

Chapter 60 - ZONING

FOOTNOTE(S):

⁽⁶⁷⁾ **State Law reference**— Town zoning authority if exercising village powers, Wis. Stats. § 60.62; Town zoning board of adjustment, Wis. Stats. § 60.65; town historic preservation, Wis. Stats. § 60.64; community and other living arrangements, Wis. Stats. § 60.63; local subdivision regulation, Wis. Stats. § 236.45; comprehensive municipal planning, Wis. Stats. § 66.1001; city planning, Wis. Stats. § 62.23; village planning, Wis. Stats. § 61.35; zoning of wetlands and shorelands, Wis. Stats. § 62.231; floodplain zoning, Wis. Stats. § 87.30; navigable waters protection law, Wis. Stats. § 281.31; farmland preservation, Wis. Stats. § 91.01 et seq.; fences generally, Wis. Stats. § 90.01 et seq.; platting lands and recording and vacating plats generally, Wis. Stats. § 236.01 et seq.

ARTICLE I. - IN GENERAL

Sec. 60-1. - Definitions.

- (a) *General terms.* For the purposes of this chapter, certain words and terms are defined as follows: Terms used in the present tense include the future; the singular number includes the plural number and the plural number includes the singular number; the term "building" includes the term "structure"; the word "shall" is mandatory and not directory. Any words not herein defined shall be construed as defined in the state and local building codes and state statutes.
- (b) *Definitions.* The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Accessory building or use means a detached building or part of the principal building or a use on the same lot that is subordinate to the principal building or use and customarily incidental thereto. A principal use shall be present before placement of an accessory use. A mobile home or other vehicle or part thereof or other building or part thereof used as a temporary or permanent dwelling or lodging place is not an accessory building or use.

Accessory use means a use subordinate in nature, extent or purpose to the principal use of the building or lot.

Adjacent property owner means the owner of property located within 300 feet of a subject property under this Code.

Administrator, zoning, means the person designated by the town board to administer the provisions of this chapter.

Adult-oriented establishment means any premises including, without limitation, "adult bookstores," or "adult motion picture theaters." It further means any premises to which public patrons or members are invited or admitted and which are so physically arranged so as to provide booths, cubicles, rooms, compartments, or stalls separate from the common area of the premises for the purposes of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron, or a member, whether or not such adult entertainment is held, conducted, operated, or maintained for a profit, direct or indirect. The term "adult-oriented establishment" further includes, without limitation, any premises physically arranged and used as such whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio, or any other term of like import.

Aircraft landing strip means a site maintained for occasional use by manned aircraft for landing or take off.

Airport, public, means any airport which complies with the definition contained in Wis. Stats. § 114.013 or any airport which serves or offers to serve common carriers engaged in air transport.

Alley means a public or private way which affords only secondary vehicular access to abutting property.

Animal hospital/veterinary services means a place where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment. Use of a kennel shall be limited to the shortterm boarding and shall be only incidental to such hospital use.

Apartment means a portion of a residential or commercial building used as a separate housing unit.

Apartment house. See *Dwelling, multiple*.

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

Automobile wrecking yard means any premises on which three or more automotive vehicles, not in operating condition, are stored in the open.

Basement or *cellar* means a story partly underground but having at least one-half of its height, or more than five feet, below the mean level of the adjoining ground. See Wis. Admin. Code chs. Comm 20, 21 and 22.

Bi-level means a two-level dwelling with one level above grade and the other level half above grade and half below grade.

Boardinghouse means a building other than a hotel where meals or lodging and meals are served for compensation for not more than six persons.

Boathouse means any accessory structure designed only for the purpose of protecting or storing boats for noncommercial purposes. Boathouses shall not be used for human habitation.

Building means any structure used, designed or intended for the protection, shelter, enclosure or support of persons, animals or property, except a mobile home unit when located in a mobile home park.

Building, alterations of, means any change or rearrangement of the supporting members such as bearing walls, beams, columns or girders of a building, an addition to a building, or movement of a building from one location to another.

Building, front line of, means a line parallel to the street intersecting the foremost point of the building, excluding uncovered steps.

Building, height of, means the vertical distance from the mean elevation of a finished grade along the front of the building to the highest point of a flat roof, or to the deck line of a mansard roof, or to the mean height between eaves and ridge for gable, hip or gambrel roofs.

Building permit means a permit given by a local government to construct a building or make improvements.

Building, principal, means a building in which is conducted the main use of the lot on which said building is located.

Business includes the commercial, limited industrial and general industrial uses and districts as herein defined.

Campground means any public or private grounds or premises established for the overnight camping of persons using equipment designed for the purpose of temporary camping.

Camping unit means any camping vehicle or structure intended for or capable of human habitation or designed primarily for sleeping purposes, mounted on wheels or jacks, and/or capable of being moved from place to place, either by its owner power or on power supplied by some vehicle used or to be used, and which has a maximum width of eight feet.

Carport. See Garage.

Centerline means a line connecting points on highways from which setback lines shall be measured, at any point on the highway.

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

Clinic means an establishment for the medical, psychiatric or surgical care and treatment of human patients, but without provision for keeping such patients overnight on the premises. For the purposes of this chapter, a doctor's office in his own home, when it complies with the other requirements of this chapter, shall not be considered a clinic, but any doctor's office which is not a part of his own home, and the office of two or more doctors, whether in a residence or not, shall be considered a clinic.

Club means a building owned, leased or hired by a nonprofit association of persons who are bona fide members, the use of which is restricted to said members and their guests.

Community living arrangement means the following facilities, licensed, operated or permitted, under the authority of state statutes: child welfare agencies under Wis. Stats. § 48.60; group foster homes for children under Wis. Stats. § 48.02(7m); and community-based residential facilities under Wis. Stats. § 50.01, but does not include nursing homes, general hospitals, special hospitals, prisons and jails. The establishment of a community living arrangement shall be in conformity with applicable sections of state law, including Wis. Stats. §§ 46.03(22), 62.23(7)(i), and 62.23(7a), and the Wisconsin Administrative Code.

Conditional use means a use of land, water or building which is allowable only after the issuance of a special permit by the town board under conditions specified in this chapter.

Conforming use means any lawful use of a building or lot which complies with the provisions of this chapter.

Court means an open, unoccupied space other than a yard, on the same lot with a building, and which is bounded on two sides by the building.

Cul-de-sac means a street having but one end open to traffic and the other end permanently terminated in a vehicular turnaround.

Curb break means any interruption or break in the line of a street curb in order to connect a driveway to a street or otherwise to provide vehicular access to abutting property.

Curb level means the level of the established curb in the front of the building measured at the center of such front.

Day care center, family, means a place or home which provides care for eight or more children under the age of seven years for less than 24 hours a day and is licensed as provided for in Wis. Stats. § 48.65.

Day care center, group, means a dwelling or center that provides care and supervision for nine or more children and is licensed by the state department of health and social services.

Deck means any covered or uncovered landing of a hard surface material.

District means a part or parts of the town for which the regulations governing the height, location and use of buildings and the size of lots and open spaces are uniform.

Dwelling group means a group of two or more multifamily dwellings occupying a lot in one ownership with any two or more dwellings having any yard or court in common.

Dwelling, multiple, means a building or portion thereof used or designated as a residence for three or more families as separate housekeeping units, including apartments, attached townhouses and condominiums.

Dwelling, one-family, means a detached building designed, arranged or used for and occupied exclusively by one family, including a garage, whether attached, detached or semi-attached. The term shall include specially designed buildings covered by earth and manufactured homes.

Dwelling, two-family, means a building designed, arranged or used for, or occupied exclusively by, two families living independently of each other.

Dwelling unit means a building or portion thereof used exclusively for human habitation, including single-family, two-family and multifamily dwellings, but not including hotels, motels or lodginghouses.

Electronic equipment means sales and service of television, radio, computer, telephone, satellite dish and other electronic equipment.

Emergency shelters means public or private enclosures designed to protect people from aerial, radiological, biological or chemical warfare; fire; flood; windstorm; riots; or invasions.

Family means one or more persons immediately related by blood, marriage, adoption or guardianship and living as a single housekeeping unit in one dwelling unit shall constitute a family.

Farm means land consisting of five acres or more on which produce, crops, livestock or flowers are grown primarily for off-premises consumption, use or sale.

Farm, factory, means an agricultural operation meeting the definition of "factory farming" promulgated by the state department of agriculture, trade and consumer protection.

Farm operating unit means contiguous or adjacent lands owned and/or operated by one management group, upon which a self-sustaining agricultural business is being operated.

Flood lands means those lands, including the floodplains, floodways, and channels subject to inundation by the 100-year recurrence interval flood or, where such data is not available, the maximum flood of record.

Floor area means floor areas which are measured from the outside edge of the exterior walls of a residential structure meeting the following criteria:

- (1) All finished, safe and sanitary floor levels of a residential building at or above grade level.
- (2) All finished, safe and sanitary floor levels of a residential structure below grade level in which the walls for said floor levels are:
 - a. Exposed four feet or more above grade level on all sides and contains two outside entrances; or
 - b. Exposed by one-third of their area fully at grade and contains an outside entrance at said lowest floor level.
- (3) Excluded from this calculation are unenclosed porches and unfinished basements and attics.

Foster family home means the primary domicile of a foster parent which is for four or fewer foster children and which is licensed under Wis. Stats. § 48.62 and amendments thereto.

Frontage means all the property abutting on one side of a street measured along the street line.

Fur farm means any property comprising land or buildings or both used for the purpose of raising or harboring fur-bearing animals, including those defined in Wis. Stats. § 29.873 and also including chinchillas and other fur-bearing animals, whether the animals are kept for breeding, slaughtering, pelting or lab experimental purposes.

Garage means an accessory building or portion thereof used exclusively for parking or temporary storage of not more than four automobiles or light trucks on a residentially zoned parcel.

Garage, public, means a building other than a private or storage garage used for the care, repair or storage of self-propelled vehicles or where such vehicles are left for remuneration, hire or sale. This includes premises commonly known as gasoline stations or service stations.

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

Gasoline station means any area of land, including structures thereon, that is used for the sale of gasoline or other motor vehicle fuel and oil and other lubricating substances; sale of motor vehicle accessories; and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning or otherwise cleaning or servicing such vehicles.

Gravel pit means an open land area where sand, gravel, and rock fragment are mined or excavated including such on-site processing that are related to the mining or excavation of the sand, gravel, and rock fragment such as stockpiling of materials, blending mineral material aggregates or nonmetallic minerals, crushing, screening, scalping and dewatering.

Group foster home means any facility operated by a person required to be licensed by the state under Wis. Stats. § 48.62 for the care and maintenance of five to eight foster children.

Home industry business means a home industry business operated exclusively by family members and no more than three non-family member employees which involves either occasional sale of products not produced on the premises, or involves fabricating on the premises, either within the dwelling unit or in an accessory structure, some product which is not included in the definition of *home occupation*.

Home occupation means any occupation meeting the requirements of [section 60-109](#), and is customarily incidental to the use of the dwelling as a residence, such as crafts, dressmaking, tailoring, handicrafts and other occupations which are not detrimental to the health, safety and general welfare of, or annoying or offensive to, neighbors or the community, provided that:

- (1) The occupation is conducted within the dwelling unit by only resident family members or no more than two nonresident employees;
- (2) Not more than 25 percent of the floor area of only one story of the dwelling unit is used for such occupation;
- (3) No stock in trade is kept or sold except that which is made in connection with such occupation; and
- (4) A home occupation does not involve the outside display of any goods.

Hotel means a building occupied as the more or less temporary abiding place of individuals who are lodged, with or without meals, and in which there are more than six sleeping rooms, usually occupied singly, and there is no provision made for cooking in the individual apartments.

House trailer means a non-self-propelled vehicle, containing living or sleeping accommodations, which is designed and used for highway travel.

Junk yards means any premises on which there is an accumulation of scrap metal, paper, rags, glass, lumber, inoperable machinery, tires or other materials stored or customarily stored for salvage, buying, selling, exchanging, dealing, disassembling, packing, bailing, wrecking or handling, including the accumulation of more than two inoperable vehicles unless such accumulation shall be housed in a completely enclosed building.

Kenel means any facility where dogs or cats are kept for 24 hours or more for boarding, training, or similar purposes for compensation, except that the term "kennel" does not include any of the following:

- (1) An animal shelter.
- (2) A facility owned or operated by a veterinarian licensed under Wis. Stats. ch. 453 where animals are boarded only in conjunction with the provision of veterinary care.

Livestock means domesticated four-legged animals and fowl raised for food or fiber.

Living area means the total area bounded by the exterior walls of a building at the floor levels but not including basements, garages, porches, breezeways, and unfinished attics.

Loading space means an off-street space or berth on the same lot with or contiguous to a building or group of buildings which it serves, and abutting on or having direct access to a street or alley, for the temporary parking of a commercial vehicle while loading or unloading cargo. A loading space is not a parking space.

Lodginghouse means a building other than a hotel where rooms without board or kitchen facilities either in or in connection with such rooms are rented to persons not members of the resident family.

Lot means a parcel of land having frontage on a public street, occupied or intended to be occupied by a principal structure or use, and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area and other open space provisions of this chapter.

Lot, corner, means a lot located:

- (1) At the junction of and abutting two or more intersecting streets;
- (2) At the junction of and abutting a street and the nearest shoreline or high-water line of a stormwater or floodwater runoff channel or basin;
- (3) At the junction of and abutting two or more stormwater or floodwater runoff channels or basins; or
- (4) At and abutting the point of abrupt change of a single street where the interior angle is less than 135 degrees and the radius of the street is less than 100 feet.

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

Lot, interior, means a lot other than a corner lot.

Lot lines and area means the peripheral boundaries of a parcel of land and the total area lying within such boundaries. For purposes of open space and lot area computation, the lot area shall not include public road right-of-way, nor include any road width area as established by state statute or an officially established county or town street and highway width map.

Lot, reversed corner, means a corner lot, the street side lot line of which is substantially a continuation of the front lot line of the front lot to its rear.

Lot, through, means a lot having a pair of opposite lot lines along two or more parallel public streets and which is not a corner lot. On a through lot both street lines shall be deemed front lot lines.

Lot, width, means the distance between side lines of the lot at the building setback line. In the case of a shoreland lot, the lot width is the width of the lot 75 feet from the waterline.

Lot, zoning, means a single tract of land located within a single block which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed, or built upon as a unit under single ownership or control.

Manufactured home means a structure, formerly defined as a mobile home, certified and labeled as a manufactured home under 42 USC 5401—5426 which, when placed on the site:

- (1) Is set on an enclosed continuous foundation in accordance with Wis. Stats. § 70.43(1) and Wis. Admin. Code ch. Comm 21, subchs. III, IV, and V, or is set on a comparable enclosed continuous foundation system approved by the building inspector, who may require a plan for such foundation to be certified by a registered architect or engineer to ensure proper support for such structure;
- (2) Is installed in accordance with the manufacturer's instructions;
- (3) Is properly connected to utilities; and
- (4) Meets other applicable standards of this chapter.

Manure pit means a structure or earthen pond located outside of a barn or shelter and used for containment of manure and other wastes from livestock and poultry.

Mini-storage/warehouse structure means a structure where self-contained sections thereof are rented for storage purposes, typically serving residential and small business clientele.

Mobile home (See also *Manufactured home*) means:

- (1) That which is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway, and designed, equipped and used primarily for sleeping, eating and living quarters, or is intended to be so used; including any additions, attachments, annexes, foundations and appurtenances. In the purpose of this section, a mobile home shall remain classified as a mobile home regardless of whether its wheels or other rolling devices have been removed or not, and even though assessable value of additions, attachments, annexes, foundations and appurtenances or other added investments to the mobile home equal or exceed 50 percent of the assessable value of the mobile home. Excluded from this definition are manufactured homes as defined above.
- (2) Mobile homes have been required to follow construction standards, including heating, electrical and plumbing, since 1976 through a Federal Housing and Urban Development (HUD) program. In Wisconsin this is administered under contract by the division of safety and buildings, state department of commerce. The

current proper and legal term for mobile homes is "manufactured homes." While the manufactured home itself is not covered by the state uniform dwelling code (UDC), any site-built addition to that home, such as a basement, crawl space or room addition attached to the home, does have to be constructed to meet the requirements of the UDC if the manufactured home was built after June 1, 1980.

- (3) While manufactured homes are constructed to the HUD construction standards, "manufactured dwellings" must meet the UDC standards. Such non-HUD factory-built homes are referred to as "manufactured dwellings." However, double-wide manufactured mobile homes often are similar in appearance to modular homes. For purposes of identification, a manufactured or mobile home is identified with a red metal rectangular label affixed to the rear of each full or half unit. This indicates the home has been constructed in accordance with the HUD manufactured home standards. In contrast, a modular home or manufactured dwelling will be identified with a red plastic sticker, called a "Wisconsin Insignia", imprinted with the outline of the state. It will usually be affixed to the electrical panel, vanity base cabinet or kitchen cabinet. Inspectors must first identify what they are looking at before applying the applicable code regulations.

Mobile home park means any plot or tract of ground upon which two or more mobile homes, occupied for dwelling or sleeping purposes are located, regardless of whether or not a charge is made for such accommodations.

Mobile home unit means any vehicle or structure intended for or capable of human habitation which is mounted on wheels or jacks and is capable of being moved from place to place along a public highway in its complete, habitable form either by its own power or by power supplied by some towing vehicle, being more than 30 feet in length. A modern mobile home can also be a manufactured home.

Modular home (manufactured dwelling) a current list of approved dwelling manufacturers can be found in Wis. Admin. Code § Comm 20.13 of the uniform dwelling code (UDC).

Motel means a building or group of buildings in which lodging, with or without meals, is offered to transient guests for compensation and with not less than one off-street parking space provided for each such room or apartment.

Motor freight terminal means a building or area in which freight brought by motor truck is assembled and/or stored for routing in intrastate and interstate shipment by motor truck.

Motor vehicle means any passenger vehicle, truck, truck-trailer, trailer or semi-trailer propelled or drawn by mechanical power.

Nonconforming building or structure means any building or structure which does not comply with all of the regulations of this chapter or of any amendment hereto regulating any building or structure for the zoning district in which such building or structure is located.

Nonconforming lot means a lot whose width, area or other dimension did not conform to the regulations when this chapter became effective.

Nonconforming use means any use of land, buildings or structures which does not comply with all of the regulations of this chapter or of any amendment hereto governing use for the zoning district in which such use is located.

Nonmetallic mining means operations or activities for the extraction from the earth for the sale or use by the operator of mineral aggregates or nonmetallic minerals such as stone, sand, gravel, asbestos, beryl, clay, feldspar, peat, talc, topsoil, including such operations or activities such as excavation, grading, and dredging.

Nuisance means an injurious effect on the safety, health, or morals of the public, or use of property which works some substantial annoyance, inconvenience, or injury to the public and which causes hurt, inconvenience or damage.

Nursery means any building or lot, or portion thereof, used for the cultivation or growing of plants and including all accessory buildings.

Nursery school means any building used routinely for the daytime care and education of preschool age children and including all accessory buildings and play areas other than the child's own home or the homes of relatives or guardians.

Nursing home means any building used for the continuous care, on a commercial or charitable basis, of persons who are physically incapable of caring for their own personal needs.

Operating farm means a farm for which satisfactory proof can be supplied to show that the farm is producing a farming product as defined by the state department of agriculture.

Outlot means a portion of a recorded lot/parcel divided further by metes and bounds clearly defining the portion being divided, typically a small, substandard lot that is not buildable.

Park, private, means a privately owned area which may contain active amusement and recreation facilities and devices, other than playgrounds and open spaces for passive recreation, and soft drink and snack stands, whether operated for profit or not.

Park, public, means an area owned by the United States, state, county or a municipality within the county, and operated for the convenience and recreation of the public and containing such facilities as the owning government body shall see fit.

Parking space means an unobstructed space in a parking lot designed for the temporary storage of one automobile. Each such parking space shall be not less than nine feet in width and 180 square feet in area, exclusive of the means of access from and to the public street. A loading space is not a parking space.

Place means an open unoccupied space other than a street or alley, permanently reserved as the principal means of access to abutting property.

Planned unit development means a tract of land which contains or will contain two or more principal buildings, developed under single ownership or control, the development of which is unique.

Porch means a roofed-over structure projecting out from the main wall of a main structure.

Professional office means the office of a doctor, salesman, insurance agent, practitioner, dentist, minister, architect, landscape architect, professional engineer, lawyer, author, musician, real estate broker or other recognized professional. When established in a residential or agricultural district, a professional office is incidental to the residential occupation, and not more than 50 percent of the floor of only one story of a dwelling unit is occupied by such office and not more than two persons who are not a member of the resident family is employed on the premises.

Property lines means the lines bounding a platted lot as defined herein.

Public way means any sidewalk, street, alley, highway or other public thoroughfare.

Quarry means a mineral extraction site where bedrock is removed and crushed for use as aggregate.

Racetrack means a facility or track operated where vehicles of any type competitively race, whether for compensation or not.

Recreational cabin means a building or structure used for human habitation or occupancy on a temporary and/or seasonal basis for the purpose of recreational activities.

Recycling center means a facility designed to be a collection point where only recyclable materials are sorted and temporarily stored prior to shipment to others who will use those materials for reuse and/or processing into new products. This shall not include junk yards.

Right-of-way means a strip of land dedicated to the public intended for access or highway/street purposes.

Roadside stand means a structure not permanently fixed to the ground that is readily removable in its entirety covered or uncovered and not wholly enclosed, and used solely for the sale of farm products produced on the premises. No such roadside stand shall be more than 50 square feet in ground area and there shall not be more than one roadside stand on any one premises.

Salvage yard means a facility whose primary purpose is the storage, recycling and/or reprocessing of junk or salvage materials, including vehicles, machinery and/or other equipment.

Sand pit. See *Gravel pit.*

Sanitary landfill means a land disposal facility where solid waste is disposed on land by utilizing the principles of engineering to confine the solid waste to the smallest practical area, to reduce it to its smallest practical volume, and to cover it with a layer of earth or other approved material as required.

Sanitary sewer means a constructed conduit for the collection and carrying of liquid and solid sewage wastes from two or more premises, other than stormwater, to a sewage treatment plant, and which is approved by the state department of natural resources.

School, commercial, means a school limited to special instruction such as business, art, music, trades, handicraft, dancing or riding.

School, private, means an elementary or intermediate school other than a parochial school giving regular instruction capable of meeting the requirements of state compulsory education laws and approved as such and operating at least five days a week for a normal school year and supported by other than public funds, but not including a college or other institution of higher learning.

Service station means a business whose primary purpose is providing fuel and/or repair services to motor vehicles.

Setback means lines established along highways at specified distances from the right-of-way or road centerline, which permitted buildings or structures shall be set back of, or outside of, and within which they may not be placed except as hereinafter provided. The term "within the setback lines" means between the setback line and the highway.

Stable means a structure used primarily for the housing and boarding of horses.

Story means that portion of a building included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, then the space between such floor and the ceiling next above it.

Story, half, means a story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four feet above the floor of such story.

Street means a public or private thoroughfare which affords the principal means of access to an abutting property.

Street line means a dividing line between a lot, tract or parcel of land and a contiguous street.

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

Structure means anything constructed or erected, the use of which requires a more or less permanent location on or in the ground. Includes but is not limited to objects such as buildings, factories, sheds, cabins, wells, septic tanks and disposal fields.

Subdivider means a person who divides land, typically for development purposes, by plat or certified survey map under Wis. Stats. ch. 236.

Subdivision means a division of a lot, parcel or tract of land by the owner thereof or the owner's agent for the purpose of sale or of building development where:

- (1) The act of division creates five or more parcels or building sites of 1½ acres each or less in area; or
- (2) Five or more parcels or building sites of 1½ acres each or less in area are created by successive divisions within a period of five years.

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

Traffic lane means a strip of roadway intended to accommodate a single lane of moving vehicles.

Trailer park means any lot on which are parked two or more house trailers or mobile homes for longer than 48 hours.

Use means the use of property is for the purpose or activity for which the land or building thereon is designed, arranged or intended, or for which it is occupied or maintained, and shall include any manner of standards of this chapter.

Use, conditional. See *Conditional use*.

Use, permitted, means a use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations and performance standards, if any, of such districts.

Use, principal, means the main use of land or buildings as distinguished from a subordinate or accessory use. A principal use may be permitted or conditional.

Utility building or structure means an accessory building used for storage of gardening or home-related supplies of limited size not exceeding ten by 14 feet and no greater than nine feet in height.

Utility room means a room or area in the home used for the mechanicals of the home (e.g., furnace, water heater, water softener).

Value, market, means that value at which a seller willing to sell, but not forced to sell, would sell to a buyer willing to buy, but not forced to buy.

Variance means a special exception granted from the requirements of this chapter by the board of appeals due to unique undue hardship.

Vending machine means a retail business device, electrically or manually operated, used by the general public to obtain dairy products, cigarettes, foodstuffs or other merchandise without entering a public shop, store, market or other such building.

Vision setback area means an unoccupied triangular space at the intersection of highways or streets with other highways or streets or at the intersection of highways or streets. Such vision clearance triangle shall be bounded by the intersecting highway or street lines and a setback line connecting points located on such right-of-way lines by measurement from the intersection as specified in this chapter.

Wind generator means a device, typically tower mounted, whose primary purpose is the generation of energy from a wind-powered source.

Yard means an open space on the same lot with a structure, unoccupied and unobstructed from the ground upward, except for vegetation as permitted. The front and rear yards extend the full width of the lot.

Yard, corner side, means a side yard which adjoins a public street.

Yard, front, means a yard extending the full width of the lot between the front lot line and the nearest wall of the principal building, excluding only such projections as are permitted hereinafter. On lots of five or more acres, the front yard is defined as being 325 feet wide centered on the principal building, or the applicable minimum lot width for that district, whichever is more restrictive. Cul-de-sacs are excepted from this standard but must have 60-foot minimum front yard frontage and comply with all setback requirements.

Yard, interior side, means a side yard which is located immediately adjacent to another zoning lot or to an alley separating such yard from another zoning lot.

Yard, rear, means a yard extending the full width of the lot between the rear lot line and the nearest wall of the principal building, excluding only such projections as are permitted hereinafter. In the case of irregular or triangular lots, where none of the lines bounding the rear of the lot are parallel or approximately parallel to the front line, the rear lot line for the purposes of this chapter shall be a line ten feet long, wholly within the maximum distance from the front lot line.

Yard, side, means a yard extending from the front yard to the rear yard between the side lot line and the nearest wall of the principal building, excluding only such projections as are permitted hereinafter.

Yard, street, means a yard abutting a street.

Yard, transitional, means that yard which must be provided on a zoning lot in a business district which adjoins a zoning lot in a residential district, or that yard which must be provided on a zoning lot in an industrial district which adjoins a zoning lot in either a residential or business district.

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

Zoning permit/verification means a document signed by the zoning administrator, as required in this chapter, as a condition precedent to the commencement of a use or the erection, construction, reconstruction, restoration, alteration, conversion, or installation of a structure or building which document acknowledges that such use, structure, or building complies with provisions of this chapter or an authorized variance therefrom. It is essentially a verification of zoning status.

(Code 2006, § 13-1-8)

Sec. 60-2. - Purpose.

The purpose of this chapter is to promote the health, safety, prosperity, aesthetics and general welfare of the town.

(Code 2006, § 13-1-3)

Sec. 60-3. - Intent.

The town board has been granted village powers pursuant to Wis. Stats. § 60.22 and pursuant to the zoning authority confirmed by Wis. Stats. § 62.23(7), it is the general intent of this chapter to:

- (1) Regulate the use of all structures, lands and waters;
- (2) Regulate lot coverage, population distribution and density, and the size and location of all structures so as to lessen congestion in and promote the safety and efficiency of the streets and highways;
- (3) Secure safety from fire, flooding, panic and other dangers;
- (4) Provide adequate light, air, sanitation and drainage;
- (5) Prevent overcrowding; avoid undue population concentration;
- (6) Facilitate the adequate provision of public facilities and utilities;
- (7) Stabilize and protect property values;
- (8) Further the appropriate use of land and conservation of natural resources;
- (9) Preserve and promote the beauty of the town;
- (10) Implement the town comprehensive plan or plan components;
- (11) Provide for the administration and enforcement of this chapter and to provide penalties for its violation.

(Code 2006, § 13-1-4)

Sec. 60-4. - Abrogation and greater restrictions.

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

(Code 2006, § 13-1-5)

Sec. 60-5. - Interpretation.

- (a) In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted to promote the health, safety, morals, comfort, and general prosperity of the town 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 state statutes.
- (b) Uses allowed in business and industrial districts may be cross referenced with the Standard Industrial Classification. The SIC number is shown.

(Code 2006, § 13-1-6)

Secs. 60-6—60-14. - Reserved.

ARTICLE II. - ADMINISTRATION

Sec. 60-15. - General administrative system.

This chapter contemplates an administrative and enforcement officer entitled the zoning administrator to administer and enforce the same. Certain considerations, particularly with regard to granting of permitted conditional uses, planned unit development conditional uses, changes in zoning districts and zoning map, and amending the text of this zoning chapter require review and action by the town board. A zoning board of appeals is provided to ensure proper administration of the chapter and to avoid arbitrariness.

(Code 2006, § 13-1-170)

Sec. 60-16. - Zoning administrator.

The zoning administrator is hereby designated as the primary administrative officer for the provisions of this chapter, and shall be referred to as the zoning administrator. The zoning administrator shall be appointed by resolution of the town board. The duty of the zoning administrator/permit issuer shall be to interpret and administer this chapter and to issue all permits required by this chapter. The zoning administrator shall further:

- (1) Issue all zoning certificates, and make and maintain records.
- (2) Provide and maintain a public information function relative to all matters arising out of this chapter.
- (3) Attend all board of appeals meetings to provide technical assistance when requested by the town board.

(Code 2006, § 13-1-171)

Sec. 60-17. - Violations and penalties.

- (a) *Violations.* It shall be unlawful to use or improve any structure or land, or to use water or air, in violation of any of the provisions of this chapter. In case of any violation, the town board, the zoning administrator or any property owner who would be specifically damaged by such violation may cause appropriate action or proceeding to be instituted to enjoin a violation of this chapter or cause a structure to be vacated or removed.
- (b) *Remedial action.* Whenever an order of the zoning administrator has not been complied with within 30 days after written notice has been mailed to the owner, resident agent or occupant of the premises, the town board, the zoning administrator or the town attorney may institute appropriate legal action or proceedings.
- (c) *Penalties.* Any person who fails to comply with the provisions of this chapter or any order of the zoning administrator issued in accordance with this chapter or resists enforcement shall, upon conviction thereof, be subject to a forfeiture and such additional penalties as provided for in the general penalty provisions of this Code and in the town penalty schedule, available in the office of the town clerk. Each day that a violation continues to exist shall constitute a separate offense.

(Code 2006, § 13-1-172)

Sec. 60-18. - Zoning verification permit; certificate of compliance.

- (a) *Zoning verification permit issuance; building permit required.*
 - (1) No structure of any kind, including a building, shall hereafter be erected, moved, or structurally altered or gravel pit, quarry or pond excavated until a building permit therefor shall have been applied for and issued.

Issuance of a zoning verification permit shall not be deemed or construed to be a permit for, or an approval of, any violation of any of the requirements of this chapter. A zoning verification permit is issued, upon request, as verification of zoning status. Issuance of a zoning permit is not necessary when a building permit is issued consistent with applicable zoning.

- (2) All applications for a building permit shall be accompanied by a location sketch, showing the location, actual shape, and dimensions of the lot to be built upon, the exact size and location on the lot of the proposed or existing building and accessory building, the lines within which the building shall be erected, altered or moved, the existing or intended use of each building or part of a building, the number of families the building is intended to accommodate, and such other information with regard to the lot and neighboring lots or buildings as may be necessary to determine and provide for the enforcement of this chapter.
- (3) The lot and the location of the building thereon shall be staked out on the ground and inspected by the zoning administrator before construction is started.
- (4) Except as otherwise provided in this chapter, the zoning administrator shall issue or refuse to issue a building permit within ten days after receipt of an application therefor. Refusal to issue such permit shall be given in writing, with the reasons for such refusal.
- (5) Failure to obtain the appropriate permit before the start of construction shall be grounds for a penalty of double the permit fees.

(b) *Certificate of compliance.*

- (1) No building hereafter erected, altered or moved shall be occupied until a certificate of compliance shall have been issued by the zoning administrator. Such certificate shall show that the building or premises or part thereof and the proposed use thereof are in conformity with the provisions of this chapter. Such certificate shall be applied for when application is made for a zoning permit and shall be issued within ten days after the completion of the work specified in such zoning permit application, but only if the building or premises and the proposed use thereof conform with all the requirements of this chapter.
- (2) Under such rules and regulations as may be established by the town board, the zoning administrator may issue a temporary certificate of compliance for part of a building.
- (3) Upon written request from the owner, the zoning administrator shall issue a certificate for any building or premises existing at the time of the original adoption of this chapter, certifying, after inspection, the extent and kind of use made of the building or premises and whether or not such use conforms to the provisions of the chapter.

(Code 2006, § 13-1-173)

Secs. 60-19—60-28. - Reserved.

ARTICLE III. - BASIC REQUIREMENTS

Sec. 60-29. - Jurisdiction and compliance.

- (a) *Jurisdiction.* The jurisdiction of this chapter shall include all lands and water within the town.
- (b) *Compliance.* No structure, land or water shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without full

compliance with the provisions of this chapter and all other applicable town, county and state regulations.

(Code 2006, § 13-1-20)

Sec. 60-30. - General use restrictions.

The following restrictions and regulations shall apply to all zoning districts:

- (1) *Regulation of buildings and uses.*
 - a. *Nuisance actions.* No provision of this chapter shall be construed to bar an action to enjoin or abate the use or occupancy of any land or structure as a nuisance under the appropriate laws of the state.
 - b. *Construction of utilities.* No provision of this chapter shall be construed to prohibit the customary and necessary construction, reconstruction or maintenance of aboveground or underground public utility neighborhood service lines and mechanical appurtenances thereto where reasonably necessary for the preservation of the public health, safety, convenience and welfare.
 - c. *Compliance with district requirements.* The use of buildings hereafter erected, converted, enlarged or structurally altered and the use of any land shall be in compliance with the regulations established herein for the district in which such land or building is located.
 - d. *One residential building per lot.* Every building hereafter erected, converted, enlarged or structurally altered shall be located on a lot. A second residential building may be allowed on the same lot while construction of a new residence is taking place; however the old residence must be removed once completed. If not removed within one year of completion a citation will be issued to appear and a forfeiture levied.
 - e. *Preexisting building permits.* Nothing herein contained shall require any change in the plans, construction, size or designated use of any building or part thereof for which a building permit has been issued before the original effective date of this chapter and the construction of which shall have been started within 12 months from the date of such permit.
- (2) *Principal uses.* Only those principal uses specified for a district and their essential services shall be permitted in that district.
- (3) *Unclassified or unspecified uses.* Unclassified or unspecified uses may be permitted by the town board, provided that such uses are similar in character to the principal uses permitted in the district.
- (4) *Performance standards.* Performance standards listed in sections 60-185 through 60-189 shall be complied with by all uses in all districts.
- (5) *Conditional uses.* Provisions applicable to conditional uses generally:
 - a. *Process.* Conditional uses and their accessory uses are considered as special uses requiring, for their authorization, review, public hearing and approval by the town board in accordance with article V of this chapter excepting those existent at time of adoption of this chapter.
 - b. *Preexisting conditional uses.* Those existing uses which are classified as conditional uses for the district in which they are located at the time of adoption of this Code require no action by the town board to continue as valid conditional uses, and the same shall be deemed to be regular conditional uses.
 - c. *Change from permitted to conditional use.* Proposed change from permitted use in a district to conditional use shall require review, public hearing and approval by the town board in accordance with article V of this chapter.

- d. *Termination.* Conditional use, when replaced by permitted use, shall terminate. In such case, the reestablish previous conditional use, or establishment of new conditional use shall require review, public hearing and a town board in accordance with article V of this chapter.
- e. *Validity.* Conditional uses authorized by town board resolution shall be established for a period of time to a time certain or until a future happening or event at which the same shall terminate.
- f. *Substitution.* Conditional uses authorized by the town board shall not be subject to substitution with other conditional uses, either regular or limited, whether similar type or not, without board approval and the procedures required in article V of this chapter.

(Code 2006, § 13-1-21)

Sec. 60-31. - Reduction or joint use; area regulations.

- (a) No lot, yard, parking area, building area or other space shall be reduced in area or dimension so as not to meet the provisions of this chapter. No part of any lot, yard, parking area or other space required for a structure or use shall be used for any other structure or use.
- (b) No lot area shall be so reduced that the yards and open spaces shall be smaller than is required by this chapter, nor shall the density of population be increased in any manner except in conformity with the area regulations hereby established for the district in which a building or premises is located.
- (c) Where a lot has an area less than the minimum number of acres required for the district in which it is located and was of record as such at the time of the original passage of this chapter, such lot shall be grandfathered according to the requirements of the original zoning code.

(Code 2006, § 13-1-22)

Sec. 60-32. - Site regulations.

- (a) *Site suitability.* No land shall be used or structure erected where the land is held unsuitable for such use or structure by the town board by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics and general welfare of this community. The town board, in applying the provisions of the section, shall in writing recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he so desires.
- (b) *Street frontage.* All lots shall abut upon a public street or other town board officially approved means of access, and each lot shall have a minimum frontage of 200 feet (60 feet for cul-de-sac lots); however, to be buildable, the lot shall comply with the frontage requirements of the zoning district in which it is located.
- (c) *Private sewage systems; privies.*
 - (1) Every building or structure intended for human habitation or occupancy shall be provided with a properly functioning sewage system for the treatment and disposal of domestic waste and shall comply with the county sanitary code and Wis. Admin. Code ch. Comm 83, Private sewage systems.
 - (2) Privies will only be allowed for recreational cabins located in the Agricultural/Low Density District. Recreational cabins must have a portable toilet or an approved privy by permit of the county solid waste administrator.

- (d) *Full dedicated street.* No building permit shall be issued for a lot which abuts a public or private street dedicated to portion of its proposed width and located on that side thereof from which the required dedication has not been secured.
- (e) *Height regulations.*
- (1) Except as otherwise provided in this chapter, the height of any building hereafter erected, converted, enlarged or structurally altered shall be in compliance with the regulations established herein for the district in which such building is located.
 - (2) A basement shall be counted as a story for the purpose of height measurement if more than 50 percent of the basement is above ground.
 - (3) Where a lot abuts on two or more streets or alleys having different average established grades, the higher of such grades shall control only for a depth of 120 feet from the line of the higher average established grade.
 - (4) On through lots which extend from street to street, the height of the main building may be measured from the mean elevation of the finished grade along the end of the building facing either street.
 - (5) Ornamental structures, broadcasting towers, telephone, telegraph and power transmission poles, towers and lines, microwave radio relay structures and necessary mechanical appurtenances, and accessory structures essential to the use or protection of a building or to a manufacturing process carried on therein, are hereby exempted from the height regulations of this chapter and may be erected in accordance with other local regulations or ordinances; provided that any such structure which is accessory to a building in a residential district shall be located not less than 25 feet from any lot line.
- (f) *Yard regulations.*
- (1) No part of a yard or other open space provided about any building for the purpose of complying with the provisions of this section shall be included as part of a yard or other open space required for another building.
 - (2) Any side yard, rear yard or court abutting a district boundary line shall have a minimum width and depth in the less restricted district equal to the average of the required minimum widths and depths for such yards and courts in the two districts which abut the district boundary line.
 - (3) Buildings to be located on through lots that extend from street to street are waived from the requirements for rear yard by furnishing an equivalent open space on the same lot in lieu of the required rear yard provided that the setback requirements on both streets be complied with.
 - (4) Every part of a required yard shall be open and unoccupied by any structure from the ground upward, except as follows:
 - a. Detached accessory buildings shall be located in the rear yard. (See C-1 Conservancy Overlay District.)
 - b. Sills, belt courses, cornices, canopies, eaves and ornamental architectural features projecting not more than 36 inches.
 - c. Bay windows, decks, sun rooms, access ramps, balconies and chimneys projecting not more than 20 percent of the width of any side yard which does not abut on a street, but in no case shall it be closer than 15 feet to any lot line.
 - d. Fire escapes projecting not more than five feet in any case, but not more than 20 percent of the width of any side yard which does not abut on a street; provided that no such fire escape need be less than three feet in width.
 - e. Uncovered steps and landings projecting not more than six feet in any case, but not more than 20

percent of the width of any side yard which does not abut on a street; provided that no such steps or landings shall extend above the main or entrance floor, except for a railing not more than three feet in height. (See [section 60-286](#), yard modifications.)

f. Platforms, walks and drives extending not more than six inches above the average ground level at their margins, and retaining walls when the top of such wall is not more than six inches above the level of abutting ground on one side, may be located in any yard.

g. Fences and walls as permitted by [section 60-250](#)

(g) *Corner lot setbacks.* Structures located on a corner lot shall conform to the front yard setback requirements for the zoning district in which located for both highway/road sides of the lot.

(Code 2006, § 13-1-23)

Sec. 60-33. - Highway setback lines.

(a) *Purpose.* In order to promote and enhance the public safety, general welfare and convenience, it is necessary to have highway setback lines, which are hereby established in the town, outside the limits of incorporated cities and villages; along all public highways; at the intersections of highways with highways and highways with railways as hereafter provided.

(b) *Centerlines of highways.* For purposes of this section, the centerline of any road or highway is the legal centerline according to the description as recorded with the county register of deeds. If there is no such legal description, the centerline is the midway point between fences or other markers indicating the boundaries of the highway on opposite sides thereof. If there are no such fences or markers, the centerline is the midpoint between opposite sides of the road surface. In cases where the provisions of this section may be interpreted to provide for different setback distances, the greater setback distance shall prevail. Except as otherwise provided, the distances from the centerline or from the nearest highway right-of-way line to the setback line shall be as follows:

(1) *Class A highways.* The setback distance from a Class A highway shall be 110 feet from the centerline of the highway or 60 feet from the highway right-of-way line, whichever is greater. The following highways in the town are hereby designated as Class A highways: all U.S. and state (numbered) highways.

(2) *Class B highways.* The setback distance from a Class B highway shall be 75 feet from the centerline of the highway or 42 feet from the highway right-of-way line, whichever is greater. The following highways in the town are hereby designated as Class B highways: all county trunks are hereby designated as Class B highways. For the purpose of this section, any road will be considered as a county trunk after it has been placed on the county trunk system by the county board approved by the highway commission.

(3) *Class C highways.*

a. All town roads, minimum of 66 feet wide, public streets and highways not otherwise classified are hereby designated Class C highways.

b. The setback from Class C highways shall be 75 feet from the centerline of such highway or 42 feet from the right-of-way line, whichever is greater.

c. The highway setback for a cul-de-sac shall be 42 feet from the right-of-way line of the highway.

d. Any three rod roads shall have a minimum setback of 75 feet from the centerline.

e. In addition to the above requirements, all town roads shall meet the requirements of [chapter 42](#), article III.

(c) *Vision clearance.*

- (1) *Requirement.* There shall be a vision clearance triangle in each quadrant of all intersections of highways or streets with other highways or streets and of highways or streets with railroads. Such vision clearance triangle shall be bounded by the highway, street or railroad right-of-way lines and a vision clearance setback line connecting points on each right-of-way line which meet the requirements of section 44-284
 - (2) *Undetermined right-of-way.* In the case of railroads, and roads for which the right-of-way cannot be determined, the setback for purposes of this subsection shall be considered to be 100 feet from the centerline of the road bed or road surface.
 - (3) *Structures restricted.* Within a vision clearance triangle, no structure or object of natural growth shall be constructed, maintained or permitted to grow between a height of 2½ feet and ten feet above the elevation of the street or highway grade at the centerline or of the top of the curb if there is a curb. This shall not apply to the trunks of trees, posts not over six inches square or in diameter, retaining walls used to support ground at or below its natural level, field crops in season or wire fences so designed and constructed as not to constitute a substantial obstruction to the view of motorists and pedestrians across the vision clearance opening from one highway or street to another.
- (d) *Reduced highway setbacks.* A setback less than the setback required for the appropriate class of highway shall be permitted where there are at least five existing main buildings on the same side of the road within 500 feet of the proposed site that are built to less than the required setback. In such cases the setback shall be the average of the nearest main building on each side of the proposed site or if there is no building on one side, the average of the setback for the main building on one side and the setback required for the appropriate class of highway. Any other setback must be permitted by the board of appeals.
- (e) *Structures prohibited within setback lines.* No new building, mobile home, new sign or other structure or part thereof shall be placed between the setback lines established in this section and the highway, except as provided by this section, and no building, mobile home, sign or structure or part thereof existing within such setback lines on the original effective date of this chapter shall be altered, enlarged or added to in any way that increases or prolongs the permanency thereof, or be reconstructed in its original existing location after having been destroyed by fire, storm or other catastrophe to the extent of 50 percent or more of its current assessed value as determined by the town assessor.
- (f) *Structures permitted within setback lines.* The following kinds of structures may be placed between the setback line and the highway:
- (1) Open fences.
 - (2) Telephone, telegraph and power transmission poles and lines and microwave radio relay structures may be constructed within the setback lines, and additions to and replacements of existing structures may be made, provided the owner files with the town board an agreement in writing to the effect that the owner will remove all new construction, additions and replacements erected after the adoption of this section at his expense, when necessary for the improvement of the highway.
 - (3) Underground structures not capable of being used as foundations for future prohibited over ground structures.
 - (4) Access or service highways constructed according to plans as approved by the board of appeals. In giving such approval, the board of appeals shall give due consideration to highway safety and maximum sight distances.

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

(Code 2006, § 13-1-24)

Sec. 60-34. - Physical requirements applying to single- and two-family residential dwellings.

This section shall apply to all single- and two-family residential dwellings, including manufactured homes defined as single-family dwellings:

- (1) *Minimum size.*
 - a. The total minimum living area of a dwelling shall be in accordance with the regulations that apply to each zoning district.
 - b. The minimum exterior width shall be 22 feet at its narrowest point of its first story for a depth of 20 feet, exclusive of porches, enclosed or unenclosed, garages, decks, and other similar structural additions.
- (2) *Foundation.* Dwellings shall have a properly engineered, permanently attached means of support that meets the manufacturer's installation requirements and all applicable building codes.
- (3) *Applicability of state uniform dwelling code to site-built additions to manufactured homes.* Site built additions to a manufactured home, such as a basement, crawl space, or room additions, must meet the requirements of the state uniform dwelling code, Wis. Stats. § 101.61 et seq.
- (4) *Siding material.* Dwellings shall have siding material that is residential in appearance and consists of either wood, masonry, concrete, stucco, clapboards, simulated clapboards such as conventional vinyl or metal siding, wood shingles, shakes, or similar material. The exterior siding material shall extend to ground level, except that when a solid concrete or masonry perimeter foundation is used, the siding material need not extend below the top of the foundation.
- (5) *Roof.* The roof must be double-pitched so that there is at least a four-inch vertical rise for each 12-inch horizontal run, and covered with material that is residential in appearance including, but not limited to, approved wood, asphalt, composition or fiberglass shingles or metal. The roof shall have a minimum eight-inch roof overhang on each of the dwelling's perimeter walls such that the overhang is architecturally integrated into the design of the dwelling.
- (6) *Mobility.* Once placed on site, no modular home or manufactured home shall contain any axles, wheels, hitch or any other device facilitating its mobility.

(Code 2006, § 13-1-25)

Sec. 60-35. - Shoreland; floodplain zoning.

The town acknowledges that the county has established shoreland and floodplain overlay zoning districts for the regulation of shorelands and floodplains. Accordingly, the zoning administrator shall refer to the county all applicants seeking zoning permits for structures or uses which are proposed to be located or conducted within the shoreland or floodplain overlay districts. If the zoning administrator determines that any town building permit is required for such project, the permit shall not be issued until the county permit has been issued.

(Code 2006, § 13-1-26)

Secs. 60-36—60-58. - Reserved.

ARTICLE IV. - ZONING DISTRICTS

Sec. 60-59. - Establishment of districts.

For the purpose of this chapter, the town is hereby divided into the following zoning districts:

- (1) A-1 Agricultural/Low Density District.
- (2) A-2 Agricultural/Rural Residential District.
- (3) R-1 Single-Family Residential District.
- (4) R-2 Two-Family/Multifamily Residential District.
- (5) B-1 Business District.
- (6) I-1 Industrial District.
- (7) C-1 Conservancy (Shoreland-Wetland Zoning) Overlay District.
- (8) PDO Planned Development Overlay District.

(Code 2006, § 13-1-40)

Sec. 60-60. - Zoning map.

- (a) *Incorporated.* The location and boundaries of the districts established by this chapter are set forth on the zoning map entitled "Zoning District Map for the Town of Peshtigo, Marinette County, Wisconsin, dated February, 2005", which are incorporated herein and hereby made a part of this chapter. The said map, together with everything shown thereon and all amendments thereto, shall be as much a part of this chapter as though fully set forth and described herein.
- (b) *Map amendments.* Amendments to the zoning map shall take effect upon adoption by the town board and the county board, and the filing of proof of posting or publication thereof in the office of the town clerk. It shall be the duty of the town clerk to enter all zoning map amendments upon the certified copy of the zoning map and certify the same.
- (c) *Shoreland zoning.* The "Marinette County Shoreland Zoning Ordinance" adopted September 19, 1967, and any amendments thereto, continues in all respects to the extent of the greater restrictions, but not otherwise.

(Code 2006, § 13-1-41)

Sec. 60-61. - Interpretation of district boundaries.

The following rules shall apply with respect to the boundaries of the various districts as shown on the zoning district map:

- (1) District boundary lines are the centerlines of highways, streets, alleys, and pavements; or right-of-way lines of railroads and expressways; or section, division of section, tract and lot lines; wetland mapping unit lines or such lines extended, unless otherwise indicated.
- (2) In areas not subdivided into lots and blocks, wherever a district is indicated as a strip adjacent to and paralleling a street or highway, the depth of such strips shall be in accordance with dimensions shown on the

maps measured at right angles from the centerline of the street or highway, and length of frontage shall be in accordance with dimensions shown on the map of streets and highways, or railroad rights-of-way, unless otherwise indicated.

- (3) Where a district boundary line divides a lot in single ownership on the effective date of this chapter, the town board, after due hearing, may extend the regulation for either portion of such lot.

(Code 2006, § 13-1-42)

Sec. 60-62. - A-1 Agricultural/Low Density District.

(a) *Purpose.* The A-1 Agricultural/Low Density District is intended to provide for, maintain, preserve and enhance agricultural lands historically utilized for crop production and agricultural operations. This district recognizes the importance of agriculture and is not intended to unduly or unreasonably interfere with normal and customary farm operations including the accumulation and spreading of manure or to interfere with the operation of farm machinery and equipment during the day and at night for normal and customary farm operations.

(b) *Permitted uses.*

- (1) Agricultural operations, including but not limited to, animal and poultry husbandry, beekeeping, dairying and grazing, field crops, forestry, green houses, orchards and crop harvesting, truck farming, horticulture or viticulture, and accessory uses.
- (2) Single-family dwellings.
- (3) Two-family dwellings.
- (4) A single-family dwelling occupied by a parent or child of an owner who resides on the parcel may be developed according to the lot size, bulk restrictions and yard requirements as specified in the R-1 Single-Family Residential District.
- (5) Orchards.
- (6) Vegetable raising.
- (7) Community living arrangements with a capacity for eight or fewer persons served by the program.
- (8) Recreational cabins.
- (9) Camping unit and house trailer parking, not intended for living purposes, and limited to vehicles owned by the resident owner.
- (10) Farm buildings.
- (11) Private carports.
- (12) Detached private garages.
- (13) Tool houses, sheds and other similar buildings used for the storage of common supplies.
- (14) Conservatories and nurseries for plants, provided such activity is not used for wholesale or retail trade beyond the limitations of a home occupation.
- (15) Road stands not exceeding one per farm or residence.
- (16) Dog kennels on parcels of five acres or more.
- (17) Detached family recreational structures, such as spas, gazebos, etc.
- (18) Ponds permitted by section 60-252

(c) *Permitted accessory structures and uses.* Allowed only if a permitted use is already located on the parcel.

- (1) Home occupations and professional home offices.
 - (2) Day care center, family.
 - (3) Licensed game farms.
 - (4) One sign advertising products or service available on the premises provided that the sign area shall not exceed 16 square feet, and no lighting of any such sign shall be permitted without a variance.
- (d) *Conditional uses.*
- (1) Sewage disposal plants.
 - (2) Sanitary landfills.
 - (3) Automobile wrecking yards, junk yards, and salvage yards.
 - (4) Cemeteries.
 - (5) Governmental and cultural uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, and museums,
 - (6) Schools and churches.
 - (7) Utilities.
 - (8) Airports and landing strips.
 - (9) Sand, gravel, and stone extraction, but not including the manufacture of products on the premises other than the production of crushed stone, gravel or sand. Each gravel pit or quarry shall be graded so that the maximum side slope permitted will be 30 percent, at the end of each year's use. There shall be no mining of gravel or sand within 50 feet of the public or private road right-of-way or property line. Each such pit shall comply with the county nonmetallic mining ordinance.
 - (10) Projecting signs shall not exceed 100 square feet in area for any one premises, shall not exceed 20 feet in height above the mean centerline street grade, shall not extend beyond the lot line, shall not be less than ten feet from any side or rear lot line, shall not extend into the public right-of-way, and shall not be less than ten feet above the sidewalk or 15 feet above any public access way, any street or alley.
 - (11) Race tracks.
 - (12) All other agriculturally related commercial enterprises.
 - (13) Golf courses.
 - (14) Community living arrangements with a capacity for nine or more persons served by the program.
 - (15) Campgrounds.
 - (16) Day care center, group.
 - (17) Mini-warehouse storage units or systems.
 - (18) Telecommunications towers and facilities per section 60-220
 - (19) Wind generation systems per section 60-219
 - (20) Factory farms, as defined by the state.
- (e) *Lot size, bulk restrictions and yard requirements.*
- (1) *Lot.*
 - a. Area: minimum of five acres.
 - b. Width: 325 feet at highway setback line.

(2) *Height.*

- a. Principal building, except agricultural buildings: maximum of 35 feet.
- b. Accessory building, except agricultural buildings: maximum of 35 feet.
- c. Agricultural buildings: maximum of 125 feet.

(3) *Yards.*

- a. Front yard setback: see section 60-33
- b. Shore yard setback: minimum of 75 feet.
- c. Principal structure side yard setback:
 1. Minimum one side: 15 feet.
 2. Minimum combined: 30 feet.
- d. Principal structure rear yard setback: minimum of 40 feet. New construction grade level of the front foundation shall be at or above the grade level of the edge of the highway.

- (4) *Building area.* The minimum living area of a dwelling shall be 1,000 square feet, excluding garages and decks. The total minimum floor area of a two-story dwelling shall be 1,300 square feet with a minimum first floor area of 900 square feet.

(Code 2006, § 13-1-43)

Sec. 60-63. - A-2 Agricultural/Rural Residential District.

- (a) *Purpose.* The A-2 Agricultural/Rural Residential District is intended for mostly rural areas of the town where agricultural activity has been declining, or where a mixture of rural residential and agricultural activity is desirable or existing. The district primarily provides for low density residential development consistent with a generally rural environment and also provides for certain nonresidential uses that require relatively larger land areas and which are compatible with surrounding residential uses. This district secondarily provides for continued agricultural uses of land. Lot sizes of at least 1½ acres are required for new lots while properties for the keeping of farmland animals shall require a minimum of five acres.
- (b) *Permitted uses.*
- (1) Single-family dwellings with or without attached or detached garages or carports.
 - (2) Community living arrangements with a capacity for eight or fewer persons served by the program.
 - (3) The keeping of farmland animals defined as horses, cows, pigs, chickens, emu, ostrich, deer, etc., provided the lot is comprised of a minimum of five acres and the operations are not for large scale commercial operations and a building to house them.
- (c) *Permitted accessory structures and uses.* Allowed only if a permitted use is already located on the parcel. A detached garage will be allowed before a home is built if a site plan is submitted to the building inspector showing the location of the house and the detached garage. An affidavit must be recorded stating that a site plan for the home and detached garage has been prepared and that the property owner/developer agrees to build per that site plan in the future. The property owner/developer is responsible for recordation fees.
- (1) One accessory building, such as gardening, tool and storage sheds, utility buildings, gazebos, etc., incidental to the residential use and located in the rear or side yard. Accessory buildings shall be no larger than 1,000 square feet on parcels under five acres. Parcels consisting of five acres and over have no size limitations.
 - (2) Home occupations and professional home offices.

- (3) Day care center, family.
 - (4) Satellite dish antennas. Dishes over three feet in diameter must be located in the rear yard.
 - (5) Roof mounted solar collectors.
 - (6) Ponds permitted by section 60-252
 - (7) Dog kennels on parcels of five acres or more with a maximum of 12 dogs, provided an on-site residence is present.
- (d) *Conditional uses.*
- (1) Cemeteries.
 - (2) Governmental and cultural uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, and museums.
 - (3) Utilities.
 - (4) Community living arrangements with a capacity for nine or more persons served by the program.
 - (5) Day care center, group.
 - (6) Outside storage of unlicensed or inoperable motor vehicles.
 - (7) Dog kennels for more than 12 dogs.
 - (8) Wind generation systems and electric generation systems per section 60-219
 - (9) Ponds on parcels containing less than 20 acres per section 60-252
 - (10) Bed and breakfast establishments.
 - (11) Telecommunications towers and facilities per section 60-220
- (e) *Lot size, bulk restrictions and yard requirements.*
- (1) *Lot size.*
 - a. Area: minimum of 1.5 acres without farm animals; five acres with farm animals.
 - b. Width:
 1. Minimum for parcels of 1.5 acres or less: 200 feet at highway setback.
 2. Minimum for parcels of five acres or more: 325 feet at highway setback.
 3. Minimum lot widths of 200 and 325 feet must be maintained but could be relocated where necessary to abut an easement for ingress/egress when affording access from a town road.
 4. Frontage on curves may be reduced to a minimum of 60 lineal feet if other requirements are substantially followed.
 - (2) *Building height.*
 - a. Principal building: maximum of 35 feet.
 - b. Accessory building: maximum of 20 feet.
 - (3) *Yards.*
 - a. Front yard setback: see section 60-33
 - b. Shore yard setback: minimum of 75 feet.
 - c. Principal structure side yard setback:
 1. Minimum one side: 15 feet.

- 2. Minimum combined: 30 feet.
- d. Principal structure rear yard setback: minimum of 25 feet.
- (4) *New construction grade level.* New construction grade level of the front foundation must be at or above the grade level of the edge of the highway.
- (5) *Cul-de-sac.*
 - a. Minimum: 60 feet frontage width.
 - b. Maximum: three driveways per cul-de-sac.
- (6) *Building area.* The minimum living area of a one-story dwelling shall be 1,000 square feet, excluding garages and decks. The total minimum floor area of a two-story dwelling shall be 1,300 square feet with a minimum first floor area of 900 square feet.

(Code 2006, § 13-1-44)

Sec. 60-64. - R-1 Single-Family Residential District.

- (a) *Purpose.* The primary purpose of the R-1 district is to provide for a quiet, pleasant and relatively spacious living area for high quality, low density residential development protected from traffic hazards and the intrusion of noncompatible land uses. The intent is to provide for rural residential development on soils that are compatible for on-site disposal of sewage effluent, and development that is compatible with adjacent natural features.
- (b) *Permitted uses.*
 - (1) Single-family dwellings with or without attached or detached garages or carports.
 - (2) Community living arrangements with a capacity for eight or fewer persons served by the program.
 - (3) One accessory building, such as gardening, tool and storage sheds, utility buildings, gazebos, etc., incidental to the residential use and located in the rear or side yard. Accessory buildings shall be no larger than 1,000 square feet.
- (c) *Permitted accessory structures and uses.* Allowed only if a permitted use is already located on a parcel:
 - (1) Home occupations and professional home offices.
 - (2) Day care center, family.
 - (3) Satellite dish antennas. Dishes over three feet in diameter must be located in the rear yard.
 - (4) Roof mounted solar collectors.
 - (5) Keeping of three or fewer of each of domestic rabbits, fowl, dogs and cats are permitted per parcel; kennels are not permitted.
- (d) *Conditional uses.*
 - (1) Bed and breakfast facilities.
 - (2) Governmental and cultural uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, and museums.
 - (3) Utilities.
 - (4) Community living arrangements with a capacity for nine or more persons served by the program.
 - (5) Day care center, group.
 - (6) Solar panels detached from principal structure.
 - (7) Ponds as allowed by section 60-252

(e) *Lot size, bulk restrictions and yard requirements.*(1) *Lot size.*

- a. Area: minimum of 1.5 acres.
- b. Width: minimum of 200 feet at highway setback but could be relocated where necessary to abut an easement for ingress/egress when affording access from a town road.

(2) *Building height.*

- a. Principal building: maximum of 35 feet.
- b. Accessory building: maximum of 20 feet.

(3) *Yards.*

- a. Front yard setback: see section 60-33
- b. Shore yard setback: minimum of 75 feet.
- c. Principal structure side yard setback:
 1. Minimum one side: 15 feet.
 2. Minimum combined: 30 feet.
- d. Principal structure rear yard setback: minimum of 25 feet.

(4) *New construction grade level.* New construction grade level of the front foundation must be at or above the grade level of the edge of the highway.(5) *Cul-de-sac.* See section 60-286

- a. Minimum: 60 feet frontage width.
- b. Maximum: three driveways per cul-de-sac.

(6) *Building area.* The minimum living area of a dwelling shall be 1,000 square feet, excluding garages and decks. The total minimum floor area of a two-story dwelling shall be 1,300 square feet with a minimum first floor area of 900 square feet.*(Code 2006, § 13-1-45)*

Sec. 60-65. - R-2 Two-Family/Multifamily Residential District.

(a) *Purpose.* The primary purpose of the R-2 district is to provide for a quiet and pleasant living area for residential development protected from traffic hazards and the intrusion of noncompatible land uses on soils that are compatible for on-site disposal of sewage effluent.(b) *Permitted uses.*

- (1) Single-family dwellings with or without attached or detached garages or carports.
- (2) Community living arrangements with a capacity for eight or fewer persons served by the program.
- (3) Two-family dwellings.
- (4) Per unit, one accessory building, such as gardening, tool and storage sheds, gazebos, etc., incidental to the residential use and located in the rear or side yard. Accessory buildings shall not be larger than 600 square feet.

(c) *Permitted accessory structures and uses.* Allowed only if a permitted use is already located on the parcel:

- (1) Home occupations and professional home offices.

- (2) Day care center, family.
 - (3) Satellite dish antennas. Satellite dish antennas over three feet in diameter must be located in the rear yard.
 - (4) Roof mounted solar collectors.
 - (5) Keeping of three or fewer of each of domestic rabbits, fowl, dogs and cats are permitted per parcel; kennels are not permitted.
- (d) *Conditional uses.*
- (1) Solar panels detached from principal structure.
 - (2) Governmental and cultural uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, and museums.
 - (3) Utilities.
 - (4) Community living arrangements with a capacity for nine or more persons served by the program.
 - (5) Day care center, group.
 - (6) Multifamily dwellings.
 - (7) Bed and breakfast establishments.
 - (8) Ponds as allowed in section 60-252
- (e) *Lot size, bulk restrictions and yard requirements.*
- (1) *Lot size.*
 - a. Area:
 1. Single-family and two-family: minimum 1.5 acres.
 2. Three dwelling units: 90,000 square feet or two acres.
 3. Each additional unit: 10,000 square feet.
 - b. Width: minimum of 250 feet at highway setback. Frontage on curves may be reduced to a minimum of 60 lineal feet if other requirements are substantially followed.
 - c. Width corner lot: minimum of 300 feet.
 - (2) *Building height.*
 - a. Principal building: maximum of 35 feet.
 - b. Accessory building: maximum of 20 feet.
 - (3) *Yards.*
 - a. Front yard setback: see section 60-33
 - b. Shore yard setback: minimum of 75 feet.
 - c. Single- and two-family dwellings:
 1. Principal structure side yard setback: minimum one side of 15 feet.
 2. Principal structure rear yard setback: minimum one side of 25 feet.
 - d. Multifamily dwelling:
 1. Principal structure side yard setback: minimum one side of 25 feet.
 2. Principal structure rear yard setback: minimum of 25 feet.
 - (4) *New construction grade level.* New construction grade level of the front foundation must be at or above the

grade level of the edge of the highway.

- (5) *Building area.* The minimum living area of a dwelling shall be 1,000 square feet per dwelling unit, excluding garages and decks. The total minimum floor area of a two-story dwelling shall be 1,300 square feet with a minimum first floor area of 900 square feet.

(Code 2006, § 13-1-46)

Sec. 60-66. - B-1 Business District.

- (a) *Purpose.* The B-1 Business District is intended to provide for the orderly and attractive grouping at appropriate locations along principal highway routes of those businesses and customer services which are logically related to and dependent upon highway traffic or which are specifically designed to serve the needs of such traffic.
- (b) *Plans and specifications to be submitted to plan commission.* To encourage a business use environment that is compatible with the rural character of the town, zoning and/or building permits for permitted uses in business districts shall not be issued without review and approval of the plan commission. Said review and approval shall be concerned with general layout, building plans, ingress, egress, parking, loading and unloading, location, landscape plans and drainage.
- (c) *Permitted uses.* The following are permitted uses in this district, but not limited to these uses, which are listed for purposes of example and illustration:

B-1 BUSINESS DISTRICT PERMITTED USES

Description	Standard Industrial Classification (SIC)
Accessory buildings or use incidental to principal use	
Accounting, auditing, bookkeeping services	872
Advertising agency	7311
Amusement establishments—archery ranges, shooting galleries, game rooms, swimming pools, skating rinks, and other similar amusement facilities	
Amusement parks	7996
Animal specialty services/pet grooming, kennels, animal shelters	0752
Apparel and accessory stores	<u>56</u>
Art and school supply stores	5999
Art dealers	5999

Art galleries	834
Auction rooms	834
Auto and home supply stores	553
Automotive parking	752
Automotive rental and leasing	751
Automotive repair shops	753
Automotive services	754
Barbershops	724
Beauty shops	7996
Boat dealers	555
Bookstores, except adult	5942
Bowling centers	793
Building maintenance services	7349
Building materials and garden supplies	<u>52</u>
Business credit institutions	615
Camera and photographic supply shops	5946
Camps and recreational vehicle parks	703
Car dealers, new and used	754
Car wash	754
Child care services (day care services, group day care center, family day care center)	835
Colleges and universities	835

Computer and data processing services	737
Contractors: carpentry and floor work	175
Contractors: concrete work	177
Contractors: electrical	173
Contractors: masonry, stonework, tile, plastering	174
Contractors: painting and paper hanging	172
Contractors: plumbing, heating and air conditioning	171
Contractors: roofing, siding, and sheet metal work	176
Credit reporting and collection	732
Dance studios and schools	791
Department stores	531
Depository institutions, banks, credit unions, etc.	<u>60</u>
Drug stores and proprietary stores	591
Dry cleaning establishments	
Eating and drinking establishments primarily engaged in drive-in and carryout service	
Eating and drinking places	581
Electrical repair shops	762
Elementary and secondary schools	821
Employment and help agencies	736
Engineering and architectural services	871
Equipment rental, small	7359

Farm machinery and equipment sales	5083
Florists	<u>54</u>
Food stores	<u>54</u>
Fuel oil dealers	598
Funeral service and crematories	726
Furniture and home furnishing stores	571
Gasoline service stations	554
General merchandise stores	<u>53</u>
Gift, novelty and souvenir shops	5974
Greenhouses, commercial	
Hardware stores	525
Hobby, toy and game shops	5945
Holding and other investment offices	67
Home health care services	808
Hospitals	806
Hotels and motels	701
Household appliance stores	572
Insurance agents, brokers and services	64
Insurance carriers	63
Jewelry stores	5944
Landscape and horticultural services	078

Laundry, cleaning and garment services	721
Lawn and garden services	702
Libraries	823
Light industries	<u>39</u>
Liquor stores	592
Livestock services	751
Locksmiths	7699
Luggage and leather goods stores	5948
Lumber and other building materials	5948
Mail order houses	5961
Mailing, reproduction, stenographic services	733
Management and public relations services	874
Manufactured home sales	835
Medical and dental laboratories	807
Medical equipment leasing	7352
Membership organizations	86
Mortgage bankers and brokers	616
Motion picture theaters	783
Motor vehicle sales (new and used)	551
Motorcycle dealers	557
Nursing and personal care facilities	805

Office and clinic of dentists	802
Office and clinic of medical doctors	801
Office and clinic of osteopathic physicians	803
Office of other health practitioners	804
Optical goods stores	5995
Outdoor advertising services	7312
Paint, glass and wallpaper stores	523
Parking garages or structures, other than accessory, for the storage of private passenger automobiles only	
Parking lots	
Parking lots, open and other than accessory	
Personal credit institutions	614
Pest control	7342
Photographic studios, portrait	722
Physical fitness centers	7991
Public golf course	7992
Radio, television, computer stores	573
Real estate agents and managers	653
Record and music stores	573
Recreational and utility trailer dealers	556
Repair shops, miscellaneous	769
Research and testing services	873

Residential care services	836
Retail nurseries and garden stores	526
Reupholstery and furniture repair shops	764
Security and commodity brokers	62
Security systems services	7382
Sewing, needlework, and piece goods services	5949
Shoe repair	7251
Sporting goods and bicycle shops	5941
Sports and recreation clubs, membership	7997
Stationery stores	5943
Tax return preparation	729
Title abstract offices	654
Tobacco stores and newsstands	5994
Used merchandise stores	593
Variety stores	533
Veterinary services	074
Videotape rental store	874
Vocational schools	824
Warehousing and storage	422
Watch, clock and jewelry repair	763
Wood cabinet making	

Uses relative to normal and customary business endeavors are permitted in the district subject to interpretation by the plan commission	
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(d) *Permitted accessory uses.* Allowed only if a permitted use is already located on the parcel:

- (1) Accessory garages for storage of vehicles used in conjunction with the operation of the business or for occupants of the premises.
- (2) Off-street parking and loading areas.
- (3) Residential quarters for the owner, proprietor, commercial tenant, employee or caretaker located in the same building as the business.
- (4) Roof mounted solar collectors.

(e) *Conditional uses.*

- (1) Unattached dwelling unit for the owner, operator, employee or caretaker of the principal use.
- (2) Shopping centers.
- (3) Wind generation systems.
- (4) Telecommunications towers and facilities per section 60-220
- (5) Ponds meeting the standards of section 60-252
- (6) Animal kennels.
- (7) In addition to the above conditional uses, the following special uses may be permitted by the town board after review and public hearing. Commercial establishments dealing in adult entertainment or pornographic materials and activities:
 - a. *Intent.* It is declared to be the purpose and intent of this subsection to protect the public health, safety, welfare, and morals of the community, to promote the stability of property values, and to impose restriction upon those activities which pander to gross sexuality in a manner that would detract from the neighborhood and adversely affect the property values, increase crime and violence, and be repugnant to the morals of the community. In recognition of the protection afforded to the citizens under the First and Fourteenth Amendments, it is not the intent to inhibit freedom of speech or the press, but rather to restrict the location of defined materials and activities consistent with the town's interest in the present and future character of its community development.
 - b. *Uses which may be permitted.* The following uses shall only be permitted as herein provided:
 1. Commercial establishments which display, sell, have in their possession for sale, offer for view, publish, disseminate, give, lease, or otherwise deal in any written or printed matter, pictures, films, sound recordings, machines, mechanical devices, models, facsimiles, or other material and paraphernalia depicting sexual conduct or nudity and which exclude minors by reason of age.
 2. Commercial establishments which display for viewing any film or pictures depicting sexual conduct or nudity and which exclude minors by reason of age.
 3. Commercial establishments in which any person appears or performs in a manner depicting sexual conduct or involving nudity and from which minors are excluded by reason of age.

- c. *Definitions.* The following words, terms and phrases, when used in subsection (e)(7) of this section, shall have meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning.

Nudity means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the areola, or the human male genitals in a discernible turgid state even if completely or opaquely covered.

Sexual conduct means acts or simulated acts of masturbation, homosexuality, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or if such a person is a female, breasts.

- d. *Conditions.* The above conditional uses shall be subject to the following provisions:

1. No permit shall be granted where the proposed establishment is within 500 feet of any hospital, church, school, funeral parlor, restaurant, library, museum, or playground, or any other public or private building or premises likely to be utilized by persons under the age of 18 years.
2. No permit shall be granted where the proposed establishment is within 1,000 feet of any area zoned residential or agricultural in the same or a contiguous town or municipality.
3. The applicant shall furnish the town detailed information as to the nature of use and activity of the proposed establishment. If the application is for an establishment under subsection (e)(7)b.1 and b.2 of this section, the applicant shall furnish representative samples of the materials to be dealt in. If the application is for an establishment under subsection (e)(7)b.3 of this section, the applicant shall in detail specify the nature of the activity to be engaged in.
4. Advertisements, displays, pictures, or other promotional materials shall not be shown or exhibited on the premises in a manner which makes them visible to the public from pedestrian ways or other public or semipublic areas.
5. All points of access into such establishments and all windows or other openings shall be located, constructed, covered, or screened in a manner which will prevent a view into the interior from any public or semipublic area.
6. In case of a protest signed by 20 percent or more of the persons of the area within 300 feet of the property lines, the grant of such permit shall require a majority vote of the town board.
7. The town board in determining whether to grant a permit hereunder shall, in addition to considerations otherwise taken into account when acting on conditional use permits, consider the protection of property values in the affected area; the preservation of neighborhoods, the tendency of such use to attract an undesirable quantity or quality of transients; the tendency of such use to cause increases in crime, especially prostitution and sex-related crimes and the need for policing; the tendency of such use to cause increases in noise, traffic, and other factors interfering with the quiet and peaceful enjoyment of the neighborhood; the tendency of such use to encourage residents and businesses to move elsewhere; the protection of minors from such materials and activities; and any other factor created by the type of use being considered, along with the health, safety and general welfare of the community.

- (f) *Lot size, bulk restrictions and yard requirements.*

- (1) *Lot size.*

- a. Area: minimum of one acre.

b. Width: minimum of 100 feet at highway setback line. Frontage on curves may be reduced to a minimum of 6 requirements are substantially followed.

(2) *Building height.*

- a. Principal building: maximum of 35 feet.
- b. Accessory building: maximum of 35 feet.

(3) *Yards.*

- a. Front yard setback: see section 60-33
- b. Shore yard setback: minimum of 75 feet.
- c. Principal structure side yard setback:
 - 1. Minimum one side: 15 feet.
 - 2. Minimum combined: 30 feet.
- d. Principal structure rear yard setback: minimum of 40 feet.

(4) *New construction grade level.* New construction grade level of the front foundation shall be at or above the grade level of the edge of the highway.

(5) *Building area.* The total minimum living area of an attached dwelling shall be 500 square feet, and for an unattached dwelling shall be 1,000 square feet, excluding garages and decks.

(Code 2006, § 13-1-47)

Sec. 60-67. - I-1 Industrial District.

- (a) *Purpose.* The I-1 Industrial District is intended to provide for the orderly development of light manufacturing or light industrial operations which, on the basis of actual physical and operations characteristics, would not be detrimental to the surrounding area or to the town as a whole by reason of smoke, noise, dust, odor, traffic, physical appearance, or other similar factors; and to establish such regulatory controls as will reasonably ensure compatibility with the surrounding area in this respect.
- (b) *Plans and specifications to be submitted to plan commission.* To encourage an industrial use environment that is compatible with the rural character of the town, zoning and/or building permits for permitted uses in industrial districts shall not be issued without review and approval of the plan commission. Said review and approval shall be concerned with general layout, building plans, ingress, egress, parking, loading and unloading, location, landscape plans and drainage.
- (c) *Permitted uses.*

I-1 INDUSTRIAL DISTRICT PERMITTED USES

Description	Standard Industrial Classification (SIC)
Agricultural services	07
Animal kennels	
Apparel manufacture	23

Appliance repair	7699
Automotive repair shops	753
Automotive services, except repair	754
Automotive, truck, trailer leasing	751
Blacksmith shops	7699
Building cleaning and maintenance services	734
Bus charter service	414
Business services, miscellaneous	738
Communications equipment manufacture	366
Computer and office equipment manufacture	357
Contractors: carpentry and floor work	175
Contractors: concrete work	177
Contractors: electrical	173
Contractors: masonry, stonework, tile, plastering	174
Contractors: painting and paper hanging	172
Contractors: plumbing, heating and air conditioning	171
Contractors: roofing, siding, and sheet metal work	176
Contractors: well drilling	178
Dry cleaning establishments	
Electronic components and accessories manufacture	367
Equipment rental and leasing	735

Farm machinery repair	7699
Food manufacturing facilities, except slaughtering	<u>20</u>
Footwear manufacture	314
Furniture and fixture manufacture	<u>25</u>
General building contractors, except heavy construction	<u>15</u>
Gloves and mitten manufacture	3125
Handbags and other personal leather goods	317
Household audio and video equipment	365
Laundry, cleaning and garment services	721
Locksmith shops	7699
Luggage manufacture	316
Lumber and other building supplies sales	521
Mailing, reproduction, commercial art supplies	733
Miscellaneous fabricated textile products manufacture	239
Miscellaneous light manufacturing	<u>39</u>
Miscellaneous wood manufacture	2499
Motorcycle repair shops	7699
Motor vehicle parts, used—wholesale and retail (salvage yards)	5015
Pest control services	734
Photographic equipment manufacture	386
Photography and stenographic service	733

Printing and publishing	<u>27</u>
Printing service industries, typesetting, plate making	279
Professional and scientific instrument manufacture	<u>38</u>
Repair services, miscellaneous	76
Retail nurseries, lawn and garden supply stores	526
Reupholstery and furniture repair	764
Sawmills and planing mills	242
School bus establishment	415
Septic tank cleaning services	7699
Sewer cleaning	7699
Special trade contractors, except excavations and demolition	<u>17</u>
Surgical, medical and dental supplies and manufacture	384
Taxidermists	7699
Textile mill products	22
Warehousing and storage	422
Watches and clocks manufacture	387
Welding shops	7692
Wholesale trade—nondurable goods, except chemicals	051
Wholesale trade—durable goods	050
Wood kitchen cabinets manufacture	2434

Uses relative to normal and customary industrial endeavors are permitted in the district subject to interpretation by the plan commission	
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- (d) *Permitted accessory uses.* Allowed only if a permitted use is already located on the parcel:
- (1) Garages for storage of vehicles used in conjunction with the operation of an industry.
 - (2) Off-street parking and loading areas.
 - (3) Office, storage, power supply, and other uses normally auxiliary to the principal industrial operations.
 - (4) Residential quarters for the owner or caretaker.
 - (5) Satellite dish antennas located on the roof of the principal structure or in the rear yard.
 - (6) Roof mounted solar collectors.
- (e) *Conditional uses.*
- (1) Telecommunications towers and facilities meeting the standards of section 60-220
 - (2) Ponds meeting the standards of section 60-252
- (f) *Lot size, bulk restrictions and yard requirements.*
- (1) *Lot size.*
 - a. Area: minimum of two acres.
 - b. Width: minimum of 200 feet at the highway setback.
 - (2) *Height.*
 - a. Principal building: maximum of 35 feet.
 - b. Accessory building: maximum of 35 feet.
 - (3) *Yards.*
 - a. Front yard setback: see section 60-33
 - b. Shore yard setback: minimum of 75 feet.
 - c. Principal structure side yard setback:
 1. Minimum one side: 15 feet.
 2. Minimum combined: 30 feet.
 - d. Rear yard setback: minimum of 40 feet.
 - (4) *New construction grade level.* New construction grade level of the front foundation shall be at or above the grade level of the edge of the highway.

(Code 2006, § 13-1-48)

Sec. 60-68. - C-1 Conservancy Overlay District.

- (a) *County ordinance applicability.* The Marinette County Shoreland Ordinance established pursuant to Wis. Stats. §§ 59.69, 59.692, 87.30 and 281.31 applies, except for minimum living area provided town regulations are more restrictive, to those areas which are located within 1,000 feet of a lake, pond or flowage (natural), and within 300 feet of a river or stream or to the landward side of the floodplain, whichever distance is greater.

- (b) *When town provisions are more restrictive.* Where the town zoning code is more restrictive than the county shoreland ordinance, the town zoning code shall continue in full force and extend to the extent of the greater restriction. Except whereon lots created prior to the effective date of this chapter, the county board of adjustment grants a variance for reduced water setbacks, lot line setbacks or approval to develop an existing substandard lot, the town will accept the action by the county and allow the development as proposed, provided the applicant files with the town a copy of the findings of the county board of adjustment. All town building requirements and other zoning requirements must be including obtaining a valid town building permit.
- (c) *Distance of proposed building site.* If the proposed building site is beyond 300 feet of a river or stream or beyond 1,000 feet of a lake, pond, or flowage the county and shoreland zoning has no jurisdiction regardless of whether or not the parcel has water frontage.

(Code 2006, § 13-1-49)

Sec. 60-69. - PDO Planned Development Overlay District.

(a) *Purpose.*

- (1) *Generally.* The PDO Planned Development Overlay District is intended to permit developments that will, over a period of time, be enhanced by coordinated area site planning, diversified location of structures, diversified building types, and/or mixing of compatible uses. Such developments are intended to provide a safe and efficient system for pedestrian and vehicle traffic, to provide attractive recreation and open spaces as integral parts of the developments; to enable economic design in the location of public and private utilities and community facilities; and to ensure adequate standards of construction and planning. The PDO District under this chapter will allow for flexibility of overall development design with benefits from such design flexibility intended to be derived by both the developer and the community, while at the same time maintaining insofar as possible the land use density and other standards or use requirements set forth in the underlying basic zoning district.
- (2) *Condominiums.* The unified and planned development of a site in a single or corporate ownership or control or in common ownership under the Unit Ownership Act set forth in Wis. Stats. ch. 703, condominiums, may be permitted by the town upon specific petition under this section and after public hearing, with such development encompassing one or more principal uses or structures and related accessory uses or structures when all regulations and standards as set forth in this section have been met. Any request for a condominium project shall be reviewed as a PDO Planned Development Overlay District.
- (3) *Subdivisions.* Any request for a subdivision project or multiple land divisions which create new private or town highways shall be reviewed as a PDO Planned Development Overlay District.
- (b) *Permitted uses.* Uses permitted in a Planned Development Overlay District shall conform to uses generally permitted in the underlying basic use district. Individual structures shall comply with the specific building area and height requirements of the underlying basic use district. All open space and parking requirements of the underlying basic use district shall be complied with either individually or by providing the combined open space and parking space required for the entire development in one or more locations within the development.
- (c) *Minimum area requirements.*
- (1) *Generally.* Areas designated as Planned Development Overlay Districts shall be under single or corporate ownership or control and shall contain a minimum development area of:

Principal Uses	Minimum Area of PDO
Residential PDO	3 acres
Business PDO	3 acres
Industrial PDO	10 acres

(2) *Plan commission modification.* Upon request, the plan commission may consider PDO areas less than prescribed in subsection (c)(1) of this section.

(d) *Procedural requirements.*

(1) *Pre-petition conference.* Prior to the official submission of the petition for the approval of a Planned Development Overlay District, the owner or his agent making such petition shall meet with the plan commission or its staff, the building inspector, and the zoning administrator to discuss the scope and proposed nature of the contemplated development.

(2) *Petition and fee.* Following the pre-petition conference, the owner or his agent may file a petition with the building inspector for approval of a Planned Development Overlay District. Such petition shall be accompanied by a review fee, as required by the town board and the following information in this section.

(3) *Information statement.* A statement which sets forth the relationship of the proposed PDO to the town's adopted master plan, if applicable, or any adopted component thereof, and the general character of and the uses to be included in the proposed PDO, including the following information:

- a. Total area to be included in the PDO, area of open space, residential density computations, proposed number of dwelling units, population analysis, availability of or requirements for municipal services and any other similar data pertinent to a comprehensive evaluation of the proposed development.
- b. A general summary of the estimated value of structures and site improvement costs, including landscaping and special features.
- c. A general outline of the organization structure of a property owner's or management's association, which may be proposed to be established for the purpose of providing any necessary private services.
- d. Any proposed departures from the standards of development as set forth in the town's zoning regulations, other town regulations or administrative rules, or other universal guidelines.
- e. The expected date of commencement of physical development as set forth in the proposal.

(4) *General development plan requirements.* A general development plan including:

- a. A legal description of the boundaries of the subject property included in the proposed PDO and its relationship to surrounding properties.
- b. The location of public and private roads, driveways, and parking facilities.
- c. The size, arrangement, and location of any individual building sites and proposed building groups on each individual site.

- d. The location of institutional, recreational, and open space areas and areas reserved or dedicated for public schools, parks and drainageways.
 - e. The type, size and location of all structures.
 - f. General landscape treatment.
 - g. Architectural plans, elevation, and perspective drawings and sketches illustrating the design and character of proposed structures.
 - h. The existing and proposed location of sanitary sewer and water supply facilities.
 - i. The existing and proposed location of all private utilities or other easements.
 - j. Characteristics of soils related to contemplated specific uses.
 - k. Existing topography on the site with contours at no greater than two-foot intervals.
 - l. Anticipated uses of adjoining lands in regard to roads, surface water drainage, and compatibility with existing adjacent land uses.
 - m. Restrictive covenants and deed registrations for the proposed PDO subdivision shall be filed with the final plat.
 - n. The legal instruments creating a property owners' association for the ownership and/or maintenance of common lands and stormwater detention facilities in the PDO.
 - o. Additional information as may be reasonably requested by the plan commission or town board.
- (5) *Referral to plan commission.* The petition for a planned development overlay district shall be referred to the town plan commission for its review and recommendation, including any additional conditions or restrictions which it may deem necessary or appropriate.
- (6) *Public hearing.* The town plan commission shall hold a public hearing or a joint public hearing with the town board. Notice for such hearing shall include reference to the development plans filed in conjunction with the requested planned development overlay district. As soon as is practical following the hearing, the plan commission shall report its findings and recommendations to the town board.
- (e) *Compliance.* All proposed PDO projects shall be in compliance with all requirements of this section and the following, if applicable, and/or when adopted:
- (1) The provisions of Wis. Stats. ch. 236 and Wis. Stats. § 82.18.
 - (2) The rules of the division of health, state department of commerce, contained in Wis. Admin. Code ch. H 85 for subdivisions not served by public sewer.
 - (3) The rules of the division of highways, state department of transportation, contained in Wis. Admin. Code ch. HY 33 for subdivisions which abut a state trunk highway or connecting street.
 - (4) The rules of the state department of natural resources contained in the Wis. Admin. Code for floodplain management program (Wis. Admin. Code § Comm 21.33 et seq.).
 - (5) Comprehensive plans or components of such plans prepared by state, regional, county or municipal agencies duly adopted by the town board.
 - (6) All applicable town and county regulations, including zoning, sanitary, building and official mapping ordinances.
 - (7) The town master plan, smart growth plan, or components thereof, and applicable ordinances of any city or village whose extraterritorial jurisdiction extends into the town.

- (8) Applicable provisions of the town zoning code.
- (9) All applicable rules contained in the Wisconsin Administrative Code not listed in this subsection.
- (f) *Basis for approval of the petition.* The town plan commission, in making its recommendation, and the town board, in making its determination, shall consider:
 - (1) *Satisfactory construction schedule.* The petitioners for the proposed Planned Development Overlay District have indicated that they intend to begin the physical development of the PDO within nine months following the approval of the petition and that the development will be carried out according to a reasonable construction schedule satisfactory to the town.
 - (2) *Proposal consistent with chapter intent.* The proposed Planned Development Overlay District is consistent in all respects to the purpose of this section and to the spirit and intent of this chapter; is in conformity with the adopted master plan or any adopted component thereof; and that the development would not be contrary to the general welfare and economic prosperity of the community.
 - (3) *General findings by plan commission and town board.* The town plan commission in making its recommendations and the town board in making its determination shall further find that:
 - a. The proposed site shall be provided with adequate drainage facilities for surface waters and stormwaters.
 - b. The proposed site shall be accessible from public roads that are adequate to carry the traffic that can be expected to be generated by the proposed development.
 - c. No undue constraint or burden will be imposed on public services and facilities, such as fire and police protection, street maintenance, and maintenance of public areas by the proposed development.
 - d. The streets and driveways on the site of the proposed development shall be adequate to serve the residents of the proposed development and shall meet the minimum standards of all applicable ordinances or administrative regulations of the town.
 - e. The entire tract or parcel of land to be included in a Planned Development Overlay District shall be held under single ownership, or if there is more than one owner, the petition for such Planned Development Overlay District shall be considered as one tract, lot or parcel, and the legal description must define said PDO as a single parcel, lot or tract and be so recorded with the register of deeds for the county.
 - (4) *Findings for residential PDO.* In the case of a proposed Residential Planned Development Overlay District:
 - a. Such development will create an attractive residential environment of sustained desirability and economic stability, including structures in relation to terrain, consideration of safe pedestrian flow, ready access to recreation space, and coordination with overall plans for the community.
 - b. The total net residential density within the Planned Development Overlay District will be compatible with the town master plan or component thereof.
 - c. Provision has been made for the installation of adequate public facilities and the continuing maintenance and operation of such facilities.
 - d. Adequate, continuing fire and law enforcement protection is available.
 - e. The population composition of the development will not have an adverse effect upon the community's capacity to provide needed school or other municipal service facilities.
 - f. Adequate guarantee is provided for permanent preservation of open space areas as shown on the approved site plan either by private reservation or maintenance or by dedication to the public.
 - (5) *Findings for business PDO.* In the case of a proposed Business Planned Development Overlay District:

- a. The proposed development will be adequately served by off-street parking and truck service facilities.
 - b. The proposed development shall be adequately provided with and shall not impose any undue burden on public service and facilities such as fire and police protection, street maintenance, and maintenance of public areas.
 - c. The locations for entrances and exits have been designated to prevent unnecessary interference with the safe and efficient movement of traffic on surrounding streets, and that the development will not create an adverse effect upon the general traffic pattern of the surrounding neighborhood.
 - d. The architectural design, landscaping, control of lighting, and general site development will result in an attractive and harmonious service area compatible with and not adversely affecting the property values of the surrounding neighborhood.
- (6) *Findings for industrial PDO.* In the case of a proposed Industrial Planned Development Overlay District:
- a. The operational character, physical plant arrangement and architectural design of buildings will be compatible with the latest in performance standards and industrial development design and will not result in adverse effects upon the property values of the surrounding neighborhood.
 - b. The proposed development shall be adequately provided with and shall not impose any undue burden on public services and facilities, such as fire and police protection, street maintenance, and maintenance of public areas.
 - c. The proposed development will include adequate provisions for off-street parking and truck service areas and will be adequately served by rail and/or arterial highway facilities.
 - d. The proposed development is properly related to the total transportation system of the community and will not result in an adverse effect on the safety and efficiency of the public streets.
- (g) *Determination.* The town board, after due consideration, may deny the petition, approve the petition as submitted, or approve the petition subject to additional conditions and restrictions. The approval of a Planned Development Overlay District shall be based upon and include as conditions thereto the building, site and operational plans for the development as approved by the town board.
- (h) *Changes and additions.* Any subsequent change or addition to the plans or uses shall first be submitted for approval to the plan commission and, if in the opinion of the plan commission, such change or addition constitutes a substantial alteration of the original plan, a public hearing before the plan commission shall be required and notice thereof be given pursuant to the provisions of subsection (d)(6) of this section, and said proposed alterations shall be submitted to the town board for approval.
- (i) *Subsequent land division.* The division of any land within a Planned Development Overlay District for the purpose of change of conveyance of ownership shall be accomplished pursuant to the applicable land division regulations and when such division is contemplated, a preliminary plat of the land to be divided shall accompany the petition for PDO approval.
- (j) *Payment for improvements.*
- (1) The improvements prescribed in chapter 44, regarding construction of new town highways as part of a new subdivision are required as a condition of approval of a PDO. The required improvements shall be installed, furnished and financed at the sole expense of the subdivider/applicant. However, in the case of required improvements in a business or industrial area, the cost of such improvements may, at the sole discretion of the town board, be financed through special assessments.

- (2) During the course of construction, the town shall make such inspections as the town board deems necessary to compliance with the plans and specifications as approved. The applicant shall pay the actual cost incurred by the town for such inspections. This fee shall be the actual cost to the town of inspectors, engineers and other parties necessary to ensure satisfactory work.
- (k) *Record plans.* After completion of all public improvements and prior to final acceptance of said improvements, the subdivider shall make or cause to be made three copies of record plans showing the actual location of all improvements and such other facilities as the town shall require. These plans shall be prepared on the original Mylars of the construction plans and shall bear the signature and seal of a professional engineer registered in the state. The presentation of the record plans shall be a condition of final acceptance of the improvements and release of the surety bond assuring their completion.
- (l) *Utility easements.* The town board, on the recommendation of appropriate agencies serving the town, shall require utility easements for poles, wires, conduits, storm sewers, gas or other utility lines. It is the intent of this subsection to protect all established easements so as to ensure proper grade, ensure maintenance of the established grade, prohibit construction of permanent fences or retaining walls over underground installation and prevent the planting of trees in the easement area.
- (m) *Drainage easements.* Where a subdivision PDO is traversed by a watercourse, drainageway, channel or stream:
- (1) There shall be provided a stormwater easement or drainage right-of-way conforming substantially to the lines of such watercourse and such further width or construction, or both, as will be adequate for the purpose and as may be necessary to comply with this section;
 - (2) The watercourse, drainageway, channel or stream may be relocated in such a manner that the maintenance of adequate drainage will be ensured and the same provided with a stormwater easement or drainage right-of-way conforming to the lines of the relocated watercourse, and such further width or construction, or both, as will be adequate for the purpose and may be necessary to comply with this section; or
 - (3) Wherever possible, it is desirable that drainage be maintained by an open channel with landscaped banks and adequate width for maximum potential volume flow. In all cases, such watercourse shall be of a minimum width established at the high-water mark or, in the absence of such specification, not less than 30 feet. If, in the opinion of the town engineer, the easement will be for a major drainage swale, the easement shall be of sufficient width to contain a 100-year frequency storm. If the drainage easement is located in an established floodway or flood fringe district, the entire floodplain area shall be included within the drainage easement.
- (n) *Easement locations.* Such easements shall be at least 12-feet wide, or wider where recommended by the town engineer, and may run across lots or alongside of rear lot lines. Such easements should preferably be located along rear lot lines. Evidence shall be furnished the town board that easements and any easement provisions to be incorporated in the plat or in deeds have been reviewed by the individual utility companies or the organization responsible for furnishing the services involved.

(Code 2006, § 13-1-50)

Secs. 60-70—60-96. - Reserved.

ARTICLE V. - CONDITIONAL USES

Sec. 60-97. - Statement of purpose.

The development and execution of this article is based upon the division of the town into districts, within which districts the use of land and buildings, and bulk and location of buildings and structures in relation to the land, are mutually compatible and substantially uniform. However, there are certain uses which, because of their unique characteristics, cannot be properly classified as unrestricted permitted uses in any particular district, without consideration, in each case, of the impact of those uses upon neighboring land or public facilities, and of the public need for the particular use of a particular location. Such uses, nevertheless, may be necessary or desirable to be allowed in a particular district provided that due consideration is given to location, development and operation of such uses. Such uses are classified as conditional uses.

(Code 2006, § 13-1-60)

Sec. 60-98. - Authority of the town board; requirements.

- (a) The town board hereby authorizes the zoning administrator to issue a conditional use permit after review by the plan commission and town board and public hearing, provided that such conditional use and involved structure are found to be in accordance with the purpose and intent of this chapter and are further found to be not hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or the community. Such town board action, and the resulting conditional use permit shall specify the period of time for which effective, if specified, the name of the permittee, the location and legal description of the affected premises. Prior to the granting of a conditional use, the town board shall make findings based upon the evidence presented that the standards herein prescribed are being complied with.
- (b) Any development within 500 feet of the existing or proposed rights-of-way of freeways, expressways and within one-half mile of their existing or proposed interchange or turning lane rights-of-way shall be specifically reviewed by the highway agency that has jurisdiction over the traffic way. The town board shall request such review and await the highway agency's recommendation for a period not to exceed 20 days before taking final action. The state department of transportation is to include in their recommendations to the town board a plat of the project, a noise contour map and the projected start date for the proposed project especially where road class would change.
- (c) Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operation control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or parking requirements may be required by the town board upon its finding that these are necessary to fulfill the purpose and intent of this chapter.
- (d) 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 of all conditional uses.

(Code 2006, § 13-1-61)

Sec. 60-99. - Initiation of conditional use.

Any person having a freehold interest or a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest, or an exclusive possessory interest, and which is specifically enforceable in the land for which a conditional use is sought, may file an application to use such land for one or more of the conditional uses provided for in this article in the zoning district in which such land is located.

(Code 2006, § 13-1-62)

Sec. 60-100. - Application for conditional use; plan commission review.

(a) *Application.*

- (1) All requests for conditional uses shall be applied for with the town clerk on a form prescribed by the town and payment of the required fee. The application shall be accompanied by an application fee as established by the town board and by a plan showing the location, size and shape of the lot involved and of any proposed structures, the existing and proposed use of each structure and lot, and shall include a statement in writing by the applicant and adequate evidence showing that the proposed conditional use shall conform to the standards set forth in section 60-103 hereinafter. The applicant shall be responsible for providing to the town clerk the names, mailing addresses and parcel numbers of all property owners within 300 feet of the perimeter property line as it exists at the time of the application for conditional use. This requirement does not apply to the boundary of a leased parcel unless the leased parcel boundary is also a property line.
- (2) Such application shall be reviewed by the plan commission and a written recommendation submittal thereon to the town board. The plan commission may require such other information as may be necessary to determine and provide for an enforcement of this chapter, including a plan showing contours and soil types; high-water mark and groundwater conditions; bedrock, vegetative cover, specifications for areas of proposed filling, grading, and lagooning; location of buildings, parking areas, traffic access, driveways, walkways, open spaces and landscaping; plans of buildings, sewage disposal facilities, water supply systems and arrangements of operations; stockpiles; equipment storage; fences or screens; and any other pertinent information that may be necessary to determine if the proposed use meets the requirements of this article.

(b) *Plan commission recommendation.* For each application for a conditional use, the town plan commission shall report to the town board its findings and recommendations, including the stipulation of additional conditions and guarantees that such conditions will be complied with when they are deemed necessary for the protection of the public interest. The plan commission shall itemize, describe or justify, then have recorded and filed in writing in the office of the town clerk, the conditions imposed on the use.

(Code 2006, § 13-1-63)

Sec. 60-101. - Hearing on application.

The town board shall hold at least one public hearing on each application for a conditional use. The hearing shall be conducted and a record of the proceedings shall be preserved in such a manner and according to such procedures as the town board shall, by rule, prescribe from time to time.

(Code 2006, § 13-1-64)

Sec. 60-102. - Notice of hearing on application; determination.

Notice of the time, place and purpose of such hearing shall be given by publication of a Class 1 notice under Wis. Stats. ch. 985, in a newspaper or by legal posting. Due written notices of the time, place and purpose of such public hearing shall also be sent by U.S. mail to the applicant and the owners of record who are owners of property in whole or in part situated within 300 feet of the perimeter of the properties affected as they exist at the time of the application, said notice to be sent at least seven days prior to the date of such public hearing.

(Code 2006, § 13-1-65)

Sec. 60-103. - Standards; review; application.

- (a) *Standards.* No application for a conditional use shall be recommended for approval by the plan commission or be granted by the town board unless it is determined that the following factors exist:
- (1) That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
 - (2) That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use and the proposed use is compatible with the use of adjacent land.
 - (3) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
 - (4) That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.
 - (5) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
 - (6) That the conditional use shall, except for yard requirements, conform to all applicable regulations of the district in which it is located.
 - (7) That the proposed use does not violate floodplain regulations governed by the county.
 - (8) That adequate measures have been or will be taken to prevent and control water pollution, including sedimentation, erosion and runoff, approved by the appropriate jurisdictional authority.
 - (9) That such use will comply with the regulations and conditions specified in this article for such use.
- (b) *Conditional use review criteria.* A request for a conditional use shall be permitted to be approved, approved with conditions or denied. Each request for a conditional use approval shall be consistent with the criteria listed below:
- (1) The request is consistent with all applicable provisions of the comprehensive plan.
 - (2) The request shall not adversely affect adjacent properties.
 - (3) The request is compatible with the existing or allowable uses of adjacent properties.
 - (4) The request can demonstrate that adequate public facilities, including roads, drainage, potable water, sanitary sewer, and police and fire protection, exist or will exist to serve the requested use at the time such facilities are needed.
 - (5) The request can demonstrate adequate provision for maintenance of the use and associated structures.
 - (6) The request has minimized, to the degree possible, adverse effects on the natural environment.
 - (7) The request will not create undue traffic congestion.
 - (8) The request will not adversely affect the public health, safety or welfare.
 - (9) The request conforms to all applicable provisions of this Code.
- (c) *Application of standards.* When applying the standards in subsection (a) of this section to any new construction of a building or an addition to an existing building, the town board and/or plan commission shall bear in mind the statement of purpose for the zoning district such that the proposed building or addition at its location does not defeat the purposes and objective of the zoning district.

(Code 2006, § 13-1-66)

Sec. 60-104. - Denial or approval of application for conditional use permit.

When a denial of a conditional use application is made by the town board, the town board shall furnish the applicant with a copy of the approved meeting minutes. In all cases in which conditional uses are granted, the town board shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with.

(Code 2006, § 13-1-67)

Sec. 60-105. - Conditions and guarantees.

Upon consideration of the factors listed in section 60-103, and upon recommendation of the plan commission, the town board may attach such conditions, in addition to those otherwise specifically listed, that it deems necessary. The following conditions may apply to all conditional uses:

- (1) *Conditions.* Prior to the granting of any conditional use, the town board may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as deemed necessary to promote the public health, safety and general welfare of the community, and to secure compliance with the standards and requirements specified in section 60-103. Such conditions may include specifications for, without limitation because of specific enumeration:
 - a. Landscaping;
 - b. Type of construction;
 - c. Construction commencement and completion dates;
 - d. Sureties;
 - e. Lighting;
 - f. Fencing;
 - g. Operational control;
 - h. Hours of operation;
 - i. Traffic circulation;
 - j. Deed restrictions;
 - k. Access restrictions;
 - l. Setbacks and yards;
 - m. Increased parking;
 - n. Location, size and number of signs;
 - o. Water supply and waste disposal system;
 - p. Highway access restrictions; or
 - q. Any other requirements necessary to fulfill the purpose and intent of this article.
- (2) *Site review.* In making its decision, the town board shall evaluate each application and may request assistance from any source which can provide technical assistance. The town board may review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems and the proposed operation/use.

- (3) *Alteration of conditional use.* No alteration of a conditional use shall be permitted unless approved by the town following a new public hearing.
- (4) *Architectural treatment.* Proposed architectural treatment will be in general harmony with surrounding uses and the landscape. To this end, the town board may require the use of certain general types of exterior construction materials and/or architectural treatment.

(Code 2006, § 13-1-68)

Sec. 60-106. - Validity of conditional use permit.

Where a conditional use application has been approved or conditionally approved, such conditional use permit approval shall become null and void within six months of the date of the approval unless the use is commenced, construction is underway or the current owner possesses a valid building permit under which construction is commenced within six months of the date of issuance and which shall not be renewed unless construction has commenced and is being diligently prosecuted. The town board may extend such permit for a period of 90 days for justifiable cause, if application is made to the town at least 30 days before the expiration of said permit.

(Code 2006, § 13-1-69)

Sec. 60-107. - Complaints regarding conditional uses.

The town board shall retain continuing jurisdiction over all conditional uses for the purpose of resolving complaints against all previously approved conditional uses. Such authority shall be in addition to the enforcement authority of the zoning administrator to order the removal or discontinuance of any unauthorized alterations of an approved conditional use, and the elimination, removal or discontinuance of any violation of a condition imposed prior to or after approval or violation of any other provision of this Code. Upon written complaint by any citizen or official, the town board shall initially determine whether said complaint indicates a reasonable probability that the subject conditional use is in violation of either one or more of the standards set forth in section 60-103, a condition of approval or other requirement imposed hereunder. Upon reaching a positive initial determination, a hearing shall be held upon notice as provided in section 60-102. Any person may appear at such hearing and testify in person or be represented by an agent or attorney. The town board may, in order to bring the subject conditional use into compliance with the standards set forth in section 60-103 or conditions previously imposed by the town board, modify existing conditions upon such use and impose additional reasonable conditions upon the subject conditional use. In the event that no reasonable modification of such conditional use can be made in order to ensure that the standards in section 60-103(a) and (b) will be met, the town board may revoke the subject conditional approval and direct the zoning administrator and the town attorney to seek elimination of the subject use. Following any such hearing, the decision of the town board shall be furnished to the current owner of the conditional use in writing stating the reasons therefor.

(Code 2006, § 13-1-70)

Sec. 60-108. - Bed and breakfast establishments.

- (a) *As conditional use.* Bed and breakfast establishments shall be allowed in the A-1 district and considered a conditional use and may be permitted in the A-2 Agricultural and Residential districts pursuant to this article.
- (b) *Definition.* The term "bed and breakfast establishment" means any place of lodging that provides four or fewer rooms for rent for more than ten nights in a 12-month period, is the owner's personal residence, is occupied by the owner at the time of rental and in which the only meal served to guests is breakfast.

- (c) *State standards.* Bed and breakfast establishments shall comply with the standards of Wis. Admin. Code ch. HSS 197.

(Code 2006, § 13-1-71)

Sec. 60-109. - Home occupations; professional home offices.

(a) *Intent.*

- (1) The intent of this section is to provide a means to accommodate a small family home-based business or professional home office without the necessity of a rezone into a commercial district. Approval of an expansion of a limited family business or home occupation at a future time beyond the limitations of this section is not to be anticipated; relocation of the business to an area that is appropriately zoned may be necessary. In general, home occupations shall be so located and conducted that the average neighbor under normal circumstances would not be aware of its existence. Such occupation is incidental to the use of the premises for the residential purpose and does not effect any substantial change in the character of the premises or of the neighborhood.
- (2) The standards for home occupations in this section are intended to ensure compatibility with other permitted uses and with the residential character of the neighborhood, plus a clearly secondary or incidental status in relation to the residential use of the main building as the criteria for determining whether a proposed accessory use may qualify as a home or professional home office occupation. This section recognizes that compatibility may vary by zoning district and that certain uses may be incompatible in residential zones, but due to custom, types of permitted use, and arrangement of land uses may be compatible in agricultural districts.

(b) *Restrictions on residential district home occupations.* Home occupations and professional home offices are a permitted use in all residential districts, subject to the requirements of the district in which the use is located and the following requirements:

- (1) The home occupation shall be conducted only within the enclosed area of the dwelling unit. Use of accessory buildings for the home occupation is prohibited.
- (2) There shall be no exterior alterations which change the character thereof as a dwelling and/or exterior evidence of the home occupation other than those signs permitted in the district.
- (3) No storage or display of materials, goods, supplies or equipment related to the operation of the home occupation shall be visible outside any structure located on the premises.
- (4) No use shall create smoke, odor, glare, noise, dust, vibration, fire hazard, small electrical interference or any other nuisance not normally associated with the average residential use in the district.
- (5) Only one sign may be used to indicate the type of occupation or business. Such sign shall not be illuminated and shall comply with residential district sign regulations.
- (6) The use shall not involve the use of commercial vehicles for more than occasional delivery of materials to or from the premises.
- (7) No stock in trade is kept or sold except that which is made in connection with such occupation.
- (8) The types and number of equipment or machinery may be restricted by the town board.
- (9) No mechanical equipment shall be used other than such as is permissible purely for domestic purposes.
- (10) No more than 25 percent of the gross floor area of the residence shall be utilized by the home occupation.

- (11) No more than two people outside the family shall be employed in the home occupation.
 - (12) The use shall not generate pedestrian or vehicular traffic above that normally associated with a residential district.
- (c) *Home occupations prohibited in residential districts.* The following uses by nature of the investment or operation have a pronounced tendency once started to rapidly increase beyond their limits permitted for home occupations in a residential district and thereby impair the use and value of residentially zoned areas for residential purposes. Therefore, the uses specified below shall not be permitted as home occupations in residential districts:
- (1) Appliance repair.
 - (2) Automobile or motor vehicle repair (minor or major).
 - (3) Metal fabrication.
 - (4) Painting of automobiles, trailers or other vehicles.
 - (5) Tire repair.
 - (6) Welding.
- (d) *Home occupations permitted in residential districts as conditional uses.* The following uses may be allowed as a conditional use, provided that the town board may require certain limitations and conditions:
- (1) Barbershops and beauty shops.
 - (2) Dance studios.
 - (3) Music lesson studios.
 - (4) Photographic studios.
- (e) *Home occupations in A-1 or A-2 Agricultural Districts of five acres or less; standards.*
- (1) Such occupations are incidental to the use of the premises for the agricultural purpose and does not effect any substantial change in the character of the premises or of the neighborhood.
 - (2) No article is sold or offered for sale on the premises except that is produced by such occupation.
 - (3) No mechanical equipment is used other than such as is permissible purely for domestic purposes.
 - (4) Not more than two people outside the family shall be employed in the home occupation.
 - (5) No more than 25 percent of the gross floor area of the residence shall be utilized by the home occupation.
 - (6) No more than one accessory building may be used for the home occupation, providing that the area occupied by the home occupation in the accessory building shall not exceed the gross first floor area of the residence.
 - (7) There shall be no outside storage of any kind related to the home occupation.
 - (8) The use shall not generate pedestrian or vehicular traffic beyond that normal to the agricultural district.
 - (9) No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard or other hazard greater or more frequent than that usually experienced in an average agricultural occupancy in the district in question in normal circumstances wherein no home occupation exists.
 - (10) No sign shall be allowed other than those permitted in the Agricultural/Low Density District.

(Code 2006, § 13-1-72)

Sec. 60-110. - General conditional uses.

In addition to specific zoning district conditional uses and pertinent district requirements, the following are general conditional uses. After public hearing, the plan commission may recommend to the town board the location of any of the following buildings or uses as a conditional use in any district from which they are excluded by this chapter, provided that each such building or use shall comply with all other regulations for the location of such buildings or uses. The town board may establish such conditions and safeguards as will further and protect the general purpose and intent of this chapter:

- (1) Cemeteries.
- (2) Fire and police stations.
- (3) Hospitals and clinics, but not animal hospitals/clinics or veterinary services.
- (4) Institutions, public or private, of an educational, philanthropic or charitable nature.
- (5) Private clubs and lodges, excepting those the chief activity of which is a service customarily carried.
- (6) Fur farms in the Agricultural/Low Density District only.
- (7) Public utility buildings, structures and lines, including microwave radio relay structures, cellular telecommunication towers, and their appurtenances for such purposes as are reasonably necessary for the public convenience and welfare.
- (8) Railroad siding and structures.
- (9) Sewage disposal plants.
- (10) Sanitary landfills for use of town residents only.

(Code 2006, § 13-1-73)

Secs. 60-111—60-133. - Reserved.

ARTICLE VI. - NONCONFORMING USES, STRUCTURES AND LOTS

Sec. 60-134. - Existing nonconforming uses.

- (a) *Continuation.* Except as otherwise specially provided in this chapter, the lawful nonconforming use of a structure, land or water existing at the time of the adoption or amendment of this chapter may be continued, although the use does not conform with the provisions of this chapter, provided, however:
 - (1) Only that portion of the land or water in actual use may be so continued and the structure may not be extended, enlarged, reconstructed, substituted, moved or structurally altered, except when required to do so by law or order or so as to comply with the provisions of this chapter.
 - (2) The total lifetime structural repairs or alterations shall not exceed 50 percent of the assessed value of the structure at the time of its becoming a nonconforming use unless it is permanently changed to conform to the use provisions of this chapter.
 - (3) Substitution of new equipment may be permitted by the town board if such equipment will reduce the incompatibility of the nonconforming use with the neighboring use.
- (b) *Abolishment or replacement of existing nonconforming use.* If such nonconforming use is discontinued or terminated for a period of 12 months, any future use of the structure, land or water shall conform to the provisions of the ordinance from which this chapter is derived. When a nonconforming use or structure is

damaged by fire, explosion, flood, the public enemy or other calamity to the extent of more than 50 percent of its current assessed value, it shall not be restored except so as to comply with the use provisions of this chapter.

(Code 2006, § 13-1-80)

Sec. 60-135. - Existing nonconforming structures, lots and signs.

- (a) *Generally.* The existing lawful use of a building or premises at the time of the enactment or amendment of this section may be continued although such use does not conform with the regulations for the district in which it is located. Except in the agricultural districts, such nonconforming uses shall not be extended. Nonconforming mobile homes shall not be moved, relocated or placed unless in conformity with this section. This section does not apply to preexisting residences located in an A-1 Agricultural District.
- (b) *Existing legal nonconforming uses.* All nonconforming lots, signs and/or structures of record as such at the time of the passage of this chapter shall be known as legal nonconforming lots, signs and/or structures if they were legal according to the requirements of the zoning code in force at the time they were established. (See section 48-2, regarding repair/reconstruction of signs.)
- (c) *Change of nonconforming uses.* If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or a more restricted classification. Whenever a nonconforming use has been changed to a more restricted nonconforming use or a conforming use, such use shall not thereafter be changed to a less restricted use.

(Code 2006, § 13-1-81)

Sec. 60-136. - Changes and substitutions.

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

(Code 2006, § 13-1-82)

Secs. 60-137—60-155. - Reserved.

ARTICLE VII. - TRAFFIC VISIBILITY, LOADING, PARKING AND ACCESS

Sec. 60-156. - Traffic visibility.

On a corner lot in all zoning districts, the vision clearance requirements of section 60-33(c) shall be complied with.

(Code 2006, § 13-1-90)

Sec. 60-157. - Parking requirements.

All new parking lots shall be subject to the approval of the town board. Requests for said parking lots shall be accompanied with detailed plans on landscaping, which will include proposed and existing elevations, parking layout, drainage provisions and driveway locations. In all districts, except those areas which are located in a fire district as

designated on the official map, 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:

- (1) *Access.* Adequate access to a public street shall be provided for each parking space.
- (2) *Design standards.* State design standards shall be met.
- (3) *Auto parking.*
 - a. All theaters, arenas, auditoriums, churches or other place of public gathering hereinafter erected shall provide an accessible parking space off the public street of sufficient size to accommodate at least one car for every ten seats provided.
 - b. Every dwelling hereafter erected or structurally altered shall provide motor vehicle parking space on the same lot, off the public street and accessible thereto, in the ratio of not less than two such parking spaces for each family which the building is intended to accommodate.
 - c. Every building hereafter erected or moved for any use first permitted in the business district, or any additions to any existing building devoted to such use, shall provide motor vehicle parking space off the public street in the ratio of not less than one parking space for each 100 square feet of ground floor area in such building.
 - d. Every building hereafter erected or structurally altered for any industrial use shall provide not less than one parking space for each four persons employed plus an additional parking space for each vehicle operated in connection with the use of such building.
 - e. Parking spaces required by subsections (3)a, c. and d of this section may be provided off the premises or in a parking lot developed in cooperation with the owners or operators of other buildings or uses; provided that, the sum of the parking spaces provided in such cooperatively developed parking lot shall not be less than the sum of the parking spaces required by this chapter for all the buildings or uses involved; provided further that two or more uses for which the parking demand is generated on different days or during different, and not overlapping, hours of the day, may designate the same parking space to meet part or all of the requirements of this subsection for each such use.
- (4) *Lighting.* Any lighting used to illuminate off-street parking areas shall be directed away from residential properties and public streets in such a way as not to create a nuisance. However, in no case shall such lighting exceed three footcandles measured at the lot line.
- (5) *Handicapped parking requirements.* The provisions contained in Wis. Stats. §§ 101.13, 346.503 and 346.56, and any Wisconsin Administrative Code sections adopted pursuant to these statutes are hereby adopted by reference and made applicable to all new parking facilities being constructed.

(Code 2006, § 13-1-91)

Sec. 60-158. - Highway access.

- (a) *Private access restricted.* No direct private access shall be permitted to the existing or proposed rights-of-way, nor to any controlled access arterial street without permission of the highway agency that has access control jurisdiction.
- (b) *Public or private access prohibited.* No direct public or private access shall be permitted to the existing or proposed rights-of-way of the following:
 - (1) Freeways, expressways, interstate highways and their interchanges or turning lanes nor to intersection of

interchanging streets within 1,500 feet of the most remote end of the taper of the turning lanes.

(2) Arterial streets intersecting another arterial street within 100 feet of the intersection of the right-of-way lines.

(3) Streets intersecting an arterial street within 50 feet of the intersection of the right-of-way lines.

(c) *Temporary access.* Temporary access to the above rights-of-way may be granted by the town board after review and recommendation by the highway agencies having jurisdiction. Such access permit shall be temporary, revocable and subject to any conditions required and shall be issued for a period not to exceed 12 months.

(Code 2006, § 13-1-92)

Secs. 60-159—60-184. - Reserved.

ARTICLE VIII. - PERFORMANCE STANDARDS

Sec. 60-185. - Article intent.

It is the intent of this article to use performance standards for the regulation of uses to facilitate a more objective and equitable basis for control and to ensure that the community is adequately protected from potential hazardous and nuisance-like effects. The standards contained in this article shall not be applicable to properties zoned A-1 Agricultural. This chapter permits specific uses in specific districts and these performance standards are designed to limit, restrict and prohibit the effects of those uses outside their premises or district. No structure, land or water shall hereafter be used except in compliance with the district regulations and with the following environmental performance standards.

(Code 2006, § 13-1-120)

Sec. 60-186. - Noise.

No nonagricultural operation or activity shall transmit any noise exceeding 75 dBA from 7:00 a.m. to 11:00 p.m. and 70 dBA from 11:00 p.m. to 7:00 a.m. beyond the property line. The following noises are exempt from the regulations:

(1) Noises from temporary construction or maintenance activities during daylight hours.

(2) Noises from emergency, safety or warning devices.

(Code 2006, § 13-1-121)

Sec. 60-187. - Vibration.

(a) No operation or activity shall transmit any physical vibration that is above the vibration perception threshold of an individual at or beyond the property line of the source. The term "vibration perception threshold" means the minimum ground- or structure-borne vibrational motion necessary to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.

(b) Vibrations from temporary construction or maintenance activities shall be exempt from the above standard.

(Code 2006, § 13-1-122)

Sec. 60-188. - Glare and heat.

No unsanctioned activity shall emit glare or heat that is visible or measurable outside its premises, except activities in the industrial district which may emit direct or sky-reflected glare which shall not be visible outside their district. All operations producing intense glare or heat shall be conducted within a completely enclosed building. Exposed sources of light shall be shielded so as not to be visible outside their premises.

(Code 2006, § 13-1-123)

Sec. 60-189. - Air pollution.

- (a) No nonagricultural operation or activity shall emit into the ambient air from any direct or portable source any matter that will affect visibility in excess of the limitations established in Wis. Admin. Code ch. NR 154.11(6). Outdoor solid fuel heating devices shall not be governed by this section.
- (b) No nonagricultural activity or operation shall be established or maintained which by reason of its nature causes emission of any fly ash, dust, fumes, vapors, mists or gases in such quantities as to cause soiling or danger to the health of persons, animals, vegetation or property. In no case shall any activity emit any liquid or solid particles in concentrations exceeding 0.3 grains per cubic foot of the conveying gas, nor any color visible smoke equal to or darker than No. 2 on the Ringlemann Chart described in the United States Bureau of Mines' Information Circular 7718 in any industrial district. Fugitive emissions shall not exceed the ambient standards for respiratorial dust as established by the United States Environmental Protection Agency currently known as the PM Standard.

(Code 2006, § 13-1-124)

Secs. 60-190—60-216. - Reserved.

ARTICLE IX. - ANTENNAS; WIND ENERGY SYSTEMS; WIRELESS TELECOMMUNICATIONS SYSTEMS

Sec. 60-217. - Wind energy systems—Conditional use permits required.

- (a) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Wind energy systems means windmills which are used to produce electrical or mechanical power. Wind pond aerators are exempt from this section.

- (b) *Approval required.* No owner shall, within the town, build, construct, use or place any type or kind of wind energy system without holding the appropriate conditional use permit for said system.
- (c) *Separate permit required for each system.* A separate conditional use permit shall be required for each system. Said permit shall be applicable solely to the systems, structures, use and property described in the permit.
- (d) *Basis of approval.* The town board shall base its determinations on general considerations as to the effect of such grant on the health, general welfare, safety and economic prosperity of the town and, specifically, of the immediate neighborhood in which such use would be located, including such considerations as the effect on the established character and quality of the area, its physical attractiveness, the movement of traffic, the demand for related services, the possible hazardous, harmful, noxious, offensive or nuisance effect as a result of noise, dust, smoke or odor and such other factors as would be appropriate to carry out the intent of this chapter.

(Code 2006, § 13-1-130)

Sec. 60-218. - Same—Permit procedure.

- (a) *Application.* The permit application for a wind energy system shall be made to the town clerk on forms provided by the town. The application shall include the following information:
- (1) The name and address of the applicant.
 - (2) The address of the property on which the system will be located.
 - (3) Applications for the erection of a wind energy conversion system shall be accompanied by a plat or survey for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures. If the system is intended to provide power to more than one premises, the plat or survey shall show all properties to be served and the means of connection to the wind energy conversion system. The application shall further indicate the level of noise to be generated by the system and provide assurances as to the safety features of the system.
 - (4) An accurate and complete written description of the use for which the special grant is being requested, including pertinent statistics and operational characteristics.
 - (5) Plans and other drawings showing proposed development of the site and buildings, including landscape plans, location of parking and service areas, driveways, exterior lighting, type of building material, etc., if applicable.
 - (6) Any other information which the plan commission, town board or building inspector may deem to be necessary to the proper review of the application.
 - (7) The plan commission shall review the application and, if the application is complete and contains all required information, shall refer it to the town board with a recommendation.
- (b) *Hearing.* Upon referral of the application, the town board shall schedule a public hearing thereof following the procedures for conditional use permits in article V of this chapter.
- (c) *Determination.* Following public hearing and necessary study and investigation, the town board shall, as soon as practical, render its decision and a copy be made a permanent part of the board's minutes. Such decision shall include an accurate description of the special use permitted, of the property on which permitted, and any and all conditions made applicable thereto, or, if disapproved, shall indicate the reasons for disapproval. The town board may impose any conditions or exemptions necessary to minimize any burden on the persons affected by granting the special use permit.
- (d) *Termination.* When a special use does not continue in conformity with the conditions of the original approval, or where a change in the character of the surrounding area or of the use itself cause it to be no longer compatible with surrounding areas, or for similar cause based upon consideration for the public welfare, the special grant may be terminated by action of the town board following a public hearing thereon.
- (e) *Changes.* Subsequent change or addition to the approved plans or use shall first be submitted for review to the plan commission and if, in the opinion of the plan commission, such change or addition constitutes a substantial alteration, the plan commission shall recommend that a public hearing before the town board shall be held and notice thereof be given. The town board shall then make a determination on the matter.
- (f) *Approval does not waive permit requirements.* The approval of a permit under this article shall not be construed to waive the requirement to obtain electrical, building or plumbing permits prior to installation of any system.

(Code 2006, § 13-1-131)

Sec. 60-219. - Specific requirements regarding wind energy systems.

- (a) *Additional standards.* Wind energy conversion systems, commonly referred to as windmills, which are used to produce electrical power, shall also satisfy the requirements of this section in addition to those found elsewhere in this article.
- (b) *Application.* Applications for the erection of a wind energy conversion system shall be made per section 60-218(a)(3).
- (c) *Construction.* Wind energy conversion systems shall be constructed and anchored in such a manner to withstand wind pressure of not less than 40 pounds per square foot in area.
- (d) *Noise.* The maximum level of noise permitted to be generated by a wind energy conversion system shall be 50 decibels, as measured on a dBA scale, measured at the lot line.
- (e) *Electromagnetic interference.* Wind energy conversion system generators and alternators shall be filtered and/or shielded so as to prevent the emission of radio-frequency energy that would cause any harmful interference with radio and/or television broadcasting or reception. In the event that harmful interference is caused subsequent to the granting of a conditional use permit, the operator of the wind energy conversion system shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.
- (f) *Location and height.* Wind energy conversion systems shall be located in the rear yard only and shall meet all setback and yard requirements for the district in which they are located and, in addition, shall be located not closer to a property boundary than a distance equal to their height. Wind energy conversion systems are exempt from the height requirements of this chapter; however, all such systems over 75 feet in height shall submit plans to the Federal Aviation Administration (FAA) to determine whether the system is to be considered an object affecting navigable air space and subject to FAA restrictions. A copy of any FAA restrictions imposed shall be included as a part of the wind energy conversion system conditional use permit application.
- (g) *Fence required.* All wind energy conversion systems shall be surrounded by a security fence not less than six feet in height. A sign shall be posted on the fence warning of high voltages.

(Code 2006, § 13-1-132)

Sec. 60-220. - Telecommunications antennas and towers.

- (a) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Alternative tower structure means manmade structures such as elevated tanks, electric utility transmission line towers, nonresidential buildings, and similar alternative-design structures that camouflage or conceal the presence of antennas or towers. Freestanding signs are considered to be alternative tower structures.

Antenna means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunication signals or other communication signals.

Collocated telecommunications facility means a telecommunications facility comprised of a single telecommunications tower or alternative support structure supporting multiple antennas, dishes, or similar devices owned or used by more than one public or private entity.

FAA means the Federal Aviation Administration.

FCC means the Federal Communications Commission.

Governing authority means the governing authority of the town.

Height means, when referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.

Lattice tower means a telecommunications tower that consists of vertical and horizontal supports and metal braces.

Monopole means a telecommunications tower of a single pole design.

Preexisting towers and antennas means any tower or antenna for which a permit has been properly issued prior to the effective date of this article.

Telecommunication support facility means the telecommunications support buildings and equipment cabinets located at a telecommunications facility, either on the ground or within or on an alternative support structure, which house the electronic receiving and relay equipment.

Telecommunications facility means a facility, site, or location that contains one or more antennas, telecommunications towers, alternative support structures, satellite dish antennas, other similar communication devices, and support equipment which is used for transmitting, receiving or relaying telecommunications signals, excluding those facilities exempted under subsection (d) of this section.

Tower means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, PCS towers, alternative tower structures and the like.

Wireless telecommunications means any of the following:

- (1) *Commercial mobile services* defined as for-profit mobile services available to the public or a substantial portion of the public and providing the ability to access or receive calls from the public switched telephone network. Examples include personal communications services, cellular radio mobile services, and paging.
 - (2) *Specialized mobile radio (SMR) service* licenses provide land mobile communications on a commercial (i.e., for profit) or private basis.
 - (3) *Broadband cellular personal communication systems (PCS)* which are very similar to cellular systems, but operate in a higher frequency band.
 - (4) *Unlicensed wireless services* which are services that do not require licenses from the Federal Communications Commission (FCC), but are deployed through equipment that is authorized by the FCC. Direct-to-home satellite services are excluded from this definition.
 - (5) *Common carrier wireless exchange access services* which are services designed as competitive alternatives to traditional wire line local exchange providers.
- (b) *Purpose and intent.* The purpose and intent of this section is to provide a uniform and comprehensive set of standards for the development and installation of wireless telecommunications and related facilities. The regulations contained herein are designed to protect and promote public health, safety, community welfare and the aesthetic quality of the town as set forth within the goals, objectives and policies of the town zoning code, to encourage managed development of telecommunications infrastructure, while at the same time not unduly restricting the development of needed telecommunications facilities. It is intended that the town shall apply these regulations to accomplish the following:

- (1) Minimize adverse visual effects of telecommunications tower, antenna and related facilities through design height siting standards.
 - (2) Encourage the location of towers in nonresidential areas.
 - (3) Minimize the total number of towers throughout the community.
 - (4) Maintain and ensure that a non-discriminatory, competitive and broad range of telecommunications services and high-quality telecommunications infrastructure consistent with the Federal Telecommunications Act of 1996, 47 USC 151 et seq., are provided to serve the community, as well as serve as an important and effective part of the town's police, fire and emergency response network.
 - (5) Provide a process for obtaining necessary permits for telecommunication facilities while at the same time protecting the legitimate interests of the town's citizens.
 - (6) Protect environmentally sensitive areas of the town by regulating the location, design and operation of telecommunications facilities.
 - (7) Strongly encourage the joint use of new and existing tower sites.
- (c) *Conditional use permit requirement.* Telecommunications facilities, telecommunications support facilities, and telecommunications towers are permitted as a conditional use in the following districts:
- (1) Agricultural.
 - (2) Commercial.
 - (3) Industrial.
- (d) *Uses/structures exempt from conditional use permit requirement.* The following shall be permitted without a conditional use permit, provided that the primary use of the property is not a telecommunications facility and that the antenna use is accessory to the primary use of the property. The following shall be exempt from the requirement to obtain a conditional use permit, unless otherwise noted:
- (1) The use of receive-only television antennas and satellite dishes.
 - (2) Regarding amateur radio and/or receive-only antennas. This article shall not govern the installation of any antenna that is owned and/or operated by a federally licensed amateur radio operator or is used exclusively for receive-only purposes.
 - (3) Mobile services providing public information coverage of news events of a temporary or emergency nature.
 - (4) Freestanding antennas (e.g., ground-mounted antenna) not supported on or attached to a building and their support towers, poles or masts when the overall height of the antennas and their supporting structures do not exceed a height of 50 feet above the original grade at the site of the installation and when said freestanding antenna, support tower, pole or mast is not closer than 1,000 feet to another exempt freestanding antenna, support tower, pole or mast.
 - (5) Regarding preexisting towers and antennas. Any tower or antenna for which a permit has been properly issued prior to the effective date of this article shall not be required to meet the requirements of this article. Any such towers or antennas shall be referred to in this article as preexisting towers or preexisting antennas.
 - (6) Antennas installed on an existing telecommunications tower or on, or attached to, any existing building (e.g., building-mounted antenna) or alternative support structure when the height of the antenna and its supporting tower, pole or mast is 30 feet or less above the highest part of the building or alternative support structure to which it is attached.
 - (7) Utility pole-mounted antennas if the height of the antenna is 30 feet or less above the highest part of the

utility pole.

(e) *Conditional use application.*

(1) *Submittal information.* For all telecommunications facilities, except exempt facilities as listed in subsection (d) of this section, the town shall require the following information to accompany every application. Said information shall include, but may not be limited to:

- a. Completed conditional use application and conditional use fee.
- b. An informational report the purpose of which is to provide the town with accurate and current information concerning the telecommunications facility owners and providers who offer or provide telecommunications services within the community to assist the town in monitoring compliance with local, state and federal laws. All telecommunications tower owners of any new telecommunications tower shall submit to the plan commission a telecommunications facility information report. The report shall include the tower owner's name, addresses, telephone number, contact person, and proof of bond as security for removal. The tower owner shall supply the tower height or current occupancy, if applicable, and the number of collocation positions designated, occupied or vacant, per subsection (e)(2) of this section.
- c. Original signature of applicant and owner. If the telecommunications facility is located in an easement, the beneficiaries of the easement and underlying property owner must authorize the application.
- d. The identity of the carrier, provider, applicant, landowner and service provider and their legal status.
- e. The name, address and telephone number of the officer, agent and/or employee responsible for the accuracy of the application.
- f. A plat of survey showing the parcel boundaries, tower, facilities, location, access, landscaping, fencing, and the state registration stamp of the land surveyor.
- g. A written legal description of the site prepared by a land surveyor registered in the state.
- h. In the case of a leased site, a lease agreement, option or binding lease memorandum which shows on its face that it does not preclude the lessee from entering into leases on the site with other provider and the legal description and amount of property leased. The lease shall not be structured so as to create a bar to collocation of other providers. Collocation lease terms, including rent, shall be subject to arbitration, as set forth elsewhere herein, in the event the parties are unable to reach agreement on the issue of rent or other terms.
- i. A description of the telecommunications service that the applicant offers or provides to persons.
- j. Federal Communications Commission (FCC) license numbers and registration numbers, if applicable.
- k. The owner of any telecommunications tower shall provide to the town prior to the issuance of the conditional use permit or the issuance of a building permit, copies of Finding of No Significant Impacts (FONSI) statement from the Federal Communications Commission (FCC).
- l. An alternatives analysis shall be prepared by the actual applicant or on behalf of the applicant by its designated technical representative, except for exempt facilities as defined in subsection (d) of this section, subject to the review and approval of the plan commission, which identifies at least three sites, technically feasible alternative locations and/or facilities which could provide the proposed telecommunications service. The intention of the alternative analysis is to present alternative strategies which could minimize the number, size, and adverse environmental impacts of facilities necessary to

provide the needed services to the town. The analysis shall address the potential for collocation and the potential to locate facilities as close as possible to the intended service area. It shall also explain the rationale for selection of the proposed site in view of the relative merits of any of the feasible alternatives. Approval of the project is subject to the determination of the plan commission that the site applied for is more advantageous than any available, feasible alternative site. Sites on prime agricultural land shall be located to have the least negative impact on agricultural uses. The town may require independent verification of this analysis at the applicant's expense.

- m. Plans indicating security measures (e.g., access, fencing, lighting, etc.).
 - n. Plans shall include a tabular and map inventory of all of the applicant's existing telecommunications facilities that are located within the town and including all of the applicant's existing facilities within 1,500 feet of the town's boundary. The inventory shall specify the location, height, type, and design of each of the applicant's existing telecommunications facilities, and the ability of the tower or antenna structure to accommodate additional collocation antennas.
 - o. The owner of any telecommunications tower shall provide to the town, prior to the issuance of the conditional use permit or the issuance of a building permit, a report prepared by an engineer licensed by the state certifying the structural design of the tower and its ability to accommodate additional antennas.
 - p. Proof of liability coverage.
 - q. Certified statement from a radio frequency engineer showing the coverage of the proposed facility and coverage area.
 - r. Copies of an affidavit of notification indicating that the airport operator and airport property owners within the areas limiting telecommunications facility locations have been notified via certified mail.
 - s. Copies of the determination of no hazard from the Federal Aviation Administration (FAA) including any aeronautical study determination or other findings and the state bureau of aeronautics, if applicable.
 - t. The owner of any telecommunications tower shall provide to the town prior to the issuance of the conditional use permit or the issuance of a building permit, copies of any environmental assessment (EA) reports on Form 600 or Form 854 submitted to the Federal Communications Commission (FCC), if applicable.
 - u. Copies of any filings relating to any telecommunications facility located in the county submitted to the Federal Communications Commission (FCC) shall be submitted within 30 days of filing.
 - v. Any environmental impact statements that may be required.
 - w. Such other information as the plan commission may reasonably require to complete processing the application.
- (2) *Collocation.* All telecommunications facilities issued a conditional use permit on or after the effective date of this section and any telecommunications facility previously issued a conditional use permit requiring collocation sites shall make available unused space for collocation of other telecommunications facilities, including space for those entities providing similar, competing services. Collocation is not required if the host facility can demonstrate that the addition of the new service or facilities would impair existing service or cause the host to go offline for a significant period of time, such as would be occasioned by requiring a replacement tower or reconstruction of an existing tower to facilitate collocation. In general, it is anticipated that collocation will not result in any disruption of service. All collocated and multiple-user

telecommunications facilities shall be designed to promote site sharing telecommunications towers and necessary appurtenances, including, but not limited to, parking areas, access roads and utilities shall be shared by the site users whenever possible. Space shall be reasonably available to collocators.

- (3) *Technical review.* The plan commission, upon direction of the town board, shall employ on behalf of the town an independent technical expert to review materials submitted in those cases where a technical demonstration of unavoidable need or unavailability of alternatives has been determined necessary. The applicant may provide a list of experts/consultants to the plan commission; the plan commission, however, shall not be bound to employ the experts/consultants so named. The applicant shall pay all the costs of said review. The payment to the plan commission shall be due upon receipt of the invoice. All invoices, fees and charges accumulated for the technical review must be paid in full prior to the issuance of the conditional use permit.
- (f) *Conditional use, structural, design and environmental standards.*
- (1) *Compliance with FCC regulations.* All telecommunications facilities shall comply at all times with all Federal Communications Commission (FCC) rules, regulations, and standards. To that end, no telecommunications facility or combination of facilities shall produce at any time power densities in any inhabited area that exceed the Federal Communications Commission (FCC) adopted standard for human exposure, as amended, or any more restrictive standard subsequently adopted or promulgated by the federal government. All telecommunications towers and antennas shall meet or exceed the standards and regulations, in place at the time of the issuance of the conditional use permit, of the Federal Aviation Administration (FAA), the state bureau of aeronautics, Occupational Safety and Health Administration (OSHA), the Federal Communications Commission (FCC) and any other agency of the state and/or federal government with the authority to regulate towers and antennas. Determinations by the state or federal agencies responsible for enforcing the regulations set forth above shall be binding on the applicant and the town.
- (2) *Materials used in towers.* Telecommunications towers shall be constructed of metal or other nonflammable material, unless specifically permitted by the town to be otherwise.
- (3) *Ground-mounted tower design.* All ground-mounted telecommunications towers shall be self-supporting monopoles or lattice towers.
- (4) *Parabolic antenna location.* Satellite dish and parabolic antennas shall be situated as close to the ground as possible to reduce visual impact without compromising their functions.
- (5) *Support facilities.* Telecommunications support facilities (e.g., equipment rooms, utilities, and equipment enclosures) shall be constructed of nonreflective materials on visible exterior surfaces only. Telecommunications support facilities shall be no taller than 15 feet in height, measured from the original grade at the base of the facility to the top of the structure, and shall be designed to blend with existing architecture in the area or shall be screened from sight by mature landscaping as required in subsection (f) (13)a of this section, and shall be located or designed to minimize their visibility. Telecommunications support facilities for all tower users at one telecommunications facility shall not exceed a total of 1,000 square feet of floor area.
- (6) *Code compliance.* Telecommunications facilities and antennas shall be designed and constructed in accordance with the state uniform building code (Wis. Admin. Code § Comm 21.01 et seq.), uniform plumbing code (Wis. Admin. Code § Comm 25.01 et seq.); uniform mechanical code (Wis. Admin. Code § Comm 23.01 et seq.), uniform fire code (Wis. Admin. Code § Comm 14.001 et seq.), National Electrical Code (NEC), Electronic

Industries Association (EIA), American National Steel Institute Standards (ANSI), and American National Standards Institute (ANSI), in effect at the time of manufacture. The owner of a telecommunications facility or antenna shall submit to the plan commission a statement of compliance with the codes set forth herein.

- (7) *Antenna height on roof platforms.* The maximum height of an antenna platform located on a roof top shall be 20 feet above the roof.
- (8) *Interference with safety facilities.* Telecommunications facilities shall not interfere with or obstruct existing or proposed public safety, fire protection or supervisory controlled automated data acquisition (SCADA) operation telecommunications facilities. Any actual interference and/or obstruction shall be corrected by the applicant at no cost to the town.
- (9) *Height.*
 - a. The height of a telecommunications tower shall be measured from the original grade at the base of said tower to the highest part of the tower itself. In the case of building mounted towers, the height of the tower includes the height of the portion of the building on which it is mounted. In the case of crank up or other similar towers whose height can be adjusted, the height of the tower shall be the maximum height to which it is capable of being raised.
 - b. Towers shall be permitted to a maximum height of 199 feet, including antennas. Unless permitted by the plan commission after review, towers shall be constructed so as to accommodate a minimum of three collocation sites.
 - c. Collocation sites need not be available on the tower as initially placed or constructed, provided that the tower will support at the specified maximum height later the addition of at least three collocation sites.
 - d. Notwithstanding the height and number of collocation sites on the tower as initially placed or constructed, the tower design approved and permitted shall be for a tower capable of extension to 199 feet in height, including the required collocation sites.
 - e. The plan commission may vary the above requirements if use of a monopole is a condition of the permit.
- (10) *Extension/modification to towers.* Any extension or modification of existing telecommunications towers shall require a conditional use permit.
- (11) *Lighting.*
 - a. Telecommunications towers shall be lighted in accordance with rules of the Federal Aviation Administration (FAA) or other applicable regulatory authority. The plan commission may require lighting of towers in areas subject to localized air traffic concerns such as crop dusting.
 - b. When the Federal Aviation Administration (FAA) requires lighting under this subsection, strobe lights will not be permitted.
- (12) *Site development, roads and parking.* A leased parcel intended for the location of new telecommunications facilities and telecommunications support facilities shall be located so as to permit expansion for telecommunications support facilities to serve all potential collocators. A parcel owner by the telecommunications carrier and/or provider and intended for the location of new telecommunications facilities and telecommunications support facilities shall meet the minimum size requirement of the zoning district. All sites must be served by an easement sufficient to provide a turnaround and shall use existing access points and highways whenever possible. The access point to the site shall be approved by the county highway department, state department of transportation, or under section 44-107, depending on the highway jurisdiction.

- (13) *Vegetation protection and facility screening.*
- a. Except as to exempt facilities defined in subsection (d) of this section, all telecommunications facilities shall be installed in such a manner so as to minimize disturbance to existing native vegetation and shall include suitable mature landscaping to screen the facility, where necessary. For purposes of this subsection, the term "mature landscaping" shall mean trees, shrubs or other vegetation of a minimum initial height of five feet that will provide the appropriate level of visual screening immediately upon installation.
 - b. Upon project completion, the owner/operator of the facility shall be responsible for maintenance and replacement of all required landscaping as long as a telecommunications facility is maintained on the site.
- (14) *Fire prevention.* All telecommunications facilities shall be designed and operated in accordance with all applicable codes regarding fire prevention.
- (15) *Noise and traffic.* All telecommunications facilities shall be constructed and operated in such a manner as to minimize the amount of disruption caused to nearby properties. To that end, all of the following measures shall be implemented for all telecommunications facilities, except exempt facilities as defined in subsection (d) of this section:
- a. Noise-producing construction activities shall take place only on weekdays (Monday through Friday, non-holiday) between the hours of 6:00 a.m. and 6:00 p.m., except in times of emergency repair; and
 - b. Backup generators shall be operated only during power outages and for testing and maintenance purposes.
- (g) *Separation and setback requirements, except for exempt facilities as defined in subsection (d) of this section.*
- (1) *Minimum separation between telecommunications towers (by tower type).*
 - a. Proposed tower types. Lattice-monopole which is 85 feet in height or greater:
 1. Lattice: 2,640 feet;
 2. Monopole: 85 feet in height or greater.
 - b. Notwithstanding the above separations, two telecommunications towers may be permitted to be located within 100 feet of each other subject to conditional use review and approval of the plan commission and subject to meeting the setback requirements.
 - c. Camouflaged towers are exempt from the separation between telecommunications tower requirements listed above.
 - (2) *Setbacks.* All setbacks shall be measured from the base of the tower or structure. Notwithstanding any other provisions of this subsection, the following minimum setbacks shall apply unless a greater distance is established by the plan commission in a conditional use permit:
 - a. *Setbacks from all habitable residential buildings (except buildings located on the subject parcel).* All new towers shall be set back a distance at least 125 percent of the height of the tower.
 - b. *Setbacks from all historic sites and districts.* All new towers shall be set back a distance at least 125 percent of the height of the tower from historic sites and districts.
 - c. *Setback from the highway rights-of-way.* Notwithstanding other provisions of the zoning code, a tower shall be set back from all traveled portions of a street or highway a distance not less than 125 percent its height.
 - d. *Setbacks from property lines.* All new towers shall be set back a minimum of the height of the tower from

all property lines. (This requirement does not apply to the boundary of the leased parcel unless the leased parcel boundary is also a property line.)

- e. *Placement by residences.* So as to minimize the potential diminution of property value of neighboring properties, and recognize the economic value of a tower lease to the host property, telecommunications towers shall not be placed closer to a residence existing on January 31, 2002, on neighboring properties than the distance of the tower from the residence or principal structure on the host property. In the event the proposed tower is more than one-fourth mile from such existing residence on a neighboring property, the plan commission may, in its discretion, waive the applicability of this subsection.
 - f. *Industrial zone setbacks.* The plan commission may approve setbacks in an industrial zone less than set forth in subsection (g)(2)a through e of this section, except no such reduction may be allowed in a setback from a habitable residential building.
- (h) *Removal/security for removal.*
- (1) *Removal policy.*
 - a. It is the express policy of the town and this section that telecommunications towers be removed once they are no longer in use and not a functional part of providing telecommunications service. It is the telecommunication provider's responsibility to notify the town 60 days prior to the discontinued use of the tower.
 - b. Upon discontinued use of the tower, it is the telecommunication provider's responsibility to remove such tower and restore the site to its original condition or a condition approved by the plan commission. This restoration shall include removal of any subsurface structure or foundation, including concrete, used to support the telecommunications tower down to five feet below the surface.
 - c. After a telecommunications tower is no longer in operation, the provider shall have 180 days to effect removal and restoration. Permittee shall record a document with the county register of deeds showing the existence of any subsurface structure remaining below grade. Such recording shall accurately set forth the location and describe the remaining structure.
 - (2) *Security for removal.* The owner of any telecommunications tower shall provide to the town, prior to the issuance of the conditional use permit or the issuance of a building permit, a performance bond in an amount based on a written estimate of a qualified remover of said types of structures, or in an amount as provided in the town bond schedule, available in the office of the town clerk, whichever is less, to guarantee that the telecommunications tower will be removed when no longer in operation. The town will be named as obligee in the bond and must approve the bonding company. The town may require an increase in the bond amount after five year intervals to reflect increases in the consumer price index. The provider shall supply any increased bond within a reasonable time, not exceeding 60 days, after the town's request. A permittee may submit a letter of credit in the amount set forth above, or, in the alternative, a permittee with several sites in the town may submit a master bond to cover all of said sites. A master bond or a letter of credit may, in the town's discretion, be in an amount sufficient to secure removal from one site if the master bond or letter of credit provides for replenishing, any amount used as the master bond or letter of credit covers any other site in the town.
- (i) *Compliance.*
- (1) *Revocation.* Grounds for revocation of the conditional use permit shall be limited to one of the following findings:

- a. The owner of such site, service provider and/or tower owner fails to comply with the requirements of this section as it existed at the time of the issuance of the conditional use permit.
- b. The permittee has failed to comply with the conditions imposed by the conditional use permit.

(2) *Revocation process.*

- a. The owner of such site, service provider and/or tower owner shall be notified by certified mail of noncompliance by the town clerk of the town.
- b. The owner shall comply with such notice within 30 days to the satisfaction of the town board of the town.
- c. If compliance is not obtained within 30 days, the town clerk shall notify the town board of the noncompliance and request permission to proceed with the revocation process. This time period may be extended to adjust for seasonal limitations or other legitimate factors.
- d. The town board shall upon request of the town clerk set a public hearing date for the revocation of the conditional use permit and publish a Class 2 notice of the date, time, and place of the hearing pursuant to Wis. Stats. ch. 985.
- e. A copy of the notice of hearing shall also be mailed certified mail, return receipt requested, to the owner of record of the telecommunications facility at least two weeks before the hearing.
- f. The zoning administrator for the town shall appear at the hearing before the town board to present the evidence of noncompliance. Any other interested parties may also give testimony to the town board.
- g. A written decision of the town board shall be issued and mailed to the owner of record of the telecommunications facility (certified mail; return receipt requested) within 14 days of the revocation hearing.

(j) *Conditional use permit application process under this section.*

(1) *Application.*

- a. The application for a conditional use permit under this section shall be filed with the town plan commission on a form so prescribed by the town.
- b. The application shall be accompanied by such plans and/or data prescribed by this section and shall include a statement in writing by the applicant and adequate evidence showing that the proposed conditional use will conform to the standards set forth in the respective zoning districts. The applicant shall be responsible for providing to the town clerk the names, mailing addresses and parcel number of all property owners within 300 feet of the perimeter property line as it exists at the time of the application for conditional use. This requirement does not apply to the boundary of a leased parcel unless the leased parcel boundary is also a property line.
- c. Conditional use applications shall be reviewed by the plan commission and a written recommendation submitted thereon to the town board. In order to secure evidence upon which to base its recommendation, the plan commission may require, in addition to the information required for a conditional use permit, the submission of plans of buildings, arrangement of operations, plat of grounds showing location of buildings, stockpiles, equipment storage, fences or screens, specifications of operations, parking areas, traffic access, open spaces, landscaping and any other pertinent information that may be necessary to determine if the proposed use meets the requirements of the section.

(2) *Hearing on application.* Upon receipt in proper form of the written recommendation from the plan commission, the town board shall hold at least one public hearing on the proposed conditional use. Notice of

such public hearing specifying the time, place and matters to come before the town board shall be given as a Class 1 notice as referred to in Wis. Stats. ch. 985. Due written notice of the hearing via U.S. mail shall be given to the property owner and applicant as well as owners of property within 300 feet of the property line upon which the conditional use is being proposed.

- (3) *Fee.* There shall be an application fee for a conditional use permit as prescribed in the town fee schedule, available in the office of the town clerk.

(Code 2006, § 13-1-133)

Secs. 60-221—60-248. - Reserved.

ARTICLE X. - ACCESSORY USES AND STRUCTURES; FENCES

Sec. 60-249. - Accessory uses or structures.

- (a) *Compliance with district regulations.* Any accessory use or structure shall conform to the applicable regulations of the district in which it is located, except as specifically otherwise provided in this article.
- (b) *Placement restrictions.* In addition to district requirements:
- (1) Residential accessory buildings which are not a part of the main building shall not occupy more than 30 percent of the area of the required rear yard, or 50 percent of the square footage of the principal structure, whichever is more restrictive, shall not be more than 20 feet high and such building or projection thereof shall not be nearer than five feet to any lot line, except that where a private garage has an entrance on an alley, such entrance shall be located not less than ten feet from the nearest alley line. Detached accessory buildings shall be located in the rear yard.
 - (2) The above height and area restrictions shall not apply to accessory building on farms of ten or more acres in area, but such accessory buildings shall not be closer than 100 feet to any side lot line.
 - (3) Where an accessory building is a part of the main building or is substantially attached thereto, the side yard and rear yard requirements for the main building shall be applied to the accessory building.
 - (4) Accessory buildings to be built in conformance with this article will be permitted in the front yard of shore line property.
 - (5) If the permitted use is in place, the accessory structure use is permitted.
- (c) *Landscaping and decorative uses.* Accessory structures and vegetation used for landscaping and decorating may be placed in any required yard area. Permitted structures and vegetation include flag poles, ornamental light standards, lawn furniture, sun dials, bird baths, trees, shrubs and flowers and gardens.
- (d) *Temporary uses.* Temporary accessory uses such as real estate sale field offices or shelters for materials and equipment being used in the construction of the permanent structure may be permitted by the building inspector, and shall be removed within 30 days of completion of the project.

(Code 2006, § 13-1-140)

Sec. 60-250. - Fences and walls.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Fence means an enclosed barrier consisting of wood, plastic, stone or metal intended to prevent ingress or egress. No fence shall be constructed of unsightly or dangerous materials which would constitute a nuisance.

- (1) *Architectural or aesthetic fence* means a fence constructed to enhance the appearance of the structure or the landscape, with its decorative or finished side facing the adjoining lots or streets.
 - (2) *Boundary fence* means a fence placed along the property lines of adjacent properties.
 - (3) *Protective fence* means a fence constructed to enclose a hazard to the public health, safety and welfare.
- (b) *Fence construction.* Fences and walls may be located as follows:
- (1) Solid fences and walls shall not be more than six feet in height and shall be constructed off the lot line by one foot.
 - (2) Fences and walls shall not exceed 3½ feet in height when located in a front yard or in the street side yard of a reversed corner lot.
 - (3) Fences and walls shall not exceed 2½ feet in height when located within a vision clearance triangle as defined in section 60-33(c).
 - (4) Finished sides of fences shall face the adjoining property owner.
- (c) *Fences to be repaired.* All fences shall be maintained and kept safe and in a state of good repair.
- (d) *Temporary fences.* Fences erected for the protection of planting or to warn of construction hazard, or for similar purposes, shall be clearly visible or marked with colored streamers or other such warning devices at four-foot intervals. Such fences shall comply with the setback requirements set forth in this section.
- (e) *Nonconforming fences.* Any fence existing on the effective date of this Code and not in conformance with this section may be maintained, but any alteration, modification or improvement of more than 50 percent of said fence shall result in the entire fence being brought into compliance with this section.
- (f) *Location determination.* The property owner erecting a fence is solely responsible for ensuring that the fence is located properly on his property.
- (g) *Retaining walls.* Retaining walls may be permitted anywhere on the lot, provided, however, that no individual wall shall exceed six feet in height, and a terrace of at least three feet in width shall be provided between any series of such walls, and provided further that along a street frontage no such wall shall be closer than three feet to the property line.

(Code 2006, § 13-1-141)

Sec. 60-251. - Swimming pools.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Swimming pool, private or residential, means an outdoor structure containing a body of water in a receptacle or other container having a depth for water at any point greater than 1½ feet located above or below the surface of ground elevation, used or intended to be used solely by the owner, operator or lessee thereof and his family, and by friends invited to use it, and includes all structural facilities, appliances and appurtenances, equipment and other items used and intended to be used for the operation and maintenance of a private or residential swimming pool.

- (b) *Exempt pools.* Storage children's swimming or wading pools, with a maximum dimension of 15 feet and a maximum wall height of 15 inches and which are so constructed that they may be readily disassembled for

storage and reassembled to their original integrity, are exempt from the provisions of this section.

- (c) *Permit required.* Before work is commenced on the construction or erection of private or residential swimming pools or on any alterations, additions, remodeling or other improvements, an application for a swimming pool building permit to construct, erect, alter, remodel or add must be submitted in writing to the building inspector. Plans and specifications and pertinent explanatory data should be submitted to the building inspector at the time of application. No work or any part of the work shall be commenced until a written permit for such work is obtained by the applicant. The minimum building permit fee pursuant to the town building code shall accompany such application.
- (d) *Setbacks and other requirements.*
- (1) Private swimming pools shall be erected or constructed on rear or side lots only and only on a lot occupied by a principal building.
 - (2) No swimming pool shall be erected or constructed on a front yard or an otherwise vacant lot. A lot shall not be considered vacant if the owner owns the contiguous lot and said lot is occupied by a principal building.
 - (3) No swimming pool shall be located, constructed or maintained closer than 25 feet to any side or rear lot line.
- (e) *Fences.* Pools within the scope of this section which are not enclosed with a permanent building shall be completely enclosed by a fence of sufficient strength to prevent access to the pool, or shall have a cover or other protective device over such swimming pool of such a design and material that the same can be securely fastened in place, and when in place shall be capable of sustaining a person weighing 250 pounds. Such cover or protective device shall be securely fastened in place at all times when the swimming pool is not in actual use for swimming or bathing purposes. Such fence or wall shall not be less than five feet in height and so constructed as not to have voids, holes or openings larger than four inches in one dimension. Gates or doors shall be kept locked while the pool is not in actual use.
- (f) *Draining and approval thereof.* No private swimming pool shall be constructed so as to allow water therefrom to drain into any sanitary sewer or septic tank nor to overflow upon or cause damage to any adjoining property. Pool drains shall be located so no discharge of water from the pool takes place closer than 25 feet from a septic field or drywall.

(Code 2006, § 13-1-142)

Sec. 60-252. - Manmade ponds.

- (a) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

High-water mark means the line of the shore which is the anticipated water level.

Manmade ponds means any pond created by manmade occurrence such as by excavating stone, sand, gravel and/or topsoil from a property.

- (b) *Permit required.*

- (1) *General requirement.* Except as provided below in subsection (b)(2) of this section for manmade ponds located in the A-1 or A-2 Agricultural Zoning Districts, ponds in excess of 50-square-feet in size require conditional use permit approval and a pond construction building permit before construction commences.
- (2) *Permit requirements in the A-1 and A-2 districts.* Property located within the A-1 zoning district and property comprised of 20 acres or more in the A-2 zoning district are exempt from the conditional use permit

requirement of subsection (b)(1) of this section; only issuance of a pond construction building permit is required.

- (3) *Application; fees.* Applications for conditional use permits and pond construction building permits can be obtained from the town clerk. As prescribed in the town fee schedule, available in the office of the town clerk, a conditional use permit fee, exempt in zoning districts A-1 and A-2, of 20 acres or more, and a pond construction building permit are required.
 - (4) *Permit issuance.* The building inspector shall issue a pond construction building permit for manmade ponds following the town board's approval of the conditional use permit, if applicable, in accordance with the conditions, requirements and completion dates set forth. All such ponds shall comply with the standards herein.
 - (5) *Other regulatory agencies.* If pond jurisdiction falls under other regulatory agencies, an approved copy of other required permits shall be provided to the town building inspector prior to construction commencing.
- (c) *Manmade pond standards.*
- (1) *Number; permitted dimensions.* One manmade pond is permitted per parcel. Said pond is not to exceed in size 20 percent of the parcel land area excluding road/highway/railroad rights-of-way after subtracting the minimum lot size of 1½ acres.
 - (2) *Setbacks.* The beginning slope of any such manmade pond shall be no closer than 75 feet to any side or rear property lines and no closer than 83 feet from the centerline of a public or private road as measured from the edge of the slope.
 - (3) *Setbacks to septic systems.* No pond shall be constructed within 50 feet of an existing or proposed soil absorption, on-site sanitary waste disposal system, or within 25 feet of an existing or proposed holding tank sanitary waste disposal system measured from the edge of the slope.
 - (4) *Slopes.* To allow for a safe exit from the pond, a slope no steeper than three to one shall be created and said slope shall extend vertically six feet below the high water mark.
 - (5) *Perimeter ground cover.* Upon completion of the pond, vegetation or other cover shall be established to the beginning of the water side slope.
 - (6) *Maintenance; enlargement.* Normal repairs and maintenance of existing ponds is permitted. Enlargement, however, of any pond by greater than ten percent of its original dimensions of surface water shall require conditional use permit approval and a pond construction building permit as prescribed by subsection (b)(3) of this section.
- (d) *Enforcement.* It shall be the duty of the zoning administrator to enforce the provisions of this section. The zoning administrator shall promptly report all such violations to the town board. The town board shall bring action to enjoin the digging of said pond.
- (e) *Penalty.* Any person who violates, disobeys, neglects, omits or refuses to comply with, or who resists the enforcement of, any of the provisions of this section may, in addition to paying double applicable permit fees, be required, upon conviction, to forfeit an amount as prescribed in section 1-17, together with the costs of prosecution.

(Code 2006, § 13-1-143)

Sec. 60-253. - Temporary nonmetallic and quarrying operations.

- (a) Temporary permits may be issued for temporary nonmetallic mining and quarrying operations which would

result in the creation of a manmade pond which exceeds the size restrictions of section 60-252 when the property subject to quarrying operations is governmentally owned and operated, or privately owned and operated and when such quarrying operations are completed exclusively for town, county or state highway construction or reconstruction projects. Restoration of the property subject to the quarrying operations shall be completed within one year after discontinuing quarrying operations to a condition of practical usefulness and physical attractiveness. Permits issued pursuant to this section shall have an effective date of January 1, shall be valid for one year, and shall also be subject to annual renewal. Issuance and renewal shall be conditioned on past years performance. Complaints regarding performance of quarrying operations shall be made to the zoning administrator.

- (b) The permit issued pursuant to this section shall run concurrent with the highway/road construction or reconstruction project. The permit shall not be renewed beyond the duration of the highway/road project for which it was issued; with the exception that a reasonable amount of time, not to exceed six months may be granted to the operator to remove stockpiled materials from the property subject to the quarrying operations. The six-month period shall commence upon completion of the highway/road project. Completion of highway/road construction or reconstruction projects shall be deemed completed when materials from the temporary nonmetallic mining and quarrying operation are no longer needed by the constructing agency or department for the specific project for which the temporary permit has been issued.

(Ord. of 8-12-2008)

Secs. 60-254—60-284. - Reserved.

ARTICLE XI. - MODIFICATIONS

Sec. 60-285. - Height modifications.

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

- (1) *Special structure height limitations.* Ornamental structures, broadcasting towers, telephone, telegraph and power transmission poles, towers and lines, microwave radio relay structures and necessary mechanical appurtenances, and accessory structures essential to the use or protections of a building or to a manufacturing process carried on therein, are hereby exempted from the height regulations of this chapter and may be erected in accordance with other local regulations or ordinances, provided that any such structure which is accessory to a building in a residential district shall be located not less than 25 feet from any lot line.
- (2) *Essential services height limitations.* Essential services, utilities, water towers, and electric power and communication transmission lines over 100 feet are subject to conditional use permits.
- (3) *Communications structures height restrictions.* Communications structures such as radio and television transmission and relay towers, aerial and observation towers, shall be set back one foot from the lot line for every foot of height.
- (4) *Public facilities height restrictions.* Public or semipublic facilities such as schools, churches, hospitals, monuments, sanitariums, libraries, governmental offices and stations may be erected to a height of 60 feet.

(Code 2006, § 13-1-150)

Sec. 60-286. - Yards modifications.

The yard requirements stipulated in section 60-32(f) may be modified as follows:

- (1) *Uncovered stair restrictions.* Uncovered stairs, landings and fire escapes may project into any yard, but not to exceed six feet and not closer than three feet to any lot line, and must be eight feet or more above ground.
- (2) *Cul-de-sac and curve restrictions.* Residential lot frontage on cul-de-sacs and curves may be less than 60 feet provided the width at the building setback line arc is at least 66 feet and the street frontage is no less than 45 feet. (See specific cul-de-sac requirements in section 60-64(e)(5).)
- (3) *Essential services exemptions.* Essential services, utilities, electric power and communication transmission lines are exempt from the yard and distance requirements of this chapter.

(Code 2006, § 13-1-151)

Secs. 60-287—60-336. - Reserved.

ARTICLE XII. - CHANGES AND AMENDMENTS TO CHAPTER

Sec. 60-337. - Authority.

Whenever the public necessity, convenience, general welfare or good zoning practice requires, the town may, by ordinance, change the district boundaries established by this chapter and the zoning map incorporated herein, or amend, change or supplement the text of the regulations established by this chapter or amendments thereto. Such change or amendment shall be subject to the approval of the town board and county board.

(Code 2006, § 13-1-180)

Sec. 60-338. - Initiation of changes or amendments.

- (a) *Initiation.* A change or amendment may be requested by the plan commission and town board or by a petition of one or more of the owners or lessees of property within the area proposed to be changed.
- (b) *Petitions.* Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the town clerk, with payment of applicable fees, and 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:
 - (1) A plat plan or a plat of survey prepared by a registered land surveyor drawn to a scale of one inch equals 200 feet showing:
 - a. The area proposed to be rezoned;
 - b. Its location;
 - c. Its dimensions;
 - d. The location and classification of adjacent zoning districts; and
 - e. The location and existing use of all properties and buildings within 300 feet of the area proposed to be rezoned.

- (2) The owners' names and addresses of all properties lying within 300 feet of the boundary line of the area proposed to be rezoned.
 - (3) Petitioner's name, address, phone number, and interest in property (e.g., owner, broker, etc.).
 - (4) Existing and proposed zoning district.
 - (5) Proposed use (i.e., a statement of the type, extent, area, etc., of any development project).
 - (6) Compatibility with adjacent lands (i.e., a statement of land uses and impact of zoning change).
 - (7) Legal description of property to be rezoned.
 - (8) Additional information required by the town board.
- (c) *Recommendation.* The plan commission shall review all proposed changes and amendments within the limits of the town and shall provide a written recommendation to the town board that the petition be granted as requested, modified, or denied. Where the purpose and effect of the proposed amendment is to change the zoning classification of a particular property, the plan commission shall make findings based upon the evidence presented to it in each specific case with respect to the following matters:
- (1) Existing uses or property within the general area of the property in question.
 - (2) Zoning classification of property within the general area of the property in question.
 - (3) Suitability of the property in question to the uses permitted under the existing zoning classification.
 - (4) Trend of development, if any, in the general area of the property in question, including changes, if any, which have taken place in its present zoning classification.
 - (5) The plan commission may recommend the adoption of an amendment changing the zoning classification of the property in question to any higher classification than that requested by the applicant.
 - (6) The plan commission shall not recommend the adoption of a proposed amendment unless it finds that the adoption of such amendment is in the public interest and is not solely for the interest of the applicant.
- (d) *Hearings.* The town board shall, after publishing a Class 2 notice under Wis. Stats. ch. 985, hold a public hearing upon each proposed amendment. The notice shall list the time, place and the changes or amendments proposed. The town clerk shall also give at least ten days' prior written notice to the clerk of any municipality within 1,000 feet of any land to be affected by the proposed change or amendment and to all property owners within 300 feet of the boundary lines of the areas of land included within the proposed amendment.
- (e) *Town board's action.* Following such hearing and after careful consideration of the plan commission's written report and recommendations, the town board shall vote on the passage of the proposed changes or amendments.

(Code 2006, § 13-1-181)

Sec. 60-339. - Protest of zoning map.

- (a) In the event of a protest against amendment to the zoning map, duly signed and acknowledged by the owners of 20 percent or more, either of the areas of the land included in such proposed change, or by the owners of 20 percent or more of the land immediately adjacent extending 100 feet therefrom, or by the owners of 20 percent or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by the favorable vote of the full town board membership.
- (b) In the event of protest against amendment to the text of the regulations of this chapter, duly signed and

acknowledged by 20 percent of the number of persons casting ballots in the last general election, it shall cause a majority vote, three or more, of the town board membership to adopt such amendment.

(Code 2006, § 13-1-182)

Secs. 60-340—60-366. - Reserved.

ARTICLE XIII. - APPEALS

Sec. 60-367. - Establishment of zoning board of appeals.

The zoning board of appeals is established for the purpose of hearing appeals and applications and granting variances to the provisions of this chapter in harmony with the purpose and intent of this chapter.

- (1) *Composition.* The zoning board of appeals shall consist of five citizen members appointed by the town chairperson and subject to confirmation by the town board for terms of three years, except that of those first appointed, one shall serve for one year, two for two years, and two for three years. Annually the town chairperson shall designate one member as chairperson, and that designee shall appoint a vice-chairperson.
- (2) *Secretary.* The board of appeals may employ a secretary and other employees if approved by the town board; their compensation shall be set by the town board.
- (3) *Removal.* Any member of the board of appeals in violation of section 2-428 shall be considered for removal by the town board.
- (4) *Alternate members.* The town chairperson shall appoint two alternate members in addition to the five regular members for staggered three-year terms. The town chairperson shall annually designate one of the alternates as the first alternate member and the other as the second alternate member. The first alternate member shall act only when a regular member is absent or abstains. The second alternate member may act only when the first alternate is unable to act or is already sitting or acting.
- (5) *Payment.* The town board may establish a per diem allowance per meeting for citizen and town board members of the zoning board of appeals, as allowed under Wis. Stats. § 66.0501(2). Town board members would be paid when attending meetings on which they are a member or for which their presence is required because of invitation from the chairperson of the board of appeals. In addition, the town board may reimburse reasonable costs and expenses, as allowed under Wis. Stats. § 60.321.
- (6) *Organization.* The zoning board of appeals shall organize and adopt rules of procedure for its own governance in accordance with the provisions of this chapter.
 - a. Meetings and hearings shall be held at the call of the chairperson and shall be open to the public, except that the board may go into executive session to deliberate after a hearing or an appeal.
 - b. Special meetings may be called by the chairperson or by the secretary at the request of two members. Notice of a special meeting shall be mailed to each member at least 48 hours prior to the time set for the meeting, or announcement of the meeting shall be made at any meeting at which all members are present.
 - c. Minutes of the proceedings and a record of all actions shall be kept by the board showing the vote of each member upon each question, the reasons for the board's determination, and its finding of facts. These records shall be immediately filed in the office of the town clerk and shall be a public record.

- d. The concurring vote of four members of the board shall be necessary to correct an error, grant a variance, a interpretation.
- e. No board member shall participate in the decision of or vote upon any case in which the member is financially interested, directly or indirectly, but the chairperson shall direct an alternate member to act instead. Disqualification of a member for interest shall not decrease the number of votes required for acting upon any matter, but such member may be counted in determining whether a quorum is present for the transaction of business.
- f. A board member who recuses himself does not vote and does not have any discussion or involvement in the matter in question. The member should physically remove himself from the table where the zoning board is seated while the matter is discussed to make it clear he is not serving as a member of the zoning board. The meeting minutes should reflect that the member has recused himself; however the member may offer testimony as a member of the public.

Sec. 60-368. - Jurisdiction of zoning board of appeals.

The zoning board of appeals is hereby vested with the following jurisdiction and authority:

- (1) *Administrative appeals.* To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of the zoning chapter, or any ordinance adopted under Wis. Stats. § 62.23 (city planning), Wis. Stats. § 61.35 (village planning), or Wis. Stats. § 91.01 et seq. (farmland preservation).
- (2) *Variations.* To hear and act upon applications for specific variances from the terms provided in the zoning regulations.
- (3) *Other matters.* To hear and act upon all other matters referred to it upon which it is required to act under this chapter.
- (4) *Assistance.* The board may request assistance from other town officers, departments, commissions, and boards.
- (5) *Oaths.* The chairperson may administer oaths and compel the attendance of witnesses.

Sec. 60-369. - Administrative appeals.

- (a) *Who may appeal.* Administrative appeals to the zoning board of appeals may, upon formal application, be taken by any person aggrieved by or affected by a decision of the zoning administrator or any other administrative official charged with administering and enforcing this chapter. Such appeals shall be governed by the following provisions:
 - (1) A completed application along with the filing fee shall be filed with the town clerk within 30 days after the date of written notice of the decision of the zoning administrator and transmitted to the zoning board of appeals. An appeal shall stay all legal proceedings of the action appealed unless a stay would cause imminent peril to life or property. In such cases, proceedings shall not be stayed other than by a restraining order which may be granted by the board of appeals or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.
 - (2) The officer whose action is appealed shall submit in writing the reasons for the action.

- (3) The board shall within 30 days of receiving a completed written application establish a time for the hearing of the appeal and give public notice thereof. The town shall also give written notice of the hearing via U.S. mail or hand delivery to the property owner and applicant as well as the town board, zoning administrator, and plan commission.

Sec. 60-370. - Variances.

- (a) *Application.* The zoning board of appeals may, upon denial of a site plan and submission of a formal application, grant a variance from the dimensional standards of this chapter where an applicant convincingly demonstrates that literal enforcement of the provisions of the chapter will result in practical difficulty or unnecessary hardship on the applicant. Such variances shall be governed by the following provisions:
 - (1) A completed application along with the filing fee, and photos and diagrams outlining the request shall be filed with the town clerk within 30 days after the date of written notice of the decision of the zoning administrator and transmitted to the zoning board of appeals.
 - (2) The officer whose action is appealed shall in writing clearly state the reasons for the denial.
 - (3) The board shall within 30 days of receiving a complete written application set a date for the hearing of the appeal and give public notice by publication of a Class 2 notice at least ten days prior to the hearing. The town shall also give written notice of the hearing via U.S. mail or hand delivery to the property owner and applicant, as well as to the town board, zoning administrator, plan commission, and owners of a property within 300 feet of the perimeter property line as it exists at the time of appeal.
 - (4) If, by majority vote, the zoning board of appeals believes that an on-site inspection of the property is necessary, the hearing shall be adjourned to the site for inspection. Any deliberation shall take place only upon return to the town hall where the meeting shall be reconvened.
- (b) *Procedure.*

Sec. 60-371. - Findings and standards for approval.

- (a) *Factual findings for interpretations.* No administrative appeal upon the interpretation of the words, terms, rules, regulations, provisions and restrictions of this chapter shall be granted by the board unless it finds by the preponderance of the evidence that all of the following facts and conditions exist and so indicates such in the minutes of the proceedings:
 - (1) That there is a reasonable difference of interpretation as to the specific intent of the word, term, rule, regulation, provision and restriction of the chapter.
 - (2) That the resulting interpretation will not grant a special privilege to one property inconsistent with other properties similarly situated.
 - (3) That the resulting interpretation is in the best interest of the town and consistent with the spirit and intent of this chapter.
- (b) *Factual findings for variances.* No variance to the provisions of this chapter shall be granted by the board unless it finds by the preponderance of the evidence that all of the following facts and conditions exist and so indicates such in the minutes of its proceedings:
 - (1) *Preservation of intent.* No variance shall be granted which is inconsistent with the purpose and intent of the regulations for the district in which the building or structure is located. No variance shall have the effect of permitting a use in any district that is not a listed permitted use or accessory use in that particular district.

- (2) *Exceptional circumstances.* There must be exceptional, extraordinary, or unusual circumstances or conditions a the lot, building, or structure that do not apply generally to other similar lots, buildings, structures or uses in the district, and the granting of the variance should not be of so general or recurrent nature as to amount to an am this chapter or a rezoning.
- (3) *Economic hardship and self-imposed hardship not grounds for variance.* No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.
- (4) *Health, safety and general welfare.* No variance shall be granted that is contrary to the health, safety and general welfare of the town.

Sec. 60-372. - Board of appeals action.

The final decision regarding an administrative appeal or a variance application shall:

- (1) Be made within 30 days of the public hearing;
- (2) Be a written determination signed by the chairperson or secretary of the board;
- (3) Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the administrative appeal for lack of jurisdiction or grant or deny the variance application; and
- (4) Include the reasons for granting an administrative appeal; describe the hardship demonstrated by the applicant in the case of a variance, and have the rational clearly stated in the recorded minutes of the board proceedings.

Sec. 60-373. - Finality of decisions of zoning board of appeals.

- (a) *Determinations subject to review.* All decisions and findings of the zoning board of appeals, on administrative appeal or upon application for a variance after a hearing, shall in all instances be final administrative determinations and shall be subject to review by court as may be provided by law.
- (b) *Expiration of variance.* If construction has not begun or if the variance has not been acted upon within six months of the approval date, the variance shall expire.