered to be residential districts. In A-1, A-3, when the principal structure is a residence the parcel shall be treated as a residential parcel for all use determinations. When the principal structure is a farm structure, such as the main barn on a dairy farm, the parcel shall be treated as an agricultural parcel for all use determinations. The lands areas of the Town may be divided into the following districts:

- RS-1/20, RS-1/40 Single Family Residence District
- RS-2 Single Family Residence District
- RM Multiple Family Residence District
- RP Planned Development Residence District
- CV Conservancy District
- RC Recreation District
- A-1 General Agricultural District
- A-3 Exclusive Agricultural District
- AR Agricultural/Residential and AE Agricultural/Estate Districts
- C-1 Commercial District
- M-1 Light Industrial and Office District
- M-2 Heavy Industrial District
- WP Wellhead Protection Overlay District

17.41 MAPS.

These districts are shown upon the map of the Town, and the map is designated as the "Zoning Map of Town of Texas." And as such map is prepared and adopted by the Town under this Chapter they thereby become a part of this chapter. All notations, references and other information shown upon the zoning map of the Town shall be as much a part of this chapter as if the matter and the things set forth by the map were fully described herein.

17.42 BOUNDARIES OF DISTRICTS.

In property that is not subdivided, unless otherwise indicated on the map, the district boundary lines are the centerlines of streets, highways, railroads, section lines, quarter-section lines, quarter-quarter lines, quarter-quarter-quarter lines or such lines extended or connected. Where not otherwise indicated on the map, it is intended that the district boundary line be measured at right angles to the nearest highway right-of-way line and be not less than 300' in depth.

17.43 RS-1/20 and RS-1/40 RESIDENCE DISTRICTS.

- (1) **PURPOSE.** The Residential Districts are designed to encourage a suitable environment for family life by permitting, under certain conditions, such neighborhood facilities as churches, schools, playgrounds and appropriate institutions and by protecting the residential character against incompatible uses. The districts are intended to avoid overcrowding by requiring certain minimum yards, open spaces and site area while making available a variety of dwelling types and densities to serve a wide range of individual requirements.

- (2) PERMITTED USES. Only the following uses are permitted in the RS-1/20 and RS-1/40 District:
- (a) Single family dwellings designed for and occupied exclusively by one family, but not including a house trailer or mobile home.
 - (b) Churches, cemeteries subject to Wis. Stats §157, public and parochial schools, colleges and universities.
 - (c) Parks and playgrounds, including swimming pools, golf courses, tennis courts, picnic grounds and bathing beaches.
 - (d) Accessory buildings, including private kennels and private garages and buildings clearly incidental to the residential use of the property, provided, however, that no accessory building may be used as a separate dwelling unit. Private garages and other residential accessory storage structures shall be subject to the following standards:
 - 1. Any structure having more than one wall forming an enclosure shall have less floor area than the principal structure and shall not exceed 1200 square feet.
 - 2. The length of the structure shall not be more than two times its width.
 - 3. Side walls shall not exceed 10 feet in height, from the top plate to the finished floor.
 - 4. The maximum building height, measured from the highest point of the roof to the floor shall not exceed 20 feet.
 - 5. Garage doors shall be of the overhead type with a maximum height of 8 feet.
 - 6. Construction and finished appearance shall be compatible with existing neighborhood development. Non-traditional construction for residential structures such as pole or steel or quonset shall generally not be approved.
 - (e) Gardening and farming, including nurseries for the propagation of plants only, but not farms operated for the disposal of sewage, rubbish or offal, fur farms, stock farms and poultry farms.
 - (f) Telephone exchanges, telephone, telegraph and power distribution poles and lines and necessary appurtenant equipment and structures, such as transformers, unit substations and equipment housings, provided there is no service garage or storage yard.
 - (g) Home occupations.
 - (h) Home professional businesses.
 - (i) Railroad right-of-way but not including switching, classification yards or sidings.
 - (j) Vending machines when the use is clearly an indoor accessory use to the primary use.
 - (k) Signs. (See §17.80-17.83.)
 - (l) Ponds subject to the conditions contained in §17.49(2)(d) of this chapter. In addition, ponds shall maintain a minimum slope of 4' horizontal to 1' vertical to a water depth of 6' and a 3' horizontal to 1' vertical slope below the 6' depth. Disposal and/or stabilization of spoil from pond excavation shall be addressed on the pond plans and a 3' horizontal to 1' vertical slope shall be the minimum.
- (3) CONDITIONAL USES. The following are conditional uses permitted when the location of the use shall have been approved and a conditional use permit has been granted by the Town

Board after a public hearing and recommendation by the Planning Commission.

- (a) Institutions of a charitable or philanthropic nature, day care or child care facilities, hospitals, clinics and sanatoria, except contagious hospitals and mental institutions.
- (b) Municipal buildings, except sewage disposal plants, garbage incinerators and buildings for the repair or storage of road building or maintenance machinery.
- (c) Libraries, museums and community buildings, private clubs and fraternities, except those whose principal activity is a service customarily carried on as a business.
- (d) Bed and Breakfast Establishment and Tourist Rooming House subject to Chapter 254.61, Wis. Stats.
- (e) Accessory structures with floor area or components differing from the standards listed in subsection 17.43(2)(d), provided the use of the structure is subordinate to a permitted use, and the parcel equals or exceeds the minimum area for the zoning district. The design shall be compatible with existing neighborhood development and not contrary to any existing restrictive covenants. Nontraditional designs such as quonset roofs shall be subject to this section.

(4) HEIGHT, YARDS, AREA AND OTHER REQUIREMENTS.

- (a) Height. Except as otherwise provided in this chapter, no building shall exceed a height of 35'. (See §17.22.)
- (b) Floor Area. Buildings used in whole or in part for residential purposes which are hereafter erected, moved or structurally altered shall have a minimum of 840 square feet of floor area dedicated to living space.
- (c) Lot Area.
 - 1. For platted or unplatted lands where public sewer is not available, the minimum lot area shall be determined by soil test according to the formulas of the Department of Commerce as contained in COMM 83 Wis. Adm. Code, but no such lot or building site shall have an area in the RS-1/20 of less than 20,000 square feet or a width of less than 100' at the building line and in the RS-1/40 of less than 40,000 square feet or a width of less than 150' at the building line.
 - 2. No building, together with its accessory buildings, shall occupy in excess of 30% of the area of any lot.
- (d) Side Yards. There shall be a side yard on each side of a building. The aggregate width of the side yards shall not be less than 25' and no single side yard shall be less than 10' wide. See §17.20(2).
- (e) Rear Yard. The minimum depth of any rear yard shall be 50' except on water front lots.
- (f) Setback Lines (Streets and Waterline). See §17.23, and 17.25.
- (g) Off Street Parking. See §17.70-17.72.

17.44 RS-2 SINGLE FAMILY RESIDENCE DISTRICT.

- (1) PURPOSE. This Residential District is designed to encourage a suitable environment for family life, as in the RS-1/20 and RS-1/40 District, allowing for a higher density of development, and provide for Mobile Home Parks (See Sec. § 17.60-17.66) as a Conditional Use.

- (2) PERMITTED USES. Only the following uses are permitted in the RS-2 District:
 - (a) Any use permitted in the RS-1 Single Family Residence District.
- (3) CONDITIONAL USES. The following are conditional uses permitted when the location of the use shall have been approved in writing and a conditional use permit has been granted by the Town Board after a public hearing and recommendation by the Planning Commission:
 - (a) Mobile home parks as provided in §17.60-17.66.
 - (b) Day care or childcare facilities.
 - (c) Bed and Breakfast Establishment and Tourist Rooming House subject to Chapter 254.61, Wis. Stats.
 - (d) Accessory structures with floor area or components differing from the standards listed in subsection 17.43(2)(d), provided the use of the structure is subordinate to a permitted use, and the parcel equals or exceeds the minimum area for the zoning district. The design shall be compatible with existing neighborhood development and not contrary to any existing restrictive covenants. Nontraditional designs such as quonset roofs shall be subject to this section.
- (4) HEIGHT, YARDS, AREA AND OTHER REQUIREMENTS.
 - (a) Except as otherwise provided in this chapter, no building shall exceed a height of 35'. (See §17.22.)
 - (b) Floor Area. Buildings and mobile homes used in whole or in part for residential purposes which are hereafter erected, moved or structurally altered shall have a floor area of not less than 600 square feet.
 - (c) Area: Standard Lots.
 - 1. For other platted or unplatted lands where public sewer is not available, the minimum lot width shall be 100' at the building line and the minimum lot area shall be 20,000 square feet.
 - 2. No building, together with its accessory buildings, shall occupy in excess of 35% of the area of any lot.
 - (d) Side Yards. The minimum width of any side yard shall be 25'. See §17.20(2).
 - (e) Rear Yard. The minimum depth of any rear yard shall be 25', except on waterfront lots.
 - (f) Setback Lines. See §17.23, and 17.25.
 - (g) Off Street Parking. See §17.70-17.72.

17.45 RM MULTIPLE FAMILY RESIDENCE DISTRICT.

(1) The RM district is intended to provide for duplexes and multiple-family dwellings.

PERMITTED USES. Only the following uses are permitted in the RM District:

- (a) Any use permitted in the RS-1 Single Family Residence District.
- (b) Duplexes.
- (c) Retail consumer goods, sales and service conducted solely for the convenience of the resident of a multifamily development.

- (d) Bed and Breakfast Establishment and Tourist Rooming House subject to Chapter 254.61 Wis. Stats.
- (2) **CONDITIONAL USES.** The following are conditional uses permitted when the location of the use shall have been approved and a conditional use permit has been granted by the Town Board after a public hearing and recommendation by the Planning Commission.
 - (a) Boarding house subject to Chapter 254.61 Wis. Stats.
 - (b) Day care or child care facilities.
 - (c) Three family and larger multiple family dwellings, and apartment complexes. An application for a conditional use permit for apartment complexes shall include an overall site plan showing location and orientation of all structures, parking and driveway areas, well(s), and all areas designated for private sewage systems and any required replacement areas. For the purpose of determining the setbacks from property lines and separating distances between units, the Board may consider the orientation of the structures toward each other and abutting lots, to achieve in purpose the minimum side yards and rear yards required in subsections 17.45(3)(c) and (d). When reviewing applications for conditional use the Board shall consider the following as minimum guidelines and may increase floor and lot areas but shall not reduce them unless municipal sewer and water is available:

<u>Number of families</u>	<u>Lot Area</u>	<u>Total heated living space</u>
2	40,000	1,200
3	50,000	1,800
4	60,000	2,400

For each additional family unit added, a minimum of 10,000 square feet shall be added to the lot area and 600 square feet shall be added to the heated living space.

- 1. When regulations of other State or local agencies require a larger lot area than any of the above, such regulations shall govern for both platted and unplatted areas and lots.
- (3) **HEIGHT, YARDS, AREA AND OTHER REQUIREMENTS NOT OUTLINED AS A CONDITIONAL USE.**
 - (a) Height.
 - 1. For single family dwellings and duplexes the maximum building height shall be 35'.
 - 2. For apartments the maximum building height shall be four stories.
 - 3. See §17.22
 - (b) Lot Area and Floor Area.
 - 1. The lot area, lot width and floor area requirements in the RM Multiple Family Residence District shall be the same as those required under RS-1/20 and RS-1/40 Single Family Residence District.
 - (c) Side Yards. There shall be a side yard on each side of a building. The width of the side yards shall not be less than 25' for four (4) family units or smaller. Additional side yard equaling five (5) feet per family shall be added to the 25' base dimension. See §17.20(2).

- (d) Rear Yard. The minimum depth of any rear yard shall be 50' for four (4) family units or smaller, except water front lots. Additional rear yard equaling ten (10) feet per family shall be added to the 50' base dimension.
- (e) Setback Lines. See §17.23, and 17.25.
- (f) Off Street Parking. See §17.70-17.72.

17.46 RP RESIDENTIAL PLANNED DEVELOPMENT DISTRICT.

(1) PURPOSE.

- (a) The purpose of the RP Residential Planned Development District is to provide the means whereby land may be planned and developed as a unit for residential uses under standards and conditions which afford flexibility; encourage good design, open spaces, the preservation of natural features and to minimize the present and future burdens upon the community as a whole which result from poor planning.
- (b) In cluster subdivisions, the grouping of residences will permit individual lot sizes to be reduced provided that the overall density within the development is maintained. The remaining undeveloped area shall be required to remain a common open space, preferably on the shoreline if the subdivision is located in a shore area, in perpetuity. Such grouping of residences facilitates common water supply and sewage disposal systems.
- (c) Such developments shall be site designed as a total unit development and may be developed by subunits in accordance with the approved overall site plan.

(2) GENERAL REQUIREMENTS. A site plan of a continuous area of no less than 20 acres shall be submitted at the time the zone change is requested. The site plan shall be acted upon by the Planning Commission in accordance with §17.90 of this chapter.

(3) PERMITTED USES. Only the following uses are permitted in the RP District:

- (a) Clustered single family lot developments.
- (b) Two family dwellings.
- (c) Multifamily dwellings.
- (d) Any permitted use in the RS-1 Single Family Residence District.
- (e) Accessory uses, structures and amenities in the approved development plan.
- (f) Retail consumer goods, sales and service.
- (g) Bed and Breakfast Establishment, Tourist Rooming House, and Boarding House, subject to Chapter 254.61 Wis. Stats.
- (h) Condominiums.

(4) HEIGHT, YARD, AREA AND OTHER REQUIREMENTS.

- (a) Height. Except as otherwise provided in this chapter, no building shall exceed a height of 35'. See §17.22.
- (b) Floor Area. Buildings used in whole or in part for residential purposes which are hereafter erected, moved or structurally altered shall have a floor area as follows:

1. Minimum 1,200 square feet for single family dwellings.
 2. Minimum 1,000 square feet for row houses.
 3. Minimum 600 square feet for each apartment.
- (c) Park Area. The minimum of open space or excess land not used for lots or streets shall be 20% of any platted subdivision and shall be dedicated in perpetuity to remain in open space. This may be accomplished by conveyance in common to each of the owners of lots in the development or to a corporation formed by them, or by dedication to and the acceptance by County, town or municipality. If the land is to be conveyed to owners of lots in the development, a homeowners' association or similar legally constituted body shall be created to maintain the open space land. Any restriction placed on platted land by covenant, grant of easement or any other manner which was required by a public body or which names a public body as grantee, promisee or beneficiary, shall vest in the public body the right to enforce the restriction at law or in equity against anyone who has or acquires an interest in the land subject to the restriction.
- (d) Lot Area and Width.
1. For lots not served by public sewer, the minimum size shall be governed by COMM 83, Wis. Adm. Code, and the minimum width shall be 75' for single family residences and 150' for multiple family residences.
 2. The minimum width shall be:
 - a. 75' for single family residences.
 - b. 150' for row house or apartment development.
- (e) Side Yards. There shall be a side yard on each side of a building having a minimum width of 10' except a corner lot shall have a side yard of 30' from the street right-of-way. See §17.20(2).
- (f) Rear Yard. The minimum depth of any rear yard shall be 50'.
- (g) Setback Lines.
1. Highways. See §17.23 and 17.25.

17.47 CV CONSERVANCY DISTRICT.

- (1) PURPOSE. The Conservancy District provides for the protection of the environment and conservation of natural resources of this Town. Generally, this includes swamps, marshlands and areas where the highest groundwater is at or near the surface of the ground.
- (2) PERMITTED USES. Only the following uses are permitted in the CV District:
 - (a) Forestry.
 - (b) Grazing livestock.
 - (c) Harvesting wild crops, such as wild hay, ferns, moss, berries and tree fruits.
 - (d) Hiking trails and bridle paths.
 - (e) Hunting, fishing and trapping.
 - (f) Hydroelectric power stations, dams and other structures for the use or control of flowing water.

- (g) Open type shelters for public use and nonresidential buildings or structures used in conjunction with the raising of wildlife and fish and the practice of forestry. This shall include buildings and structures used by the public and semipublic agencies or groups for research in, or the rehabilitation of, natural resources.
 - (h) Telephone, telegraph and power transmission and distribution lines and necessary appurtenant structures.
 - (i) Wildlife preserves, refuges and habitat development.
- (3) SETBACK LINES. See §17.23, and 17.25.
- (4) OFF STREET PARKING. See §17.70-17.72.

17.48 RC RECREATION DISTRICT.

- (1) PURPOSE. This district is intended to provide for the orderly and attractive grouping of recreation-oriented establishments, facilities and structures.
- (2) PERMITTED USES. Only the following uses are permitted in the RC District:
- (a) Agriculture and other open land uses, including beekeeping, field crops, forestry, orchards and wild crop harvesting, truck farming, horticulture or viticulture, but not livestock as defined in Wis. Admin. Code ATCP51.
 - (b) Any use permitted in the Conservancy District.
 - (c) One camping trailer, park unit, mobile camper or houseboat for temporary parking and living purposes for the caretaker or owner and his family only.
 - (d) Fish hatcheries and farm ponds subject to the conditions contained in §17.43(2)(l) of this chapter.
 - (e) Community buildings, private clubs and fraternities, except those whose principle activity is a service customarily carried on as a business.
 - (f) Municipal buildings, except sewage disposal plants, garbage incinerators and buildings for the repair or storage of road building or maintenance machinery.
 - (g) Parks and playgrounds, including swimming pools, golf courses, tennis courts, picnic grounds and bathing beaches.
 - (h) Railroad right-of-way but not including switching spurs, classification yards or sidings.
 - (i) Signs. See §17.80-17.83.
 - (j) Telephone exchanges, provided there is no service garage or storage yard. Telephone, telegraph and power distribution poles and lines and necessary appurtenant equipment and structures, such as transformers, unit substations and equipment housings.
 - (k) Vending machines when the use is clearly an indoor accessory to the principle use.
 - (l) Buildings and structures and uses of land customarily incidental to the above permitted uses, but only on same premises with the primary permitted uses.
- (3) CONDITIONAL USES. The following are conditional uses permitted when the location of the use shall have been approved and a conditional use permit has been granted by the Town Board after a public hearing and recommendation by the Planning Commission.
- (a) Amusement parks, including baseball batting ranges, commercial skating rinks, go-cart

tracks, race tracks, golf driving range, miniature golf course or similar establishments.

- (b) Concession stands.
- (c) Dwelling, single family, providing it shall be an accessory to a principle use.
- (d) Institutions of philanthropic or educational nature.
- (e) Marinas, boat liveries, sale of bait and fishing equipment. The service and repair of boats and motors.
- (f) Microwave radio relay structures, providing there would be no adverse affect on neighboring properties.
- (g) Recreation camps, youth camps and campgrounds, provided all buildings shall be more than 100' from the side lot line. Recreation camps shall conform to Ch. HFS 175, Wis. Adm. Code, and campgrounds shall conform to Ch. HFS 178, Wis. Adm. Code, which shall apply until amended and then apply as amended.
- (h) Riding stables and riding academies subject to the provisions contained in §17.49, and rodeos, gymkhanas and similar equestrian events.
- (i) Sanitary landfill, provided no location shall be within ½ mile of the boundary of a Residence District and the operation shall be in full compliance with Ch. NR 51, Wisconsin Solid Waste Disposal Standards.
- (j) Shooting ranges.
 - 1. Shooting ranges provided the requirements for such ranges as stated in the Agricultural District are met.
 - 2. Trap and skeet ranges providing the owner of the trap or skeet range has control by ownership or lease an area no less than 1,800' wide and 900' deep and providing further that there shall be no residences within 1,000' of the external boundaries of the range, unless occupants of such residences waive this condition in writing.
- (k) Travel trailer parks, RV parks, primitive or developed campgrounds provided:
 - 1. The minimum size of a campground shall be five acres.
 - 2. The maximum number of camping spaces shall be 15 per acre.
 - 3. Minimum dimension of each camping space shall be 30' wide by 50' long.
 - 4. Each camping space shall be so located that there shall be at least a 15' clearance between spaces.
 - 5. There shall be 1 1/2 automobile parking spaces available for each camping space.
 - 6. In addition to setback line requirements of §17.23 of this chapter, there shall be a minimum setback of 40' from all other exterior lot lines.
 - 7. Travel trailer parks shall conform to the requirements of Ch. HFS 178, Wis. Adm. Code, which shall apply until amended and then apply as amended.
 - 8. Park units and all other structures except non-transient camping units on existing camping spaces shall obtain a zoning permit prior to placement and shall meet all shoreland and street setbacks and be provided with a state approved sewage disposal septic system (POWTS) when intended for human habitation.

(4) HEIGHT, YARDS, AREA AND OTHER REQUIREMENTS.

- (a) Height. Except as otherwise provided in this chapter, no building shall exceed a height of 35'.
- (b) Lot Area. One acre minimum, with a minimum width of 150' at building setback line.
- (c) Floor Area. Buildings used in whole or in part for residential purposes which are hereafter erected, moved or structurally altered shall have a floor area of no less than 600 square feet.
- (d) Side Yards. There shall be a minimum side yard of 25'.
- (e) Rear Yard. The minimum depth of any rear yard shall be 50', except on waterfront lots.
- (f) Setback Lines. See §17.23, and 17.25.
- (g) Off Street Parking. See §17.70-17.72.

17.49 A-1 GENERAL AGRICULTURAL DISTRICT.

(1) PURPOSE. This Agricultural District is designed to foster the preservation and use of agricultural land related uses and to provide for limited residential uses in a rural environment but not the division of land as classified in Chapter 15 - Town of Texas Land Division and Access Control Ordinance. It is intended to provide multiple options to guide growth and development in concert with the comprehensive plan.

(2) PERMITTED USES. Only the following uses are permitted in the A-1 District:

- (a) Any use permitted in the RS-1 Family Residence Districts and 2 family dwellings and minor subdivisions as classified in Chapter 15 – Town of Texas Land Division and Access Control Ordinance.

Note: Setbacks and all other rules of the A-1 General Agricultural district as contained in 17.49(5) of this Ordinance shall apply to these uses.

- (b) Campers or camping trailers may be stored or parked indefinitely, provided the unit is stored in or behind a structure or is screened from the road with natural screening so that it is not visible from the right-of-way. Tents and self-contained campers or camping trailers may be occupied by the owner or their immediate family on a temporary basis, not to exceed 60 days in a calendar year, provided that a permit is secured from the Town Zoning Administrator or a duly appointed deputy, if the use is to exceed 30 days.
- (c) Ponds which are outside the jurisdiction of the Marathon County shoreland code. Ponds shall maintain a slope from the shoreline no greater than 3' horizontal to 1' vertical to a water depth of 6' when the pond is at its lowest level due either to seasonally fluctuating ground water levels or pumping for irrigation. Ponds exclusively for stock watering within an area fenced for livestock, with a surface area of 2,500 square feet or less, also with 3 foot horizontal to 1 foot vertical slopes (3:1), and with a maximum depth of 6 feet may be permitted with a reduced fee. All ponds shall be located at least 30' from any property boundary or Right-of Way line, 50' from any septic system drainfield area and 25' from any septic or holding tank. Applications for ponds with earthen dams or dikes greater than six (6) feet high shall be designed, or the design reviewed, by an engineer to ensure structural integrity. Pond outlets shall be designed so as not to concentrate runoff onto adjacent property or to cause erosion. Permits for ponds shall be granted or denied based on plans submitted. The permit

holder shall notify the Town Zoning Administrator for an inspection upon completion of the excavation.

- (d) General farming, which complies with other town ordinances, and applicable Wisconsin Administrative Codes and Marathon County ordinances, including dairying, livestock and poultry raising. Where 500 or more animal units are proposed the rules contained in ATCP 51 shall apply. Other agricultural activities such as nurseries, non-commercial greenhouses, beekeeping, vegetable warehouses, seasonal sale of seed and fertilizer and other similar enterprises or uses, except fur farms and farms operated for the disposal or reduction of garbage, sewage, rubbish or offal. Buildings, pens and structures used for the housing, sheltering or feeding of livestock shall be located no less than 100' from any lake or stream. Where meeting this setback is impossible or impractical due to location of existing agricultural facilities, new buildings and building additions may be constructed at a lesser setback provided the degree of non-conformity is not increased as approved by the Town Board.
- (e) Forestry and forest products.
- (f) Hunting and fishing shelters. A building, sometimes referred to as a "hunting shack", intended for temporary occupancy for hunting, fishing or other recreational purposes, provided that the building is located no less than 600' from the nearest residence other than that of the owner and complies with the provisions of Ch.COMM 83, Wis. Adm. Code, and the sanitary requirements of Marathon County. This definition does not include cottages, campers, camping trailers or nonfarm residences.
- (g) Hunting, fishing and trapping.
- (h) Maple syrup processing plant.
- (i) Sawmills. When located 500' minimum distance from a residence other than the owner's.
- (j) Signs. See §17.80-17.83.
- (k) Telephone, telegraph and power transmission and distribution towers, poles and lines, including transformers, substations, relay stations, equipment housings and other similar necessary appurtenant facilities.
- (l) Transient amusements and temporary / intermittent uses such as music festivals, carnivals, rodeos, horse shows and circuses are subject to the Marathon County Assemblies Ordinance and shall require a temporary zoning permit. These activities shall not be permitted for more than three consecutive days nor more than three times in any 365 day period.
- (m) Uses customarily accessory to a permitted or agricultural use.
- (n) Governmental uses such as town halls, garages, solid waste transfer stations and recycling collection centers or depots.
- (o) Land spreading of municipal sewage sludge when done in accordance with and subject to the conditions contained in a permit from the Department of Natural Resources issued pursuant to Wis. Admin. Code NR 204.
- (p) Private Wind Electrical Generation Towers when the height conforms to §17.22, is located at least 300' from the nearest residential structure other than the owner, is set back from the property line the equivalent of the structure's total height plus 20' or if the structure is engineered to collapse on itself, 50' from property lines.

- (3) **CONDITIONAL USES.** The following are conditional uses permitted when the location of the use shall have been approved and a conditional use permit has been granted by the Town Board after a public hearing and recommendation by the Planning Commission.
- (a) Aircraft landing fields, basins and hangars providing the site area is not less than 20 acres.
 - (b) Animal hospitals, and the boarding of animals when the provisions of (i) below can be met.
 - (c) Canneries.
 - (d) Cheese factories.
 - (e) Concrete batching and/or blacktop mix plant (temporary), Processing and recycling of road surface material (temporary).
 - (f) Condenseries.
 - (g) Contractor's storage yards, when any such yard shall be so placed, fenced or screened by a planting so as not to be visible from any public highway or residential building other than that of the owner of such yard, his agent or employee.
 - (h) Creameries.
 - (i) Dog kennels, for training, breeding or boarding, and private dog kennels with more than three (3) dogs that are more than six (6) months old, when located not less than 600' from any residential district or residential building other than that of the owner of such kennels, his agent or employee.
 - (j) Pet cemeteries.
 - (k) Drive-in theaters, provided there is a distance of not less than 1,000' between the boundary of any Residential District and the drive-in theater site, measured in a straight line.
 - (l) Feedlots, provided buildings housing animals or poultry and barnyards or feedlots shall be located not less than 100' from any navigable water.
 - (m) Fish hatchery including fishing for a fee (commercial).
 - (n) Fur farms, pea viners and charcoal kilns, when located not less than 1,000' from any residential building other than that of the owner of the premises, his agent or employee and not less than 1,000' from the right-of-way line of any federal, State and County trunk highway; provided that this regulation shall not apply to portable pea viners where there is no stacking of the vines.
 - (o) Garden or nursery store and commercial greenhouse(s).
 - (p) Grain elevators (commercial).
 - (q) Housing for migrant workers.
 - (r) Game preserves and dog field trial grounds.
 - (s) Incinerator (public).
 - (t) Medical, correctional or charitable institutions.
 - (u) Mini Warehousing. It is generally expected that "Mini Warehousing" as defined will only be allowed in existing farm buildings which would otherwise be vacant due to farm consolidation or for other reasons.

(v) Mobile Homes.

1. One mobile home used for habitation which is not the primary place of residence shall be permitted as an accessory building on any operating farm providing:
 - a. A determination is made in writing by the Town Planning Commission, or the Town Board in the absence of a planning commission, that one or more of the occupants of the mobile home derives a substantial portion of their livelihood from the farm operation and/or substantially participates in the operation of the farm.
 - b. More than one mobile home on the property may be permitted with Town Board approval and a conditional use permit from the Board of Appeals.
 - c. Continued use shall be subject to annual review by the Town Planning Commission.
2. The temporary use of a mobile home, not to exceed one year, unless an extension is authorized in writing by the Town Board, shall be permitted while a permanent dwelling is under construction, providing the mobile home and the permanent dwelling are located on the same lot or parcel of land and providing a County sanitary permit has been obtained for the permanent dwelling and that an approved private waste disposal system is utilized by the temporary mobile home.

(w) Mobile home parks, subject to the conditions in §17.60-17.66 of this chapter.

(x) Commercial radio or TV broadcasting studio and/or tower and microwave relay towers, cellular telephone towers and similar structures which support antennae, dishes or other broadcast, relay, amplification and other transmission devices and their accessory structures when considering the following, which shall be provided by the applicant.

1. Location of all towers used for similar purposes within a three (3) mile radius and co-location possibilities;
2. Method(s) to camouflage, or stealth technology used, to minimize visual impacts;
3. Number of users that tower will support;
4. An inter-modulation study or other documentation which provides a technical evaluation that indicates potential interference problems.

No new or existing telecommunications service shall interfere with public safety telecommunications. The property line setbacks for towers shall be the height of the tower and any antennae plus 20' from any property line or road right-of-way. These setbacks may be reduced if the tower is engineered to collapse on itself. The setback with certification from an engineer shall be the collapse radius plus 20' from all property lines or the Highway and railroad setbacks as prescribed at §17.23 of this ordinance, whichever is greater. No tower shall be within 600 feet of the nearest residence other than the owner of the property upon which the tower will be constructed.

When considering conditions to attach to any permit which may be issued, the Planning Commission should take into account that monopole towers are preferred, with lattice towers being the second preference, and guyed towers being least desirable. Illumination should be limited to the minimum required by FAA or other federal or state authority. Within 180 days of cessation of operations all abandoned or unused towers and accessory structures not to be used for another

purpose shall be removed.

- (y) Riding stables and riding academies subject to the following:
 1. Lighted equestrian trails shall be no closer than 200 feet from any property line or 300 feet from any residence other than that of the owner unless written approval is granted by the adjoining owner(s) for a lesser setback and approval is granted by the Board of Appeals.
 2. Stables, barns, corrals and exercise yards shall be located no closer than 300 feet from any property line of a residential district or residential use as defined in §17.40.
 3. Except in the RC Recreational District no more than 2 persons other than a member of the resident family shall be employed on the premises.
 4. Animal unit densities shall be one (1) per three (3) acres or less
- (z) Roadside stand.
- (aa) Land disposal of waste material other than agricultural waste and sanitary landfill, provided no location shall be within ½ mile of the boundary of any residence district and the operation shall be in full compliance with applicable Wisconsin Administrative Codes.
- (bb) Slaughterhouses, when located not less than 1,000' from any residential building other than that of the owner of the premises, his agent or employee.
- (cc) Commercial shooting ranges provided:
 1. Shooting stands shall be no less than 1,000' from residential buildings, other than that of the owner, his agent or employee unless owners and occupants of such residences waive this condition in writing.
 2. No firing shall be toward or over any named navigable water (determined at the time of application) located within 1,000 feet of the bullet barrier.
 3. The range shall be clearly identified from all directions with conspicuous "Danger Shooting Range" signs.
 4. There shall be a barrier, impenetrable to any missile fired on the range, which shall extend a distance above and to each side of the targets equal to 1' for each 25 yards to the most remote shooting stand, but in no case less than 4' nor shall barriers be required to be more than 20' above the target or 30' to either side of the target unless land uses down range would require a higher or wider barrier.
 5. Trap and skeet ranges providing the owner of the trap or skeet range has under control by ownership or lease an area no less than 1,800' wide and 900' deep and providing further that there shall be no residences within 1,000' of the external boundaries of the range, unless owners and occupants of such residences waive this condition in writing.
- (dd) Travel trailer parks, subject to the provisions for travel trailer parks in the Recreation District. See §17.48(3)(1) & (q).
- (ee) Bed and Breakfast Establishment, Tourist Rooming House, or Boarding House, subject to Chapter 254.61 Wis. Stats.
- (ff) Dams, power plants and flowages.

- (gg) Institutions of a charitable or philanthropic nature, day care or child care facilities, hospitals, clinics and sanatoria, except contagious hospitals and mental institutions.
 - (hh) Libraries, museums and community buildings, private clubs and fraternities, except those whose principal activity is a service customarily carried on as a business.
 - (ii) Livestock collection and transfer depots when located not less than 300' from an RS residential district and when accessory to principal agricultural use of the property.
 - (jj) Commercial Wind Electrical Generation Towers provided no tower shall be located within 1200 ft. of a residence or residential zoning district and the towers shall be set back from any property boundary a distance equivalent to its height to the top of the arc of the rotor plus 100 feet. No tower shall be located in any floodplain or wetland.
- (4) **HABITABLE STRUCTURES.** All new habitable structures other than that of the farm operator shall be located at least 300' from buildings, pens, and structures used for the housing, sheltering or feeding of livestock.
- (5) **HEIGHT, YARDS, AREA AND OTHER REQUIREMENTS.**
- (a) Height. Except as otherwise provided in this chapter, no building shall exceed a height of 35'. See §17.22.
 - (b) Lot Area. Buildings used in whole or in part for residential dwelling purposes which are hereafter erected or structurally altered shall be located on a lot having an area of not less than three (3) acres with a width of 300 feet at the building line.
This requirement shall not apply to mobile homes permitted on farms as an accessory use.
Riding stable/Academy hereafter established shall be located on a parcel having a contiguous area of not less than 35 acres.
 - (c) Floor Area. Buildings used in whole or in part for residential purposes which are hereafter erected, moved or structurally altered shall have a minimum floor area of 840 square feet, provided that this regulation shall not apply to mobile homes permitted on farms.
 - (d) Side Yards. There shall be side yards provided between each building and the property line of no less than 50 feet.
 - (e) Rear Yard. There shall be a minimum rear yard depth of 50 feet.
 - (f) Street Setbacks. See §17.23 Highway and Railroad Setbacks for road classifications.
In addition, buildings which were legally built at a conforming setback and on a conforming lot prior to the adoption of these provisions requiring larger lots and greater setbacks may be added to or rebuilt on the existing foundation subject to all of the limitations of the this district. Side yard, rear yard and street setbacks for substandard lots created prior to adoption as outlined at (4)(b) above shall be based upon the minimum requirements of the next smaller classification.
 - (g) Off Street Parking. See §17.70-17.72.

17.50 A-3 EXCLUSIVE AGRICULTURAL DISTRICT

- (1) **PURPOSE.** The A-3 Exclusive Agricultural District is intended to: preserve productive agricultural land for food and fiber production, preserve productive farms by preventing land use conflicts between incompatible uses, control public service costs, maintain a viable agricultural base to support agricultural processing and service industries, prevent conflicts between incompatible uses, reduce costs of providing services to scattered nonfarm uses, space and shape urban growth, implement the provisions of the County agricultural plan when adopted and periodically revised, and comply with the provisions of the Farmland Preservation Law to permit eligible landowners to receive tax credits under §71.09(11), Wis. Stats.
- (2) **LANDS INCLUDED WITHIN THESE DISTRICTS.** These districts are generally intended to apply to lands which are limited to exclusive agricultural use, including: lands historically exhibiting good crop yields or capable of such yields, lands which have been demonstrated to be productive for dairying, livestock raising and grazing, other lands which are integral parts of such farm operations, land used for the production of specialty crops such as cranberries, ginseng, mint, sod, fruit and vegetables, and lands which are capable of productive use through economically feasible improvements such as irrigation.
- (3) **PERMITTED USES.** Only the following uses are permitted in the A-3 District:
 - (a) One single family dwelling or duplex, provided all other conditions of this chapter and the Private Sewage System Code are met. All new habitable structures other than that of the farm operator shall be located at least 300' from buildings, pens and structures used for the housing, sheltering or feeding of livestock.
 - (b) Mobile homes.
 1. One mobile home used for habitation which is not the primary place of residence shall be permitted as an accessory building on an operating farm providing:
 - a. A determination is made in writing by the Town planning commission, that one or more of the occupants of the mobile home derives a substantial portion of their livelihood from the farm operation and/or substantially participates in the operation of the farm, and provided that each mobile home is provided with proper skirting or a foundation.
 - b. More than one mobile home on the property may be permitted with Town Board approval and a conditional use permit from the Planning Commission.
 2. The temporary use of a mobile home, not to exceed one year, unless an extension is authorized in writing by the Town Board, shall be permitted while a permanent dwelling is under construction, providing the mobile home and the permanent dwelling are located on the same lot or parcel of land and providing a County sanitary permit has been obtained for the permanent dwelling and that an approved private waste disposal system is utilized by the temporary mobile home.
 - (c) Single family dwelling, in addition to permitted residences in sub. (3)(a), providing one or more of the occupants is a parent or child of the operator of the farm, or when the dwelling is to be the retirement home of the present farm operator.
 - (d) Pole buildings, garages, private kennels, and any other buildings necessary to the farm operation or permitted residential uses.

- (e) Campers or camping trailers may be stored or parked indefinitely, provided the unit is stored in or behind a structure or is screened from the road with natural screening so that it is not visible from the right-of-way.
- (f) General farming, which complies with other town ordinances, and applicable Wisconsin Administrative Codes and Marathon County ordinances, including dairying, livestock and poultry raising. Where 500 or more animal units are proposed the rules contained ATCP 51 shall apply. Other agricultural activities such as nurseries, non-commercial greenhouses, beekeeping, vegetable warehouses, seasonal sale of seed and fertilizer and other similar enterprises or uses, except fur farms and farms operated for the disposal or reduction of garbage, sewage, rubbish or offal. Buildings, pens and structures used for the housing, sheltering or feeding of livestock shall be located no less than 100' from any lake or stream. Where meeting this setback is impossible or impractical due to location of existing agricultural facilities, new buildings and building additions may be constructed at a lesser setback provided the degree of non-conformity is not increased as approved by the Town Board.
- (g) One roadside stand per farm, of not more than 300 square feet, used solely for the sale of products more than 50% of which were produced on the premises.
- (h) Forest and game management.
- (i) Hunting and fishing shelters. A building, sometimes referred to as "hunting shack," intended for temporary occupancy for hunting, fishing or other recreational purposes, provided that the building is located no less than 600' from the nearest residence other than that of the owner and complies with the provision of Ch. ILHR 83, Wis. Adm. Code, the sanitary requirements of the Marathon County General Code. This definition does not include cottages, campers, camping trailers or non-farm residences.
- (j) Hunting, fishing and trapping.
- (k) Maple syrup processing plant.
- (l) Sawmills. When located 500' minimum distance from any residence other than that of the owner.
- (m) Signs. See §17.80-17.83.
- (n) Public utility equipment such as telephone and electric power, transmission and distribution poles, towers and lines, including transformers.
- (o) Ponds. Ponds shall comply with §17.49(2)(d) of this code.
- (p) Transient amusements and temporary / intermittent uses such as music festivals, carnivals, rodeos, horse shows and circuses. These activities shall not be permitted for more than three consecutive days nor more than three times in any 365 day period.
- (q) Home occupations and professions.
- (r) Land spreading of municipal sewage sludge when done in accordance with and subject to the conditions contained in a permit from the Department of Natural Resources issued pursuant to Wis. Admin. Code NR 204.
- (s) Private Wind Electrical Generation Towers subject to the provisions of §17.49(2)(q).

- (4) **CONDITIONAL USES.** The following are conditional uses permitted when the location of the use has been approved and a conditional use permit has been granted by the Town Board after a public hearing and recommendation by the Planning Commission. Such approval shall be consistent with the general purpose and intent of this chapter and shall be based upon such evidence as may be presented at such public hearing. The Planning Commission, in passing upon applications for these conditional use permits, shall consider the following factors: the statement of purposes of this chapter and the A-3 District, the potential for conflict with agricultural use, the need of the proposed use for a location in an agricultural area, the availability of alternative locations, compatibility with existing or permitted uses on adjacent lands, the productivity of the lands involved, the location of the proposed use so as to reduce to a minimum the amount of productive agricultural land converted, the need for public services created by the proposed use, the availability of adequate public services and the ability of affected local units of government to provide them without an unreasonable burden. These uses are as follows:
- (a) Canneries.
 - (b) Cheese factories.
 - (c) Concrete or blacktop batching plant (temporary only).
 - (d) Condenseries.
 - (e) Commercial feedlots and buildings housing 250 or more animals.
 - (f) Creameries.
 - (g) Dog kennels, for training, breeding or boarding, and private dog kennels with more than three (3) dogs that are more than six (6) months old, when located not less than 600' from any residential district or residential building other than that of the owner of such kennels, his agent or employee. Dog field trial grounds.
 - (h) Facilities used for the centralized bulk collection, storage and distribution of agricultural products to wholesale and retail markets.
 - (i) Facilities used to provide veterinarian services for livestock.
 - (j) Facilities used in processing of agricultural products.
 - (k) Fish hatchery (commercial).
 - (l) Fur farms when located not less than 1,000' from any residential building other than that of the owner of the premises, his agent or employee.
 - (m) Governmental uses such as Town Halls, garages, solid waste transfer stations and recycling collection centers or depots.
 - (n) Public utility substations, relay stations and microwave receivers and transmitters, semipublic and private utility towers, receivers, transmitters and other similar necessary appurtenant facilities, commercial radio or TV broadcasting tower(s), cellular telephone towers and similar structures subject to the provisions of §17.49(3)(w).
 - (o) The establishment of farms with a total contiguous land area of less than 35 acres and/or exceeding one animal unit per acre. Provisions for approval must include a suitable manure disposal plan, controlled barnyard runoff, and must address other management concerns.

- (p) Riding stables and riding academies pursuant to §17.49(3)(x) of this Code.
 - (q) Land disposal of waste material other than agricultural waste and sanitary landfill, provided no location shall be within ½ mile of the boundary of any residence district and the operation shall be in full compliance with Ch. NR 214 and 500-524, or other applicable NR Codes.
 - (r) Bed and Breakfast Establishment, Tourist Rooming House, or Boarding House subject to Chapter 254.61 Wis. Stats.
 - (s) Livestock collection and transfer depots when located not less than 300' from an RS residential district and when accessory to the principal agricultural use of the property.
- (5) CONDITIONS ATTACHED TO CONDITIONAL USES.
- (a) Upon a consideration of information supplied at the public hearing and a review of the standards contained in sub. (4), the following conditions may be attached to the granting of a conditional use: increased setbacks and yards; specifications for water supply, liquid waste and solid waste disposal facilities; landscaping and planting screens, sureties, operational controls and time of operation; air pollution controls; erosion prevention measures; location of the use; and similar requirements found necessary to fulfill the purpose and intent of this chapter. Violation of these conditions shall constitute a violation of this chapter as provided in §17.94.
 - (b) The Department of Agriculture, Trade and Consumer protection shall be notified of the approval of any conditional uses.
- (6) HEIGHT, YARDS, AREA REQUIREMENTS.
- (a) Lot Area.
 1. The minimum lot size to establish a residence or farm operation is 35 contiguous acres, except provided in sub-pars 2. through 4. below, (§91.75, Wis Stats., as amended).
 2. The minimum lot size shall be one acre to establish a separate parcel for an additional residence for parents or children of the farm operator, or for persons earning a substantial part of their livelihood from the farm operation. A statement from the Town Board that the intended owner of the lot meets the criteria of this section, and that the parcel is the first (only) parcel intended for the farmer, his child, or parent.
 3. Where an additional residence for persons specified in the above subparagraph 2. is located on a farm without creating a separate parcel, the residence shall be at least 40' from other residences.
 4. The minimum lot size for farm residences or structures which are separated from a large parcel through farm consolidation shall be one acre outside of the road right-of-way and shall not be less than 150' wide at the building line and road right-of-way. No lot shall be created such that the existing structure or the septic system serving the structure becomes nonconforming due to the property boundary setbacks or other minimum setbacks.
 5. Lots or parcels having less than 35 acres that legally existed prior to the Town Board's approval of this section may be developed pursuant to §17.21(2) of this Code.

A lot having an area of more than one acre and less than 35 acres may be reduced to a minimum of one acre provided there is no net increase in the number of lots. Minimum lot width shall be 150 feet. Minimum frontage on a public highway shall be 33 feet.

- (b) Height.
 - 1. The maximum height of a farm dwelling shall not exceed 35'.
 - 2. The maximum height of other structures shall meet the provisions of §17.22 of this chapter.
- (c) Side Yards. There shall be a side yard provided between each building and the property line of no less than 20'.
- (d) Rear Yard. The minimum depth of any rear yard shall be 50', except on waterfront lots.
- (e) Setback Lines. See §17.23, and 17.25.
- (f) Off Street Parking. See §17.70-17.72.
- (g) Floor Area. Buildings used in whole or in part for residential purposes which are hereafter erected, moved or structurally altered shall have a minimum floor area of 840 square feet, provided that this regulation shall not apply to mobile homes permitted as accessory buildings on operating farms.

(7) STANDARDS FOR REZONING.

- (a) The State Department of Agriculture, Trade and Consumer Protection shall be mailed a copy of the notice of a public hearing on a petition for a rezone and following the hearing a copy of the findings upon which the decision to deny or grant the petition was based.
- (b) Decisions on petitions for rezoning areas zoned for exclusive agricultural use shall be based on findings which consider the following:
 - 1. Adequate public facilities to serve the development are present or will be provided.
 - 2. Provisions of these facilities will not be an unreasonable burden to local government.
 - 3. The land is suitable for development.
 - 4. Development will not cause unreasonable air and water pollution, soil erosion or adverse effects on rare or irreplaceable natural areas.
 - 5. The potential for conflict with remaining agricultural uses in the area.
 - 6. The need of the proposed development location in an agricultural area.
 - 7. The availability of alternative locations.
 - 8. The productivity of the agricultural lands involved.
 - 9. The location of the proposed development to minimize the amount of agricultural land converted.

17.52 RR RURAL RESIDENTIAL AND RE RURAL ESTATE DISTRICTS.

- (1) PURPOSE. The purpose of the RR and RE districts is to provide for and promote small to medium lot residential living with some limited agricultural activities, and as a zoning classification for transition of areas from agriculture to more dense residential development.
- (2) LANDS INCLUDED IN THESE DISTRICTS. These districts are for the accommodation of rural parcels generally less than 35 acres in size that are not part of larger farm operations.
- (3) PERMITTED USES. Only the following uses are permitted in the RR and RE Districts:
 - (a) One single family dwelling provided all other conditions of this chapter and the Private Sewage System Code can be met.
 - (b) Limited farming including large pet/hobby animals in the RE district only and feed and vegetable crops and other similar enterprises or uses in the RR and RE Districts. There shall be no more than one animal unit per 2.5 acres. (See §17.08 for ANIMAL UNIT.)
 - (c) "Hobby" farms, forestry, beekeeping, plant nurseries, fish hatcheries and noncommercial greenhouses and ponds subject to the conditions contained in §17.43(2)(l) of this chapter.
 - (d) One temporary roadside stand per lot, not more than 300 square feet, used solely for the sale of products at least 50% of which were produced on the premises.
 - (e) Garage and/or usual accessory buildings, private kennels.
 - (f) Public utility equipment such as telephone and electric power, distribution poles, towers and lines, including transformers.
 - (g) Churches, cemeteries subject to Wis. Stats §157, public and parochial schools, colleges and universities.
 - (h) Ponds subject to the conditions contained in §17.49(2)(c) of this chapter. In addition, ponds shall maintain a minimum slope of 4' horizontal to 1' vertical to a water depth of 6' and a 3' horizontal to 1' vertical slope below the 6' depth. Disposal and/or stabilization of spoil from pond excavation shall be addressed on the pond plans and a 3' horizontal to 1 vertical slope shall be the minimum.
 - (i) Home occupations and home professions.
- (4) CONDITIONAL USES.
 - (a) Stables and riding schools in the RE District only.
 - (b) Fish hatcheries in the RE District only.
 - (c) Large pet/hobby animals in the RR Districts, not to exceed one animal unit per 3.0 acres.
 - (d) Agriculturally related commercial enterprises, including but not limited to, cheese factories, veterinary hospitals and clinics, seed, fertilizer and chemical sales, feed mills, but not farm machinery sales and service.
 - (e) Commercial radio or TV broadcasting studio and/or tower and microwave relay towers, cellular telephone towers and similar structures which support antennae, dishes or other broadcast, relay, amplification and other transmission devices and their accessory structures shall comply with the provisions of §17.49(3)(w).

- (f) Signs, per §17.80-17.83.
 - (g) Bed and Breakfast Establishment, Tourist Rooming House, or Boarding House subject to Chap 254.61 Wis. Stats.
- (5) HEIGHT, YARD, AREA AND OTHER REQUIREMENTS.
- (a) Height requirements, front, side, and rear yard requirements, and floor area requirements for the AR and AE districts shall be the same as described in §17.49(4).
 - (b) The minimum lot size in the AR district shall be 2 acres. The maximum lot size in the AR district shall be 10 acres. The minimum lot width shall be 150'.
 - (c) The minimum lot size in the AE district shall be 5 acres. The minimum lot width shall be 210'.

17.54 C-1 COMMERCIAL DISTRICT.

- (1) PURPOSE. This district is designed to provide for a wide range of retail stores and personal service establishments which cater to frequently recurring needs. The regulations are designed to promote stability of retail development by encouraging continuous retail frontage.
- (2) PERMITTED USES. Only the following uses are permitted in the C-1 District:
- (a) Animal hospitals and clinics, but not the boarding of animals.
 - (b) Antique or art shop.
 - (c) Bakery employing not over 8 persons on the premises.
 - (d) Bank, savings and loan or other financial institutions.
 - (e) Barber shop, beauty parlor.
 - (f) Boat and motorcycle sales and service.
 - (g) Book and stationery store.
 - (h) Business, professional offices and clinics.
 - (i) Clothing store, department store, shoe store, shoe repair shop.
 - (j) Clubs and lodges.
 - (k) Commercial entertainment facilities, but not drive-in theater.
 - (l) Dance studios.
 - (m) Drugstore.
 - (n) Dwelling, single family, but only as an accessory to a principle use for the caretaker or owner and his family only.
 - (o) Florist shop, greenhouse.
 - (p) Food products (retail), fruit and vegetable store, grocery store, meat and fish market, supermarket.
 - (q) Funeral homes.
 - (r) Furniture store, appliances, office equipment, upholstery.
 - (s) Hardware, household appliances, plumbing, heating and electrical supplies, auto supplies.

- (t) Health club.
 - (u) Hotel, motel.
 - (v) Insurance firms, real estate firms, stockbrokers.
 - (w) Jewelry store.
 - (x) Laundry, cleaning and dyeing establishment.
 - (y) Libraries, museums.
 - (z) Martial arts schools.

 - (aa) Music, radio and television store, record shop.
 - (ab) Paint store, interior decorator.
 - (ac) Parking lot.
 - (ad) Photographer, photography supply shop.
 - (ae) Printing and duplicating.
 - (af) Public utility office or substation, telephone exchanges, fire stations, police station, administration buildings and similar uses.
 - (ag) Publishing office.
 - (ah) Radio and television broadcasting studio, tower, mast or aerial, microwave radio relay structures.
 - (ai) Retail stores and shops offering convenience goods and services.
 - (aj) Restaurant, café, but not drive-in restaurant.
 - (ak) Signs, billboards, (See §17.80-17.83) sign painting shop.
 - (al) Sporting goods stores.
 - (am) Theater, except drive-in theater.
 - (an) Vocational schools and learning centers conducted for profit.
 - (ao) Manufacturing or storage in connection with any of the above uses, when clearly incidental to the conduct of a retail business on the premises.
- (3) **CONDITIONAL USES.** The following are conditional uses permitted when the location of the use shall have been approved and a conditional use permit granted by the Town Board after a public hearing and recommendation by the Planning Commission.
- (a) Amusement parks including baseball batting ranges, commercial skating rinks, go-cart tracks, golf driving range, miniature golf course or similar establishments.
 - (b) Automobile sales, service stations, repair, body shops, car wash.
 - (c) Bowling alleys, dance halls, skating rinks.
 - (d) Day care or child care facilities.
 - (e) Drive-in restaurant.
 - (f) Drive-in theater.

- (g) Farm equipment sales and service.
- (h) Farm machinery sales and service.
- (i) Feed and seed stores.
- (j) Fishing bait (live) stores.
- (k) Lumber yards.
- (l) Marinas.
- (m) Mobile homes sales and service.
- (n) Motorcycle sales, repair and service.
- (o) Newspaper office and press rooms.
- (p) Tavern.
- (q) Transportation terminals, taxi, limo and bus terminals.
- (r) Wholesale establishments.
- (s) Outdoor and indoor sports facilities and entertainment facilities which are part of a tavern's operations.
- (t) Commercial radio or TV broadcasting towers , cellular telephone towers and similar structures subject to the provisions of §17.49(3)(w).

(4) HEIGHT, YARDS, AREA AND OTHER REQUIREMENTS.

- (a) Height. Except as otherwise provided in this chapter, no building shall exceed a height of 35'. One additional foot of extra height may be permitted provided one additional foot of each side and rear yards for each additional foot of extra height is also established up to a maximum height of 60' unless the Board of Appeals approves a greater height. See §17.22.
- (b) Lot area. The minimum lot area shall be 10,000 square feet and the minimum lot width shall be 75' at the building line.
- (c) Floor Area. Buildings used in whole or part for dwelling purposes, as opposed to accommodations for transients, shall have a floor area as required by the regulations of RM Multiple Family Residence District.
- (d) Side Yards. Side yards shall be not less than 10' wide.
- (e) Rear Yard. There shall be a rear yard of not less than 20' in depth.
- (f) Setback Lines. (Streets and Waterlines) See §17.23, and 17.25.
- (g) Off Street Parking. See §17.70-17.72.

17.55 M-1 LIGHT INDUSTRIAL DISTRICT.

- (1) PURPOSE. The light industrial and Office District is intended for any manufacturing or industrial operation which, on the basis of actual physical and operational characteristics would not be detrimental to the surrounding area or to the Town as a whole by reason of noise, dirt, smoke, odor, traffic, physical appearance or other similar factors.
- (2) PERMITTED USES. Only the following uses are permitted in the M-1 District:

- (a) Automotive heavy repair and upholstery, body shop.
 - (b) Cleaning, pressing and dyeing establishments.
 - (c) Commercial greenhouses.
 - (d) Dwellings, single family, but only as an accessory to a principle use, for the caretaker or owner and his family only.
 - (e) Food locker plants.
 - (f) General or clerical office.
 - (g) Light industrial plants such as required for production of millwork, machine tools, paper containers, patterns, die castings, light metal fabrication and similar small industries which do not require loud presses.
 - (h) Manufacture, fabrication, packing, packaging and assembly of products from furs, glass, leather, metals, paper, plaster, plastic, textiles and wood Manufacture, fabrication, packing, packaging and assembly of confections, cosmetics, electrical appliances, electronic devices, instruments, jewelry, pharmaceuticals, tobacco, toiletries and foods except cabbage, fish and fish products, meat and meat products and pea vineries.
 - (i) Manufacturing and bottling of nonalcoholic beverages.
 - (j) Painting.
 - (k) Printing.
 - (l) Professional offices.
 - (m) Publishing.
 - (n) Research and testing laboratories.
 - (o) Schools and training centers.
 - (p) Warehousing, inside storage and mini warehousing. Inside storage of contractors' supplies and equipment, and outside storage when screened from the view of any public right-of-way and residences other than the owner's.
 - (q) Wholesalers and distributors. Common and contract hauler parking and structures for the repair and maintenance of the vehicles.
 - (r) Signs. (See §17.80-17.83).
 - (s) Transportation terminals, taxi, limo and bus terminals.
- (3) **CONDITIONAL USES.** The following are conditional uses permitted when the location of the use shall have been approved and a conditional use permit has been granted by the Town Board after a public hearing and recommendation by the Planning Commission.
- (a) Airports, air strip and landing fields providing the site area is not less than 20 acres.
 - (b) Automobile, construction, and farm machinery sales or service businesses.
 - (c) Commercial service facilities, such as restaurants and fueling stations provided all such services are physically and sales-wise oriented toward industrial district users and employees and other users are only incidental customers.
 - (d) Governmental and cultural uses, such as fire and police stations, community centers, libraries, public emergency shelter, parks, playgrounds and museums.

- (e) Manufacturing, processing and storage of dry ice and building materials, lumber yards.
 - (f) Public passenger transportation terminals, such as heliports, bus and rail depots, provided all principal structures and uses are not less than 100' from any residential district boundary.
 - (g) Commercial wind electrical generation towers subject to the provisions of §17.49(3)(aj).
 - (h) Commercial radio or TV broadcasting towers, cellular telephone towers and similar structures subject to the provisions of §17.49(3)(w).
- (4) HEIGHT, YARDS, AREA AND OTHER REQUIREMENTS.
- (a) Height. The maximum height shall be 45' except that this may be increased to 60', provided all yards are increased 3' in width for each 5' of additional height.
 - (b) Lot Area. The minimum lot area shall be 20,000 square feet.
 - (c) Width. The minimum width shall be 150'.
 - (d) Side Yards. The minimum side yard shall be 20', provided further that any such side yard which abuts a boundary of a Residence District shall be not less than 25' wide, unless such Residence District boundary lies within a street or alley.
 - (e) Rear Yard. The minimum rear yard shall be not less than 25' in depth.
 - (f) Prohibited Uses of Yards. Any yard which abuts a boundary of a non-industrial district shall not have an automobile parking lot, stockpile, waste or salvage pile, equipment storage or other accumulation of material or equipment in the open, placed in such yard, except that loading platforms may be established in a yard if it abuts on a railroad.
 - (g) Setback Lines. (Streets and Waterlines) See §17.23, and 17.25.
 - (h) Off Street Parking. See §17.70-17.72.

17.56 M-2 HEAVY INDUSTRIAL DISTRICT.

- (1) PURPOSE. The Heavy Industrial District is intended to provide for uses which by their nature could exhibit characteristics harmful, noxious or detrimental to surrounding uses of the land.
- (2) PERMITTED USES. Only the following uses are permitted in the M-2 District:
 - (a) Any use permitted in the M-1 Light Industrial District.
 - (b) Automobile sales and service stations.
 - (c) Freight yards and depots including livestock collection, transfer and sales.
 - (d) Breweries.
 - (e) Inside storage and outside storage when fenced.
 - (f) Lumber yards.
 - (g) Binderies.
- (3) CONDITIONAL USES. The following are conditional uses permitted when the location of the use shall have been approved and a conditional use permit has been granted by the Town Board after a public hearing and recommendation by the Planning Commission. Such

approval shall be consistent with the general purpose and intent of this chapter and shall be based upon evidence presented at such public hearing.

- (a) Airports, airstrips and landing fields provided the site area is not less than 20 acres.
- (b) Commercial service facilities, such as restaurants and bulk fueling stations provided all such services are physically and sales oriented toward industrial district users and employees and other users are only incidental customers.
- (c) Creameries, condenseries.
- (d) Crematories.
- (e) Manufacture and processing of abrasives, acetylene, acid, alkalis, ammonia, asphalt, batteries, bedding, bleach, bone, cabbage, candle, carpeting, celluloid, cement, cereals, charcoal, chemicals, chlorine, coal tar, coffee, coke, cordage, creosote, dextrine, disinfectant, dye, excelsior, fish, fuel, gelatin, glucose, hair products, ice, ink, insecticide, lampblack, lime, lime products, linoleum, matches, meat, oilcloth, paint, peas, perfume, pickle, plastics, poison, polish, potash, pulp, pyroxylin, rope, rubber, sausage, shoddy, size, starch, textiles and varnish.
- (f) Manufacture and bottling of alcoholic beverages, bag cleaning, canneries, cold storage warehouse, electric and steam generating plants, electro plating, enameling, forges, foundries, garbage incinerators, lacquering, lithographing, offal, rubbish or animal reduction, oil, coal and bone distillation refineries, road test facilities, slaughterhouses, smelting, stockyards and tanneries provided such uses shall be at least 600' from residential districts.
- (g) Manufacturing, processing and storage of building materials, explosives, dry ice, fat, fertilizer, flammables, gasoline, glue, grains, grease, lard, plastics, radioactive materials, shellac, soap, turpentine, vinegar and yeast.
- (h) Mining of nonmetallic minerals and the processing for manufacture of materials incidental to such extraction and the erection of buildings and the installation of equipment and machinery may be permitted provided:
 - 1. Nonmetallic mining shall comply with the applicable terms of the General Marathon County Code of Ordinances regarding Nonmetallic Mining.
 - 2. All operations shall be at least 50' from the centerline of any right-of-way and 10' from any property line of another person or company. All accessory uses such as offices and parking areas shall be at least 100' from any right-of-way or property line.
- (i) Municipal sewage disposal plants and related facilities.
- (j) Adult entertainment, adult bookstore/adult novelty shop whether or not alcohol is served.
- (k) Solid waste and recycling transfer stations.
- (l) Commercial wind electrical generation towers subject to the provisions of §17.49(3)(aj).
- (m) Commercial radio or TV broadcasting towers, cellular telephone towers and similar structures subject to the provisions of §17.49(3)(w).
- (n) Automobile wrecking yard, junk yard, or salvage yard, and portable tire shredders shall

be surrounded by a solid fence or evergreen planting screen completely preventing a view from any other property or public right-of-way and shall be at least 600' from the nearest residence except that of the owner, his agent, or employee.

(4) HEIGHT, AREA, YARDS AND OTHER REQUIREMENTS.

- (a) Height. The maximum height of buildings shall be 45' except that this may be increased to 60', provided all yards are increased 3' in width for each 5' of additional height.
- (b) Lot Area. The minimum lot area shall be 20,000 square feet.
- (c) Width. The minimum width shall be 150'.
- (d) Side Yards. The minimum side yard shall be 20', provided further than any such side yard which abuts a boundary of a Residence District shall not be less than 25' wide, unless such Residence District boundary lies within a street or alley.
- (e) Rear Yard. The minimum rear yard shall be not less than 25' in depth. Any yard which abuts a boundary of a Residence District shall not have an automobile parking lot, stockpile, waste or salvage pile, equipment storage or other accumulation of material or equipment in the open, placed in such yard, except that loading platforms may be established in a yard if it abuts on a railroad.
- (f) Setback lines. See §17.23, and 17.25.

17.59 WELLHEAD PROTECTION OVERLAY DISTRICT

- (1) PURPOSE AND AUTHORITY. The purpose of this Wellhead Protection District is to institute land use regulations to protect the municipal water supplies, and to promote the public health, safety and general welfare.
- (2) APPLICATION OF REGULATIONS. The overlay regulations specified in this Wellhead Protection District shall apply to the areas of the Town of Texas that lie within the recharge areas for municipal water supply wells, and are in addition to the requirements in the underlying zoning district. If there is a conflict between this district and the underlying zoning ordinance, the more restrictive provision shall apply.
- (3) GROUNDWATER PROTECTION OVERLAY DISTRICT ZONE A.
 - (a) INTENT. The primary portion of the municipal well recharge area to be protected is the land within the cone(s) of depression and the area defined as Zone A and as shown on maps on file in the Town. These lands are subject to the most stringent land use and development regulations because of close proximity to the wells and the corresponding high threat of contamination.
 - (b) PERMITTED USES. The following uses are permitted uses within Groundwater Protection Overlay District Zone A. Uses not listed here or in Section 17.59(3)(c) are considered prohibited.
 - 1. Parks and playgrounds, provided there are no petroleum storage tanks or pesticide and fertilizer facilities, also provided that on-site waste disposal facilities or structures shall meet current codes.
 - 2. Wildlife areas.
 - 3. Non-motorized trails, such as biking, skiing, nature and fitness trails.
 - 4. Sewered residential development subject to conditions in Section 17.59(6).

5. Unsewered single family residential development on existing lots of record on the effective date of this ordinance or amendment and subject to the conditions contained in Section 17.59(6).
- (c) **CONDITIONAL USES.** The following uses may be permitted on a case-by-case basis providing adequate groundwater protection and monitoring measures are provided as determined by the Town Board after a public hearing and recommendation by the Planning Commission.
1. Commercial uses served by a municipal sanitary sewer except those listed specifically as being prohibited in Section 17.59(3)(d).
 2. Agricultural activities including but not limited to pasture. Conduct and management of these activities shall be subject to a farm plan based on the potential for groundwater contamination utilizing standards in the Technical Guide adopted by the Marathon County Land Conservation Committee.
- (d) **PROHIBITED USES.** The following are prohibited uses within the Groundwater Protection Overlay District Zone A. These uses are prohibited based on the high probability that activities routinely associated with these uses may cause groundwater contamination.
1. Animal confinement facilities and animal waste facilities.
 2. Any manufacturing or industrial business and asphalt product manufacturing.
 3. Bus or truck terminals.
 4. Bulk fertilizer and/or pesticide facilities.
 5. Cemeteries.
 6. Dry cleaning businesses.
 7. Electroplating facilities.
 8. Extermination businesses.
 9. Retail and wholesale liquid motor fuel dispensing facilities.
 10. Hazardous and/or toxic materials storage and waste facilities.
 11. Junk yards or auto salvage yards.
 12. Landfills or waste disposal facilities.
 13. Paint and coating manufacturing.
 14. Printing and duplicating businesses.
 15. Radioactive waste facilities.
 16. Recycling facilities, solid waste collection centers, and recycling collection centers.
 17. Repair shops including vehicle repair establishments and auto body repair shops.
 18. Salt storage.
 19. Septage, sewage sludge, and/or wastewater spreading.
 20. Spray wastewater facilities.

- 21. Petroleum product storage tanks.
- 22. Wastewater treatment or disposal facilities.

Where any of the uses listed in 17.59(3)(d) exist within the Groundwater Protection Overlay District Zone A on the effective date of this ordinance, those uses shall be deemed non-conforming. Owners of these facilities will be allowed to upgrade the facilities to facilitate or enhance groundwater protection within the provisions of non-conformity contained in the Zoning Ordinance. Plans for the proposed upgrade must be approved and the appropriate permit issued by the Board of Appeals prior to any work being initiated. Expansion of any pre-existing non-conformity is prohibited.

(4) GROUNDWATER PROTECTION OVERLAY DISTRICT ZONE B

- (a) INTENT. A secondary portion of the municipal well recharge areas to be protected is the land which lies within Zone B as shown on maps on file in the Department. Land use restrictions within Zone B are less restrictive than in Zone A because of longer flow times and a greater potential for remediation, dilution, and attenuation.
- (b) PERMITTED USES. The following uses are permitted within Groundwater Protection Overlay District Zone B. Uses not listed here or in 17.59(4)(c) are considered prohibited uses unless a determination as outlined in Section 17.59(3)(b) is made for similar uses.
 - 1. All uses listed as permitted uses in Groundwater Protection Overlay District Zone A.
 - 2. Agricultural activities which follow Agricultural Best Management Practices.
 - 3. Above ground petroleum product storage tanks up to 660 gallons when located in confinement structures as required by Section 17.59(6)(e).
 - 4. Basement heating fuel storage tanks.
 - 5. Commercial and/or industrial uses served by municipal sanitary sewer, except those listed as prohibited uses in Section 17.59(4)(d).
 - 6. Unsewered single family residential uses subject to the conditions in Section 17.59(6).
- (c) CONDITIONAL USES. The following uses may be permitted on a case-by-case basis providing adequate groundwater protection and monitoring measures are provided as determined by the Town Board after a public hearing and recommendation by the Planning Commission.
 - 1. Nurseries for ornamental plants, greenhouses, and pesticide and fertilizer storage and associated uses for retail sales outlets.
 - 2. Cemeteries.
 - 3. Salt storage, including salt/sand combinations.
 - 4. Recycling facilities, solid waste collection centers and recycling collection centers.
- (d) PROHIBITED USES. The following uses are prohibited uses within Groundwater Protection Overlay District Zone B, except as provided in Sections 17.59(4)(c) or 17.59(6). These uses are prohibited based on the high probability that activities routinely associated with these uses may cause groundwater contamination.

1. Underground petroleum product storage tanks.
2. Unsewered commercial and/or industrial development.
3. Commercial pesticide and/or fertilizer storage, mixing and loading facilities.
4. Septage, sewage and/or wastewater spreading.
5. Retail and/or wholesale liquid motor fuel dispensing facilities.
6. Vehicle repair shops including auto body repair.
7. Printing and duplicating businesses which use hazardous chemical as defined by the EPA in their printing process.
8. Bus or truck terminals.
9. Landfills.
10. Wastewater treatment or disposal facilities.
11. Spray wastewater facilities.
12. Automobile salvage yards or junk yards.
13. Animal confinement facilities (except veterinary hospitals and clinics).
14. Asphalt products manufacturing.
15. Dry cleaning facilities.
16. Electroplating facilities.
17. Extermination shops.
18. Painting and coating manufacture.
19. Hazardous and/or toxic material storage and/or facilities.
20. Radioactive waste facilities.
21. Garage and vehicular towing.
22. Public and municipal maintenance garages.

Where any of the uses listed in Section 17.59(4)(d) exist within Groundwater Protection Overlay District Zone B on the effective date of this ordinance, owners of these facilities will be allowed to upgrade the facilities to facilitate or enhance groundwater protection pursuant to the provisions outlined in Section 17.59(3)(d). Expansion of any pre-existing non-conforming use is prohibited.

(5) GROUNDWATER PROTECTION OVERLAY DISTRICT ZONE C

- (a) INTENT. The outermost portion of the municipal well recharge area to be protected is the land which lies within Zone C as shown on maps on file in the Department. Land use restrictions within Zone C are less restrictive than in either Zone A or Zone B because it is the portion of the recharge area most distant from the well(s).
- (b) PERMITTED USES. The following uses are permitted within Groundwater Protection Overlay District Zone C. Uses not listed here or in 17.59(5)(c) are considered prohibited uses.
 1. All uses listed as permitted uses in Groundwater Protection Overlay District B.

2. Nurseries for ornamental plants, greenhouses and pesticide and fertilizer storage at the location of retail sales, provided that these products are delivered in retail quantity containers and no repackaging and/or mixing is done on the site.
 3. Veterinary hospitals and clinics (but not the training, breeding or boarding of animals).
- (c) **CONDITIONAL USES.** The following may be permitted on a case-by-case basis providing adequate groundwater protection and monitoring measures are provided as determined by the Town Board after a public hearing and recommendation by the Planning Commission.
1. Cemeteries.
 2. Salt storage including sand/sand combinations.
 3. Recycling facilities, solid waste collection centers and recycling collection centers.
- (d) **PROHIBITED USES.** The following uses are prohibited uses within the Groundwater Protection Overlay District Zone C except as provided in Section 17.59(5)(c) or 17.59(6). These uses are prohibited based on the high probability that activities routinely associated with these uses may cause groundwater contamination.
1. Underground petroleum product storage tanks.
 2. Unsewered commercial and/or industrial development.
 3. Commercial pesticide and/or fertilizer storage, mixing and loading facilities.
 4. Septage, sewage and/or wastewater spreading.
 5. Retail and/or wholesale liquid motor fuel dispensing facilities.
 6. Vehicle repair shops including auto body repair.
 7. Printing and duplicating businesses which use hazardous chemical as defined by the EPA in their printing process.
 8. Bus or truck terminals.
 9. Landfills.
 10. Wastewater treatment or disposal facilities.
 11. Spray wastewater facilities.
 12. Automobile salvage yards or junk yards.
 13. Animal confinement facilities (except veterinary hospitals and clinics).
 14. Asphalt products manufacturing.
 15. Dry cleaning facilities.
 16. Electroplating facilities.
 17. Extermination shops.
 18. Painting and coating manufacture.
 19. Hazardous and/or toxic material storage and/or facilities.
 20. Radioactive waste facilities.
 21. Garage and vehicular towing.
 22. Public and municipal maintenance garages.

Where any of the uses listed in Section 17.59(5)(d) exist within Groundwater Protection Overlay District Zone B on the effective date of this district, owners of these facilities will be allowed to upgrade the facilities to facilitate or enhance groundwater protection pursuant to the provisions outlined in Section 17.59(3)(d). Expansion of any pre-existing non-conforming use is prohibited.

(6) DESIGN AND PERFORMANCE STANDARDS

(a) INTENT. The following standards and requirements shall apply to all uses permitted within the Groundwater Protection Overlay District.

(b) LOT SIZE. Minimum lot size for unsewered residential uses shall be 2 acres except for:

1. Existing lots of record on the effective date of this ordinance.

(c) LANDSCAPING AND MAINTAINED LAWN OR GRASS.

1. All commercial and industrial uses shall be allowed a maximum of 50% of the lot area to be maintained lawn or grass. In no instance shall the area of maintained lawn or grass exceed the area of impervious surfaces on the lot.

2. Sewered residential uses are permitted a maximum area of maintained lawn or grass as shown below:

<u>Lot Area</u>	<u>Lawn Area</u>
15,000 square feet	6,000 square feet
½ Acre	8,000 square feet
¾ Acre	11,000 square feet
1 Acre	14,000 square feet
1 ½ Acres	20,000 square feet
2 Acres	26,000 square feet

Maximum lawn areas for lot sizes not listed shall be based on the average percentage of lawn area allowed on the two nearest lot sizes listed.

3. Unsewered residential uses are permitted a maximum area of maintained lawn or grass as shown below:

<u>Lot Area</u>	<u>Lawn Area</u>
2 Acres	8,000 square feet
3 Acres	21,000 square feet
4 Acres	31,000 square feet
5 Acres or larger	44,000 square feet

Maximum lawn areas for lot sizes not listed shall be based on the average percentage of lawn area allowed on the two nearest lot sizes listed.

4. Natural vegetative covers not requiring the use of pesticides or fertilizer after initial establishment are encouraged as an alternative to lawn or grass.

(d) STORM DRAINAGE AND SNOW MELT. All storm drainage for commercial and industrial sites shall be retained on the site or discharged to a municipally operated storm drain. If retained on the site, storm water shall be discharged to settling basins

where it shall percolate through at least six inches of topsoil with vegetation established as in Section 17.59(6)(c). Use of drywells or other subsurface drains for storm water drainage is prohibited, as is the use of a groundwater pond.

(e) PETROLEUM, PESTICIDE, FERTILIZER AND SALT STORAGE.

1. All petroleum product storage tanks shall provide leak-proof containment not less than 125% of the tank volume except basement heating fuel storage tanks.
2. Pesticide and fertilizer storage is permitted at the location of retail sales of these products provided that the products are delivered in retail quantity containers and no re-packaging and/or mixing is done on the site.
3. Pesticide and fertilizer storage is permitted on a farm for use on that farm by the owner or farm operator.
4. Bulk liquid pesticide/fertilizer storage containers exceeding 55 gallons are permitted providing the containers are located within a leak-proof containment area not less than 125% of the volume of the largest container. ICC approved transport containers do not require containment.
5. Salt storage must conform to standards in Chapter Trans. 277, Wisconsin Administrative Code.

(f) ANIMAL WASTE - STORAGE AND HANDLING.

1. Animal waste storage facilities must meet the standards of the County Animal Waste Management Ordinance.
2. Animal waste, in combination with chemical fertilizer or other soil amendments, shall not be applied at rates which exceed the nutrient requirements of the crops grown on the application site.
3. Conduct and management of agricultural activity shall be subject to a plan utilizing standards of the County Technical Guide, as adopted by the County Land Conservation Committee.

(7) ADMINISTRATION.

- (a) DETERMINATIONS. The boundaries of the Groundwater Protection Overlay District shall be shown on the maps for Town of Texas.
- (b) APPEALS. Appeals to any administrative decision by the Town Zoning Administrator connected with this ordinance shall be made to the Board of Appeals as provided in Section 17.91 of this Ordinance and shall be supported with appropriate technical documentation as determined by the Board of Appeals.

MOBILE HOME PARKS

17.60 DISTRICTS ALLOWED.

Mobile home parks may be allowed as a conditional use in the RS-2 Single Family Residence District and the A-1 and A-2 Agricultural Districts subject to the requirements of this section and upon issuance of a conditional use permit by the Board of Appeals after public hearing.

17.61 APPLICATION FOR PERMIT.

- (1) An application for a conditional use permit for a mobile home park shall be filed as outlined in §17.13(1) and contain the information required by COMM 82 & 83, and NR 811 & 812. Plans shall be prepared showing all features required by this ordinance and Chapters ADM 65. Upon receipt of the plans, one set shall be forwarded to the County Health Department for their review and comments. Written comments or testimony shall be provided to the Board of Appeals on all applications by a Health Department representative.

17.62 REQUIREMENTS.

- (1) The minimum size of a mobile home park shall be 10 acres.
- (2) Each park shall provide mobile home lots and each such lot shall be clearly defined or delineated. Each lot shall have an area of not less than 5,000 square feet and an average width of not less than 50', provided, however, that mobile home parks which existed lawfully at the time of the adoption of this chapter and have lots that do not comply with any of the foregoing minimum area and width requirements may continue to operate. New site development within or contiguous to an existing park shall conform to the standards of this chapter.
- (3) Mobile homes shall be so located on each lot that there shall be at least a 20' clearance between mobile homes. No mobile home shall be located closer than 5' to any accessory building within the park. Mobile homes and accessory structures shall meet the street, side and rear yard requirements for the zoning district in which the mobile home park is located.
- (4) Private internal streets shall comply with ADM 65.09(3). There shall not be more than 2 entrances from or exits to such street or highway from any one such park. Access shall be approved by the unit of government having jurisdiction over the street or highway.
- (5) Walkways to service buildings shall be not less than 36" wide and shall be graveled or paved.
- (6) All driveways and walkways within the park shall be well lighted at night.
- (7) Electrical connections shall meet the requirements of Ch. COMM 16.
- (8) Each mobile home lot shall be provided with 2 parking spaces.
- (9) Each mobile home park shall be completely surrounded, except for permitted entrances and exits, by a yard, in addition to all other required yards and open spaces, which shall be planted to permanent grasses, flowers, shrubs and trees so as to provide a 50% opacity to a height of 8' during all seasons of the year. Plantings shall comply with §17.25 and §17.26. Plantings and time frame for achieving the prescribed opacity shall be determined by the Board of Appeals based upon a proposal submitted with the conditional use permit application.
- (10) Mobile home parks shall conform to the requirements of all applicable statutes and Wisconsin Administrative Code.

- (11) Service buildings housing sanitation facilities shall be permanent structures complying with all applicable ordinances and statutes regulating buildings, electrical installations and plumbing and sanitation systems.
- (12) Metal garbage cans with tight fitting lids shall be provided in quantities adequate to permit disposal of all garbage and rubbish. The cans shall be kept in sanitary condition with contents disposed of at least twice each week.
- (13) Every park shall be equipped at all times with fire extinguishing equipment in good working order, of such type, size and number and so located within the park as to satisfy applicable regulations of the Fire Department. No open fires shall be permitted at any place which may endanger life or property.
- (14) Adequate provisions shall be made for the disposal of all sewage from a mobile home park into a municipal sanitary sewer where available, or by properly constructed and maintained sewage system approved by the State Department of Industry, Labor and Human Relations.
- (15) Open space commons and/or play areas shall be included in the design at the ratio of 9,000 square feet per each ten (10) lots or fraction thereof, exclusive of setbacks required by §17.62(3).

17.63 MOBILE HOME USE RESTRICTIONS.

No business other than home occupations as defined in §17.08 shall be conducted in any mobile home within a mobile home park.

17.64 REGISTERS.

Each mobile home park shall maintain an office where a register complying with ADM 65.15 shall be kept. The register shall be open to town officials for inspection.

MOTOR VEHICLE AND PARKING REGULATIONS

17.70 LOADING REQUIREMENTS.

In all Districts adequate loading areas shall be provided so that all vehicles loading, maneuvering or unloading are completely off the public ways and so that all vehicles need not back onto any public way.

17.71 PARKING REQUIREMENTS.

(1) In all districts and in connection with every use, there shall be provided at the time any use or building is erected, enlarged, extended or increased, off street parking stalls for all vehicles in accordance with the following:

- (a) Adequate access or a public street shall be provided for each parking stall and driveways shall be at least 12' wide.
- (b) Each parking stall shall be not less than 9' in width and not less than 180 square feet in area exclusive of the space required for ingress and egress. Unpaved and unstriped parking lots for use by the general public shall provide 360 square feet per parking space, exclusive of ingress/egress lanes.
- (c) No parking stall or driveway except in residential districts shall be closer than 25' to a residential district lot line or a street line opposite a residential district.

(2) Number of parking stalls required:

Single Family Dwellings and Mobile Homes	2 Stalls/Dwelling Unit
Two Family and Multi-family Dwellings	2 Stalls/Dwelling Unit
Hotels, Motels	1 Stall/Guest Room + 1 Stall/3 Employees
Hospitals, Clubs, Lodges, Sororities, Dormitories Lodging and Boarding Houses	1 Stall/2 Beds + 1 Stall/3 Employees
Sanitariums, Institutions, Rest and Nursing Homes	1 Stall/5 Beds + 1 Stall/3 Employees
Medical and Dental Clinics	4 Stalls/Doctor + 1 Stall/Employee
Churches, Theaters, Auditoriums Community Centers, Vocational and night Schools and Other Places of Public Assembly	1 Stall/5 Seats
Colleges, Secondary and Elementary Schools	1 Stall/2 Employees + A reasonable number of stalls for student and other parking

Restaurants, Bars, Places of Entertainment, Repair Shops, Retail and Service Stores	1 Stall/150 square feet of Floor Area
Manufacturing and Processing Plants, Laboratories and Warehouses	1 Stall/2 Employees during any 12 hr. period
Financial Institutions, Business, Governmental and Professional Offices	1 Stall/300 square feet of Floor Area
Funeral Homes	1 Stall/4 Seats
Bowling Alleys	3 Stalls/Bowling Lanes
Golf Courses	4 spaces/hole
Ball diamonds	40 spaces/diamond
Volleyball courts	20 spaces/court
Bars w/live music or DJ, banquet halls, dance clubs	1 space/50 sq. feet of patron space, including outdoor decks and patios

- (a) In the case of structures or uses not mentioned, the provision for a use which is similar shall apply. Combinations of any of the above uses shall provide the total of the number of stalls required for each individual use during such periods of time as the various uses are reasonably likely to be simultaneously requiring parking for employees, customers and other persons.
- (b) Parking lots containing 10 or more stalls which are located in the Residence Districts or adjoining residential lots shall be screened along the side or sides of such lots which abut the lot lines of residential lots by a solid wall, fence, evergreen planting of equivalent opacity or other equally effective means, built or maintained at a minimum height of 4'. If parking lots so located are lighted, the lights shall be so shielded as to prevent glare or illumination of adjoining residential property.

17.72 DRIVEWAYS.

- (1) No direct access shall be permitted to the existing or proposed right-of-way of: expressways, freeways or interstate highways; nor to any other road, street or highway without permission of the authority maintaining the facility.
- (2) Vehicle entrances and exits to drive-in theaters, banks and restaurants; motels, funeral homes, vehicular sales, service, washing and repair stations; garages or parking lots shall be not less than 200' from any pedestrian entrance or exit to a school, college, university, church, hospital, park, playground, library, public emergency shelter or place of public assembly.

SIGNS

17.80 GENERAL.

- (1) No signs or billboards shall be permitted in any district except as specifically permitted herein.
- (2) At no time shall signs be permitted within a vision clearance triangle in such a manner as to restrict vision or impair safety. (See §17.25.)
- (3) No sign located within 150' of a highway or street right-of-way shall contain, include or be illuminated by a flashing or rotating beam of light.
- (4) No sign shall be illuminated by any source of light that is not shielded to prevent glare of illumination of residential property other than that of the sign owner; nor shall the glare of any light source be so directed as to impair the safety of moving vehicles.
- (5) No signs, except of a public nature normal to public right-of-ways, shall be permitted within any public right-of-way without approval in writing from the jurisdictional governmental unit.
- (6) No sign larger than 5 square feet shall be located, erected, moved, reconstructed or enlarged until a zoning permit has been issued.
- (7) No permanent sign shall be located closer than 75' from the ordinary high-water mark of any navigable or perennial body of water, in the floodway of any stream or in any shoreland-wetland.
- (8) Area measurements of signs shall include any border or trim but not the standard or supporting structure.
- (9) Signs placed by or on behalf of individuals or businesses who contributed to the development or maintenance of a community park, recreation area or similar project may be allowed by the Town Zoning Administrator and the Town Board with no permit(s) required. These signs shall not conflict with state or federal sign regulations, shall not exceed 32 square feet in area and shall meet all setbacks or be part of an existing legal fence.

17.81 SIGNS IN RESIDENTIAL, CONSERVANCY, AND AGRICULTURAL DISTRICTS.

The following signs are permitted when located no less than 15' from the public right-of-way line, except as otherwise provided in this section:

- (1) Customary, professional and home occupation signs not exceeding 20 square feet and "For Rent" or "For Sale" signs, not exceeding 4 square feet in area or as provided for in §17.49(2)(k).
- (2) One on premises announcement sign or bulletin board of an appropriate nature, identifying a hospital, school, church or other similar facility or institution, not exceeding 20 square feet in area.
- (3) Temporary signs of not more than 50 square feet in area for the purpose of advertising an auction, bazaar, festival, political or other special event. Signs shall be removed at the conclusion of the event.
- (4) Temporary signs as defined in 17.81 (3) shall not require a permit. Notwithstanding, any temporary sign on display for a period exceeding 60 days in length of duration shall be required to obtain a permit. If issued a permit, the temporary sign shall be removed within 30 days of issuance. No temporary sign permit may be extended or reissued for any said sign location.

- (5) Off premises signs provided they are directional only, the outside dimensions of which do not exceed 20 square feet, are located within a 3 mile radius of the advertised business or activity and are not in conflict with Ch. HY-19, Wis. Adm. Code, or §84.30 and Ch. 196, Wis. Stats.
- (5) Signs necessary to the public safety and welfare or for the identification, operation or protection of a public utility installation shall be no larger than 3 square feet and may be located any distance outside of the public right-of-way.
- (6) In all agricultural districts, signs which advertise agricultural products that are produced on the property where the sign is located shall be permitted provided the following conditions are met:
 - (a) Signs shall not conflict with State or federal sign regulations. (Note: it shall be the responsibility of the person wishing to erect or paint the sign to obtain any and all other permits or approvals.)
 - (b) For signs larger than 32 square feet, all conditions set forth in §17.82(2)(a)-(d) shall be met.
 - (c) Signs shall be located on an operating farm and adjacent to the principal building or buildings used in the production of the agricultural product being advertised.
 - (d) Signs shall contain only one message per face, and no more than one double face or 2 single face signs larger than 32 square feet per face shall be permitted.
 - (e) Signs which are 32 square feet in area or less shall be permitted as farm identification signs. These signs shall include the farm name and/or surname of the farm operator. Farm identification signs shall be no less than 15' from the right-of-way.
 - (f) No sign other than a farm identification sign as defined in par. (e) above, shall contain a brand name, trade name, organization, co-op, union or bureau name.

17.82 SIGNS IN RECREATIONAL, COMMERCIAL AND INDUSTRIAL DISTRICTS.

The following signs are permitted:

- (1) All signs permitted in §17.81.
- (2) Identifying signs advertising a business or activity conducted on the premises in accordance with the following provisions:
 - (a) Wall signs placed against the exterior walls of buildings shall not extend more than 1' from the wall surface and shall not exceed 300 square feet in area.
 - (b) Projecting signs fastened to, suspended from or supported by attached structures shall not exceed 40 square feet in area on a side.
 - (c) Ground signs shall meet all yard requirements for the district in which they are located, shall not exceed 200 square feet on a side and shall not exceed 25' in height above the main road grade.
 - (d) Roof signs shall not exceed 10' in height above the roof or parapet nor may such a sign extend beyond the building upon which it is located and shall not exceed 200 square feet on a side.
- (3) Off premises signs and billboards:
 - (a) Signs and billboards shall meet the requirements of Ch. HY 19, Wis. Adm. Code, or

§84.30 and Ch. 196, Wis. Stats. Signs and billboards shall meet all yard requirements for the district in which they are located, have a minimum separation of 1,000' from all other billboards which exceed 300 square feet in area. (See definition, SIGN, BILLBOARD, DIRECTIONAL, in §17.08 of this chapter.)

- (b) Signs and billboards which are not within the jurisdiction of the Wisconsin Administrative Code or State Statutes, shall meet the same size requirements as on premises signs in sub. (2) of this section.

17.83 UNSAFE AND UNLAWFUL SIGNS AND ADVERTISING DEVICES.

The following signs and advertising devices are hereby declared to be unlawful:

- (1) A revolving sign.
- (2) A sign advertising an article or product not manufactured, assembled, processed, or repaired on the premises.
- (3) A sign relating to the lease, hire or sale of a building or premises other than the building or premises upon which the sign is displayed.
- (4) A sign advertising a service not rendered on the premises upon which the sign is located.
- (5) The exterior use of any advertising device as herein defined.

Removal of unsafe signs:

- (1) When any sign becomes insecure, in danger of failing or otherwise unsafe, or if any sign or advertising device shall be unlawfully installed or maintained in violation of this Chapter, the Town Board, the Town Zoning Administrator, or duly authorized agents, shall have the authority to remove same immediately and recoup from the owner of said sign the reasonable costs of said removal, provided however, that notice shall be given by the Town Zoning Administrator, or authorized agents, in writing to the owner of such sign and the owner of property upon which same is located, which such notice shall be sent to the last known address of said owners promptly upon removal of such sign.

17.84 EXISTING SIGNS/SPECIAL PROVISIONS.

Signs lawfully existing at the time of the adoption or amendments of this chapter may be continued although the use, size or location does not conform with the provisions of this chapter. Any sign or any part thereof which is blown down, destroyed or removed may be re-erected, reconstructed, rebuilt or relocated unless in compliance with all of the applicable requirements of this Ordinance. However, such signs shall be deemed nonconforming uses or structures and shall therefore be subject to the provisions of §17.19, Nonconforming Structures and Uses.

ADMINISTRATION

17.90 PLANNING COMMISSION.

- (1) **ESTABLISHMENT.** There is hereby established a Town Planning Commission as provided for in Wis. Stats. 62.23.
- (2) **MEMBERSHIP.**
 - (a) Membership shall consist of 7 members and shall be appointed by the Town Chairman and confirmed by the Town Board.
 - (b) The Town Chairman shall also choose the Chair of the Commission.
 - (c) Only one member of the Town Board may serve on the Commission at any one time. If, however, the Town Board is increased to five members, two members of the Town Board shall be permitted to serve at any one time.
 - (d) The Town Chairman may appoint him/her self to the Commission and may appoint other Town elected or appointed officials, except that the Commission shall always have at least 4 citizen members who are not Town officials.
 - (e) The members of the Commission shall be appointed to hold office for a period of three (3) years. Appointments shall be made by the Town Chairman during the month of April for terms that expire in April or at any other time if a vacancy occurs during the middle of a term.
 - (f) By virtue of the duties of the office, the Town Zoning Administrator shall be ineligible to become a member of the Commission.
- (3) **POWERS.**
 - (a) Recommend to the Town Board amendments to this Ordinance, with or without modifications or conditions as the Commission shall deem appropriate, consistent with the provisions of §17.92.
 - (b) Recommend to the Town Board approval or denial of conditional use permits as set forth in this §17.13 of this Chapter.
 - (c) Review development proposal site plans for, consistent with the provisions of this Ordinance, and recommend approval or denial.

17.91 BOARD OF APPEALS.

- (1) **ESTABLISHMENT.** There is hereby established a Board of Appeals for the purpose of hearing certain appeals and applications and granting variances from the provisions of this chapter in harmony with the general purpose and intent of this chapter.
- (2) **MEMBERSHIP.**
 - (a) The Board of Appeals shall consist of 5 members and two alternates appointed by the Town Chairman and confirmed by the Town Board.
 - (b) The members of the Board of Appeals shall all reside within the Town Terms shall be for staggered 3 yr. periods beginning July 1.
 - (c) The Board of Appeals shall choose its own chairman and secretary. Official oaths shall be taken by members in accordance with §19.01, Wis. Stats., within 10 days of receiving notice of their appointment.

- (d) Vacancies shall be filled for an unexpired term in the same manner as appointments for a full term.

(3) RULES.

- (a) The Board of Appeals may adopt such rules as it deems necessary to carry into effect the regulations of the Town of Texas.
- (b) Meetings shall be held at the call of the Chairman or at such other times as the Board of Appeals may determine and shall be open to the public.
- (c) Minutes of the proceedings and a record of all actions shall be kept by the Secretary, showing the vote of each member upon each question or, if absent or failing to vote indicating such fact, the reasons for the Board of Appeal's determination and its findings of facts. These records shall be filed in the office of the Town Clerk and shall be a public record.
- (d) The concurring vote of a majority of the Board shall be necessary to reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant or appellant on any matter upon which it is required to pass under this chapter or to effect any variation in this chapter.

(4) POWERS.

- (a) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by any administrative official in the enforcement or administration of this chapter.
- (b) To authorize upon appeal, in specific cases, such variance from the dimensional standards of this chapter as will not be contrary to the public interest, where owing to special conditions, such as terrain, cover or nearby existing buildings, a literal enforcement of the provisions herein will result in unnecessary hardship, and so that the spirit and intent of this chapter shall be observed and substantial justice done. The Zoning Board of Appeals must determine that any variance:
 - 1. Shall not have the effect of permitting or expanding any use where prohibited by any district regulation.
 - 2. Shall not permit standards lower than those required by the Wisconsin Statutes, or Wisconsin Administrative Code.
 - 3. Shall not be granted solely on the basis of economic gain or loss.
 - 4. Shall not be granted for a self-created hardship.
 - 5. Shall not damage the rights or property values of other persons in the area.
- (c) To hear and grant applications for substitution of nonconforming uses, provided no structural alterations are to be made and the Planning Commission has made a review and recommendation. Whenever the Board of Appeals permits such a substitution, the use may not thereafter be changed without a new application.
- (d) The Board of Appeals may 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 office from whom the appeal is taken.
- (e) The Board of Appeals may request assistance from other Town officers, departments, commissions and boards.

- (f) The Chairman may administer oaths and compel the attendance of witnesses.
 - (g) Any officer from whom an appeal is taken shall transmit to the Board all the papers constituting the record upon which the action appealed from was taken.
- (7) HEARING NOTICE. The Board of Appeals shall fix a reasonable time and place for the hearing of the appeal or application, give public notice thereof by Class 2 notice, and shall give due notice to the parties in interest, the officer from whom the appeal is taken and the Town Board. At the hearing, the appellant or applicant may appear in person, by agent or by attorney.
- (8) DECISION.
- (a) The Board of Appeals shall decide all appeals and applications within 30 days after the public hearing and shall transmit a copy of the Board's decision, signed by the Secretary and Chairman, to the appellant or applicant, the officer from whom the appeal is taken and the Town Board.

17.92 ORDINANCE AMENDMENT.

- (1) AUTHORITY. The regulations imposed and the zoning districts created under authority of this chapter may be amended from time to time by ordinance in accordance with §62.23 Wis. Stats. An amendment shall be granted or denied by the Town Board after a public hearing before the Planning Commission and a report of its findings and recommendations has been submitted to the Town Board.
- (2) INITIATION. A petition for an amendment may be made by any property owner in the area to be affected by the change or amendment, by the Town Board, by the Town Zoning Administrator, by any member of the Town Board or the Town Planning Commission.
- (3) PETITIONS. Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the Town Clerk. The petition shall describe the premises to be rezoned or the regulations to be amended, list the reasons justifying the petition, specify the proposed use and have attached the following:
- (a) Plot plan drawn to a scale of not less than 1" equals 200' showing the area proposed to be rezoned, its location, dimensions, the location and classification of adjacent zoning districts and the location and existing use of all properties within 300' of the area proposed to be rezoned.
 - (b) Additional information as may be required by the Planning Commission or Town Board including but not limited to:
 - 1. Written approval from the Wis. Dept. of Transportation or County Highway Dept. authorizing the construction/use of a driveway in their respective jurisdictions for the use proposed in the zone change request. Failure to provide approval for a driveway or alternate access (i.e. shared access, frontage road, backage road or other) will cause the petition to be considered incomplete and it will not be advertised or heard.
- (4) RECOMMENDATIONS. The Planning Commission shall review all such proposed changes or amendments and shall recommend that the petition be granted as requested, modified or denied. Recommendation shall be made in a written report to the Town Board.
- (5) HEARINGS. The Planning Commission shall hold a public hearing upon each proposed change or amendment, giving notice of the time and place of such hearing by publication of a Class 2 notice, under Ch. 985, Wis. Stats.

- (6) TOWN BOARD ACTION.
 - (a) Following such hearing and after careful consideration of the Planning Commission's recommendation, the Town Board shall vote on the passage of the proposed change or amendment.
- (7) PROTEST. If a protest against a proposed change or amendment is filed with the Town Clerk at least 24 hours prior to the date of the meeting of the Town Board at which the recommendation of the Planning Commission is to be considered, duly signed and acknowledged by the owners of 50% or more of the area proposed to be altered, or by abutting owners of over 50% of the total perimeter of the area proposed to be altered included within 300' of the parcel or parcels proposed to be rezoned, action on such ordinance may be deferred until the Planning Commission has had a reasonable opportunity to ascertain and report to the Town Board as to the authenticity of such ownership statements. Each signer shall state the amount of area or frontage owned by him and shall include a description of the land owned by him. If such statements are found to be true, such ordinance shall not be adopted except by the affirmative vote of 3/4 of the members of the Town Board of Supervisors present and voting. If such statements are found to be untrue to the extent that the required frontage or area ownership is not present, such protest may be disregarded.
- (8) EFFECTIVE DATE OF AMENDMENT AND THE ORDINANCE. Upon passage of the amendment by the Town Board, the amending ordinance shall become effective upon:
 - (a) Publication and posting of the ordinance by the Town Clerk;
 - (b) Pursuant to Wis. Stats. 60.62, the Town Clerk shall forward the amendment to the County Clerk for consideration by the Marathon County Board of Supervisors.
 - (c) Approval by the County Board.

17.93 ADMINISTRATION.

- (1) TOWN ZONING ADMINISTRATOR. There is hereby created the office of Town Zoning Administrator for the administration and enforcement of the provisions of this chapter. The Town Board may appoint deputy zoning administrators with the concurrence of the Town Zoning Administrator from the names of qualified applicants. Deputy zoning administrators shall assist the Town Zoning Administrator in carrying out the function of the office. The specific duties of any Deputy Zoning Administrator shall be determined by the Town Zoning Administrator and the Town Board. Compensation of the Zoning Administrator and any Deputy Zoning Administrator(s) shall be determined by the Town Board.
- (2) POWERS AND DUTIES. In the administration and enforcement of this chapter, the Town Zoning Administrator shall have the following powers and duties:
 - (a) Advise applicants as to the provisions of this chapter and assist them in preparing permit applications.
 - (b) Issue permits and inspect properties for compliance with this chapter and issue certificates of compliance when appropriate.
 - (c) Keep records of all permits issued, inspections made, work approved and other official actions.
 - (d) Report violations of this chapter or other land use regulations to the Town Board and Town Attorney.

- (e) Have access to any structure or premises for the purpose of performing his duties between 8 a.m. and 8 p.m., by permission of the owner or upon issuance of a special inspection warrant in accordance with §66.0119, Wis. Stats.
- (f) Make on-site investigations required for administration of this Code.
- (g) Upon reasonable cause or question as to proper compliance, to revoke any zoning or conditional 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 chapter or order restoration and/or after-the-fact compliance.
- (h) Delegate duties and supervise deputy zoning administrators.

17.94 VIOLATIONS AND PENALTIES.

- (1) VIOLATIONS. No person shall construct or use any structure, land or premises in violation of any of the provisions of this chapter. In case of any violation, the Town Zoning Administrator, Planning Commission, Town Board or any property owner who would be specifically damaged by such violation may institute appropriate action or proceeding to enjoin a violation of this chapter. Every structure, fill or development placed or maintained in violation of this chapter is a public nuisance; and the creation thereof may be enjoined and maintenance thereof may be abated by an action instituted by the Town.
- (2) PENALTIES. Any person who fails to comply with the provisions of this chapter or any order of the Town Zoning Administrator issued in accordance with this chapter or resists enforcement shall, upon conviction thereof, be subject to a forfeiture of not less than \$10 nor more than \$200 and costs of prosecution for each violation. Each day a violation exists or continues shall constitute a separate offense.
- (3) PROCEEDINGS.
 - (a) Civil Proceedings. Pursuant to the provisions of Wis. Stats. §66.14, Wis. Stats., an action for violation of this Code is deemed a civil action. Accordingly, Wis. Stats. §801-847, shall apply where applicable.
 - (b) Town Attorney. The town attorney may, in the town attorney’s discretion, commence legal action or proceedings and may proceed pursuant to the proceedings outlined in Wis. Stat. §66.119, 66.12 or 778.10, or pursuant to the issuance of a summons and complaint.
 - (c) Citations. Requests for necessary citations may be directed by the Town Board for approval.
 - (d) Special Inspection Warrants. The provisions of Wis.Stat. § 66.122 and 66.123, shall govern the issuance of all special inspection warrants.
 - (e) Statute of limitations. Pursuant to Wis. Stat. 893.93(2)(b), any action to recover a forfeiture or penalty imposed by Code or regulation, when no other limitation is prescribed by law, shall be commenced within two years of the violation. In those situations in which there occurs a continuing violation in existence for more than two years prior to the issuance of the complaint and wherein each day the violation exists continues to constitute a separate offense, no penalty may be imposed for each day of violation occurring more than two years prior to the commencement of the action; a penalty may be imposed, however, for each day of violation occurring within the two year period prior to the issuance of the complaint.