

Ordinance #2016-06
Municipality Code 59028
State of Wisconsin
Town of Sherman
Sheboygan County

ORDINANCE TO OPT-IN FOR CATEGORY B IOHS, CATEGORY 1 AG CMVS, OR THE TRAILERING OF ONE OF EITHER OF THESE TWO TYPES OF VEHICLES FROM FARM TO FIELD, FROM FIELD TO FIELD, OR FROM FARM TO FARM, TO COMPLY WITH THE STATUTORY AXLE WEIGHT LIMITS UNDER § 348.15(3)(B) PURSUANT TO § 348.15(9)(F)2.

Whereas, Wis. Stat. §§ 348.15(9)(f)1. & 348.15(9)(f)1m. provide that there is no weight limitation per wheel, axle, or group of axles for Category B implements of husbandry as defined in § 340.01(24)(a)1.b., for Category 1 agricultural commercial vehicles as defined in § 340.01(1o)(e)1., or for a 2-vehicle combination transporting by trailer or semitrailer either one of these two types of vehicles from farm to field, from field to field, or from farm to farm, but does apply gross vehicle weight limitations to these vehicles, and

Whereas, § 348.15(9)(f)2. authorizes the municipality or county to require compliance with axle weight limitations established under § 348.15(3)(b) for Category B implements of husbandry defined in § 340.01(24)(a)1.b., for Category 1 agricultural commercial vehicles as defined in § 340.01(1o)(e)1., or for a 2-vehicle combination transporting by trailer or semitrailer either one of these two types of vehicles from farm to field, from field to field, or from farm to farm, on all highways under its jurisdiction,

Now, therefore, BE IT HEREBY ORDAINED by the Town Board of the Town of Sherman of Sheboygan County, that pursuant to § 348.15(9)(f)2. of Wis. Statutes, all Category B implements of husbandry as defined in § 340.01(24)(a)1.b., all Category 1 agricultural commercial vehicles as defined in § 340.01(1o)(e)1., and any 2-vehicle combination transporting by trailer or semitrailer either one of these two types of vehicles from farm to field, from field to field, or from farm to farm may not exceed the axle weight limits imposed by § 348.15(3)(b) of Wis. Statutes.

Further, BE IT HEREBY ORDAINED that to exceed the length and/or weight limitations on highways under this jurisdiction a no-fee permit may be applied for from the town.

Further, BE IT HEREBY ORDAINED that pursuant to § 348.27(19)(b)4m. in the event an application for a no-fee permit is made for a Category B implement of husbandry as defined in § 340.01(24)(a)1.b., a Category 1 agricultural commercial vehicles as defined in § 340.01(1o)(e)1., or any 2-vehicle combination transporting by trailer or semitrailer either one of these two types of vehicles from farm to field, from field to field, or from farm to farm, the municipal jurisdiction or county may not deny the application but may modify and approve the application to include an alternate route or map of highways other than those specified by the applicant and may include highways that are not under its jurisdiction only upon prior approval of the authority having jurisdiction over those highways, except that no prior approval is required with respect to a highway on which these vehicles may be legally operated or transported without a permit or as authorized by the other jurisdiction.

Further, BE IT HEREBY ORDAINED that this ordinance shall be in effect beginning with the calendar year of 2017.

Further, BE IT HEREBY ORDAINED that a copy of this ordinance shall be provided to the Wisconsin Department of Transportation to be posted on its Internet site.

Adopted by the Town Board this 2nd day of November, 2016.

William Goehring, Town Chairperson

Attest:

Rhonda J. Klatt, Town Clerk



Town of Sherman Land Use and Zoning Ordinance

Adopted July 1, 2014

Amended July 7, 2015

Amended July 6, 2021

Amended December 7, 2021

Amended April 10, 2023

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CHAPTER 1.0 INTRODUCTION

SECTION 1.01 – AUTHORITY

These regulations are adopted under the authority granted by Sections 61.35 and 62.23 (7) in the Wisconsin Statutes and by virtue of the granting of village powers to the Town Board of the Town of Sherman, Sheboygan County, Wisconsin. Therefore, the Town board of the Town of Sherman, Sheboygan County State of Wisconsin does ordain as follows:

SECTION 1.02 – PURPOSE

Promote the health, safety, morals, prosperity, aesthetics, and general welfare of this community.

SECTION 1.03 – INTENT

A. It is the general intent of this ordinance to:

1. Regulate and restrict the use of all structures, lands, and waters.
2. Regulate and restrict the lot coverage, population distribution and density, and the size and location of all structures, so as to preserve agricultural land, woodlands and wetlands, and open land.
3. To concentrate the division of land into small parcels in areas adjacent to present population centers.
4. To give preference to proposals for single-family dwellings over other types of residential development.
5. To allow for the orderly development of:
 - a. Light industry
 - b. Planned recreational areas
 - c. Planned commercial areas
6. Establish and promote plans to control access to heavily traveled highways.
7. Provide adequate light, air, sanitation and drainage.
8. Facilitate the adequate provisions of public facilities and utilities.
9. Stabilize and protect property value.
10. Preserve and promote the beauty of the town.
11. Encourage, enhance, and maintain elements of natural, cultural and historical significance.
12. Implement the town's comprehensive plan or plan components.

- B. It is further intended to provide for the administration and enforcement of this ordinance and to provide penalties for its violation.

SECTION 1.04 – ABROGATION AND GREATER RESTRICTIONS

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

SECTION 1.05 – INTERPRETATION

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Town of Sherman and shall not be deemed a limitation or repeal of any power granted by the Wisconsin Statutes.

SECTION 1.06 – SEVERABILITY AND NON-LIABILITY

- A. If any chapter, section, subsection, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.
- B. If any application of this ordinance to a particular structure, land, or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land, or water not specifically included in said judgment.
- C. The Town of Sherman does not guarantee, warrant, or represent that only those areas delineated as floodlands, wetlands, or drainageways will be subject to periodic inundation, nor does the Town of Sherman guarantee, warrant, or represent that any soils listed as being unsuited for specific uses are the only unsuitable soils, and hereby asserts that there is no liability on the part of the Board of Supervisors, its agencies, or employees for any flood damages, sanitation problems, or structural damages that may occur as a result of reliance upon, and conformance with, this ordinance.

SECTION 1.07 – REPEAL

All other ordinances or parts of ordinances of the Town inconsistent or conflicting with this ordinance, to the extent of the inconsistency only, are hereby repealed.

SECTION 1.08 – TITLE

This ordinance shall be known as, referred to, or cited as the ***“TOWN OF SHERMAN LAND USE AND ZONING ORDINANCE.”***

SECTION 1.09 – EFFECTIVE DATE

This ordinance shall be effective after a public hearing, adoption by the Town Board, and publication or posting as provided by law.

CHAPTER 2.0 GENERAL PROVISIONS

SECTION 2.01 – JURISDICTION

The jurisdiction of this ordinance shall apply to all structures, land, water, and air within the unincorporated areas of the Town of Sherman, Sheboygan County, Wisconsin.

SECTION 2.02 – 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 ordinance and all other applicable local, county, and state regulations.

SECTION 2.025 – DUTIES OF BUILDING INSPECTOR

- A. The Town Board shall appoint a Building Inspector to perform the duties required by this ordinance. The Building Inspector, or his/her duly designated and acting deputy, shall issue all permits required by this ordinance and maintain records of permits issued, inspections made, and work approved. The Building Inspector shall inspect structures, lands, and waters as often as necessary to reasonably assure compliance with permits issued. The Building Inspector and his/her duly appointed deputies may enter at any reasonable time onto any public or private lands or waters to make a zoning inspection.
- B. Further, the Building Inspector, with the aid of the Constable, shall enforce the provisions of this ordinance by investigating all complaints relating to the location of structures and the use of structures, lands, and waters. The Building Inspector shall give notice of any violation of this ordinance to the owner, resident agent, or occupant of the premises and report the same to the Town Board. If necessary, the Building Inspector shall assist the Town Attorney in the prosecution of violations of this ordinance.

SECTION 2.03 – BUILDING AND OTHER PERMITS

- A. **Permit Required:** No use or structure or any part thereof shall be erected or ground broken for the same, nor shall any person, construct, alter, or enlarge any use or structure in the Town of Sherman without the owner or his/her authorized agent first obtaining any necessary permits required by this ordinance from the Building Inspector.
- B. **Review:** The Building Inspector shall review all permit applications within 60 days for completeness and compliance with the ordinance. Whenever a permit is requested, the Building Inspector shall first determine that the proposed use of the premises as authorized by said permit will comply in every respect with this ordinance and applicable state regulations.
- C. **Approval or Denial:** The Town Board may review any building or other permits issued by the Building Inspector to determine whether the use of the premises under the terms of the permit will comply in every respect with this ordinance and applicable state codes. In the

event that a permit is found by the Town Board to authorize use of the premises which does not comply with this ordinance, the Building Inspector shall revoke said permit.

- D. **Expiration:** A permit shall be automatically revoked if the project set forth in the permit is not completed in two years from the date of issuance of the permit. Said project may be recommenced if the property owner, or owner's agent, applies for and is granted a new building permit.
- E. **Permit Revoked:** A permit may be revoked if a project is not in compliance with its permit. Any work done up to the time of permit revocation shall either be removed or redone in compliance with said permit.
- F. **Other Permits:** It is the responsibility of the permit applicant to secure all other necessary permits required by any federal, state, county, or local agency.

SECTION 2.035 – OCCUPANCY PERMIT

- A. No structure shall be used as a dwelling until an occupancy permit has been issued by the Building Inspector.
- B. Such permit shall show that the dwelling or part thereof and the proposed use thereof are in conformity with the provisions of this ordinance and applicable state regulations.
- C. Such permit shall be issued only when the dwelling and the proposed use thereof conform with all the requirements of this ordinance and applicable state regulations.
- D. The Building Inspector may issue a temporary occupancy permit for part of a dwelling.
- E. Upon written request from the owner, the Building Inspector shall issue an occupancy permit for any dwelling existing at the time of the adoption of this ordinance, certifying after inspection, the extent and type of use made of the dwelling and whether or not such use conforms to the provisions of this ordinance.

SECTION 2.04 – SITE RESTRICTIONS

- A. No land shall be used or structure erected when the land is held unsuitable for such use or structure by reason of flooding; concentrated runoff; inadequate drainage; adverse soil or rock formation; unfavorable topography; impermeability, high shrink-swell potential or low bearing strength of soils; erosion susceptibility; or any other feature likely to be harmful to the health, safety, prosperity, aesthetics and/or general welfare of the Town of Sherman. The Plan Commission, in applying the provisions of this 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/she so desires. Thereafter the Town Board may affirm, modify, or overturn the Plan Commission's determination of unsuitability.

- B. All building sites and private sewer and water systems shall be governed by the Sheboygan County Planning Sanitary, Subdivision, and Shoreland Zoning Regulations, if applicable, in addition to the Regulations adopted in this ordinance.
- C. All principal structures shall be located on a lot and only one principal structure shall be located, erected, or moved onto a lot in a residential district (R-1, R-2, R-3, R-4 or R-R), except as permitted under planned unit developments. The Town Board may allow more than one principal structure per lot in other districts where more than one such structure is needed for the orderly development of the lot. Where additional structures are permitted, the Town Board may impose additional setback, landscaping, and/or parking requirements, or may require a minimum separation distance between principal structures.
- D. No lot shall be created abutting a public street that has not been dedicated to its proposed width.

SECTION 2.05 – VIOLATIONS

- A. It shall be unlawful to construct, alter, enlarge, or use any structure, land, or water in violation of any of the provisions of this ordinance.
- B. Failure to obtain the necessary permits prior to the activities mentioned in 2.03 (A) shall also constitute a violation.
- C. It is unlawful for any person to knowingly provide false information, make a false statement, or fail to provide or misrepresent any material fact to the Building Inspector, Town Clerk, Town Board, Plan Commission, Constable, Town Attorney, or any official acting in an official capacity under this ordinance.
- D. It is unlawful for a person to disobey; fail, neglect, or refuse to comply with; or otherwise resist any order issued pursuant to this ordinance.
- E. Any permit issued in conflict with the provisions of this ordinance is invalid.
- F. The failure of any employee, officer, or official of the Town to perform any official duty imposed by this code will not subject the employee, officer, or official to the penalty imposed for violation of this code unless a penalty is specifically provided.

SECTION 2.055 – ENFORCEMENT

- A. The Town Board or its agent may issue a notice of violation of this ordinance. This notice is intended as a warning that unless prompt action is taken to come into compliance with the ordinance, a citation may be issued.
- B. The Town Board or its agent may issue a citation for any violation of this ordinance, and a copy of the citation shall be filed with the Sheboygan County Clerk of Courts.

- C. Whenever a citation from the Town Board or its agent has not been complied with within 30 days after being sent by registered mail to the owner, agent, or occupant of the premises, the Town Board and Town Attorney may institute appropriate legal action or proceedings to prohibit such owner, agent, or occupant from using such structure, land, or water.
- D. The Town is not required to issue a citation before taking other appropriate legal action. If the Town or its agent determines that a violation poses a great and immediate danger to the public health, safety, or peace, the Town or its agent shall cause the violation to be abated. Costs associated with said abatement shall be charged to the owner of the property on which said violation has occurred, in accordance with 2.06 (C) of this ordinance. The Town or its agent is hereby authorized to abate a violation of this ordinance.
- E. Nothing in this Section may be construed to prevent the Town from using any other lawful means to enforce this ordinance.

SECTION 2.06 – PENALTIES

- A. A person who receives a warning notice of violation from the Town and thereafter seeks a permit to come into compliance shall pay double the usual permit application fee.
- B. The forfeiture for a violation of the provisions of this ordinance shall not be less than \$100 or more than \$1,000 for each offense, together with the costs of prosecution. Any person who has received a citation for a violation of the provisions of this ordinance may pay the forfeiture and avoid the court appearance or appear at the scheduled court appearance time to dispute the violation. If said person is convicted, the forfeiture shall become due as specified by the court.
- C. A person who has the ability to pay a forfeiture entered pursuant to this ordinance, but who fails or refuses to do so, may be confined in the county jail until the forfeiture and costs are paid, but the period of confinement may not exceed 30 days. In determining whether a person has the ability to pay, all items of income and all assets may be considered regardless of whether the income and assets are subject to garnishment, lien, or attachment by creditors.
- D. A person must, within 30 days of conviction, finding of default, or stipulation of a violation of this ordinance, remove or discontinue the use of any structure, or part of a structure that violates any provision of this ordinance or the terms or conditions of any permit issued pursuant to this ordinance. If a person fails to remove such a structure, or part of a structure, the Town may remove or cause the removal of the structure, or part of the structure. Notice of the bill for abatement of the violation shall be mailed to the last known address of said property owner by registered mail, and shall be payable within 30 calendar days from the receipt thereof. Within 60 days after such costs and expenses are incurred and remain unpaid, the Town Clerk shall enter such charges onto the tax roll as a special tax.

SECTION 2.07 – DAMAGES TO PRIVATE WATER SUPPLY

- A. If a private water supply owner seeks a remedy for a water supply that has become non-potable, suspected to be caused by the owner of a land use within one mile of said private water supply, and submits to the owner of said land use written notice that explains the nature and extent of the problem, a copy of said notice shall be simultaneously submitted to the Town.
- B. Within 24 hours of receipt of such notice the land use owner shall provide an adequate interim water supply. Within 20 days of receipt of said notice, the land use owner shall provide to the private water supply owner and to the Town either 1) a report that demonstrates that the impact to the private water supply was not attributable to the land use, or 2) a plan for a permanent alternative water supply to be paid by the land use owner.
If it is legally determined that the land use owner was not the cause of damage to the private water supply, the land use owner may seek reimbursement from the private water supply owner for the costs of supplying interim water.

SECTION 2.08 – STANDARDS REGARDING HAZARDOUS MATERIALS

- A. All hazardous chemicals shall be stored, used, and disposed of in accordance with applicable state and federal law.
- B. A landowner shall not use as landfill material or dispose of onsite, any waste material that contains a toxic amount of a hazardous chemical or a toxic residual.
- C. Landowners shall have a plan for responding to spills of any hazardous materials on the site. Said plan shall be given to the Town prior to commencing operations, and shall be updated any time any change or addition is made to any hazardous materials used on the site.
- D. The Town Board may impose requirements in addition to or exceeding the guidelines listed above if it has evidence that the public health, safety, or welfare will not be adequately protected without the imposition of additional measures.

CHAPTER 3.0 ZONING DISTRICTS

SECTION 3.01 ESTABLISHMENT

For the purpose of this ordinance, the Town of Sherman, Sheboygan County, Wisconsin is hereby divided into the following zoning districts:

- A-1 Agricultural Land Preservation District
- A-2 Agricultural Land Preservation District (Small-Scale)
- A-1-PR Agricultural Parcel Remnants District
- A-3 Agricultural Land Transition District
- B-1 Local Business District
- C-1 Natural Resource Conservancy District
- M-1 Light Industrial District
- M-2 Heavy Industry District
- M-3 Resource Extraction District
- M-4 Sanitary Landfill District
- P-1 Recreational Park District
- P-2 Institutional District
- R-1 Single-Family Residence District (Sewered)
- R-2 Single-Family Residence District (Un-sewered)
- R-3 Two-Family Residence District
- R-4 Multi-Family Residence District
- R-R Single-Family Rural Residential District

Boundaries of these Districts are hereby established as shown on a map entitled: "***Town of Sherman Zoning Map,***" dated February 7, 1978 and as subsequently amended, which accompanies and is a part of this ordinance. Such boundaries shall be construed to follow corporate limits, U.S. Public Land Survey lines, lot or property lines, center lines of streets, highways, alleys, easements, and railroad right-of-way or such lines extended, unless otherwise noted on the Zoning Map.

(Note: The Zoning Map is updated annually by the Sheboygan County Planning & Conservation Department with information provided by the Town.)

Vacation of public right-of-ways shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts.

SECTION 3.02 ZONING MAP

A certified copy of the Zoning Map shall be adopted and approved with the text as part of this ordinance and shall bear upon its face the attestation of the Town Chairman and Town Clerk and shall be available to the public in the office of the Town Clerk. Changes thereafter to the districts shall not be effective until entered and attested on this certified copy.

SECTION 3.03 FARMLAND PRESERVATION ZONING

A. PURPOSE: Farmland Preservation Zoning in the Town of Sherman includes the A-1, A-2, and A-1-PR Districts. The purpose is to preserve productive agricultural land for food and fiber production; preserve productive farms of all sizes by limiting land use conflicts between incompatible uses; maintain a viable agricultural base to support agricultural processing and service industries; maintain, preserve, and enhance rural open space lands; and comply with the provisions of the Farmland Preservation Law under Ch. 91, Wis. Stats.

B. DENSITY: Residential density under the Town’s Farmland Preservation Zoning is 1 residence allowed for every 20 acres of contiguous A-1 land under common ownership. A landowner with 40 vacant, contiguous A-1 acres, for example, can manage the property in a variety of ways (see the table below), but there could not be more than two residences in any development scenario for the 40 acres. This is ensured by the proper use of the non-developable A-1-PR designation for property remnants. (There is no need to track the number of land divisions in perpetuity on a base farm tract.)

To determine the allowable residential “yield” for a particular tract of A-1 land, start with the total A-1 acreage of the tract, ~~and~~ divide by 20, and subtract 1 for each existing residence. Whenever a new residence and/or a land division is proposed, all or part of any remaining land shall be simultaneously rezoned to A-1-PR to prevent exceeding the density in the future. (The landowner also has the option of making the A-1-PR larger than required, to lower the density, as shown in Example C for the vacant 40 acres.)

SIZE / TYPE OF A-1 TRACT	EXAMPLE A	EXAMPLE B	EXAMPLE C
40 contiguous acres with an existing residence	No division = 1 residence	Divide into 15-acre A-2 with existing residence, 20-acre A-1 and 5-acre A-1-PR = 1-2 residences	Divide into 20-acre A-1 with existing residence, and 20-acre A-1 = 1-2 residences
Vacant, contiguous 40 acres	No division = 0-1 residence	Divide into 20-acre A-1 , 10-acre A-1-PR and 10-acre A-2 = 0-2 residences	Divide into 10-acre A-2 and 30-acre A-1-PR = 0-1 residence
Vacant, contiguous 88 acres	No division = 0-1 residence	Divide into four 22-acre A-1 = 0-4 residences	Divide into two 10-acre A-2 , 40-acre A-1 , 28-acre A-1-PR = 0-4 residences

Note 1: The table does not show all possible options.

Note 2: Although a residence can be built on a vacant A-2 lot, the lot can also remain undeveloped. Nevertheless, once an A-2 lot is created, one residence is subtracted from the yield calculation.

C. REPORTING: By March 1st of each year, the Town shall report to DATCP and Sheboygan County the total acres rezoned out of the Town’s Farmland Preservation Zoning during the preceding year and a map that clearly shows the location of those acres.

SECTION 3.04 A-1 AGRICULTURAL LAND PRESERVATION DISTRICT

A. PURPOSE: To provide lands for larger agricultural operations, and to maintain, preserve, and enhance rural open space lands.

B. PERMITTED USES:

1. Agricultural uses conducted for the purpose of producing an income or livelihood:
 - a. Agronomic crop production
 - b. Apiculture
 - c. Aquaculture and/or fish hatcheries
 - d. Dairying
 - e. Diversified Farming
 - f. Fallow land
 - g. Floriculture
 - h. Fur farming
 - i. Grazing
 - j. Greenhouses
 - k. Hatcheries
 - l. Horticultural crop production
 - m. Nursery, sod, and Christmas tree production
 - n. Portable storage units (12/07/21)
 - o. Raising livestock
 - p. Silviculture
 - q. Solar energy systems, small-scale (12/07/21)
 - r. Viticulture
2. Farm accessory uses
 - a. A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use.
 - b. A single-family residence that is the only residential structure on the farm.
 - c. A business, activity, or enterprise conducted by the owner or operator of a farm, that does not impair or limit the current or future agricultural use of the farm or other farmland, and that meets all of the requirements for a home occupation as described in Section 3.30 of this ordinance.
3. Undeveloped natural resource and open space areas, and associated conservation practices.
 - a. Hunting, fishing, trapping, and consumption of naturally replenishing resources.
4. Transportation, utility, communication, or other uses that are required under state or federal law to be located in a specific place, or that are authorized to be located in a

specific place under a state or federal law that preempts the requirement of a conditional use permit for that use.

5. Residences existing as of January 1, 2014, regardless of occupancy. (Note: Any such residence damaged or destroyed by fire, wind, or similar causes may be rebuilt as a permitted use, provided that the rebuilt residence occupies the same general footprint or an alternate site that, in the judgment of the Plan Commission, does not impair agricultural uses to any greater degree than the original residence.)
6. Utilities, minor

C. CONDITIONAL USES:

1. Agricultural and agricultural related uses
 - a. Animal hospitals that primarily service livestock, provided all structures and uses are not less than 100 feet from any residential district
 - b. Animal slaughtering and/or butchering establishments
 - c. Ethanol plants, bio-diesel plants, communal manure digesters, pelletizing plants, or other facilities that process raw agricultural commodities, agricultural by-products, or agricultural wastes (received directly from farms) to produce fuel or other products
 - d. Facilities that provide farm inputs such as fertilizer, pesticides, seed, or feed directly to farms
 - e. Facilities primarily engaged in sale and servicing of farm vehicles or other farm equipment
 - f. Facilities primarily engaged in providing agronomic or veterinary services to farms
 - g. Feed mills or rendering plants that process raw agricultural commodities or agricultural by-products received directly from farms, or supply animal feed directly to farms
 - h. Food processing plants that process raw agricultural commodities received from farms
 - i. Grain warehouses, potato warehouses, or other warehouses that store raw agricultural commodities received from farms
 - j. Sawmills or other facilities that process wood or other forest products received directly from farms
2. Compatible infrastructure
 - a. Airports, air strips, and landing fields, provided the sited area is not less than 20 acres
 - b. Communication uses, including transmission lines, antennae, and broadcast towers
 - c. Disposal areas
 - d. Drainage practices that meet ch. 91.46(4), Wis. Stats.
 - e. Solar energy systems, large- and mid-scale (12/07/21)

- f. Transportation uses, including roads, rail facilities, and agricultural aeronautic facilities
 - g. Utilities, major
3. Government, nonprofit, and/or charitable organizations related to agriculture
 4. Nonmetallic mineral extraction, provided the operation complies with Subchapter I of ch. 295, Wis. Stats., and rules promulgated under that subchapter, applicable provisions of Section 3.12 of this ordinance, applicable provisions of Chapter 78 of the Sheboygan County Nonmetallic Mining Reclamation Ordinance, and any applicable requirements of the Wisconsin Department of Transportation concerning the restoration of nonmetallic mineral extraction sites. The owner is required to restore the land to agricultural use, consistent with any required locally approved reclamation plan, when extraction is completed.
 5. A single-family or two-family residence built after January 1, 2014 that is the only residential structure on the property and meets the following conditions:
 - a. The location and size of the proposed residential lot and, for a new residence, the location of the residence on that residential lot, will not do any of the following:
 - i.) Convert prime farmland from agricultural use or convert land previously used as cropland, other than a woodlot, from agricultural use if on the farm there is a reasonable alternative location or size for a residential lot or residence.
 - ii.) Significantly impair or limit the current or future agricultural use of other protected farmland.
 - b. The applicant submits a color aerial photo, no more than two years old, and of sufficient size and resolution to determine whether lands have been under agricultural use, along with a brief written statement describing how the proposed lot and/or residence will not do either of subsections i.) or ii.) above.
 - c. Note: Any such residence damaged or destroyed by fire, wind, or similar causes may be rebuilt without a renewal of the conditional use permit, provided that the rebuilt residence occupies the same general footprint. A new conditional use permit will be required if an alternate site is desired; the alternate site must not impair agricultural uses to any greater degree than the original residence.

D. CONDITIONAL USE STANDARDS, REQUIREMENTS, AND GUIDELINES:

1. **Specific standards** for conditional use permits in the A-1 District: The Town Board may issue a conditional use permit for a proposed land use identified in this Section only after determining in writing that the proposed use meets the applicable conditions listed below:
 - a. The use supports agricultural uses in the farmland preservation zoning district in direct and significant ways, and is more suited to a farmland preservation zoning

district than to an industrial or commercial zoning district. NOTE: This standard does not apply to sub. (C) (2), (3), (4) or (5) of this Section.

- b. The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
- c. The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
- d. The use is reasonably designed to minimize conversion of land, at and around the use site, from agricultural use or open space use.
- e. The use does not substantially impair or limit the current or future agricultural use of other protected farmland.
- f. Construction damage to land remaining in agricultural use is minimized and repaired to the extent feasible.

2. **General requirements** and guidelines for conditional use permits: See Section 5.0 of this ordinance.

E. REZONING LAND OUT OF THE A-1 DISTRICT

- 1. The Town may not rezone land out of the A-1 district unless the land is rezoned to A-2 and/or A-1-PR or prior to the rezoning the Town finds all of the following in writing, after a public hearing, as part of the official record of the rezoning:
 - a. The rezoned land is better suited for a use not allowed in the A-1 district.
 - b. The rezoning is consistent with any comprehensive plan adopted by the Town that is in effect at the time of the rezoning.
 - c. The rezoning is substantially consistent with the Sheboygan County Farmland Preservation Plan, certified under ch. 91, Wis. Stats., which is in effect at the time of the rezoning.
 - d. The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.

F. AREA – SETBACKS – ROAD FRONTAGE – HEIGHT REQUIREMENTS:

- 1. Tract, Lot Area 20-acre minimum
- 2. Setbacks Street yard, side yards, and rear yard, all equal to the highest point of the roof of the proposed building or structure, or 15 feet, whichever is greater.
- 3. Lot Width Minimum 100 feet
- 4. Lot Road Frontage Minimum 66 feet

- 5. Lot Building Height Maximum 45 feet
- 6. Structure Height Maximum 199 feet

SECTION 3.05 A-2 AGRICULTURAL LAND PRESERVATION DISTRICT (SMALL-SCALE)

A. PURPOSE: To encourage small farms and to maintain, preserve, and enhance rural open space lands.

B. PERMITTED USES: All permitted uses listed in the A-1 District.

C. CONDITIONAL USES:

1. All conditional uses listed in the A-1 District.
2. Non-improved, temporary campgrounds

D. CONDITIONAL USE STANDARDS, REQUIREMENTS, AND GUIDELINES:

1. **Specific standards** for conditional use permits in the A-2 District: The Town Board may issue a conditional use permit for a proposed land use identified in this Section only after determining in writing that the proposed use meets the applicable conditions listed in Section 3.04 D. 1. of this ordinance.
2. **General requirements** and guidelines for conditional use permits: See Chapter 5.0 of this ordinance.

E. DEVELOPMENT OF A-2 PARCELS:

1. Only one residence is allowed on an A-2 lot. No additional A-2 lots may be created out of an existing A-2 lot.
2. To facilitate the preservation of continuous areas of protected farmland, the Town encourages the clustering of residences.

F. REZONING LAND OUT OF THE A-2 DISTRICT:

3. A-2 land may not be divided unless only one part remains A-2 and any remnant is rezoned to A-1-PR. A rezoning to any other district may only be approved by the Town Board after a public hearing and finding all of the following in writing as part of the official record of the rezoning:
 - a. The rezoned land is better suited for a use not allowed in the A-2 or A-1-PR district.
 - b. The rezoning is consistent with any comprehensive plan adopted by the Town that is in effect at the time of the rezoning.
 - c. The rezoning is substantially consistent with the Sheboygan County Farmland Preservation Plan, certified under ch. 91, Wis. Stats., which is in effect at the time of the rezoning.
 - d. The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.

G. AREA – SETBACKS – ROAD FRONTAGE – HEIGHT REQUIREMENTS:

- | | |
|------------------------|---|
| 1. Tract, Lot Area | Minimum 3.0 acres – 19.99 maximum acres |
| 7. Setbacks | Street yard, side yards, and rear yard, all equal to the highest point of the roof of the proposed building or structure, or 15 feet, whichever is greater. |
| 2. Lot Width | Minimum 100 feet |
| 3. Lot Road Frontage | Minimum 66 feet |
| 4. Lot Building Height | Maximum 45 feet |
| 5. Structure Height | Maximum 199 feet |

SECTION 3.06 A-1-PR AGRICULTURAL PARCEL REMNANTS DISTRICT

A. PURPOSE: To accommodate parcel remnants that remain worthy of farmland or open space preservation. No buildings shall be allowed and parcels in this district are not intended to be rezoned for development, except in rare cases.

B. PERMITTED USES: All uses permitted in the A-1 District, except that no buildings shall be permitted on A-1-PR zoned farmlands.

C. CONDITIONAL USES: All conditional uses listed in the A-1 District, except that no buildings shall be allowed on A-1-PR zoned lands.

D. CONDITIONAL USE STANDARDS, REQUIREMENTS, AND GUIDELINES:

1. **Specific standards** for conditional use permits in the A-1-PR District: The Town Board may issue a conditional use permit for a proposed land use identified in this Section only after determining in writing that the proposed use meets the applicable conditions listed in Section 3.04 D. 1. of this ordinance.
2. **General requirements** and guidelines for conditional use permits: See Chapter 5.0 of this ordinance.

E. DELINEATING A-1-PR LAND ON A PROPERTY:

1. A landowner may locate A-1-PR on his/her property wherever the landowner wishes, subject to the restrictions of this ordinance. The Town Plan Commission may require a plat of survey to accurately locate the district boundaries on the Town Zoning Map.
2. Subject to the restrictions of this ordinance, the landowner reserves the right to relocate the boundary of any A-1-PR on the landowner's A-1 and/or A-2 property at any time by submitting an application and fee payment for rezoning with the Town Clerk. The Town Plan Commission may require a plat of survey to accurately locate the revised district boundary on the Town Zoning Map.

F. REZONING LAND OUT OF THE A-1-PR DISTRICT:

1. The property may not be rezoned to some other district unless approved by a super-majority vote of the Town Board. If the super-majority vote of approval is not met, the application is considered denied.
2. A rezoning to any other district may only be approved by the Town Board after a public hearing and finding all of the following in writing as part of the official record of the rezoning:
 - a. The rezoned land is better suited for a use not allowed in the A-1-PR district.
 - b. The rezoning is consistent with any comprehensive plan adopted by the Town that is in effect at the time of the rezoning.

- c. The rezoning is substantially consistent with the Sheboygan County Farmland Preservation Plan, certified under ch. 91, Wis. Stats., which is in effect at the time of the rezoning.
- d. The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.

G. AREA – SETBACKS – ROAD FRONTAGE – HEIGHT REQUIREMENTS:

- | | |
|---------------------|---|
| 1. Area | No minimum. (Note: Areas zoned A-1-PR may be parts of tracts or lots; they need not be separate tracts or lots. In such cases the landowner has the right to determine which part of the property is designated A-1-PR, subject to subsections (A), (B), (C), and (D).) |
| 2. Setbacks | Street yard, side yards, and rear yard, all equal to the highest point of the roof of the proposed structure, or 15 feet, whichever is greater. |
| 3. Lot Width | Not applicable |
| 4. Road Frontage | Not applicable |
| 5. Building Height | Not applicable |
| 6. Structure Height | Maximum 60 feet |

SECTION 3.07 A-3 AGRICULTURAL LAND TRANSITION DISTRICT

A. PURPOSE: To allow for continued agricultural use while providing for the orderly transition into other uses of such agricultural land as may be appropriate for lands adjacent to population centers and/or within highway growth corridors.

B. PERMITTED USES: All permitted uses listed in the A-1 District, with the addition of a single-family residence regardless of when constructed. (07/06/2021)

C. CONDITIONAL USES:

1. All conditional uses listed in the A-1 District
2. Campgrounds

D. CONDITIONAL USE REQUIREMENTS AND GUIDELINES: See Chapter 5.0 of this ordinance.

E. REZONING LAND OUT OF THE A-3 DISTRICT:

1. Since A-3 is a transitional district, rezoning requests will generally be granted for uses typical of population centers and highway growth corridors if they meet the following standards:
 - a. The rezoning is not in conflict with any village subdivision ordinances that apply in an extraterritorial platting jurisdiction.
 - b. The rezoning is consistent with any comprehensive plans adopted by the Town, Village of Adell, or Village of Random Lake that are in effect at the time of the rezoning.

F. AREA – SETBACKS – ROAD FRONTAGE – HEIGHT REQUIREMENTS:

- | | |
|------------------------|---|
| 1. Tract, Lot Area | Minimum 1.0 acre |
| 8. Setbacks | Street yard, side yards, and rear yard, all equal to the highest point of the roof of the proposed building or structure, or 15 feet, whichever is greater. |
| 2. Lot Width | Minimum 100 feet |
| 3. Lot Road Frontage | Minimum 66 feet |
| 4. Lot Building Height | Maximum 45 feet |
| 5. Structure Height | Maximum 199 feet |

SECTION 3.08 – B-1 LOCAL BUSINESS DISTRICT

A. PURPOSE: The purpose of the B-1 District is to provide for the proper location and regulation of commercial, retail, professional, and service operations that are not detrimental to the immediate surrounding area or to the Town as a whole. The intent of these regulations is to minimize potential adverse effects (including but not limited to lighting, noise, dust, traffic, physical appearance, etc.) of these uses. It is therefore intended that such uses will be reasonably compatible with the surrounding uses in the area.

B. PERMITTED USES:

1. Appliances, computers, or electronics—sales and/or services
2. Artistic/creative schools, studios, and/or shops (dance, music, photography, etc.)
3. Building or yard—sales and/or services for development, maintenance, or improvement (hardware store, garden center, mechanical contractor, sign painter, plumber, etc.)
4. Clothing, footwear, or personal accessories—sales and/or services
5. Collectibles—sales and/or services (antiques, books, music, models, etc.)
6. Communication enterprises (newspaper office, radio station, etc.)
7. Day-care facilities or pre-schools
8. Financial institutions or services (banks, credit unions, financial planners, etc.)
9. Fitness or sports—sales and/or services (fitness center, yoga, martial arts, sporting goods, bicycle shop, etc.)
10. Florist and/or gift shops
11. Food and drink—sales, packaged, *without* alcohol (convenience store, market, etc.)
12. Food and drink—sales, prepared, *with* alcohol (restaurant, caterer, tavern, etc.)
13. Food and drink—sales, prepared, *without* alcohol (deli, coffee shop, bakery, etc.)
14. Furniture or interior accessories—sales and/or services
15. Health care sales and/or services (clinics, optometrists, dentists, pharmacies, etc.)
16. Internet cafés
17. Laundromats
18. Lodges, meeting halls, offices of labor organizations, or similar facilities
19. Mini-warehouse storage facilities
20. Motor vehicle sales and/or services *without* fuel storage tanks
21. Office support and/or supplies
22. Personal grooming or therapeutic body work—sales and/or services (salon, spa, etc.)
23. Pet shops
24. Portable storage units (12/07/21)
25. Professional offices (attorney, realtor, insurance agent, etc.)
26. Public safety facilities (fire station, police station, emergency shelter, etc.)
27. Residences, as an accessory use
28. Solar energy systems, small-scale (12/07/21)
29. Tobacco and/or pipe and accessory shops

30. Utilities, minor
31. Wine, liquor, and/or fermented malt beverage—retail sales

C. CONDITIONAL USES:

1. Campgrounds
2. Construction and/or contracting businesses, or lumber yards, with all operations and storage (not including off-street parking and loading of vehicles in operating condition) conducted and maintained wholly inside of buildings, except that storage may be maintained outside if no part of the storage is less than 15 feet from any lot line of the tract on which the use is located and provided any such storage is screened from other properties with a decorative fence or planting
3. Cultural facilities (library, museum, indoor theater, community center, etc.)
4. Department stores
5. Drive-Ins serving food or beverages for consumption outside the structure
6. Funeral homes and/or crematories, provided all principal structures and uses are not less than 25 feet from any lot line
7. Greenhouses or similar growing facilities
8. Lodging facilities (hotel, motel, etc.)
9. Motor vehicle sales and/or services, provided all fuel pumps are not less than 30 feet from any side or rear lot line and 20 feet from any existing or proposed road right-of-way line
10. Outdoor theaters, provided that a planting screen at least 25 feet wide is created along any side abutting a residential district and no access is permitted to or within 1,000 feet of an arterial street
11. Parks
12. Penal / correctional institutions (for-profit)
13. Planned Unit Developments
14. Playgrounds
15. Recreation-related businesses—indoor (bowling alley, dance hall, arcade, etc.)
16. Recreation-related businesses—outdoor (shooting range, driving range, miniature golf, etc.)
17. Salvage / junk dealers
18. Solar energy systems, mid-scale (12/07/21)
19. Tattoo and/or piercing establishments
20. Transportation provision (terminals, helipads, taxis, rentals, etc.), provided all principal structures and uses are not less than 100 feet from any residential district boundary
21. Utilities, major
22. Wine, liquor, and/or fermented malt beverage—production

D. CONDITIONAL USE REQUIREMENTS AND GUIDELINES: See Chapter 5.0

E. AREA – SETBACKS – ROAD FRONTAGE – BUILDING HEIGHT REQUIREMENTS:

- | | |
|------------------------|---|
| 1. Tract, Lot Area | 30,000 square feet minimum |
| 2. Setbacks | Side yards and rear yard: 20 feet minimum
Street yard: minimum from roadway right-of-way equal to the highest point of the roof of the highest principal building or structure |
| 3. Lot Width | Minimum 120 feet |
| 4. Lot Road Frontage | Minimum 66 feet |
| 5. Lot Building Height | Maximum 45 feet |

F. PARKING:

- | | |
|-----------------------|--|
| 1. Off-Street Parking | Sufficient parking for employees and customers shall be provided |
|-----------------------|--|

SECTION 3.09 – C-1 NATURAL RESOURCE CONSERVATION DISTRICT

A. PURPOSE: To preserve woodlands, scenic areas, areas of significant topography, lakes, streams, wetlands and floodplains, improve water quality, minimize potential property damage by flooding or erosion, protect wildlife habitat, or provide recreational opportunities.

B. PERMITTED USES:

1. Dugout ponds and level ditches
2. Flood overflow and movement of water
3. Forestry and game management
4. Hiking trails
5. Hunting, fishing, and/or wildlife preserve; or other historic/scientific areas
6. Navigation
7. Utilities, minor
8. Wild crop harvesting, including marsh hay, moss, ferns, wild rice, berries, fruit, nuts, and seeds

C. CONDITIONAL USES:

1. All structures related to the Permitted Uses listed in subsection B. (12/07/21)
2. Conservation organizations

D. CONDITIONAL USE REQUIREMENTS AND GUIDELINES: See Chapter 5.0

E. PROHIBITED ACTIVITIES:

1. Dumping or filling
2. Removal of any mineral, soil, or peat
3. Any use which would disturb the natural flora, fauna, watercourses, water regimen, or topography

F. AREA – SETBACKS – ROAD FRONTAGE – BUILDING HEIGHT REQUIREMENTS:

- | | |
|--------------------|---|
| 1. Area | No minimum |
| 2. Setbacks | To be determined by terms of conditional use permit |
| 3. Lot Width | Not applicable |
| 4. Road Frontage | Not applicable |
| 5. Building Height | To be determined by terms of conditional use permit |

SECTION 3.10 – M-1 LIGHT INDUSTRIAL DISTRICT

A. PURPOSE: To coincide with existing areas of light industry adjacent to population centers and provide areas for the establishment and expansion of such industries suitable for rural areas and compatible with adjacent lands.

B. PERMITTED USES:

1. Blacksmiths
2. Building material sales
3. Commercial radio or television transmitting antenna towers or other electronic equipment requiring outdoor towers, including antenna towers for the dispatching of private messages
4. Contractor and/or construction offices, shops, and/or yards (building, cement, electrical, heating, ventilating and air conditioning, masonry, lumber, painting, plumbing, refrigeration, roofing, etc.)
5. Dry-cleaning plants and/or laundries
6. Emergency services or shelters
7. Enameling
8. Feed mills
9. Governmental administrative and/or services facilities
10. Machinery rental, sales, and/or services
11. Machine shops, metal products manufacture, and/or tool and die shops
12. Manufacturing, assembling, fabricating, packaging, processing, repairing, servicing, cleaning, storing, refining, distilling, condensing, bottling, baking, canning, preserving, or testing any legal food, beverage, material, organic substance, device, component, or consumer good.
13. Meeting halls and/or offices of labor organizations
14. Monument stone cutting
15. Motor vehicle services
16. Pattern shops
17. Plating operations (electroplating, chrome plating, gilding, galvanizing, etc.)
18. Portable storage units (12/07/21)
19. Printing, binding, fulfillment, and/or lithography facilities
20. Professional or business offices
21. Public safety facilities (fire station, police station, emergency shelter, etc.)
22. Residential uses, if already existing prior to the adoption of this ordinance and only as long as said residential use continues to exist
23. Road test facilities
24. Sign painting
25. Slaughterhouses
26. Solar energy systems, small-scale (12/07/21)
27. Soldering and/or welding shops

28. Trade schools and/or training facilities
29. Utilities, minor
30. Warehouses, lockers, or cold storage facilities
31. Wine, liquor, and/or fermented malt beverage—production

C. CONDITIONAL USES: The following, provided that no associated impacts (e.g., soot, smoke, noise, vibration, odor, etc.) are detectable off-site and also provided that the uses pose no significant risks due to the involvement of explosives, radioactive materials, poisons, corrosives, pesticides, herbicides, or other hazardous materials in the manufacturing or processing of materials.

1. Airports, air strips, or landing fields, provided the site is not less than 20 acres
2. Animal hospitals
3. Crematories
4. Halfway houses or group homes
5. Manufacturing, assembling, fabricating, packaging, processing, repairing, servicing, cleaning, storing, refining, distilling, condensing, bottling, baking, canning, preserving, or testing any legal chemical or fuel product.
6. Penal / correctional institutions
7. Recreational facilities, indoor (shooting ranges, skating rinks, swimming pools, athletic courts, etc.)
8. Research laboratories
9. Salvage / junk dealers
10. Sawmills
11. Solar energy systems, mid-scale (12/07/21)
12. Stockyards
13. Transportation terminals for passengers and/or freight (bus, heliport, tax, rail, etc.)
14. Utilities, major
15. Waste storage, treatment, or recycling facilities
16. Water filtration plants

D. CONDITIONAL USE REQUIREMENTS AND GUIDELINES: See Chapter 5.0

E. AREA – SETBACKS – ROAD FRONTAGE – BUILDING HEIGHT REQUIREMENTS:

- | | |
|----------------------|---|
| 1. Tract, Lot Area | 1-acre minimum |
| 2. Setbacks | Street yard, side yards, and rear yard, all equal to the highest point of the roof of the highest principal building or structure, or 50 feet, whichever is greater |
| 3. Lot Width | Minimum 120 feet |
| 4. Lot Road Frontage | Minimum 66 feet |

5. Lot Building Height

Maximum 45 feet

SECTION 3.11 – M-2 HEAVY INDUSTRIAL DISTRICT

A. PURPOSE: To coincide with existing areas of heavy industry adjacent to population centers and to provide areas for the establishment and growth of heavy industry compatible with adjacent lands.

B. PERMITTED USES:

1. Blacksmiths
2. Building material sales
3. Commercial radio or television transmitting antenna towers or other electronic equipment requiring outdoor towers, including antenna towers for the dispatching of private messages
4. Contractor and/or construction offices, shops, and/or yards (building, cement, electrical, heating, ventilating and air conditioning, masonry, lumber, painting, plumbing, refrigeration, roofing, etc.)
5. Dry-cleaning plants and/or laundries
6. Emergency services or shelters
7. Enameling
8. Feed mills
9. Foundries
10. Governmental administrative and/or services facilities
11. Incinerators
12. Leather and leather products
13. Machinery rental, sales, and/or services
14. Machine shops, metal products manufacture, and/or tool and die shops
15. Manufacturing, assembling, fabricating, packaging, processing, repairing, servicing, cleaning, storing, refining, distilling, condensing, bottling, baking, canning, preserving, or testing any legal food, beverage, material, organic substance, chemical, fuel, device, component, or consumer good.
16. Meeting halls and/or offices of labor organizations
17. Monument stone cutting
18. Motor vehicle services
19. Pattern shops
20. Paving and aggregate-based materials—production (cement, concrete, asphalt, etc.)
21. Plating operations (electroplating, chrome plating, gilding, galvanizing, etc.)
22. Portable storage units (12/07/21)
23. Printing, binding, fulfillment, and/or lithography facilities
24. Professional or business offices
25. Public safety facilities (fire station, police station, emergency shelter, etc.)
26. Public utility production and/or distribution centers
27. Railroad yards and switching areas

28. Research laboratories
29. Residential uses, if already existing prior to the adoption of this ordinance and only as long as said residential use continues to exist
30. Road test facilities
31. Salvage / junk dealers
32. Sawmills
33. Sign painting
34. Slaughterhouses
35. Smelting
36. Solar energy systems, small-scale (12/07/21)
37. Soldering and/or welding shops
38. Trade schools and/or training facilities
39. Transportation terminals for passengers and/or freight (bus, heliport, tax, rail, etc.)
40. Utilities, minor
41. Warehouses, lockers, or cold storage facilities
42. Waste storage, treatment, or recycling facilities
43. Water filtration plants
44. Wine, liquor, and/or fermented malt beverage—production

C. CONDITIONAL USES: Outdoor storage of materials is allowed and does not have to be screened from adjacent properties or public view. Associated impacts (e.g., soot, smoke, noise, vibration, odor, etc.) need not be contained on-site.

1. Airports, air strips, or landing fields, provided the site is not less than 20 acres
2. Animal hospitals
3. Halfway houses or group homes
4. Penal / correctional institutions
5. Recreational facilities, indoor (shooting ranges, skating rinks, swimming pools, athletic courts, etc.)
6. Solar energy systems, mid-scale (12/07/21)
7. Stockyards
8. Utilities, major
9. Waste disposal facilities

D. CONDITIONAL USE REQUIREMENTS AND GUIDELINES: See Chapter 5.0

E. AREA – SETBACKS – ROAD FRONTAGE – BUILDING HEIGHT REQUIREMENTS:

- | | |
|--|---|
| <ol style="list-style-type: none"> 1. Lot Area
& 2. Setbacks | <p>Sufficient area for the principal structure and its accessory structures, all required yards and off-street parking and loading, and all private or public utilities, as determined by the Plan Commission following the review of a professionally prepared site plan</p> |
| <ol style="list-style-type: none"> 3. Lot Width | <p>Minimum 120 feet</p> |

- | | |
|--------------------|--|
| 4. Road Frontage | Minimum 66 feet |
| 5. Building Height | Maximum 45 feet, except that a building or structure may exceed 45 feet if an additional 10 feet of street yard is provided for each 5 feet by which the building or structure exceeds 45 feet in height |

SECTION 3.12 – M-3 RESOURCE EXTRACTION DISTRICT

A. PURPOSE: To provide for and regulate commercial extraction, processing, stockpiling, and transporting of geological resources as long-term transitional uses. The intent of these regulations is to minimize potential adverse effects (including but not limited to noise, dust, flash, vibration, traffic, groundwater depletion, sinkholes, and physical appearance) of these uses on surrounding lands while operations are active and, to the maximum extent practicable, restore the site after operations have ceased.

B. PERMITTED USES:

1. Portable storage units *(12/07/21)*
2. Processing of topsoil
3. Solar energy systems, small-scale *(12/07/21)*
4. Utilities, minor

C. CONDITIONAL USES:

1. Disposal areas
2. Incinerators for soil and/or aggregate materials
3. Sewage disposal plants
4. Washing, blending, blasting, grading, crushing, screening, scalping, refining, processing, stockpiling, dewatering, and/or transporting of rock, slate, gravel, sand or minerals
5. Production of aggregate-based building and paving materials (e.g., cement, concrete, asphalt)
6. Other liquids, gases, minerals extracted, processed, stockpiled, packaged, and/or transported
7. Solar energy systems, mid-scale *(12/07/21)*
8. Utilities, major
9. Water extraction, processing, bottling, packaging, and/or transporting

D. CONDITIONAL USE REQUIREMENTS AND GUIDELINES: See Chapter 5.0

In addition to the general requirements and development guidelines in Sections 5.03, 5.04, and 5.05, the specific guidelines listed in this Section shall be considered by the Plan Commission and Town Board when reviewing proposed conditional uses in the M-3 District, and one or more guidelines may, at the discretion of the Town Board, be applied as binding standards to any M-3 conditional use permit in order to maintain the vision, purpose, and intent of this ordinance and the Town's 20-Year Comprehensive Plan. Further, this list does not limit the Town if it finds it necessary to attach additional conditions to a permit beyond those listed below.

All responses from permit applicants shall be in writing and shall be attached as an addendum to the conditional use permit application.

1. Operation Plan Guidelines

- a. Dates of the planned commencement and cessation of the operation.
- b. Description of machinery, equipment, and methods to be used, particularly whether blasting is anticipated.
- c. Estimated volume of material to be extracted over the life of the operation and for the next two calendar years; estimated volume of material to be processed over the life of the processing facility and for the next two calendar years.
- d. Identification of all proposed in-bound and out-bound trucking routes, together with the estimated frequency of traffic and the general schedule of travel to be used for transporting extracted materials or products.
- e. A water budget, including an estimate of the amount of daily water use, water sources, and methods for disposing of water used or falling on the site, including methods used for infiltration and control of run-off.
- f. A listing of any hazardous materials, including explosives and fuel supplies that will be stored on site and a description of measures to be used for securing and storing these materials. A copy of this list shall also be sent to the applicable Fire Department(s).
- g. A listing of all flocculants and other chemicals used in the manufacturing or processing operations or in controlling dust, and a detailed description of expected releases and final disposal of each.
- h. Information establishing baseline conditions at the site before operations commence, including the groundwater elevation across the site, groundwater quality at the site for lead, arsenic, turbidity, total suspended solids, chlorides, nitrates, specific conductivity and any chemical or residual of the chemical used as a flocculent and any other toxic substance that may reasonably be believed to be present in the area or in the type of deposit from which the extraction will be made, and the base flow of surface waters within one-half mile of the site.

2. Operation Guidelines

- a. The operator of the site shall stake or otherwise mark the borders of the site and shall secure the site by fencing or other appropriate measures.
- b. The operator shall demonstrate that all other applicable federal, state, county, and local plans, permits and approvals required for operation have been or will be obtained prior to commencement of operation. The operator shall demonstrate this by submitting a copy of all plans, permits, approvals, or waivers of permits to the Town prior to commencing operations.
- c. The operator shall provide notice to the Town of any notices of violation, citations, or other enforcement actions taken by any other governmental body against the operation within the Town within 15 days of receiving such notice from the governmental body.
- d. The operator shall limit normal hours of operations to 12 hours a day Monday through Friday during daylight hours and not earlier than 5:00 AM and not later than

7:00 PM to minimize off-site impacts to residents. The operator may submit a plan for extended hours as a special exception if it can demonstrate that additional hours are reasonably necessary for the mining operation and it would be consistent with public health, safety, and welfare.

- e. The operator shall ensure that trucks from the mining site shall not interfere with the safety of children being taken to or returned from school, the safety of slow-moving farm vehicle traffic, or the safety of residents and commuters at times when traffic volumes from commuters going to and from work is highest.
- f. Portable lighting shall be used only as necessary to illuminate temporary work areas.
- g. The operator shall have an established protocol for additional dust control measures when the National Weather Service has issued a high wind warning for the area.

3. Groundwater and Surface Water Guidelines

The use of water shall be prohibited in any operation where the quantity of water required will adversely affect the supply of other uses in the area, or where disposal of the water will adversely affect the supply of uses in the area, or will result in contamination, pollution, or excessive saltation.

- a. The operation shall have at least one sentinel well at the boundary of the site that is down gradient of the groundwater flow. The operator shall take quarterly samples of the sentinel well for lead, arsenic, turbidity, total suspended solids, chlorides, nitrates, specific conductivity, and any chemical or residual of the chemical used as a flocculent and any other toxic substance that may reasonably be believed to be present in the area or in the type of deposit from which the extraction will be made during the first 2 years of operation and twice a year in subsequent years.
- b. The operator shall sample private wells within one-quarter mile of the site down gradient of the groundwater flow every 2 years and private wells on the perimeter of other sides of the site every 3 years. In addition, monitoring at the sentinel well shall determine changes in the level of the groundwater table.
 - i.) Prior to the onset of operations, all private wells within one mile of the property on which the site is located shall be sampled for lead, arsenic, turbidity, total suspended solids, chlorides, nitrates, specific conductivity and any other toxic substance that may reasonably be believed to be present in the area or in the type of deposit from which the extraction will be made.
 - ii.) Operations shall not cause an exceedance of groundwater quality standards in the Wisconsin Administrative Code.
- c. Operations shall not extract materials at a depth below the point that is 5 feet above the groundwater table.
- d. Operations shall not cause a significant reduction in the quantity of groundwater available for reasonable use by current users within one mile of the site. A significant reduction is a drop in the water table that results in a substantial adverse impact on

a private well including but not limited to the inability of a well to provide water on a continuous basis.

- e. Operations shall not cause a lowering of the groundwater table that results in adverse effects on surface waters within one mile of the site, including but not limited to, a reduction of water in streams and tributaries to or below base flows established prior to the beginning of mining operation.
- f. Operations shall not cause a lowering of the groundwater table that results in adverse effects on surface waters which serve as a critical source of water for agricultural, recreational, or municipal functions such as fire protection within one mile of the site. Adverse effects include but are not limited to a reduction of water in streams and tributaries to or below base flows established prior to the beginning of the operation.

4. Additional Requirements

The Town Board may impose requirements in addition to or exceeding the guidelines listed above if it has evidence that the public health, safety, or welfare will not be adequately protected without the imposition of additional measures.

5. Financial Assurance

- a. Financial assurance shall be provided to the Town as a condition of permit approval in the amount necessary for the repair and maintenance of Town roads used for truck traffic transporting materials to or from the site.
- b. The form of financial assurance made to the Town of Sherman shall be that form agreed to by the Town Board and may include performance bonds, escrow agreements, irrevocable letters of credit or other measures agreed upon by the Town Board. Both the form of assurance and the financial amount may be changed whenever the conditional use permit comes up for renewal—or sooner as specified in sub. (D) (5) (c) of this Section.
- c. If at any time after a permit is issued, the Town determines that the amount of financial assurance must be increased to meet specific road repair, or the amount available has been utilized, the Town shall notify the operator of the additional amount needed and the basis for the request. The operator shall have 30 days to provide the increased amount, unless otherwise specified.

E. AREA – SETBACKS – ROAD FRONTAGE – BUILDING HEIGHT REQUIREMENTS:

- | | |
|--------------|---|
| 1. Lot Area | Sufficient area for the principal structure and its accessory structures, all required yards and off-street parking and loading, and all private or public utilities, as determined by the Town Board following the review of a professionally prepared site plan |
| & | |
| 2. Setbacks | |
| 3. Lot Width | Minimum 120 feet |

- 4. Road Frontage Minimum 66 feet
- 5. Building Height Maximum 45 feet, except that a building or structure may exceed 45 feet if an additional 10 feet of street yard is provided for each 5 feet by which the building or structure exceeds 45 feet in height

SECTION 3.13 – M-4 SANITARY LANDFILL DISTRICT

A. PURPOSE: To provide sites for total solid waste disposal needs, in compatibility with adjacent use districts

B. PERMITTED USES:

1. Grazing of livestock
2. Portable storage units *(12/07/21)*
3. Solar energy systems, small-scale *(12/07/21)*
4. Utilities, minor

C. CONDITIONAL USES: A detailed operation and restoration plan is required and must be in compliance with the Wisconsin Administrative Code.

1. Disposal areas
2. Incinerators
3. Recycling facilities
4. Sewage disposal plants
5. Solar energy systems, mid-scale *(12/07/21)*
6. Transfer stations
7. Utilities, major

D. CONDITIONAL USE REQUIREMENTS AND GUIDELINES: See Chapter 5.0

In addition to the general requirements and development guidelines in Sections 5.03, 5.04, and 5.05, the specific conditional use guidelines listed in Section 3.13(D) for the M-3 District may also be applied to the M-4 District.

E. AREA – SETBACKS – ROAD FRONTAGE – BUILDING HEIGHT REQUIREMENTS:

- | | |
|---------------------------------|---|
| 1. Lot Area
&
2. Setbacks | Sufficient area for the principal structure and its accessory structures, all required yards and off-street parking and loading, and all private or public utilities, as determined by the Town Board following the review of a professionally prepared site plan |
| 3. Lot Width | Minimum 120 feet |
| 4. Road Frontage | Minimum 66 feet |
| 5. Building Height | Maximum 45 feet, except that a building or structure may exceed 45 feet if an additional 10 feet of street yard is provided for each 5 feet by which the building or structure exceeds 45 feet in height |

SECTION 3.14 – P-1 PARK AND RECREATION DISTRICT

A. PURPOSE: To preserve lands in a natural state for recreational uses or allocate lands for development of recreational uses.

B. PERMITTED USES:

1. Arboretums
2. Parks
3. Passive recreation (hiking, picnicking, bird watching, community gardening, etc.)
4. Portable storage units *(12/07/21)*
5. Solar energy systems, small-scale *(12/07/21)*
6. Utilities, minor
7. Water-related recreational uses (fishing, boating, swimming, wading, beaches, etc.)
8. Winter-related recreational uses (ice skating, sledding, skiing, snowboarding, etc.)

C. CONDITIONAL USES: All of the uses listed below, as well as any structures accompanying otherwise permitted uses, shall require a conditional use permit. (The Town Board has the option of refunding the conditional use permit fee upon proof from the applicant of its public or non-profit status.)

1. Archery ranges
2. Bath houses
3. Camps
4. Campgrounds
5. Conservatories
6. Driving ranges
7. Golf courses
8. Horse-related activities (riding academy, polo field, etc.)
9. Motorsport tracks/courses
10. Nature centers
11. Paintball, laser tag, or similar activities
12. Playgrounds
13. Shooting ranges
14. Skating parks
15. Skiing and/or snowboarding facilities
16. Solar energy systems, mid-scale *(12/07/21)*
17. Sport fields / courts
18. Stadiums
19. Swimming pools
20. Utilities, major
21. Zoological and botanical gardens

D. CONDITIONAL USE REQUIREMENTS AND GUIDELINES: See Chapter 5.0

E. AREA – SETBACKS – ROAD FRONTAGE – BUILDING HEIGHT REQUIREMENTS:

- | | |
|---------------------------------|---|
| 1. Lot Area
&
2. Setbacks | Sufficient area for the principal structure and its accessory structures, all required yards and off-street parking and loading, and all private or public utilities, as determined by the Town Board following the review of a professionally prepared site plan |
| 3. Lot Width | Minimum 100 feet |
| 4. Road Frontage | Minimum 66 feet |
| 5. Building Height | Maximum 45 feet, except that a building or structure may exceed 45 feet if an additional 10 feet of street yard is provided for each 5 feet by which the building or structure exceeds 45 feet in height |

SECTION 3.15 – P-2 INSTITUTIONAL DISTRICT

A. PURPOSE: To provide suitable areas for semi-public uses owned by nonprofit organizations, as well as to accommodate lands and facilities owned by local governmental units, Sheboygan County, the State of Wisconsin, or federal agencies.

B. PERMITTED USES:

1. Arboretums
2. Cemeteries and/or memorial gardens
3. Dedicated public right-of-ways
4. Libraries
5. Museums
6. Parks
7. Playgrounds
8. Portable storage units *(12/07/21)*
9. Public safety facilities (fire station, police station, emergency shelter, etc.)
10. Religious institutions
11. Schools (JK-12)
12. Solar energy systems, small-scale *(12/07/21)*
13. Utilities, minor

C. CONDITIONAL USES:

All of the uses listed below shall require a conditional use permit. (The Town Board has the option of refunding the conditional use permit fee upon proof from the applicant of its public or non-profit status.)

1. Airports, air strips, or landing fields, provided the site is not less than 20 acres
2. Colleges / universities
3. Community centers
4. Convention centers, exhibition halls, and/or similar facilities
5. Fraternal organizations or sororities
6. Halfway houses or group homes
7. Health care facilities
8. Non-profit organization facilities
9. Nursing homes
10. Penal / correctional institutions
11. Retirement homes, assisted living complexes, and/or similar facilities
12. Solar energy systems, mid-scale *(12/07/21)*
13. Utilities, major

D. CONDITIONAL USE REQUIREMENTS AND GUIDELINES: See Chapter 5.0

E. AREA – SETBACKS – ROAD FRONTAGE – BUILDING HEIGHT REQUIREMENTS:

- | | |
|---------------------------------|---|
| 1. Lot Area
&
2. Setbacks | Sufficient area for the principal structure and its accessory structures, all required yards and off-street parking and loading, and all private or public utilities, as determined by the Town Board following the review of a professionally prepared site plan |
| 3. Lot Width | Minimum 100 feet |
| 4. Road Frontage | Minimum 66 feet |
| 5. Building Height | Maximum 45 feet, except that a building or structure may exceed 45 feet if an additional 10 feet of street yard is provided for each 5 feet by which the building or structure exceeds 45 feet in height |

SECTION 3.16 – R-1 SINGLE-FAMILY RESIDENCE DISTRICT (public sewers or shared onsite sewage disposal systems)

A. PURPOSE: To designate areas for single-family dwellings with public sewers or shared onsite sewage disposal systems

B. PERMITTED USES:

1. Single-family residences
2. Accessory buildings
3. Home occupations as defined in Section 3.30
4. Household pets
5. Utilities, minor
6. Solar energy systems, small-scale (12/07/21)

C. CONDITIONAL USES:

1. Community centers
2. Libraries
3. Museums
4. Parks
5. Playgrounds
6. Public safety facilities (fire station, police station, emergency shelter, etc.)
7. Religious institutions, provided the lot area is not less than 2 acres and all principal structures and uses are not less than 50 feet from any residential district lot line
8. Schools (JK-12), provided the lot area is not less than 2 acres and all principal structures and uses are not less than 50 feet from any residential district lot line

D. CONDITIONAL USE REQUIREMENTS AND GUIDELINES: See Chapter 5.0

E. AREA – SETBACKS – ROAD FRONTAGE – BUILDING HEIGHT REQUIREMENTS:

- | | |
|--------------------|---|
| 1. Lot Area | Minimum 12,000 square feet |
| 2. Setbacks | Side yards and rear yard: 15 feet minimum
Street yard: minimum 40 feet from road right-of-way line |
| 3. Lot Width | Minimum 66 feet |
| 4. Road Frontage | Minimum 66 feet; 40 feet for cul-de-sacs |
| 5. Building Height | Maximum 35 feet from the highest grade |

SECTION 3.17 – R-2 SINGLE-FAMILY RESIDENCE DISTRICT (private onsite sewage disposal)

A. PURPOSE: To designate areas for single family dwellings on land without public sewers

B. PERMITTED USES:

1. Single-family residences
2. Accessory buildings
3. Home occupations as defined in Section 3.30
4. Household pets
5. Utilities, minor
6. Solar energy systems, small-scale (12/07/21)

C. CONDITIONAL USES:

1. Community centers
2. Libraries
3. Museums
4. Parks
5. Playgrounds
6. Public safety facilities (fire station, police station, emergency shelter, etc.)
7. Religious institutions, provided the lot area is not less than 2 acres and all principal structures and uses are not less than 50 feet from any residential district lot line
8. Schools (JK-12), provided the lot area is not less than 2 acres and all principal structures and uses are not less than 50 feet from any residential district lot line

D. CONDITIONAL USE REQUIREMENTS AND GUIDELINES: See Chapter 5.0

E. AREA – SETBACKS – ROAD FRONTAGE – BUILDING HEIGHT REQUIREMENTS:

- | | |
|--------------------|---|
| 1. Lot Area | Minimum 30,000 square feet |
| 2. Setbacks | Side yards and rear yard: 15 feet minimum
Street yard: minimum 40 feet from road right-of-way line |
| 3. Lot Width | Minimum 100 feet |
| 4. Road Frontage | Minimum 66 feet; 40 feet for cul-de-sacs |
| 5. Building Height | Maximum 35 feet from the highest grade |

SECTION 3.18 – R-3 TWO-FAMILY RESIDENCE DISTRICT

A. PURPOSE: To designate areas for two-family dwellings on land without public sewers

B. PERMITTED USES:

1. Single-family residences
2. Two-family residences
3. Accessory buildings
4. Home occupations as defined in Section 3.30
5. Household pets
6. Utilities, minor
7. Solar energy systems, small-scale (12/07/21)

C. CONDITIONAL USES:

1. Community centers
2. Libraries
3. Museums
4. Parks
5. Playgrounds
6. Public safety facilities (fire station, police station, emergency shelter, etc.)
7. Religious institutions, provided the lot area is not less than 2 acres and all principal structures and uses are not less than 50 feet from any residential district lot line
8. Schools (JK-12), provided the lot area is not less than 2 acres and all principal structures and uses are not less than 50 feet from any residential district lot line

D. CONDITIONAL USE REQUIREMENTS AND GUIDELINES: See Chapter 5.0

E. AREA – SETBACKS – ROAD FRONTAGE – BUILDING HEIGHT REQUIREMENTS:

- | | |
|--------------------|---|
| 1. Lot Area | Minimum 16,000 square feet (sewered),
40,000 square feet (unsewered) |
| 2. Setbacks | Side yards and rear yard: 15 feet minimum
Street yard: minimum 40 feet from road right-of-way line |
| 3. Lot Width | Minimum 66 feet (sewered); 100 feet (unsewered) |
| 4. Road Frontage | Minimum 66 feet; 40 feet for cul-de-sacs |
| 5. Building Height | Maximum 35 feet from the highest grade |

SECTION 3.19 – R-4 MULTI-FAMILY RESIDENCE DISTRICT

A. PURPOSE: To provide areas for conventional multiple-family dwelling projects adjacent to population centers and for Planned Unit Developments

B. PERMITTED USES:

1. Three-family residences
2. Four-family residences
3. Accessory buildings
4. Home occupations as defined in Section 3.30
5. Household pets
6. Utilities, minor
7. Solar energy systems, small-scale (12/07/21)

CONDITIONAL USES: See Section 3.40 for Planned Unit Developments

1. Community centers
2. Libraries
3. Museums
4. Parks
5. Playgrounds
6. Public safety facilities (fire station, police station, emergency shelter, etc.)
7. Religious institutions, provided the lot area is not less than 2 acres and all principal structures and uses are not less than 50 feet from any residential district lot line
8. Schools (JK-12), provided the lot area is not less than 2 acres and all principal structures and uses are not less than 50 feet from any residential district lot line

D. CONDITIONAL USE REQUIREMENTS AND GUIDELINES: See Chapter 5.0

E. AREA – SETBACKS – ROAD FRONTAGE – BUILDING HEIGHT REQUIREMENTS:

- | | |
|--------------------|---|
| 1. Lot Area | Minimum 6,000 square feet per habitation (sewered),
15,000 square feet per habitation (unsewered);
Must be adequate to accommodate 2 parking spaces
per habitation |
| 2. Setbacks | Side yards and rear yard: 15 feet minimum
Street yard: minimum 40 feet from road right-of-way line |
| 3. Lot Width | Minimum 66 feet (sewered); 100 feet (unsewered) |
| 4. Road Frontage | Minimum 66 feet; 40 feet for cul-de-sacs |
| 5. Building Height | Maximum 45 feet from the highest grade |

SECTION 3.20 – R-R SINGLE-FAMILY RURAL RESIDENTIAL DISTRICT

A. PURPOSE: To provide a conforming district in rural, agricultural areas for existing residential lots that are smaller than the minimum 3 acres required for A-2.

B. PERMITTED USES:

1. Single-family residences
2. Accessory buildings
3. Home occupations as defined in Section 3.30
4. Animals that are permitted in A-1
5. Utilities, minor
6. Solar energy systems, small-scale (12/07/21)

C. CONDITIONAL USES:

1. Solar energy systems, mid-scale (12/07/21)
2. Two-family residences

D. CONDITIONAL USE REQUIREMENTS AND GUIDELINES: See Chapter 5.0

E. DEVELOPMENT OF R-R LOTS

No new R-R lots may be created. Only one residential building is allowed on an R-R lot. No new lots may be created out of an existing R-R lot.

F. AREA – SETBACKS – ROAD FRONTAGE – BUILDING HEIGHT REQUIREMENTS:

- | | |
|--------------------|---|
| 1. Lot Area | Minimum 30,000 square feet |
| 2. Setbacks | Side yards and rear yard: 15 feet minimum
Street yard: minimum 40 feet from road right-of-way line |
| 3. Lot Width | Minimum 100 feet |
| 4. Road Frontage | Minimum 66 feet; 40 feet for cul-de-sacs |
| 5. Building Height | Maximum 35 feet from the highest grade |

SECTION 3.30 – HOME OCCUPATIONS

A. PURPOSE

The Town recognizes the need for some citizens to use their residence for limited business use. However, the Town believes it is important to protect the integrity of neighborhoods. Therefore, the purpose of this section is to allow a limited business use only to an extent that the business use does not adversely affect the appearance, character, value, or condition of the surrounding neighborhood.

B. STANDARDS

Apart from the exception noted in sub. (1), a home occupation shall be a permitted use in any dwelling unit, provided it meets all of the standards applicable to the district in which it is located and the standards listed in this subsection. No home occupation shall hereafter be established, altered, or enlarged unless it complies with the following:

1. Not more than four persons, other than a resident of the dwelling unit, shall be employed on the premises in the A-1, A-2 or A-1-PR Districts. More than four persons may be employed on the premises in other districts if so authorized by the Town Board through the granting of a conditional use permit.
2. Any home occupation activities conducted outdoors shall not be of such a type or extent as to cause a nuisance.
3. No alteration of the principal building or accessory building shall be made which changes the character thereof.
4. No extensive mechanical or electrical equipment other than normal domestic or household equipment shall be used.
5. The home occupation shall not produce offensive noise, vibration, smoke, electrical interference, dust, odors, heat, lighting, or any other nuisance.
6. The outside storage of products, equipment, or materials used in the home occupation shall not be of such a type or extent as to cause a nuisance.
7. No signs shall be permitted other than those permitted by the applicable regulations in Section 10.1 SIGN REGULATIONS.
8. Traffic and parking generated by the home occupation shall not create a traffic hazard, traffic nuisance, disturbance of the character of the neighborhood.

SECTION 3.40 – PLANNED UNIT DEVELOPMENTS (PUD)

Residential or Commercial Planned Unit Developments may be permitted in R-4 and B-1 Districts as a conditional use after review and recommendation of the Plan Commission and approval by the Town Board.

A. Waive District Standards

The District standards and requirements may be modified by the Town Board upon recommendation of the Plan Commission in the case of a plan and program for a Planned Unit Development, which in the judgment of the Town provides adequate public spaces and improvements for circulation, recreation, light, air, and service needs of the tract when fully developed and populated, and which also assures conformity with the purpose of the zoning regulations of the Town.

B. Planned Unit Development Approval Process

The PUD shall be a conditional use, and will follow the conditional use application and approval process. The application shall also include a Developer's Agreement.

C. Standards

In addition to any standards imposed by the Town Board from the list of development guidelines in Section 5.04 or site plan standards in Section 5.05 the following standards shall apply:

1. Spacing and Orientation of Building Groups
Exterior walls of neighboring buildings in some cases may be permitted to be attached. Where opposite walls do not touch, their distances must permit adequate space for light and air and do not compromise the health, safety and welfare of the occupants.
2. Emergency Access, as well as adequate fire protection infrastructure, in particular a dependable water source
A building group shall not be so arranged that any permanently or temporarily occupied building is inaccessible to emergency vehicles.
3. Circulation
There shall be an adequate, safe and convenient arrangement of pedestrian circulation facilities, roadways, driveways, off-street parking, and loading space. There shall be an adequate amount, in a suitable location, of pedestrian walks and landscaped spaces, to prevent pedestrian use of vehicular ways and parking spaces and to separate pedestrian walks and public transportation loading places from general vehicular circulation facilities.
4. Density
In the R-4 District, density may be increased over the underlying District standards.

SECTION 3.50 – ADULT-ORIENTED ENTERTAINMENT BUSINESSES

A. PURPOSE: All Adult-Oriented Entertainment Businesses shall be conditional uses and shall conform to the standards in this Section, as well as any additional standards listed in Chapter 5.0 that may be required in individual cases by the Town Board. It is not the intent of the Town of Sherman to impose limitations on the First Amendment rights of any person. The purpose of this Section is to enact reasonable controls through zoning regulations on certain adult-oriented entertainment uses that have a potential for causing detrimental effects to property values and the Town’s rural character.

B. DEFINITIONS

1. *Adult Oriented Entertainment Business.* A business that emphasizes matters depicting, describing, or relating to nudity, sexual contact, sexual excitement, or sadomasochistic abuse as defined herein, including but not limited to businesses commonly known as: adult bookstore, adult theater, adult massage parlor, adult sauna, adult entertainment center, adult cabaret, adult steam room/bathhouse facility, gentlemen’s club, or strip club.
2. *Nudity.* The showing of the human male or female genitals or pubic area with less than a fully opaque covering or the depiction of covered male genitals in a discernibly turgid state and/or the appearance of bare buttocks, vulva, anus, or female breast.
3. *Sexual Conduct.* Acts of masturbation, sexual intercourse, or physical contact with a person’s clothed or unclothed genitals, pubic area, buttocks, or, if such person be a female, her breast.
4. *Sexual Excitement.* The condition of human male or female genitals when in a state of sexual stimulation or arousal.
5. *Sadomasochistic Abuse.* The getting of sexual pleasure from dominating, mistreating, or hurting one’s partner; the getting of pleasure from inflicting physical or psychological pain on another or others; the getting of sexual pleasure from being dominated, mistreated, or hurt physically or otherwise by one’s partner; or the getting of pleasure from suffering physical or psychological pain, inflicted by others or by oneself.

C. APPLICABILITY: This Section shall apply to all existing and future adult-entertainment oriented businesses. However, any such existing business that does not meet the zoning district restrictions, the distance limitations, or any other minimum standard set forth herein, may continue its existence as a non-conforming use; provided, however, that no such business may be enlarged or increased in size. Any such business that is discontinued for a period of more than 180 days shall lose its status as an existing non-conforming use and must be brought into compliance with the standards of this ordinance before said use may be reestablished.

D. LOCATION RESTRICTIONS: Adult-oriented entertainment business as defined under this Section shall be:

1. Located in the B-1, M-1, or M-2 Zoning Districts, and at a distance of at least 500 feet from the boundary of any Residentially Zoned (R) District or any Recreational Park / Institutional (P) District of the Town of Sherman or similar districts of adjacent municipalities.
2. Located at least 1,000 feet away from a church or other place of worship, public park, recreational site open to the public, licensed day-care facility, public library, public or private educational facility that serve persons age 17 or younger, elementary school, middle school, high school, or long term care/residential health care facility including licensed nursing homes, assisted living facilities, and community-based residential facilities; and at least 500 feet from an existing private residence.

E. SIGN LIMITATIONS: Adult-oriented entertainment businesses shall comply with the requirements of this subsection in addition to the requirements of any other provision of Town of Sherman ordinances regulating signs. An adult-oriented entertainment business shall not be permitted more than one sign advertising its business, and this sign shall be an on-premise or building sign only. All such signs shall meet the following criteria:

1. The business shall have no merchandise or pictures of the products or entertainment on the premises displayed in window areas or any area where they can be viewed from an adjacent roadway, sidewalk, trail, or other public area.
2. No sign shall be placed in any window. A one-square-foot sign shall be placed on the door to state hours of operation and "Admittance to Adults Only".
3. No sign shall contain any flashing lights, moving elements, or mechanically changing messages.
4. No sign shall contain any depiction of the human form or any part thereof, nor shall it contain sexually explicit or sexually suggestive language such as "Nude Dancing", "Adult Toys", "XXX fun", "Girls, Girls, Girls", or the like.
5. No such business may have any off-premise in the Town.
6. If such a business is in legal operation within the Town prior to the date of enactment of this ordinance and has a sign or sign in place for which permits were issued by the Town, such businesses shall bring its signage into conformity with the provisions of this paragraph within one year from the date of enactment of this ordinance.

F. OPERATING STANDARDS: All such adult-oriented entertainment businesses shall operate in accordance with the following standards:

1. No employee shall solicit business outside the building in which the business is located.
2. No public nudity is allowed on the premises.

3. No person on the premises shall engage in or simulate an act of sadomasochistic abuse, or any form of explicit or suggestive sexual conduct including but not limited to fondling their genitals or the genitals of another.
4. No person on the premises including a customer, employee of the business, or independent contractor engaged by the business may be nude while being in direct, personal contact with another person, regardless of whether the other person is fully or partially clothed.

G. EXTERIOR APPEARANCE: The exterior of all buildings on the premises of an adult-oriented entertainment business shall meet the following minimum criteria, together with any additional requirements established by the Town Board:

1. All colors shall be earth or neutral tones with primary accent colors to be within the same color family.
2. Stripes, geometric patterns, murals, and graffiti of any type, whether intentionally permitted by the owner or otherwise, are prohibited.
3. Detailed plans prepared by a registered architect shall be submitted to the Town Board for review and approval, and shall include samples of materials to be utilized, color chips or samples, and the detailed design scheme with elevations, rendered in true color. The Town Board may vary the specific requirements of this paragraph after review of the architectural plans in order to harmonize the building's design with a unique recognized architectural style or with other improvements in the nearby area.
4. The exterior shall be adequately maintained in good condition at all times.

H. LIMITED TERM OF CONDITIONAL USE PERMIT: The Town Board may limit the term of a conditional use permit for an adult-oriented business establishment and require periodic application for renewal of the permit, provided that the initial term and each renewal term shall be not less than one year. The Town Board may impose additional requirements for renewal of a conditional use permit whenever the Board concludes there is a rational basis to do so and finds that the additional requirements are in the public interest.

I. INSPECTION

1. An applicant or permittee shall allow representatives of the Sheriff's Department, County Health Department, Town Fire Department, Town Board, or the Town Building Inspector to inspect the premises of an existing or proposed adult-oriented entertainment business during reasonable hours to make those inspections deemed necessary to ensure compliance with this Ordinance.
2. Any owner or operator of an adult-oriented entertainment business who refuses to allow an inspection under Sub. 1 commits a violation of this ordinance. Each day that such violation continues will be considered a separate and distinct violation subject to the penalties described in Section 2.06 of this ordinance.

CHAPTER 4.0 (Blank)

CHAPTER 5.0 CONDITIONAL USE PERMITS

SECTION 5.01 – PURPOSE

Conditional uses and their accessory uses are considered as special uses requiring review and recommendation by the Town Plan Commission, and a public hearing and final approval by the Town Board. The purpose of this Section is to provide regulations that govern the procedure and requirements for the review, and approval or denial, of proposed conditional uses.

SECTION 5.02 – CONDITIONAL USE PERMIT REQUIRED

Conditional uses are those listed in Chapter 3.0 – Zoning Districts of this ordinance. No such uses shall be commenced without meeting the standards of Chapter 5.0 of this ordinance and any other applicable standards listed elsewhere in this ordinance, other Town of Sherman ordinances, Sheboygan County ordinances, and Wisconsin state regulations.

SECTION 5.03 – APPLICATION SUBMITTAL

- A. An application for a conditional use permit shall be made on forms provided by the Town Clerk. All materials, parts, and attachments submitted as part of the application shall be submitted in a form that is clearly reproducible with a photocopier. The application shall contain or have attached thereto the following information:
1. Name, address, and telephone number of the applicant.
 2. Name of the owner of the property for which the conditional use is proposed.
 3. Names of architect, professional engineer, and/or contractor, if applicable.
 4. The names and addresses of the owners of all opposite and abutting lands as they appear on the current records of the Sheboygan County Register of Deeds or Town of Sherman tax records.
 5. Legal description, and, if available, address for the property for which the conditional use is proposed.
 6. A written description of the proposed conditional use, including type of structure and number of employees if applicable.
 7. A plat of survey or map of similar accuracy for the subject property showing all lands for which the conditional use is proposed, and all other lands within 300 feet of the boundaries of the subject property. The location map shall clearly indicate the current zoning of the subject property and adjacent properties, and show any other jurisdiction(s) that has control over the property.
 8. Copies of any other permits required and issued for said site.

9. Elevation drawing, if the conditional use requires the alteration of an existing structure; or if building a new structure, submit proposed structural plans.
10. Written justification for the proposed conditional use consisting of the reasons why the applicant believes the proposed conditional use is appropriate, particularly as evidenced by compliance with the standards set forth in this ordinance.
11. An estimate of the length of time that the conditional use will operate on this site.
12. Any additional information that may be subsequently required by the Plan Commission or Town Board, including but not limited to the Development Guidelines listed in Section 5.4 and the Site Plan items listed in Section 5.5, shall be obtained by the applicant and attached to the application.
13. Costs of any legal, engineering or other professional fees incurred by the Town regarding a Conditional Use Application should be paid to the Town by the applicant before issuance of the Conditional Use Permit. A decision by the Town Board to decline to issue a Conditional Use Permit, or to impose conditions that the applicant finds unacceptable, shall not excuse the applicant from its obligations under this subsection.

B. Fee

The applicant shall be responsible to present a Fee Receipt from the Town Treasurer for the amount specified in the Town of Sherman's "Schedule of Fees" to cover meeting costs and costs of the hearing notice.

SECTION 5.04 – DEVELOPMENT GUIDELINES

- A. The development guidelines listed in this Section shall be considered by the Plan Commission and Town Board when reviewing proposed conditional uses in all zoning districts, and one or more guidelines may, at the discretion of the Town Board, be applied as binding standards to any conditional use permit in order to maintain the vision, purpose, and intent of this ordinance and the Town's 20-Year Comprehensive Plan. Further, this list does not limit the Town if it finds it necessary to attach additional conditions to a permit beyond those listed.
- B. All plans from permit applicants in response to the development guidelines made binding by the Town shall be in writing and shall be attached as an addendum to the conditional use permit application.
- C. Guidelines
 1. Access – All roads, drives, and walkways shall be maintained in a durable and dustless condition.
 2. Parking – Adequate off-street parking shall be provided and maintained in a durable and dustless condition.

3. Loading – In order to avoid undue interference with the public use of roadways, adequate off-street space shall be provided for standing, loading, and unloading vehicles.
4. Lighting – Any lighting used to illuminate any portion of the site shall be so arranged as to avoid reflecting light toward abutting properties (e.g., cut-off lighting). Portable lighting shall be used only as necessary to illuminate temporary work areas.
5. Fencing or Screening – Fencing or screening shall be by a) a fence or wall of acceptable design, b) compact, evergreen vegetative screening, or c) a grass-covered berm. Any fence, wall, vegetative screening, or berm shall be maintained in good condition.
6. Buffering – The Street, side, or rear yard setback(s) shall be sufficient to buffer more intensive land uses from less intensive land uses. If necessary to prevent undue conflict between uses, the standard setback distance prescribed in this ordinance for a particular use may be increased, unless state or county setbacks take precedence.
7. Noise, vibrations, soot, smoke, odor – Measures shall be put in place to limit and control these and similar impacts associated with certain industrial uses.
8. Other – No use shall emit an obnoxious, dangerous degree of heat, glare, radiation, or fumes beyond any boundary line of the lot on which the use is located.
9. Stormwater – Grading/drainage plans shall be designed to ensure post-development stormwater volumes and flow rates to abutting properties, including public road right-of-ways, are the same or less than pre-development.
10. Groundwater and surface water – No use shall adversely impact the quality or quantity of groundwater or surface water. A hydrologic study and ongoing well testing may be required, as well as adherence to the standards set forth for the M-3 District in sub. 3.13 (D).

SECTION 5.05 – SITE PLAN

- A. For conditional use permit requests, the Town Plan Commission or Town Board may require the submittal of 10 copies of a site plan to assist in implementing any of the development guidelines listed in Section 5.4. The site plan must conform to the standards listed below and shall be submitted to the Town Plan Commission and Town Board for review. Both the Plan Commission and Town Board shall have the authority to require revisions to the site plan and/or to waive one or more items if any item is deemed to be not applicable. No conditional use permit shall be issued unless said site plan has been approved by the Town Board.
 1. Name of property owner and/or business
 2. Address, lot number, or legal description
 3. North arrow and drawing at a scale of not less than 1" = 100'
 4. Date, stamp and original signature of a professional land surveyor or licensed engineer/architect

5. Property boundary lines and dimensions
6. Location, size, height, and foundation elevations of any building or structure to be erected or altered, the exterior building materials, and the intended use of the property
7. Operational considerations relating to hours of operation, projected normal and peak water usage, sanitary sewer or septic loadings, and traffic generation
8. Operational considerations relating to potential nuisance creation pertaining to exterior storage, exterior lighting, vibration, noise, air pollution, odor, electromagnetic radiation, glare and heat, fire and explosion, toxic or noxious materials, waste materials, drainage, and hazardous materials. (The Town shall notify the applicable fire department(s) of any concerns.)
9. Any possible future expansion and related implications
10. Location and dimensions of all existing and planned improvements (accessory structures, walkways, patios, driveways, etc.)
11. Location, dimensions, and content of all outdoor storage areas
12. Dimensions from property lines showing minimum Street, side(s) and rear yards
13. Distances to improvements of abutting properties, including public and private roads
14. Elevations for the adjoining properties, finish grading (direction arrows)
15. Topography (two-foot contour interval)
16. Location of existing woodlands, wetlands, floodplain, waterways;
17. All easements, labeled and dimensioned
18. All utilities and connections, including sump pump, where applicable
19. Parking plan
20. Lighting types, illumination power, and locations
21. Landscaping plan that includes individual plant locations, species, and size; location and description of fencing, walls, and berms
22. Erosion control plan
23. Signage dimensions and location(s)
24. Trash receptacle location(s) and screening
25. Any other information deemed necessary by the Town for the protection of public health and safety

SECTION 5.06 – REVIEW OF APPLICATION

A. Review

1. Applicants have the burden of proof of showing they meet the standards set forth in this ordinance.

2. Within 45 days of the submittal of a complete conditional use application, the Town Plan Commission shall review said application and make a recommendation to the Town Board, which shall hold a public hearing duly noticed with a Class 1 notice at least 7 days prior to the hearing. The Town Board shall then consider whether the proposed conditional use is in accordance with the regulations of the applicable zoning district and is consistent with “Section 1.2 – Purpose” and “Section 1.3 – Intent” of this ordinance and, within 45 days of the public hearing, make a determination to approve or deny the issuance of a conditional use permit.

B. Approval

1. If the application is approved by the Town Board, the applicant shall record, if directed by the Town Board, an affidavit in the County Register of Deeds Office with the property deed. The affidavit shall list the conditions set forth by the Town Board.
2. Conditional use permits “run with the property” and thus all subsequent owners are entitled to the same use, subject to the original permit conditions. The Town Board may, however, issue permits with time limits for uses that are temporary in nature.
3. The Town Board may attach conditions requiring periodic compliance reporting or that new owners of the property meet with the Town Clerk to discuss permit conditions.

SECTION 5.07 – COMPLIANCE

A. Inspection of subject premises or use:

Upon reasonable notice and at any reasonable time, all conditional use permits are subject to review by Town officials and staff to determine whether the subject property or use is in accord with the terms of the conditional use permit.

B. Revocation. Grounds for revocation of a conditional use permit shall include:

1. The permittee fails to comply with the requirements of Chapter 5.0 of this ordinance.
2. The permittee fails to comply with the conditions imposed by the permit.
3. A change in character of the property governed by the conditional use itself has caused such use to be no longer compatible with surrounding uses.
4. The permittee is adjudged in violation of a rule, regulation and/or decision promulgated by a state or federal agency with jurisdictional oversight, or a court of competent jurisdiction, and has not cured the deficiency within the time period designated by the agency or court, or if no time period was designated, within a reasonable time.

C. Revocation process:

1. The permittee shall be notified by certified mail of noncompliance and warning of intent to revoke upon direction of the Town Board.
2. The permittee shall have 30 days after receipt of the noncompliance notice to either correct the deficiencies or to file a written request with the Town Clerk for a hearing.

3. If a written request for a hearing is received within 30 days, the Town Board shall schedule a due process hearing and shall provide at least 7 days advance notice to the permittee. The Town Board shall consider all relevant evidence at the due process hearing. The Town Board may decide to revoke the permit, to suspend the permit with or without conditions, or to dismiss the matter, as it deems appropriate under the circumstances. If the Town Board revokes or suspends the permit, or imposes any other penalty, it shall prepare a written decision incorporating its findings of fact and reasoning.
4. If no request for hearing has been received and compliance is not obtained within 30 days after receipt of the noncompliance notice, the Town Board may summarily revoke or suspend the permit with or without conditions, as it deems appropriate under the circumstances.

SECTION 5.08 – MODIFICATION OF A CONDITIONAL USE PERMIT

If any holder of a conditional use permit wishes to modify the terms of said permit, the holder shall apply for such modification through the application procedure for conditional use permits described in Chapter 5.0 of this ordinance.

CHAPTER 6.0 NONCONFORMING USES – STRUCTURES – LOTS

SECTION 6.01 – NONCONFORMING USES

- A. The continued lawful use of a building, premises, structure, or fixture existing at the time of the adoption or amendment of this ordinance may not be prohibited although the use does not conform with the provisions of this ordinance.
 - 1. The nonconforming use may not be extended.
 - 2. The total structural repairs or alterations in such a nonconforming building, premises, structure, or fixture shall not during its life exceed 50 percent of the assessed value of the building, premises, structure, or fixture, unless permanently changed to a conforming use.
 - 3. If the nonconforming use is discontinued for a period of 12 months, any future use of the building, premises, structure, or fixture shall conform to this ordinance.

SECTION 6.02 – REPAIR AND MAINTENANCE OF CERTAIN NONCONFORMING STRUCTURES

- A. In this paragraph:
 - 1. “Development regulations” means the part of a zoning ordinance enacted under this subsection that applies to elements including setback, height, lot coverage, and side yard.
 - 2. “Nonconforming structure” means a dwelling or other building that existed lawfully before the current zoning ordinance was enacted or amended, but that does not conform with one or more of the development regulations in the current zoning ordinance.
- B. An ordinance enacted under this subsection may not prohibit, or limit based on cost, the repair, maintenance, renovation, or remodeling of a nonconforming structure.

SECTION 6.03 – RESTORATION OF CERTAIN NONCONFORMING STRUCTURES

- A. Restrictions that are applicable to damaged or destroyed nonconforming structures and that are contained in an ordinance enacted under this subsection may not prohibit the restoration of a nonconforming structure if the structure will be restored to the size, subject to sub. (2), location, and use that it had immediately before the damage or destruction occurred, or impose any limits on the costs of repair, reconstruction, or improvements if all of the following apply:
 - 1. The nonconforming structure was damaged or destroyed on or after March 2, 2006.
 - 2. The damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation.

- B. An ordinance enacted under this subsection to which sub. (1) applies shall allow for the size of a structure to be larger than the size it was immediately before the damage or destruction if necessary for the structure to comply with applicable state or federal requirements.

SECTION 6.04 – CHANGES AND SUBSTITUTIONS

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

SECTION 6.05 – EXISTING VACANT NONCONFORMING LOTS

- A. In any residential district, a one-family detached dwelling and its accessory structure may be erected on any previously legal lot or a parcel of record in the County Register of Deeds Office existing before the effective date of this ordinance (Feb. 16, 1978).
- B. Such vacant lot or parcel shall be in separate ownership from abutting lands. If abutting lands and the substandard lot are owned by the same owner, the substandard lot shall not be sold or used without full compliance with the provisions of this ordinance. If in separate ownership, all the district requirements shall be complied with insofar as practical but shall not be less than the following:
 - 1. Lot Width: minimum 66 feet (public or acceptable off-site sewerage); 100 feet (on-site private sewage disposal system)
 - 2. Lot Area: minimum 12,000 square feet (public or acceptable off-site sewerage); 30,000 square feet (on-site private sewage disposal system)
- C. A building permit for the improvement of a lot with lesser dimensions and requisites than those stated in sub. (B) (1) and (2) of this Section will only be allowed if a variance is granted by the Board of Appeals.

CHAPTER 7.0 BOARD of APPEALS

SECTION 7.01 – ESTABLISHMENT

There is hereby established a Board of Appeals for the Town of Sherman for the purpose of this Zoning Ordinance.

SECTION 7.02 – MEMBERSHIP

- A. The Board of Appeals shall consist of five members appointed by the Town Chairman and confirmed by the Town Board. Membership shall consist of Town of Sherman residents who possess effective decision-making skills; the ability to remain open-minded and impartial; an ongoing commitment to continuing education, familiarity with zoning, land use concepts, and the role of the Board; and long-term dedication to the position.
1. None of the members of the Board of Appeals may also be members of the Plan Commission or Town Board.
 2. Up to two alternate members may be appointed by the Town Chairman and confirmed by the Town Board for a term of three years and shall act only when a regular member is absent or refuses to vote due to a conflict of interest.
 3. Official Oaths shall be taken by all members in accordance with Section 19.01, Wis. Stats., within 10 days of receiving notice of their appointment.
 4. Terms shall be for staggered three-year periods, all terms to end on the last day of the final month of the term.
 5. Chairman of the Board of Appeals shall be designated by the Town Chairman.
 6. The Secretary, who need not be a resident of the Town of Sherman, shall be appointed by the Town Board Chairman for a three-year term.
- B. Quorum: At least four members or alternates must be present to conduct a meeting of the Board of Appeals.
- C. Compensation: Every two years, at the first Town Board meeting following the April election, the Town Board shall establish the compensation paid to members and alternate members of the Board of Appeals to defray expenses related to service on the Board. Members and alternate members shall receive one lump sum payment at the end of the calendar year for all meetings attended.
- D. The Building Inspector and Town Attorney shall attend meetings when requested by the Town Board or Board of Appeals in order to provide technical assistance.
- E. Vacancies shall be filled for the remainder of the unexpired term in the same manner as appointments for a full term, as soon as practicable.

- F. Removal: If necessary, a member of the Board of Appeals may be removed from his/her position by a majority vote of the Town Board, but only for cause after written charges and an opportunity for a public hearing.
- G. The Office of the Board of Appeals shall be the Town Clerk's Office.

SECTION 7.03 – ORGANIZATION

- A. The Board of Appeals shall organize and adopt rules of procedure for its own government in accordance with the provisions of this ordinance.
- B. Meetings shall be held at the call of the Chairman of the Board of Appeals and shall be open to the public.
- C. The concurring vote of four members of the Board shall be necessary to correct an error, reverse any order, requirement, decision or determination of any administrative official, grant a variance, make an interpretation and permit a utility, temporary, unclassified, or substituted use. If the concurring vote of four is not met, the application is considered denied.
- D. Minutes of the proceedings and a record of all actions shall be kept by the Secretary, showing the vote of each member upon each question, 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.

SECTION 7.04 – POWERS

The Board of Appeals shall have the following powers:

- A. **Errors** – To hear and decide administrative appeals where it is alleged there is an error in any order, requirement, decision, or determination made by any Town official.
- B. **Variances** – To hear and grant appeals for variances as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship. The spirit and purposes of this ordinance shall be observed and the public safety, welfare, and justice secured.
- C. **Interpretations** – To hear and decide applications for interpretations of the zoning regulations and the boundaries of the zoning districts, after the Town Plan Commission and the Town Board have made a review and recommendations.
- D. **Substitutions** – To hear and grant applications for substitutions of more restrictive nonconforming uses for existing nonconforming uses, provided no structural alterations are to be made and the Town Plan Commission has made a review and recommendation. Whenever the Board of Appeals permits such a substitution, the use may not thereafter be changed without application.

- E. **Unclassified Uses** – To hear and grant applications for unclassified and unspecified uses provided that such uses are similar in character to the principal uses permitted in the district and the Town Plan Commission has made a review and recommendation.
- F. **Temporary Uses** – To hear and grant applications for temporary uses, in any district provided that such uses are of a temporary nature, do not involve the erection of a substantial structure, and are compatible with the neighboring uses, and the Town Plan Commission has made a review and recommendation. The permit shall be temporary, revocable, subject to any conditions required by the Board of Appeals, and shall be issued for a period not to exceed 12 months. Compliance with all other provisions of this ordinance shall be required.
- G. **Permits** – The Board of Appeals may reverse, affirm wholly or partly, or modify the requirements appealed from, and may issue or direct the issuance of a permit.
- H. **Assistance** – The Board of Appeals may request assistance from other Town officers, departments, commissions and boards.
- I. **Oaths** – The Chairman of the Board of Appeals may administer oaths and compel the attendance of witnesses.

SECTION 7.05 – ADMINISTRATIVE APPEALS

- A. Appeals of the enforcement of this ordinance may be made by any person aggrieved or by any official, department, board, or commission of the Town.
- B. Such appeals shall be filed with the Secretary of the Board of Appeals within 45 days after the date of the decision or action precipitating the appeal.

SECTION 7.06 – APPLICATIONS FOR VARIANCES

- A. An application may be made by the owner or lessee of the structure, land, or water to be affected at any time and shall be filed with the Secretary of the Board of Appeals.
- B. Such an application shall include the following:
 1. Name and address of the applicant and all abutting and opposite property owners of record.
 2. Plat of survey prepared by a professional land surveyor registered in the State of Wisconsin or other map drawn to scale, showing all information required for a permit.
 3. Additional information as required by the Chairman of the Board of Appeals.

SECTION 7.07 – HEARINGS

- A. The Board of Appeals shall fix a reasonable time and place for the hearing and publish a Class 1 notice at least seven days prior to the meeting. Notice shall also be given to the Town Board, the Plan Commission, the appellant or applicant, and the administrative

officer(s) appealed from by regular mail or by personal service. In every case involving a variance, notice shall also be mailed to the fee owners of record of all land within 300 feet of any part of the subject property involved in the appeal.

- B. At the hearing the appellant or applicant may appear in person, by agent, or by attorney. The appellant or applicant shall be responsible to present a Fee Receipt from the Town Treasurer for the amount specified in the Town of Sherman's "Schedule of Fees" to cover the meeting costs and costs of the hearing notice. An appellant who is successful in his/her appeal is entitled to a full refund of the meeting/hearing fee.
- C. Rehearings: A rehearing shall be held only with the affirmative vote of three or more members of the Board of Appeals upon finding that substantial new evidence is submitted that could not reasonably have been presented at the previous hearing.
 - 1. Requests for rehearing shall be in writing and shall recite the reasons for the request and be accompanied by necessary data and diagrams.
 - 2. Requests for rehearings shall be considered not more than once every six months and shall be subject to the same requirements of notice as original hearings.

SECTION 7.08 – STANDARDS FOR APPROVING VARIANCES

- A. Variances to the provisions of this ordinance shall only be granted by the Board of Appeals when it finds beyond a reasonable doubt that all of the following facts and conditions exist and so indicates in the minutes of its proceedings:

- 1. **Unnecessary Hardship**

- To qualify for a variance, the Board must find that strict application of the code dimensional standards will result in an unnecessary hardship. Wisconsin case law states that unnecessary hardship exists when compliance would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. To determine whether this standard is met, the Board will consider the purpose of the zoning ordinance in question, its effects on the property, and the short-term, long-term, and cumulative effects of granting a variance.

- The Board will balance public interests in preserving the objectives of the code and private interests in a property in determining which uses are reasonable and whether the code requirements result in an unnecessarily burdensome situation.

- An applicant may not claim hardship because of conditions that are self-imposed or created by a prior owner (for example, constructing a deck or shed within setback lines without a permit and then arguing there would be a financial hardship if ordered to remove it.) Courts have also found that decks and similar minor accessory structures are not essential to the reasonable use of a property and are not eligible for variances. The board will ask the applicant to explain what hardship will exist if the variance is not granted.

2. Hardship Due to Unique Physical Limitations of the Property

To qualify for a variance, the hardship must be due to a unique physical limitation of the property that is not generally shared with other properties. Examples include steep slopes, wetlands, and ravines. The personal circumstances of an applicant (growing family, need for a larger garage, etc.) are not a factor in deciding variances. Nearby code violations, prior variances, or lack of objections from the neighbors do not provide a basis for granting a variance. Minor property limitations that prevent code compliance and are common to a number of properties should be addressed by a code amendment and not a variance.

The Board will ask the applicant to explain what conditions are unique to this property rather than considerations personal to the property owner that result in an unnecessary hardship and that would suggest the variance should be granted.

3. No harm to public interest

A variance may not be granted that results in harm to public interests. In applying this test, the Board will consider the impacts of a proposal and the cumulative impacts of similar projects on the interests of the entire community. Some of these interests are listed in Sections 1.2 and 1.3 of this ordinance.

The Board will ask the applicant to comment on how they believe the interests of the public or neighbors will be affected by granting or denying the variance request.

- B. A *use variance* shall not be granted if it would have the effect of permitting a use in any district that is not a stated permitted use, accessory use, or conditional use in that particular district, unless the property owner conclusively proves there will be no reasonable use of the property remaining without a variance.
- C. An *area variance* shall only be granted if compliance with this ordinance would unreasonably prevent a property owner from using a property for a permitted purpose or would render conformity with such regulations unnecessarily burdensome.
- D. The prospect of economic gain or loss resulting from the enforcement or administration of this ordinance shall not be a sufficient cause to grant a variance.

SECTION 7.09 – DECISION

- A. The Board of Appeals shall decide all appeals and applications within 45 days after the final hearing and shall, within 30 days of the final decision, transmit a signed copy of the Board’s decision to the appellant or applicant, Building Inspector, the Town Board, and the Town Plan Commission, and file the decision in the Office of the Board of Appeals.
- B. The Board of Appeals may impose such conditions, safeguards, and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards set forth in this ordinance to reduce or minimize any potentially injurious effect of such

variance upon other property in the neighborhood and to carry out the purpose and intent of this ordinance.

- C. Variances, substitutions, or permits granted by the Board of Appeals shall expire within one year unless substantial work has commenced pursuant to such grant, or unless an extension is expressly granted by the Board of Appeals at the applicant's request in advance of the expiration.

SECTION 7.10 – REVIEW BY COURT OF RECORD

Any person or persons aggrieved by any decision of the Board of Appeals may present to the court of record a petition, duly verified, setting forth that such decision is illegal and specify the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the Board of Appeals.

CHAPTER 8.0 PLAN COMMISSION

SECTION 8.01 – PURPOSE

Pursuant to Section 60.22 (3), 61.35, and 62.23 of the Wisconsin Statutes, there is hereby created a Plan Commission for the Town of Sherman, with the powers, duties, and qualifications set forth in this Ordinance and in Section 62.23, Wis. Stats.

SECTION 8.02 – MEMBERSHIP

- A. **Terms:** The Plan Commission shall consist of five members, including a presiding officer, recommended by the Town Chairman and confirmed by the Town Board. The Town Board Chairman may appoint him or herself to the commission and may appoint other Town elected or appointed officials, except that the commission shall always have at least three citizen members who are not Town Officials. Citizen members shall be persons of recognized experience and qualifications, and shall be a resident and/or property owner of the Town of Sherman. Except for the initial one-year and two-year terms of some members to ensure staggered terms, the members of the commission shall be appointed to hold office for a period of three years, all terms to end on the last day of April.
- B. **Alternate Members:** Up to two alternate members may be recommended by the Town Chairman and confirmed by the Town Board for a term of three years and shall act only when a regular member is absent or abstains from voting due to a conflict of interest.
- C. **Compensation:** Every two years, at the first Town Board meeting following the April election, the Town Board shall establish the compensation to be paid to members and alternate members of the Plan Commission to defray expenses related to service on the Commission. Members and alternate members shall receive one lump sum payment at the end of the calendar year for all meetings attended.
- D. **Quorum:** Three members and/or alternates shall constitute a quorum.
- E. **Vacancies** shall be filled for the remainder of unexpired terms in the same manner as appointments for a full term, as soon as practicable.
- F. **Removal:** If necessary, a member of the Plan Commission may be removed from his/her position by a majority vote of the Town Board, but only for cause after written charges and an opportunity for a public hearing.
- G. **Technical Assistance:** The Building Inspector and Town Attorney shall attend meetings when requested by the Town Board or Plan Commission in order to provide technical assistance.

SECTION 8.03 – DUTIES

The Plan Commission’s duties shall include, but are not limited to:

- A. **Planning:** The Plan Commission shall have the duties of making reports and recommendations to the Town Board regarding the planning and land use of the Town of Sherman. In addition to the duties specified elsewhere in this ordinance, the Plan Commission is required by statute to consider the following and make a report within 30 days before final action is taken by the Town Board:
1. The location and architectural design of any public building;
 2. The location of any statue or other memorial;
 3. The location, acceptance, extension, alteration, vacation, abandonment, change of use, sale, acquisition of land for or lease of land for any street, alley or other public way, park, playground, airport, area for parking vehicles, or other memorial or public grounds;
 4. The location, extension, abandonment or authorization for any public entity whether publicly or privately owned;
 5. All plats of land in the Town over which the Town has platting jurisdiction under ch. 236 Wis. Stat.;
 6. The location, character and extent or acquisition, leasing or sale of lands for public or semi-public housing, slum clearance, relief of congestion, or vacation camps for children; and
 7. The amendment or repeal of any ordinance adopted pursuant to s. 62.23(5), Wis. Stat.

If said report is not made within 30 days, the Town Board may take action without it.

- B. **Reviewing and Recommending:** The Plan Commission shall review zoning ordinance amendments and conditional use applications. After inviting comments from the public immediately following any discussion by the petitioner or applicant during a Plan Commission meeting in which the matter appears as an agenda item, or holding a public hearing, if desired, the Plan Commission shall make a recommendation to the Town Board.

CHAPTER 9.0 CHANGES and AMENDMENTS

SECTION 9.01 – AUTHORITY

Whenever the public necessity, convenience, general welfare, or good zoning practice require, the Town Board may, by ordinance, change the district boundaries or amend, change, or supplement the regulations established by this ordinance or amendments thereto. Such change or amendment shall be subject to the review and recommendation of the Town Plan Commission and any state or county entities having authority over the substance of the change or amendment.

SECTION 9.02 – INITIATION

- A. A change to **district boundaries** may be initiated by the Town Board, Town Plan Commission, or by a petition of one or more of the owners or lessees of property, or holders of a contract to purchase property, within the area proposed to be changed.
- B. An amendment to the **text** of this ordinance may be initiated as a petition by any person.

SECTION 9.03 – PETITIONS

- A. **District Boundaries:** Petitions for any change to the district boundaries to the regulations shall be filed with the Town Clerk, describe the premises proposed to be re-zoned, list the reasons justifying the petition, specify the proposed use, and have attached the following:
 - 1. Petitioner's and/or owner's name, address, phone number, and interest in property;
 - 2. Signatures of all petitioners and owners;
 - 3. Existing and proposed zoning district;
 - 4. Proposed use (a statement of the type, extent, area, etc., of any development project);
 - 5. Owners' names and addresses of all properties lying within 500 feet of the area proposed to be rezoned;
 - 6. Compatibility with adjacent lands (a statement of land uses and impact of zoning change);
 - 7. Legal description of the property to be rezoned;
 - 8. Plot plan drawn to appropriate scale or survey plat, showing the area proposed to be re-zoned, its dimensions, the location of buildings on the property, as well as the location and classification of adjacent zoning districts, and the location and existing use of all properties and buildings within 500 feet of the area proposed to be rezoned;
 - 9. Additional information required by the Town Plan Commission or Town Board.
- B. **Ordinance Text Amendments:** Petitions for any proposed amendments to the text of this ordinance shall be filed with the Town Clerk and include the petitioner's name, address, and phone number; list the reasons justifying the petition; specify the text to be deleted and/or

added; and, if possible, provide an example of a similar regulation from another municipal zoning ordinance. Petitioners may be required to provide additional information as needed by the Town Plan Commission or Town Board.

- C. **Fee:** The petitioner shall present a Fee Receipt from the Town Treasurer for the amount specified in the Town of Sherman’s “Schedule of Fees” to cover meeting costs and costs of the hearing notice for changes or amendments to the zoning ordinance.

SECTION 9.04 – RECOMMENDATIONS

The Town Plan Commission shall review all proposed changes and amendments within the corporate limits and shall recommend that the petition be granted as requested, modified, or denied.

SECTION 9.05 – HEARINGS

The Town Board shall, after publishing a Class 2 notice under Ch. 985, Wis. Stats., hold a public hearing upon each recommendation, listing the time, place, and the changes or amendments proposed. The Town Board shall also give at least 10 days prior written notice to the Clerk of any municipality within 1.5 miles of any land to be affected by the proposed change or amendment.

SECTION 9.06 – TOWN BOARD’S ACTION

Following such hearing and after careful consideration of the Town Plan Commission’s recommendations, the Town Board shall vote on the proposed change or amendment.

SECTION 9.07 – PROTEST

- A. A protest against a district change or amendment to the regulations of this ordinance must be signed and acknowledged by:
 - 1. the owners of 20 percent or more either of the areas of the land included in such proposed change, or
 - 2. the owners of 20 percent or more of the land immediately adjacent, extending 100 feet therefrom, or
 - 3. the owners of 20 percent or more of the land directly opposite thereto, extending 100 feet from the street frontage of such opposite land.
- B. In the event of a protest that meets the criteria set forth in this Section, a change or amendment can only be approved by the concurring vote of four members of the Town Board.

CHAPTER 10.0 MOBILE SERVICE SUPPORT STRUCTURES AND FACILITIES

SECTION 10.01 – PURPOSE

In addition to promoting the public health, safety, and general welfare of the citizens of the Town of Sherman, the purposes of this Chapter include 1) minimizing any adverse visual effects of communication facilities, 2) allowing a non-discriminatory, competitive, and broad range of communication services consistent with the Federal Telecommunications Act of 1996, 3) achieving consistency with the mobile service support structure and facility regulations of 2013 Wisconsin Act 20, and 4) encouraging the use of co-location of new antennas primarily on existing telecommunication towers or secondarily on new towers with the capacity to locate three or more providers.

This Chapter is not intended to regulate commercial television or radio towers.

SECTION 10.02 – DEFINITIONS

Antenna – Communications equipment that transmits and receives electromagnetic radio signals and is used in the provision of mobile services.

Application – An application for a permit under this section to engage in an activity specified in sub. (2) (a) or a Class 2 collocation.

Building Permit – A permit issued by a political subdivision that authorizes an applicant to conduct construction activity that is consistent with the political subdivision’s building code.

Class 1 Collocation – The placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a free standing support structure for the facility but does need to engage in substantial modification.

Class 2 Collocation – The placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a free standing support structure for the facility or engage in substantial modification.

Collocation – Class 1 or Class 2 collocation or both.

Distributed Antenna System – A network of spatially separated antenna nodes that is connected to a common source via a transport medium and that provides mobile service within a geographic area or structure.

Equipment Compound – An area surrounding or adjacent to the base of an existing support structure within which is located mobile service facilities.

Existing Structure – A support structure that exists at the time a request for permission to place mobile service facilities on a support structure is filed with a political subdivision.

Fall Zone – The area over which a mobile support structure is designed to collapse.

Mobile Service – Has the meaning given in U.S. Code 47 USC 153 (33).

Mobile Service Facility – The set of equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and associated equipment, that is necessary to provide mobile service to a discrete geographic area, but does not include the underlying support structure.

Mobile Service Provider – A person who provides mobile service.

Mobile Service Support Structure – A freestanding structure, such as a tower, that is designed to support a mobile service facility.

Permit – A permit, other than a building permit, or approval issued by a political subdivision which authorizes any of the following activities by an applicant:

1. A Class 1 collocation.
2. A Class 2 collocation.
3. The construction of a mobile service support structure.

Political Subdivision – A city, village, town, or county.

Public Utility – Has the meaning given in 196.01 (5), Wis. Stats.

Search Ring – A shape drawn on a map to indicate the general area within which a mobile service support structure should be located to meet radio frequency engineering requirements, taking into account other factors including topography and the demographics of the service area.

Substantial Modification – The modification of a mobile service support structure, including the mounting of an antenna on such a structure, that does any of the following:

1. For structures with an overall height of 200 feet or less, increases the overall height of the structure by more than 20 feet.
2. For structures with an overall height of more than 200 feet, increases the overall height of the structure by 10 percent or more.
3. Measured at the level of the appurtenance added to the structure as a result of the modification, increases the width of the support structure by 20 feet or more, unless a larger area is necessary for collocation.
4. Increases the square footage of an existing equipment compound to a total area of more than 2,500 square feet.

Support Structure – An existing or new structure that supports or can support a mobile service facility, including a mobile service support structure, utility pole, water tower, building, or other structure.

Utility Pole – A structure owned or operated by an alternative telecommunications utility, as defined in 196.01 (1d), Wis. Stats.; public utility, as defined in 196.01 (5), Wis. Stats.; telecommunications utility, as defined in 196.01 (10), Wis. Stats.; political subdivision; or cooperative association organized under ch. 185, Wis. Stats.; and that is designed specifically for and used to carry lines, cables, or wires for telecommunications service, as defined in 182.017 (1g) (cq), Wis. Stats.; for video service, as defined in 66.0420 (2) (y), Wis. Stats.; for electricity; or to provide light.

SECTION 10.03 – NON-COMMERCIAL COMMUNICATION TOWERS AND ANTENNAS

- A. Non-commercial communication towers and antennas regulated under this Chapter are those towers that are 20 feet or more in height above the original grade and those antennas having a stand-alone size of 20 feet or MORE in any direction.
1. In order to qualify as a non-commercial communications tower, the tower:
 - a. Must be owned and operated by the property owner on whose property it is constructed;
 - b. Must be used for a personal communication purpose such as ham radio operation;
 - c. Must not be used as an income source for the owner/operator;
 - d. Must not be more than 100 feet in height above ground level.
 2. Minimum Setbacks: At least 1.5 times the tower's or antenna's height above the original grade from all road right-of-way and property lines.
 3. Permits Required
 - a. A Conditional Use Permit, as set forth in Chapter 5.0 of this ordinance, shall be required for all non-commercial communication towers and antennas as specified in sub. 10.03 (A).
 - b. Renewal of Conditional Use Permit shall be required when ownership of the property transfers.
 - c. If not renewed at expiration of conditional use agreement, the tower and/or antenna(s) shall be removed within 90 days.
 - d. A Building Permit from the Town of Sherman is required before installation of any non-commercial tower or antennae array regulated under this Chapter.

SECTION 10.04 – MOBILE SERVICE SUPPORT STRUCTURES AND FACILITIES

All proposed mobile service support structures and facilities shall comply with the provisions set forth herein. A Mobile Service Permit and a Building Permit from the Town of Sherman are required before the new construction or substantial modification may begin on any mobile service support structure or facility. Applications for a Mobile Service Permit shall be made in accordance with the following:

- A. New construction or substantial modification of facilities and support structures.
1. Subject to the provisions and limitations of this section, the Town shall regulate the following activities:
 - a. The siting and construction of a new mobile service support structure and facilities.
 - b. With regard to a Class 1 collocation, the substantial modification of an existing support structure and mobile service facilities.
 2. The application for an activity described under sub. (1) shall be in writing and shall contain all of the following:
 - a. The name and business address of, and contact individual for, the applicant.
 - b. The location of the proposed or affected support structure.
 - c. The location of the proposed mobile service facility.
 - d. **If the application is to substantially modify an existing support structure**, a construction plan that describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
 - e. **If the application is to construct a new mobile service support structure**, a construction plan that describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
 - f. If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.
 3. If an applicant submits an application for a permit to engage in an activity described under sub. (1), which contains all of the information required under sub. (2), the Town shall consider the application complete. If the Town does not believe the application is complete, the Town shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.

4. Within 90 days of its receipt of a complete application, the Town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Town may agree in writing to an extension of the 90 day period:
 - a. Review the application to determine whether it complies with all applicable aspects of the Town's building code and, subject to the limitations in this article, the Town's zoning ordinance.
 - b. Make a final decision whether to approve or disapprove the application.
 - c. Notify the applicant, in writing, of its final decision.
 - d. If the decision is to disapprove the application, include with the written notification substantial evidence that supports the decision.
 5. The Town may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under sub. (2) (f).
 6. A party who is aggrieved by the final decision of the Town under sub. (4) (b) may bring an action in Sheboygan County circuit court.
 7. If an applicant provides the Town with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the setback or fall zone area required in 10.04 (D) of this chapter, 10.04 (D) does not apply to such a structure unless the Town provides the applicant with substantial evidence that the engineering certification is flawed.
 8. The Town may regulate the activities described under sub. (1) only as provided in this section.
- B. Collocation on existing support structures.
1.
 - a. A class 2 collocation is a permitted use under 59.69, 60.61, and 62.23, Wis. Stats.
 - b. The Town may regulate a class 2 collocation only as provided in this section.
 - c. A class 2 collocation is subject to the same requirements for the issuance of a Building Permit to which any other type of commercial development or land use development is subject.
 2. If an applicant submits to the Town an application for a Mobile Service Permit to engage in a class 2 collocation, the application shall contain all of the information required under sub. (A) (2) (a) to (c), in which case the Town shall consider the application complete. If any of the required information is not in the application, the Town shall notify the applicant in writing, within 5 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that

was incomplete. An applicant may resubmit an application as often as necessary until it is complete.

3. Within 45 days of its receipt of a complete application, the Town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Town may agree in writing to an extension of the 45 day period:
 - a. Make a final decision whether to approve or disapprove the application.
 - b. Notify the applicant, in writing, of its final decision.
 - c. If the application is approved, issue the applicant the relevant permit.
 - d. If the decision is to disapprove the application, include with the written notification substantial evidence that supports the decision.
 4. A party who is aggrieved by the final decision of the Town under sub. (3) (a) may bring an action in Sheboygan County circuit court.
- C. The recipient of a Mobile Service Permit shall notify the Town Clerk within 15 days of any change in facility ownership, and shall provide contact information for said new ownership
- D. Setbacks, Fences, Signs, Security
1. All newly constructed or heightened towers shall be located at least 1.0 times the tower's height, measured from the base of the tower, from road right-of-way lines and landowner property lines unless written permission for a lesser setback is obtained from the right-of-way or land owner.
 2. An eight-foot high fence with locked gate shall be provided around the tower and related equipment.
 3. Advertising signs of any type shall not be permitted in connection with tower sites. An identification sign, measuring no more than six feet square, indicating the owner's name and a 24-hour emergency number, shall be affixed to the facility in such a way that it is visible from outside the fence.
- E. Lighting: unless required by the Federal Aviation Administration, there shall be no continuous artificial lighting attached to mobile service support structures or facilities. Security lighting shall be "cut off lighting" fixtures.

SECTION 10.05 – REMOVAL AND SITE RESTORATION

- A. The removal of mobile service support structures or facilities no longer in operation or abandoned, and site restoration shall comply with the following:
1. The recipient for a permit for a mobile service support structure or facility shall notify the Town Clerk within 90 days of the permanent cessation of operations of the structure or facility. If no notice is received for a structure or facility that has not been in

operation for a continuous period of 12 months, the structure or facility shall be considered abandoned.

2. The owner of a mobile service support structure or facility shall be responsible for the removal of the structure or facility and the restoration of the site to a condition acceptable to the Town Board within nine months following the date the Town Clerk receives notice the facility is no longer in operation. Note: Tower-based antennas that are no longer operational shall be removed; however, site restoration is not required.
 - a. Site restoration shall include removal of any subsurface structure or foundation, including concrete, used to support the mobile service support structure down to five feet below the ground surface. The structure owner shall provide a signed and notarized document in recordable form to the Town of Sherman stating the existence, description, and precise location of any subsurface structure remaining.
 - b. A surety bond, letter of credit, cash, or other surety, as determined by the Town of Sherman Board, shall be provided by the applicant prior to the issuance of a permit to cover the costs of complete removal of an abandoned facility, along with landscape remediation, landscaping, and removal of any on-site hazardous materials, if necessary. The Town of Sherman shall be named as obligee in the bond, letter of credit, cash, or other surety and must approve the bonding company. The Town may require an increase in the surety amount at five-year intervals to reflect increases in the costs in the aforementioned removal, remediation, and landscaping expenses. The amount of the increased surety shall be determined by the Town Board consistent with actual anticipated costs as provided by appropriate experts. The applicant shall provide any increase in surety within 60 days after the Town's request. In no case shall the bond, letter of credit, cash, or surety exceed \$20,000.
3. Any cost not covered by the surety bond furnished shall be provided by the existing landowner or become a lien on the real estate.

SECTION 10.06 – INTERFERENCE

Neither mobile service support structures or facilities nor non-commercial communication towers or antennas shall interfere with or obstruct public safety communication devices or the private television, radio, or communication devices of businesses or residences. Any such interference or obstruction shall be corrected by the permit holder as soon as reasonably possible and at no cost to the public.

CHAPTER 11.0 PORTABLE STORAGE UNITS

SECTION 11.01 – PURPOSE

There are hereby established standards for portable storage units that will provide property owners and residents with additional options for temporary and on-site storage of materials while considering public safety and valuing the aesthetic preferences of the Town.

SECTION 11.02 – PORTABLE STORAGE UNITS ALLOWED WITHOUT A ZONING PERMIT

A. Disaster Relief Efforts

Portable storage units are allowed without a Zoning Permit in any district when brought to a site for disaster relief efforts or similar emergency situations under the oversight of a government agency or non-profit relief organization, subject to the following:

1. Such units must meet all rear and side yard setback requirements for the district in which they are located. Any unit located in the street/front yard must be set back at least 15 feet from the nearest road pavement edge.
2. Any units shall be removed within 60 days of the conclusion of the relief effort or emergency situation.

B. Construction Projects

Portable storage units are allowed without a Zoning Permit in any district when brought to a site in support of a construction, excavation, or similarly permitted project, subject to the following:

1. Such units must meet all rear and side yard setback requirements for the district in which they are located. Any unit located in the street/front yard must be set back at least 15 feet from the nearest road pavement edge.
2. No portable storage unit shall be used for human habitation.
3. Any units shall be removed within 60 days of the conclusion of the project.

C. Relocation Projects

Portable storage units are allowed without a Zoning Permit in any district when brought to a site while all or part of a household or business is relocating, subject to the following:

1. Such units must meet all rear and side yard setback requirements for the district in which they are located. Any unit located in the street/front yard must be set back at least 15 feet from the nearest road pavement edge.
2. No portable storage unit shall be used for human habitation.
3. Such units are limited to 30 days total in a calendar year.

SECTION 11.03 – PORTABLE STORAGE UNITS REQUIRING A ZONING PERMIT

- A. Portable storage units are not allowed in the R-1, R-2, R-3, R-4, or A-1-PR districts, unless such a unit qualifies under Section 11.02.

- B. Subject to the requirements of this subsection, as well as any applicable district requirements, portable storage units are allowed in the A-1, A-2, A-3, B-1, C-1, M-1, M-2, M-3, M-4, P-1, P-2, and R-R districts with the issuance of a Town of Sherman Zoning Permit. No Zoning Permit is required if such a unit qualifies under Section 11.02.
 - 1. Such units shall meet all building setback requirements for the district in which they are located.
 - 2. No part of such units shall be located in the street/front yard of a parcel, unless no principal building exists on the parcel.
 - 3. No portable storage unit shall be used for human habitation, unless the unit qualifies under subsection 11.02 A.
 - 4. No portable storage unit shall be used to store hazardous materials, unless such materials are integral to the principal use of the property, or unless the unit qualifies under Section 11.02.
 - 5. Such units shall not be stacked on each other or on any other structure or building.
 - 6. The condition of such units shall not become a nuisance or safety hazard.
 - 7. Any unit that appears to have been abandoned and receives written notice from the Town ordering its removal shall be permanently removed by the owner within 30 days of receiving said notice. An owner may challenge the determination of abandonment by appealing to the Town Board within 60 days of receiving said notice. If denied, the abandoned unit shall be removed within 30 days of the Town Board's decision. Any abandoned unit not removed within the applicable time period may be removed by the Town at the owner's expense.

SECTION 11.04 – CONDITIONAL USE PERMIT OPTION

Any person who wishes to exceed a limitation or forego a certain requirement listed in this Chapter may apply to the Town for a Conditional Use Permit. Said permit may be granted if the requirements of Chapter 5.0 are met and the applicant agrees to actions that are adequate to off-set any negative repercussions of exceeding a limitation or foregoing a requirement.

SECTION 11.05 – EXISTING PORTABLE STORAGE UNITS

A portable storage unit lawfully existing at the time of the adoption or amendment of this ordinance may be continued even if such a unit does not conform to the provisions of this

chapter. However, it shall be deemed a nonconforming use or structure, and the provisions of Chapter 6.0 shall apply.

CHAPTER 12.0 SOLAR ENERGY SYSTEMS (SES) (12/07/21)

SECTION 12.01 – PURPOSE

There are hereby established standards for certain solar energy systems that will provide for the construction and operation of said systems. All regulations contained herein are adopted to preserve and protect public health and safety.

SECTION 12.02 – TYPES OF SOLAR ENERGY SYSTEMS AND PERMITS REQUIRED

- A. Large-scale SES (100 MW or more) – Must be approved by the Wisconsin Public Service Commission. Such systems are allowed only in the A-1, A-2, A-1-PR, and A-3 districts and require a building permit from the Town. A Sheboygan County Shoreland/Floodplain Zoning permit, if applicable, may also be required. The Town may require a conditional use permit and/or developer’s agreement as long as no conditions, in the opinion of the SES developer, inhibit or preclude the project, per Section 196.491(3)(i), Wis. Stats.
- B. Mid-scale SES (< 100 MW and > 30 kW) – Are subject to the conditional use permit conditions set forth in Chapter 5.0 and the requirements set forth in Section 12.03 of this ordinance, the Town’s building permit requirements, the County’s applicable Shoreland/Floodplain requirements, and any other applicable state or federal requirements. Such systems are allowed in all districts except R-1, R-2, R-3, R-4, and C-1.
- C. Small-scale SES (30 kW or less) – Are considered to be accessory uses and are permitted in all districts. Such systems are allowed whether or not a principal structure exists on the parcel. A building permit from the Town is required, and a Sheboygan County Shoreland/Floodplain Zoning permit may also be required, if applicable.

SECTION 12.03 – REQUIREMENTS FOR MID-SCALE SOLAR ENERGY SYSTEMS

- A. Any mid-scale SES hereafter established, altered, or enlarged shall be subject to the following requirements unless less restrictive requirements are specifically granted by the Plan Commission in the conditional use permit.
 - 1. Setbacks – Any portion of the SES shall not encroach within 20 feet of any property line, non-navigable waterway ordinary high-water mark, easement, well, septic field, or road right-of-way.
 - 2. Height restrictions – Ground mounted components of a SES shall not exceed 15 feet in height as measured at the apex when any tracker is at its maximum tilt in early morning or late evening. Roof-mounted components shall not exceed a zoning district’s height limit by more than 5 feet.
 - 3. Glare – The SES, including reflectors, shall be positioned so that glare does not create unsafe conditions for travelers or nuisances for neighboring properties.
 - 4. Sound – The SES project’s inverters, substations, motors, and other noise emitting equipment collectively shall not exceed the Public Service Commission mandated maximum nighttime sound level that is applicable to a 100 MW

system or larger at the walls of the noise sensitive receptor, which shall include as a minimum the residence on any non-participating property. To ensure noise level estimates associated with facility design are conservative, a 5 dBA tonal penalty shall be included in any pre- or post-construction sound analysis.

5. Construction hours – Hours of construction shall be between 7:00 a.m. and 7:00 p.m., Monday through Saturday, and between 10:00 a.m. and 7:00 p.m. on Sunday.
 6. Installer – All SES shall be installed by a North American Board of Certified Energy Practitioners (NABCEP) certified solar installer or other person or entity qualified to perform such work.
 7. Foundation – A qualified engineer shall certify that the foundation and design of the solar panels racking and support is within accepted professional standards, given local soil and climate conditions.
 8. Screening – A SES shall be appropriately buffered and screened from public view by the system owner or representative. Any structure or vegetation under the control of a neighboring property owner, however, that interferes with the function of a SES is considered to be a private nuisance per Section 844.22, Wis. Stats.
 9. Town roads – The construction, operation, and decommissioning of a SES shall not adversely impact town roads.
 10. Code compliance – A SES shall comply with all applicable local, state, and federal regulatory codes, including the State of Wisconsin electrical and plumbing codes and the National Electrical Code.
 11. Power and communication lines – Power and communication lines running between banks of ground mounted solar panels to nearby electrical substations, or interconnections with or between structures, shall be buried underground.
 12. Orderly development – Upon issuance of a conditional use permit, the permit holder shall notify the Wisconsin Public Service Commission.
 13. Decommissioning – When decommissioning of a SES is required, all equipment, whether above the ground surface or below, shall be totally removed and properly recycled or disposed of. A bond, letter of credit, or an escrow account is required for all SES with a nameplate rating of 1 MW or greater to ensure proper decommissioning.
- B. In addition to the application submittal requirements of Chapter 5.0 of this ordinance, the application for a SES conditional use permit shall include the following:
1. Solar energy system specifications, including the manufacturer and model, generating capacity, total height, collector square footage, wiring plan, means of interconnecting with the electrical grid, and any agreements with public utilities with regard to connecting to their systems.

2. Site layout, including the location of property lines, structures, SES; as well as the total extent of system movements, and the interconnection points with the electrical grid.
3. Installers' qualifications and signatures certifying that the SES will be installed in compliance with all Town ordinances and any other applicable codes.
4. Surrounding property uses.
5. Percentage of land coverage by the SES when panels are in the position that has the largest horizontal area.
6. A decommissioning plan, which shall outline the anticipated means and cost of removing the SES at the end of its useful life. Decommissioning of a SES must occur in the event the SES is not in use for 12 consecutive months. Decommissioning shall consist of removal of the SES structures and subsurface foundations and equipment, disposal of all solid and hazardous waste in accordance with all applicable waste disposal regulations, and stabilization of soils and/or revegetation of the site as necessary to minimize erosion. The decommissioning methods shall be established and cost estimates shall be made by a competent party such as a professional engineer experienced in such matters, a contractor capable of decommissioning, or a party found by the Town of Sherman to have suitable expertise or experience with decommissioning. The plan shall also identify the financial resources that will be available to pay for the decommissioning and removal of the SES. The Town Plan Commission shall review the decommissioning plan and request changes that may be needed to comply with the conditional use permit or to protect the safety and welfare of the community and town properties. The plan shall provide that decommissioning will begin within 180 days from the end of the SES useful life or if the SES is not in use for 12 consecutive months. Decommissioning shall be completed within 9 months from the start of decommissioning activities.

SECTION 12.04 – EXISTING SOLAR ENERGY SYSTEMS

A solar energy system lawfully existing at the time of the adoption or amendment of this ordinance may be continued even if such a system does not conform to the provisions of this chapter. However, it shall be deemed a nonconforming use or structure, and the provisions of Chapter 6.0 shall apply.

CHAPTER 15.0 DEFINITIONS

For the purpose of this ordinance, certain words or phrases shall have meanings that either vary somewhat from their customary dictionary meanings or are intended to be interpreted to have a specific meaning. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word “shall” is mandatory; the word “should” is advisory; and the word “may” is permissive. Any words not defined in this ordinance shall be presumed to have their customary dictionary definitions.

Accessory Use or Structure – A use or detached structure subordinate to the principal use of a structure, land, or water and located on the same lot or parcel serving a purpose customarily incidental to the principal use or the principal structure. Such uses include but are not limited to garages, sheds, decks, and gazebos. Accessory structures are deemed taxable structures and require a building permit from the Town. A Sheboygan County Shoreland/Floodplain Zoning permit, if applicable, may also be required. Temporary accessory uses, such as structures consisting of tubular frames and fabric outer skin, camping tents, or shelters for materials and equipment being used in the construction of a permanent structure, do not require a permit.

Acreage - (Minimum Contiguous Acreage) for ordinance purposes defined as not being divided by a public road.

Alley – A special public right-of-way affording only secondary access to abutting properties.

Apiculture – The raising and care of bees for commercial or agricultural purposes.

Aquaculture – The active cultivation (maintenance or production) of marine and freshwater aquatic organisms (plants and animals) under controlled conditions.

Arterial Street – 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.

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

Building – Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery, or materials.

Building Area – The total living area bounded by the exterior walls of a building at the floor levels, but not including basement, utility rooms, garages, porches, breezeways, and unfinished attics.

Building Height – The vertical distance measured from the mean elevation of the finished lot grade along the street yard face of the structure, to the highest point to the highest point of flat

roofs; to the mean height level between the eaves and ridges of gable, gambrel, hip, and pitch roofs; or to the deck line of mansard roofs.

Business – An occupation, employment, or enterprise that occupies time, attention, labor, and/or materials or wherein merchandise is exhibited or sold, or where services are offered other than home occupations.

Clothing Store – Retail stores where clothing is sold, such as department stores, dry goods, and shoe stores, dress, hosiery, and millinery shops.

Commercial Use – An occupation, employment, or enterprise that is carried on for profit by the owner, lessee, or licensee.

Common Ownership – Ownership of land by the same individual, married couple, joint tenants, or tenants in common. For example, a parcel owned by John Smith is considered to be in common ownership with a parcel owned by John & Mary Smith, husband and wife. A parcel owned by John Smith is *not* considered to be in common ownership with a corporation, LLC, partnership, estate, or trust in which John Smith has an interest.

Conditional Uses – Uses of a special nature as to make impractical their predetermination as a principal use in a district.

Contiguous – For ordinance purposes – Not being divided by a public road. Parcels are *not* contiguous if they meet only at a single point.

Corner Lot – A lot abutting two or more streets at their intersection provided that the corner of such intersection shall have an angle of 135 degrees or less measured on the lot side.

Diversified Farming – The practice of producing a variety of crops or animals, or both, on one farm, as distinguished from specializing in a single commodity.

Driveway/access – Any area where travel occurs from a public road over land, whether by easement or ownership, not considered to be a part of the public road for the purpose of gaining access to land or improvements.

Dwelling – A building used all or in part as a habitation, but does not include boarding or lodging houses, motels, tents, tourist cabins, or mobile homes.

Emergency Shelter – Public or private enclosures designed to protect people from aerial, radiological, biological, or chemical warfare, fire, flood, windstorm, riots, and invasions.

Essential Services – Services provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface, or overhead gas, electrical, steam, water, sanitary sewage, storm water drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains,

vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, traffic signals, pumps, lift stations, and hydrants, but not including buildings.

Expressway – A divided arterial street or highway with full or partial control of access and with or without grade separated intersections.

Fallow Land – Land that is left unseeded after plowing or agricultural land that is currently inactive.

Family – Any number of persons related by blood, adoption, or marriage, or not to exceed three persons not so related, living together in one dwelling as a single housekeeping entity.

Farm – All contiguous land under a common ownership that is primarily devoted to agricultural use.

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

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

Freeway – An expressway with full control of access and with fully grade separated intersections.

Frontage – The dimension of a lot abutting a public street measured along the right-of-way line.

Gift Stores – Retail stores where items such as art, antiques, jewelry, books, and notions are sold.

Habitation – A dwelling place wherein behavior customary to human living, such as eating and sleeping, regularly occurs.

Hazardous Materials – Any materials, products, substances, etc. that are capable of posing a significant risk to health, safety, property, or the environment when transported, used, or stored.

Hardware Stores – Retail stores where items such as plumbing, heating, and electrical supplies, sporting goods, and paints are sold.

Home Occupation – Any occupation for gain or support that conforms to the standards listed in Section 3.30 (B) of this ordinance and is subordinate to the residential use.

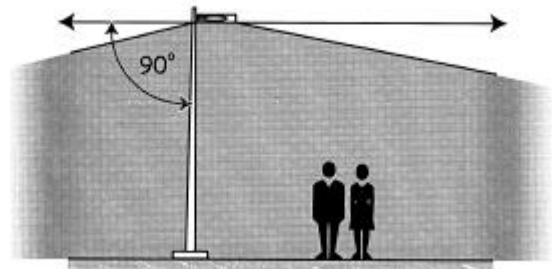
Industry, Heavy – Enterprises engaged in activities with significant external effects (e.g., soot, smoke, noise, vibration, odor, etc.), or which pose significant risks due to the involvement of explosives, radioactive materials, poisons, corrosives, pesticides, herbicides, or other hazardous materials in the manufacturing or processing of materials.

Industry, Light – Enterprises engaged in activities such as research and development; the manufacturing, compounding, processing, packaging, storage, assembly, and/or treatment of finished or semi-finished products from previously prepared materials; which activities are conducted wholly within an enclosed building in such a manner as to limit the external effects of the manufacturing process (e.g., soot, smoke, noise, vibration, odor, etc.) to the industrial property. Finished or semi-finished products may be temporarily stored outdoors pending shipment.

Interchange – A grade separated intersection with one or more turning lanes for travel between intersection legs.

Kennel – The use of land, with related buildings or structures, for the commercial breeding, rearing, boarding, training, showing, treating, or grooming of more than four dogs, cats, or other household pets.

Lighting, Cut-Off – Lighting emitted at or below a horizontal plane drawn through the bottom of a lighting fixture.



Livestock – Bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, camelids, ruminants, and ratites.

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

Lot – A parcel of land having frontage on a public street or other officially approved means of access, and sufficient in size to meet the lot width, frontage, area, and yard requirements of the district in which it is zoned.

Lot Lines and Area – The peripheral boundaries of a parcel of land and the total area lying within such boundaries.

Lot Width – The average width of a lot, determined as follows: The sum of the length of the front and rear lot line divided by two. In the case of irregularly shaped lots having four or more sides, "average lot width" is the sum of the length of two lines, drawn perpendicular to one side line at the widest and narrowest portions of the lot, divided by two.

Machine Shop – Shops where lathes, presses, grinders, shapers, and other wood and metal working machines are used, such as blacksmith, tinsmith, welding and sheet metal shops; plumbing, heating and electrical repair and overhaul shops.

Minor Structure – Any small, movable accessory erection or construction such as birdhouses; tool houses; pet-houses; play equipment; arbors; and walls fences under four feet in height.

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

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

Parking Lot – A structure or premises containing ten or more public parking spaces open for rent or a fee.

Parcel – A “tax parcel” as identified in the current records of the Sheboygan County Treasurer’s Office.

Parking Space – A graded and surfaced area of not less than 180 square feet in area either enclosed or open for the parking of a motor vehicle, having adequate ingress and egress to a public street or alley.

Permitted Use – A use by right that is specifically authorized in a particular zoning district.

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

Playground – A small area developed especially for children that typically includes such facilities as sandboxes, slides, teeters, swings, climbing apparatus, and the like.

Portable Storage Units – Land uses that include units such as shipping containers; semi-trailers and similar large transport vehicles not in road operable condition; portable on demand storage (PODS) and store and move (SAM) containers.

Principal Structure – The structure on a lot in which is conducted the principal use as permitted on such lot by the regulation of the district in which it is located. (In A-3 the principal structure is the residence, if one exists.) No lot shall have more than one principal structure unless the additional structure(s) has been allowed by the Town Board per Section 2.04 (C).

Note: Per DATCP, there are no principal structures in a farmland preservation zoning district.

Rear Yard – A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the

nearest point of the principal structure. This yard shall be opposite the street yard or one of the street yards on a corner lot.

Residence – (See *Habitation*.)

Right-of-Way Line – The limit of publicly owned land or easement encompassing a roadway or alley.

Salvage Yard – A site used for the storage or sale of salvageable materials or for the purpose of salvage, wrecking, dismantling, or demolition of salvageable materials. This includes the collection and/or dismantling of automobiles or other objects for transportation, re-use, or resale.

Shipping Container – A container originally designed or used to store materials or merchandise during shipping or hauling upon ships, rail, or other types of transportation and typically eight (8) feet wide by eight (8) feet, six (6) inches high by either twenty (20) feet or forty (40) feet in length.

Shorelands – All lands, water and air located within the following distances from the normal high water elevation of navigable waters as defined in the Wisconsin Statutes: 1,000 feet from a lake, pond flowage; 300 feet from a river or stream to the landward side of the floodplain, whichever distance is greater.

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

Silviculture – The cultivation and management of forest trees. Also included, for the purposes of this ordinance, is the harvesting of forest products such as maple syrup, nuts, and berries.

Solar Energy Systems (SES) – A device, array of devices, or structural design feature used for the collection, storage, and/or distribution of solar energy for space heating or cooling, lighting, electric generation, or water heating. This ordinance categorizes a facility with an electrical generation capability of 100 MW (megawatts) or more as a large-scale SES; a facility with a capability of less than 100 MW but more than 30 kW (kilowatts) as a mid-scale SES; and a facility with a capability of 30 kW or less as a small-scale SES. A large- or mid-scale SES may encompass multiple, non-contiguous parcels, within different zoning districts, if owned or leased by a single developing entity. (This definition is not intended to include ground or wall mounted solar powered light fixtures, solar powered electric fences, or similar solar devices.)
(12/07/21)

Street Yard – A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing or proposed right-of-way line and a line parallel thereto through the nearest point of the principal structure. Also called “front yard.” Corner lots shall have two such yards.

Stable – A building for beasts to lodge and feed for personal use only, not for hire.

Street – A public right-of-way not less than 50 feet wide providing primary access to abutting properties.

Structure – Any combination of materials installed on, above, or below the ground or attached to something located on the ground and generally used at a determined location.

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

Super-Majority Vote of Approval – A vote of approval by at least four of the five members of the Town of Sherman Board of Supervisors, except in those instances when, due to conflict of interest, one or more members abstains from voting; in such instances an approving vote of at least three of the four members voting, or three of the three members voting, is required.

Tract – All contiguous land under a common ownership and within the same zoning district.

Turning Lanes – An existing or proposed connecting roadway between two arterial streets or between an arterial street and any other street. Turning lanes include grade separated interchange ramps.

Utilities, Major – Facilities serving a community or regional area. Such facilities include power generating plants, electric substations, and high-tension wires; wastewater treatment plants; water towers; and stormwater ponds. This definition does not include mobile service support structures or facilities; wind energy systems; commercial television or radio antennas; or utility company offices. Such uses are allowed as conditional uses in A-1, A-2, A-3, B-1, M-1, M-2, M-3, M-4, and P-2.

Utilities, Minor – Small-scale facilities located in a right-of-way or easement and serving a neighborhood area. Such facilities include power poles, electric lines, and transformers; water lines, pump stations, and hydrants; telephone poles, lines, and pedestals; and stormwater drainage facilities. Such uses are permitted in all districts.

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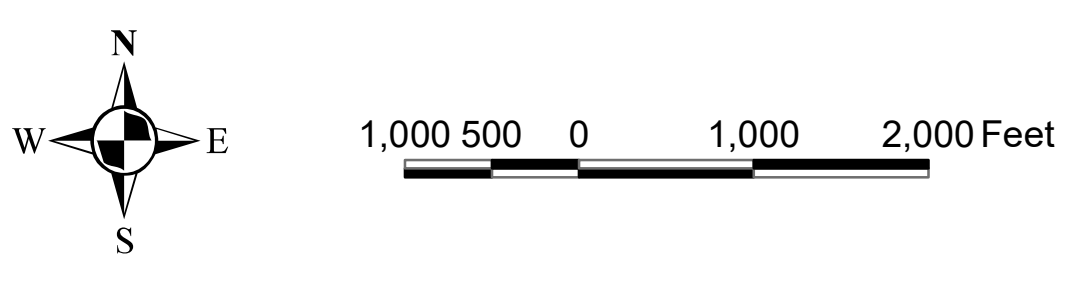
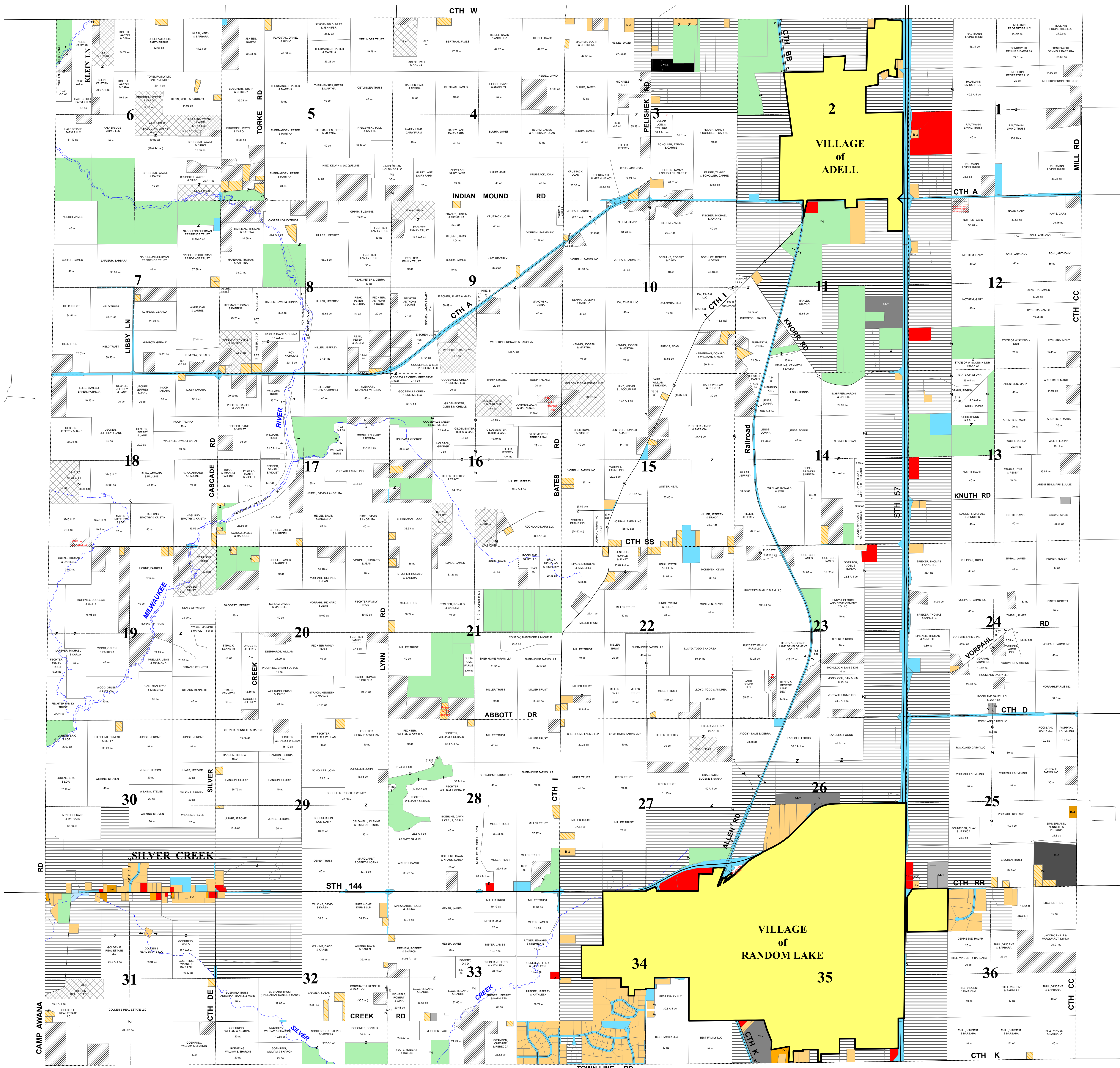
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 Transportation terminals for passengers and/or freight (bus, heliport, tax, rail, etc.) . . . B-1 (p. 22)
 Two-family residence . . . A-1 (p. 14); A-2 (p. 16); A-3 (p. 20); R-R (p. 44)
 Utilities, major . . . A-1 (p. 14); A-2 (p. 16); A-3 (p. 20); A-1-PR (p. 18); B-1 (p. 22); M-1 (p. 26); M-2 (p. 28); M-3 (p. 30); M-4 (p. 35); P-1 (p. 36); P-2 (p. 38)
 Vehicle-related sales and/or mechanical service establishments . . . B-1 (p. 22)
 Veterinary services . . . A-1 (p. 13); A-2 (p. 16); A-3 (p. 20)
 Washing, blending, blasting, grading, crushing, screening, scalping, refining, processing, stockpiling, dewatering, and/or transporting of rock, slate, gravel, sand or minerals . . . M-3 (p. 30)
 Waste disposal facilities . . . M-2 (p. 28)
 Waste storage, treatment, or recycling facilities . . . M-1 (p. 26)
 Water extraction, processing, bottling, packaging, and/or transporting . . . M-3 (p. 30)
 Water filtration plant . . . M-1 (p. 26)
 Wine, liquor, and/or fermented malt beverage—production . . . B-1 (p. 22); M-1 (26)
 Zoological and botanical gardens . . . P-1 (p. 36)

ZONING MAP

TOWN OF SHERMAN, SHEBOYGAN COUNTY, WI



Map prepared by: UW-Extension Sheboygan County for rezones up through 12/31/22

Zoning boundaries were compiled from information provided by the Town of Sherman. Sheboygan County does not have general land use zoning and therefore has no jurisdiction relative to this map. Questions should be directed to the Town of Sherman Clerk.

This map is not a survey of the actual boundary of any property this map.

LEGEND

Zoning Districts

	A-1*		B-1		M-1		R-1
	A-2*		C-1		M-2		R-2
	A-3		P-1		M-3		R-3
	A-1-PR*		P-2		M-4		R-4
							R-R

or indicates a single tax parcel



Ordinance #2010-02
Municipality Code: 59028

Ordinance Creating Title 11, Chapter 3 of the Code of the Town of Sherman, Sheboygan County, Wisconsin

Chapter 3 Distribution of Handbills and Newspapers

Section 11-3-1 Definitions

In this section, the term “handbill” means any printed or written matter, advertising, shopper, flier, circular, leaflet, pamphlet, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature, but excluding a “newspaper” as defined in §985.03 (1)(a), Wis. Stats.

Section 11-3-2 Inhabited Private Premises

No person shall throw, deposit or distribute any handbill or newspaper in or upon private premises which are inhabited, except by handing or transmitting any such handbill or newspaper directly to the owner, occupant or other person then present in or upon such private premises, or by placing or depositing the handbill or newspaper on the porch, stoop or entrance way of the premises or in a receptacle provided specifically for that purpose.

Section 11-3-3 Prohibited Where Signs Are Properly Posted.

No person shall throw, deposit or distribute any handbill upon any inhabited private premises if requested by anyone thereon not to do so or if there is placed on such premises a sign bearing the words: “no trespassing,” “no peddlers or agents”, or any similar notice, indicated in any manner that the occupants of such premises do not wish to have their right of privacy disturbed, or to have any handbills left upon such premises.

Section 11-3-4 Uninhabited or Vacant Premises

It shall be unlawful for any person to throw, deposit or leave any handbill in or upon any private premises which in uninhabited or vacant.

Section 11-3-5 Prohibited in Public Places

No person shall throw, deposit or leave any handbill or newspaper in any public road, street, alley, right-of-way, building or other public place, provided that this shall not prohibit the sale of newspapers in vending machines.

Section 11-3-6 Violations and Penalties

Any person who violates any provision of this chapter shall be subject to a penalty as provided in the Town of Sherman Zoning Ordinance, Section 2.6.

This Ordinance shall become effective upon passage and posting.

Adopted this 3rd day of August 2010 by the Town Board of Supervisors of the Town of Sherman, Sheboygan County, Wisconsin.

William C. Goehring, Chairman

Lester P. Miller, Supervisor

James E. Fahney, Supervisor

William T. Miller, Supervisor

Robert E. Boehlke, Supervisor

ATTEST: Rhonda J. Klatt, Clerk/Treasurer

Addresses to Mail Resolution to State Legislators, Wisconsin Department of Revenue, and Wisconsin Towns Association:

State Representatives with last name starting with A-L
P.O. Box 8952
Madison, Wis. 53708-8952

State Representatives with last name starting with M-Z
P.O. Box 8953
Madison, Wis. 53708-8953

State Senators
P.O. Box 7882
Madison, Wis. 53707-7882

Wisconsin Department of Revenue
Office of the Secretary
2135 Rimrock Road
P.O. Box 8933 Mail Stop 624-A
Madison, WI 53708-8933

Wisconsin Towns Association
W7686 County Road MMM
Shawano, Wis. 54166-6086

TOWN OF SHERMAN ORDINANCE 2003-2

SECTION 10.1 SIGN REGULATIONS

PURPOSE:

- 1. To regulate the size, type, construction standards, maintenance and placement of new signs situated within the boundaries of the Town of Sherman, Wisconsin;**

- 2. To promote the public health, safety, welfare and comfort of the general public by:**
 - a. Reducing distractions and obstructions from signs which would adversely effect traffic safety, and alleviate hazards caused by signs projecting over or encroaching upon the public right-of-way;**

 - b. Discouraging excessive visual competition in signage and ensuring that signs aid orientation and adequately identify uses**

 - c. Reserving or enhancing the natural beauty and unique physical characteristics of the Town of Sherman as a community in which to live and work by requiring new and replacement signage which is:**
 - 1. creative and distinctive;**

 - 2. harmonious with the building, surrounding neighborhood aesthetics and other signs in the area;**

 - 3. appropriate to the type of activity to which it pertains;**

 - 4. expressive of the Town's identity in a manner which will not diminish property values:**

Scope: Except as otherwise noted herein, the regulations of this ordinance shall govern all outdoor signs, advertising structures or devices with respect to location, safety, size, construction standards, support, lighting, maintenance, appearance, and aesthetics.

SECTION 10.2 DEFINITIONS

When used in this chapter, the following words and phrases shall have the specific meaning as hereinafter defined and any words not listed shall have the meaning defined by the zoning code of the Town of Sherman

- (1) Area: Measurement of sign area shall be calculated as the sum of the area within the smallest rectangle that will encompass all elements of the actual sign face including any writing, representation, emblem or any figure or similar character together with any material forming an integral part of the display or forming the backing surface or background on which the message or symbols are displayed. The area of supporting framework shall not be included in the area. When a sign has two (2) or more faces, the area of all faces shall be included in determining the area, except where two faces are placed back to back and are at no point more than two (2) feet from**

other. In this case, the sign area shall be taken as the area of either face, and if the faces are unequal, the larger shall determine the area.

- (2) **Banner**: A sign intended to be hung either with or without a frame and which possesses characters, letters, illustrations, or ornamentations applied to paper, plastic, or fabric of any kind.
- (3) **Base Setback Line**: The edge of the established ultimate street right-of-way.
- Billboard**: A sion or structure advertising a product or a service.
- (5) **Bulletin Board**: A sign not to exceed 15 square feet in area located on the premises of charitable, religious, educational institution or a public body, for purposes of announcing events, which are held on the premises. The Town of Sherman official bulletin boards may be located off-site.
- (6) **Construction Sign**: A sign identifying individuals or companies involved in design construction, wrecking, financing, or development of a building lot and/or identifying the future use of the building lot.
- (7) **Directional Sign**: A sign for the purpose of directing patrons or attendants to a commercial establishment off the main traveled highway, or to service dubs, churches schools or other non-profit organizations. Directional signs do not contain advertising material, do not exceed three square feet or extend higher than four feet above the mean centeriine road grade.
- (8^ **External Illumination**: Illumination of a sign with an exterior light source.
- (9) **Facing**: The surface of the sign or billboard upon, against, or through which the message of the sign or billboard is displayed.
- (10) **Flashing Sign** A sign whose illumination is not kept constant in intensity at all times when in use and/or which exhibits changes in light, color, direction, animation and word/text changes, Illuminated signs, which indicate the date, time, and temperature, will not be considered flashing signs.
- (11) **Freestanding Sign** A sign which is attached to or part of a completely self-supporting structure other than a building. The supporting structure shall be set firmly in, upon, or below the ground surface and shall not be attached to any building.
- (12) **Height** The height of all freestanding signs shall be the distance between the existing pre-construction grade at the base of the sign and the highest point on the sign or supporting structure.
- (13) **Illuminated Sign** A sign in which an artificial source of light is used in connection with the display of such sign.
- (14) **Lot** A designated parcel, tract or area of land established by plat, subdivision, or as otherwise permitted by law.
- (15) **Lot Lines** A line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public space.
- (16) **Offset** The regulated minimum distance of a structure from a side or rear lot line.

(17) **Outdoor Advertising** Any outdoor structure or device that is used as an announcement, declaration, demonstration, display, illustration, indication, symbol, insignia, logo, emblem or advertisement.

(18) **Real Estate Sign** A sign, which is used to offer for sale, lease, or rent the premises upon which such sign is placed.

(19) **Setback** The regulated minimum horizontal distance between the base setback line and any structure on a lot.

(20) **Road** : A public or private sight-of-way for pedestrian or vehicular traffic.

(21) **Sign** Any display of lettering, logos, colors, lights, or illuminated neon tubes visible to the public from outside of a building or from a traveled way, which either conveys a message to the public, or intends to advertise, direct, invite, announce or draw attention to goods, products, services, facilities, persons, property interest or business either on the lot or on any other premises.

(22) **Street** A public or private right-of-way for pedestrian or vehicular traffic.

(23) **Temporary Sign** A sign intended to be used for a period of no more than thirty (30) days unless otherwise specified herein.

(24) **Wall Sign** A sign or billboard affixed or attached directly to the exterior wall of a building and extending ten (10) or less inches from the exterior wall of the building or structure.

SECTION 10.03 PERMITS

- (1) APPLICATION FOR PERMIT Application for a sign permit shall be made to the Town Clerk, Town of Sherman.
- (2) AUTHORITY It shall be unlawful for any person to erect, repair, alter, relocate any sign or other advertising structure as defined, and not exempted in this chapter without first obtaining a sign permit from the Town Clerk, Town of Sherman. All illuminated signs shall, in addition, be subject to the provisions of the Electrical Code .
- (3) ISSUANCE OF PERMITS
 - (a) If the proposed sign is not in compliance with the requirements of this ordinance and all other regulations of the Town Board of the Town of Sherman, the Town Board shall deny such permit and state the specific lack of compliance with the ordinance requirements.
 - (b) If the proposed sign complies with all dimensional ordinance requirements, the Town Board of the Town of Sherman shall consider the purpose, appearance, location, lighting, height, size, and impact of the sign relative to the scenic beauty of the vicinity and to the values identified in Section 10.01 of this ordinance (i.e. Purpose). If they feel, on the basis of the above noted considerations, that there is a question as to whether or not the proposed sign is in accordance with the intent of this ordinance, the Town Board of the Town of Sherman may approve, approve with modifications, or deny the sign permit application.
 - (c) If the Town Board of the Town of Sherman determines that the proposed sign is in compliance with the intent of this ordinance and all other regu

Town of Sherman, they shall issue a sign permit.

(1)The applicant shall pay an application fee of fifty (\$50) dollars for each individual sign, not exempted by this ordinance.

2)All required permit fees shall be paid by the applicant to the Town Clerk/Treasurer prior to obtaining the permit from the Town of Sherman.

SECTION 10.05 PROHIBITED SIGNS

The following types of signs are prohibited in the Town of Sherman.

(1) Signs placed on or affixed to vehicles and/or trailers which are parked on a public right-of-way, public property, or private property so as to be visible from a public right-of-way where the apparent purpose is to advertise a product or direct people to a business or activity except where the sign is incidental to the primary use of the vehicle or trailer.

(2) Signs, which are attached to trees or other living vegetation, except signs prohibiting trespassing, hunting, or vehicular use on private property.

(3) Signs, which imitate, interfere with, obstruct the view of, or can be confused with any authorized traffic control sign, signal, or other device.

(4) Flashing or rotating signs, signs containing moving parts, and signs containing reflective elements, which sparkle or twinkle in the sunlight are not permitted. Signs indicating the current time and/or temperature may be permitted provided they meet all other provisions of this ordinance and subject to approval of the Town of Sherman.

(5) Commercial or Advertising balloons or other gas-filled figures.

(6) Billboards and off-premise signs, except temporary off-premises signs to identify businesses during road construction. Official Town bulletin boards are also allowed off-premise.

(7) Any sign advertising or identifying a business or organization, which is either defunct or no longer, located on the premises is not permitted.

(8) Any sign larger than 64 square feet in area.

(9) Projecting signs.

(10) Signs erected at or near the intersection of any streets in such manner as to obstruct free and clear vision; or at any location where, by reason of the position, shape or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device; or which makes use of the words "STOP", "LOOK", "DANGER" or any other word, phrase, symbol, or character in such manner as to interfere with, mislead, or confuse traffic.

SECTION 10.06 EXEMPTIONS

- (1) The following outdoor signs, advertising structures or devices shall be exempted from Section 10.04 of this ordinance:
- (a) One sign for the purpose of displaying the name of the owner or occupant not exceeding two (2) square feet in size. These signs shall not be illuminated.
 - (b) Bulletin boards not over fifteen (15) square feet in size for public, charitable or religious institutions when the same are located on the premises of said institutions. Such signs on, lighting and landscaping standards as set forth in Sections 10.09 -10.11 of this ordinance and shall not exceed seven (7) feet in height.
 - (c) Traffic signs, legal notices, railroad crossing signs, danger and such temporary emergency or non-advertising signs as may be erected for the public safety.
 - (d) One sign not to exceed fifteen (15) square feet in area, identifying farm operations.
 - (e) Flags or banners representing the United States, State of Wisconsin, Sheboygan County or the Town of Sherman.
 - (f) Special decorative displays or signs in public right-of-way when authorized by the Town Board of the Town of Sherman.
 - (g) Yard sale signs; provided that no person shall attach posters, notices or advertisements to utility poles, meter posts, or trees in or along any street right-of-way within the Town of Sherman; and, that no person shall put up any notice upon any building, wall, fence, or other property of another person without having first obtained the consent of the owner of such property. The maximum time limit for all yard sale or estate sale signs is three (3) consecutive days. Such signs shall not exceed ten(10) square feet in area.
 - (h) Auction sale signs; placed adjacent to nearby intersections on the day of the sale. These signs shall be self supporting, measure no more than nine (9) square feet in area on any side and have a maximum overall height of four (4) feet
 - (i) Up to two (2), off premise directional signs for any single business or organization provide each sign shall not exceed three (3) square feet in area. These signs do require the Town Board of the Town of Sherman approval and the town may require appearance uniformity when deemed necessary. The Town Board of the Town of Sherman may require that these signs be grouped to avoid congestion.
 - (j) Bumper Stickers affixed to vehicle bumpers.
 - (k) Christmas, New years, and Halloween decorations.
- (2) The following temporary signs shall also be exempted from Section 10.04 of this ordinance subject to the following conditions:
- (a) Temporary Real Estate Signs and Temporary Construction Signs. 1) Number There shall not be more than one (1) temporary sign for each lot except that where a lot abuts two (2) or more streets, one (1) temporary sign may be allowed for each abutting street frontage.
 - 2) Area: Temporary signs shall not exceed Nine(9) square feet in gross surface

3) Location: Temporary signs shall be setback a minimum of 10 feet from any abutting property line or road right-of-way.

4) Height: Temporary signs shall not project higher than seven (7) feet as measured From pre-construction or pre existing grade at the base of the sign.

5) Special Conditions: Temporary construction signs shall be permitted only as Accessory to an approved building permit for the purpose of identifying a proposed Construction project and the names of contractors, engineers, architects, and financial Institutions involved in the project development Temporary construction signs may be erected and maintained for a period not to exceed thirty (30) days prior to the commencement of construction and shall be removed within thirty (30) days of the termination of construction e project or development.

(b) Temporary Political Campaign Signs:

1) Location(s): Political campaign signs located on private property shall be with the owner's consent.

2) Time Limit: Political campaign signs shall not be posted more than sixty(60) days prior, and shall be removed within thirty(30) days after the election for which the sign was posted.

3) Height: Political campaign signs shall not exceed seven (7) feet in height as measured from grade at the base of the sign.

(4) All signs permitted under this Section shall conform to the provisions of Section 10.11 of this chapter.

SECTION 10.07 ILLUMINATION STANDARDS

(1) In addition to complying with the provisions of this ordinance, all signs in which electrical wiring and connections are to be used shall be subject to the applicable provisions of the State Electrical Code.

(2) The use of unshielded lighting, including exposed incandescent light bulbs hung or strung on poles, wires or any other type of support intended to illuminate a sign or other advertising device *is* expressly prohibited.

(3) No sign shall be illuminated, between the hours of 11 p.m. and sunrise unless the premises on which it is located is open for business during that time. Signs located in residential districts shall not be illuminated between the hours of 9 p.m. and sunrise.

(4) All sign lighting shall be so designed, located , shielded or hooded so as to prevent the casting of glare or direct light upon adjacent roadways, surrounding properties or into the sky.

(5) In no case shall the lighting intensity of any sign, whether resulting from internal or external illumination, exceed 60 foot candles when measured with a standard light meter held perpendicular to the sign face at a distance of 10 inches.

10.08 LANDSCAPING STANDARDS (1) In the case of any pole or

ground mounted free standing signs, a landscape area

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MARCH 4, 2003 7:30 P.M. SILVER CREEK FIRE HALL

shall extend a minimum of five (5) feet from the base of the sign.

SECTION 10.09 LOCATION STANDARDS

(1) In any zoning district, no sign, or sign supporting structure shall be setback/offset less than ten(10) feet from any abutting lot line or right-of-way.

SECTION 10.10 SIGNS FACING COUNTY OR STATE HIGHWAYS

(1) Unless otherwise specified herein, the following shall apply to all uses with contiguous frontage on County or State Highways

(a) Businesses or uses with contiguous frontage to and which offer gasoline sales, provide dining service or lodging accommodations may, if approved by the Town Board of the Town of Sherman, be allowed one illuminated sign not exceeding forty(40) square feet in size facing the State or County Highway. Town Board of the Town of Sherman review and approval of these signs will be based upon a determination that the proposed sign is in the public interest

(b) Any business or use, which may be visible from a State or County Highway but lacking contiguous frontage thereon, shall not be permitted to display any sign that may be visible from State or County Highways unless otherwise approved by the Town Board of the Town of Sherman.

SECTION 10.11 PERMITTED SIGNS

(1) Residential Uses: For all residential uses, the following signs are hereby permitted subject to the Town Board of the Town of Sherman approval and then only if accessory and incidental to a permitted or otherwise approved use:

(a) Building Name and Address Signs: Name and address signs of buildings containing four (4) or more residential units indicating only the name of the building, the name of the development in which it is located, the management thereof, and/or address of the premises shall be subject to the following:

1. Type. Building name and address signs may be either wall signs or ground signs.
2. Number. There shall not be more than one (1) name and address sign for each building except that where a building abuts two (2) or more streets, one (1) sign may be allowed for each abutting street frontage.
3. Area. Building name and address signs shall not exceed six (6) square feet in gross surface area.
4. Location. Building name and address signs shall not be located closer than ten (10) feet to any property line or right-of-way.
5. Height Building name and address signs shall not exceed seven (7) feet as measured from pre-construction grade at the base of the sign.

(b) SUBDIVISION IDENTIFICATION SIGNS. A permanent sign used to designate a residential subdivision entrance may be permitted subject to The Town Board of the Town of Sherman approval and the following criteria:

TOWN OF SHERMAN MINUTES

- 1. SUBDIVISION IDENTIFICATION signs shall be ground signs.
- 2. NUMBER: There shall not be more than one (1) subdivision identification signs for each point of vehicular access to the subdivision.
- 3. AREA: Subdivision identification signs shall not exceed sixteen(16) square feet in area per sign
- 4. LOCATION: Subdivision identification signs shall not be located closer than ten (10) feet any property line or right-of-way.
- 5. HEIGHT: Subdivision identification signs shall not exceed seven (7) feet as measured from pre-construction grade at the base of the sign.

(2)COMMERCIAL, INDUSTRIAL AND INSTITUTIONAL USES.. For all commercial, industrial, park, and institutional uses, only the following signs are hereby permitted subject to Town Board of the Town of Sherman approval.

(a) Wall Signs.

- 1. Number. There shall be not more than one (1) wall sign for each principal building.
- 2. Area. The gross surface area of a wall sign shall not exceed fifteen(15) square feet.
- 3. Location. A wall sign may be located on the outermost wall of any principal Building but shall not project more than ten (10) inches from the wall to which the sign is to be affixed. The location and arrangement of all wall signs shall be subject to the review and approval of the Town Board of the Town of Sherman.
- 4. Height. A wall sign shall not project higher than the parapet line of the wall to which the sign is to be affixed. A wall sign shall not exceed seven(7) feet in height from the base of the building wall to which the sign is affixed.

(b) MULTIPLE TENANT SIGNS. For any office, commercial, industrial or institutional use in which a principal building is devoted to two (2) or more individual tenant occupants, such occupants shall be permitted to display one (1) wall mounted, canopy, awning or marquee identification sign not to exceed thirty (30) square feet in gross surface area facing each abutting street frontage and jointly utilize the space available on one (1) freestanding ground sign constructed in accordance with Section 10.13(2) of this ordinance.

SECTION 10.12 EXISTING SIGNS

(1) Existing signs which become non conforming upon adoption of this ordinance shall not be reconstructed, remodeled, relocated or changed in size unless such action will make the sign conforming in all respects with this ordinance.

SECTION 10.13 DESIGN, CONSTRUCTION AND ERECTION STANDARDS

(1) STRUCTURE DESIGN , ^, , , , , _

(a) Wind pressure. All signs shall be constructed, erected and maintained to withstand wind pressure as specified by Wisconsin State Statute and applicable

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TOWN OF SHERMAN MINUTES

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administrative code.

(b) Wall signs attached to exterior building walls shall be anchored or attached in such a manner as will ensure stability and safety.

SECTION 10.14 MAINTANCE AND REMOVAL OF SIGNS

m APPEARANCE REQUIREMENTS

(a) The owner of any sign as defined and regulated by this ordinance shall be required to properly maintain the appearance of all parts and supports of their sign as directed by the Town Board of the Town of Sherman.

(b) In the event that the sign owner does not provide proper sign maintenance within sixty (60) days after written notification from the Town Board of the Town of Sherman, the sign may be removed.

(2) REMOVAL OF CERTAIN SIGNS AND BILLBOARDS

(a) Any sign or billboard now or hereafter existing which no longer advertises a bonfire Business or product, or which is dilapidated, out of repair, unsafe, insecure, or has been constructed, erected or maintained in violation of the provisions of this ordinance shall be taken down and removed by the sign owner, or sign owners agent. If within thirty (30) days after written notification from the Town of Sherman, the sign owner fails to comply with such notice the Town may remove such sign. Any expense incident thereto shall be paid by the owner of the real estate where the sign is located. In the event such cost and expenses are not paid within thirty(30) days from the date of billing, then the costs and expenses incurred for such removal shall be assessed against the real estate upon which such sign is located and collected as other taxes are collected on said real estate.

(b) Any sign, which is constructed without proper approval and permit, shall be removed or must be issued a proper permit within forty five(45) days notice to the owner by the Town of Sherman. In the event that the owner of such sign is not issued a proper permit or fails to remove said sign, the Town of Sherman may remove such sign subject to the conditions for removal as described in (a) above.

(c) The cost of removing any signs located in the road right-of-way at the time the road

SECTION 10.15 SEVERABIHTY

If any section, clause, provision, or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby. If an application of this chapter to a particular sign or structure is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other sign or structure not specifically included in said judgment

SECTION 10.16 REVOCATION OF PERMITS

The Town of Sherman is hereby authorized and empowered to revoke any permit issued upon failure of the holder thereof to comply with any provision of this ordinance.

TOWN OF SHERMAN MINUTES

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SECTION 10.17 EFFECTIVE DATE

This ordinance shall be effective after passage, publication and posting as provided by law.

Dated this 4th day of March 2003

Introduced by:



Don Heimerman, Supervisor

Supported by:



Robert Klug, Supervisor



Town Chairman, William Qehring

Attest:



Town Clerk/Treasurer, Bernadette Mondloch

PIPELINE INSTALLATION: Moved by Miller, 2nd by Klug, all voting in favor to authorize a project easement for Krier Foods, (represented by Bruce Krier) to install a wastewater pipeline in the right of way of Wolff Road, Spring Street and State Highway 144 along with tunneling under Spring Street and State Highway 144 contingent upon obtaining the proper State permits needed for this type of installation.

BUILDING PERMITS: Moved by Fahney, 2nd by Heimerman, all voting in favor to approve building permits submitted by Building Inspector Frank Mayer

LICENSES: Moved by Heimerman, 2nd by Miller, all voting in favor to issue Operators licenses to Steve Patton and Joshua Krahenbuh. Moved by Heimerman, 2nd by Klug, all voting in favor to issue a Picnic/ Gathering license to Silver Creek Fire Department for March 15th St Patrick's Day Dance

MINUTES: Moved by Miller, 2nd by Klug, all voting in favor to approve the Clerks minutes from the February 5th Board of Supervisors meeting.

FINANCES: Moved by Heimerman, 2nd by Fahney, all voting in favor to place on file for audit the financial statement showing the following balance :

Cash and Bank Accounts	100-038 Checking	\$ -82,801.47
	1 5-8968 Sweep	\$ 1 62,633.84
	LGIP #1 Capital Reserve	\$ 78,749.67
	LGIP #2 -Tax-Dog Lie	\$ 33,258.10
	LGIP #3 Union Cemetery	\$ 5,238.61
	LGIP #4 Park & Op Space	\$ 4,959.34
	100-310 Sh TAX	\$ 13,917.8
	TOTAL	\$ 215,955.8

ORDINANCE NO. _____-2006

**AN ORDINANCE CREATING THE LAND DIVISION/SUBDIVISION
ORDINANCE OF THE TOWN OF SHERMAN**

The Town Board of the Town of Sherman, Sheboygan County, Wisconsin do ordain as follows:

Section 1.00 Introduction

1.01 Authority

Authority for this Ordinance is granted by Sections 60.61, 60.62, 61.35, 62.23 (7), 87.30, 144.26 and Chapter 236.45 of the Wisconsin Statutes and amendments thereto.

1.02 Reserved

1.03 Purpose

It is the purpose of this Ordinance:

- To protect the public health, safety, convenience, and general welfare of the Town of Sherman and its residents;
- DELETED: To encourage planned and orderly land use and development, while protecting property values and the property tax base;
- *To honor the vision of the Comprehensive Plan to maintain open spaces and scenic views by emphasizing agricultural areas surrounding small villages;*
- To permit the careful planning and efficient maintenance of highway systems;
- To promote the provision of adequate transportation, water, sewerage, health, education, recreation, and other public facilities;
- To recognize the needs of agriculture, forestry, industry, and commerce in future growth;
- To encourage uses of land and other natural resources which are in accordance with their character and adaptability;
- To preserve wetlands;
- To conserve soil, water, and forest resources;
- To reduce erosion damage and sedimentation of surface waters;
- To prevent downstream flood hazards and loss of life and property due to unmanaged flows and runoff following land development;
- To protect the beauty and amenities of the landscape and manmade developments;
- To promote the efficient and economical use of public funds; and,
- To conserve the value of the buildings placed upon land while providing the best possible environment for human habitation and encouraging the most appropriate use of land throughout the Town of Sherman.

1.04 Severability and Non-Liability

If a court of competent jurisdiction adjudges any portion of this Ordinance to be invalid, the remainder of this Ordinance shall not be affected thereby.

The Town does not guarantee, warrant, or represent that only those areas designated as floodplains will be subject to periodic inundation, that those areas identified as erosion hazard areas will erode at a rate equal to or greater than present computations would predict, and that those soils determined to be unsuited for specific uses are the only unsuited soils within the Town and thereby asserts that there is no liability on the part of the Town Board, its agencies, officials, agents or employees for sanitation problems, structural damages, or other losses that may occur as a result of reliance upon, and conformance with, this Ordinance.

1.05 Repeal

All other ordinances or parts of ordinances of the Town inconsistent or conflicting with this Ordinance are hereby repealed to the extent of inconsistency or conflict only.

1.06 Abrogation and Greater Restrictions

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

1.07 Effective Date

This Ordinance shall be effective after adoption by the Town of Sherman Board and publication and/or posting as required by law.

Section 2.00 General Provisions

2.01 Jurisdiction

This Ordinance shall apply in all lands within the limits of the Town of Sherman.

2.02 Land Divisions Not Covered by This Ordinance

This Ordinance shall not apply to divisions of tracts of land into fewer than five parcels if one or more of the following applies:

1. Transfers of interest in land by will or pursuant to court order.
2. Leases for a term not to exceed 10 years, mortgages, or easements involving five parcels or fewer.
3. Sale or exchange of parcels of land between owners of adjoining property if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes required by these regulations or other applicable laws and ordinances. NOTE: If title to joined lands merge by specific deed language, a certified survey map shall not be required.
4. A division of land resulting in parcels equal to or greater in area than a quarter-quarter section.
5. Cemetery Plats pursuant to sec. 157.07, Wis. Stats., and Assessor's Plats pursuant to sec. 70.27, Wis. Stats.
6. Conversion of the form of ownership of existing parcels into condominiums or cooperatives.

2.03 Re-division of Recorded Land Divisions

Any re-division of a recorded Land Division that ultimately results in the creation of five or more lots, parcels, or building sites from the same Mother Tract shall be considered to be a Subdivision and shall be accomplished by a subdivision plat and not by certified survey map.

2.04 Ownership

Lots, tracts or parcels shall be deemed to be in the same ownership when owned by the same individual person, corporation or other entity, or by different persons, corporations or other entities which have substantially identical ownership or identity of interest. Examples of substantially identical ownership or identity of interest include but are not limited to:

- Ownership of one parcel by a person, and ownership of the other parcel(s) by a corporation, partnership or LLC owned by or controlled by the first person.
- Ownership of one parcel by a person, and ownership of the other parcel(s) by a spouse, parent, child, grandchild, sibling, or other person closely related by blood or marriage, or an entity controlled by one of the foregoing.
- Ownership of one parcel by a person, and ownership of the other parcel(s) by a person who is an employee of the first person.

Lots, tracts or parcels which are bisected by a public road or by navigable water shall be considered to be divided into separate lots, tracts or parcels.

Conveyances of land within an approved business park or to a governmental agency, public entity, or public utility shall be accomplished by certified survey map regardless of the number of parcels.

2.05 Compliance with Ordinances, Statutes, Regulations, and Plans

Any person dividing land which results in a subdivision shall prepare a plat of the subdivision, or which results in a land division shall prepare a certified survey map, in accordance with the requirements of this Ordinance and:

1. The provisions of Chapter 236 and Section 80.08, WI Stats.
2. The rules of the Bureau of Plumbing, Department of Commerce contained in Comm 85, Wisconsin Administrative Code, for subdivisions not served by public sewer.
3. The rules of the Division of Highways, Department of Transportation, contained in HY 33, Wisconsin Administrative Code, for subdivisions which abut a state trunk highway or connecting street.
4. The rules of the Department of Natural Resources contained in NR 115 and NR 116, Wisconsin Administrative Code, for Wisconsin's Shoreland-Wetland Management and Floodplain Management Programs.
5. The rules and by-laws of the Department of Regulation and Licensing.
6. Local comprehensive plans or comprehensive plan components.
7. The official map of the Town of Sherman.
8. All other applicable state, county and local ordinances and regulations.

2.06 Violations

It shall be unlawful to divide, convey, record, or monument any land in violation of this ordinance or the Wisconsin Statutes. The Town may institute appropriate action or proceedings to enjoin violations of this Ordinance.

2.07 Penalties

Any person failing to comply with a provision of this Ordinance shall upon conviction thereof forfeit to the Town of Sherman a penalty for each violation of not less than \$50 and not more than \$500 plus the costs of prosecution (including actual attorneys fees), and in default of payment shall be imprisoned in the County Jail until paid but not exceeding 30 days. Each day a violation continues shall constitute a separate offense.

2.08 Appeals

Any person aggrieved by an objection to a plat or a failure to approve a plat may appeal therefrom as provided in section 62.23(7)(e) 10., 14. and 15., Wis. Stats., within 30 days of notification of the rejection of the plat.

2.09 Review Fees

Prior to receiving Commission review of and recommendation on a preliminary plat, certified survey map, or planned unit development, the land divider shall submit to the Town of Sherman a fee that shall be set by the Town Board by resolution.

Section 3.00 Dedications and Reservations

3.01 Dedication of Lands

1. Streets and Public Ways

Whenever a parcel of land to be divided contains all or part of a street, highway, drainage way, other public way, or public access to a navigable waterway, such public way or access shall be made a part of the plat or survey map and dedicated or reserved by the land divider in the location and dimensions indicated, unless otherwise provided herein.

2. Parks, Open Space, Walkways and Buffers

In fulfilling the obligations under this section, the land divider shall utilize design practices consistent with conservation planning principles, to the extent required by the Town Board. The land divider shall designate on every final plat and certified survey map of a residential subdivision or land division an area of land suitable for park or open space purposes, and shall dedicate such land to the public. The amount of land to be provided shall be **no less than one-tenth (.10) of an acre per dwelling unit site**. In lieu of public land dedication, the land divider may provide the required amount of park or open space area through a homeowners' association, **common** condominium association, **common ownership, land trust**, or similar donee, providing such measure assures proper continuing maintenance of the area and is approved by the Town Board.

The land divider may request that the Town waive the requirement for dedication of land for parks or open space, and the Town may agree to waive the requirement if it determines that the proposed or available park or open space would be too small, unsuitable, or unnecessary for reasons particular to the division or the neighborhood in which it is located. If the land divider accepts the Town's waiver of land dedication, the land divider shall pay at the time of Town approval a fee that shall be set by the Town of Sherman per dwelling unit for undeveloped lots. All monies collected under this Section

shall be deposited into a special Park and Open Space Trust Fund and shall be used only for the acquisition, development and maintenance of land for public recreation, conservation or open space purposes.

3.02 Reserved.

3.03 Floodplains, Waterways, Wetlands, and Lake Access

Whenever a tract of land to be subdivided includes any part of identified floodplains or wetlands as defined in Chapter 72, Sheboygan County Code, such floodplains, **waterways** and wetlands shall be made a part of the plat. Floodplains, **waterways** and wetlands included within a subdivision plat shall be included within lots or outlots, or shall be reserved in perpetuity for the recreational use of the future residents of the land to be divided, if approved by the Town Board.

3.04 Reserved

3.05 Reserved

Section 4.00 Improvements

4.01 Improvements

Prior to review and recommendation by the Commission of a preliminary plat or certified survey map, the Town Board and the land divider shall enter into a Developer's Agreement as described below. Prior to approval of a final plat or certified survey map, the land divider shall furnish and install such of the following improvements as may be required by the Town Board, at the sole expense of the land divider. The required improvements are to be installed in accordance with plans, standards, specifications and scheduling approved by the Town.

In lieu of causing the immediate construction of the required improvements, the Town may agree as part of the Developer's Agreement to permit the land divider to furnish and install the required improvements at a later date. In that case, the Agreement shall require the filing of a performance bond, certified check, certified letter of credit, sufficient collateral, or other acceptable surety with the Town, assuring that the land divider will cause construction of the required improvements within the time period specified. The amount of the bond or value of other acceptable surety shall be at least 110% of the Town's estimated costs of the improvements. The bond or other surety instrument shall also secure all lot improvements on individual lots as required in this Ordinance.

1. Survey Monuments

The land divider shall install survey monuments placed in accordance with the requirements of Section 236.15, Wis. Stats., utilizing the Sheboygan County Coordinate Monument System.

2. Grading and Surfacing

The land divider shall grade the right-of-way of all streets proposed to be dedicated in accordance with plans and standard specifications approved by the County Highway Commission and Town. After the installation of all utility and storm water drainage

improvements, the land divider shall surface all roadways and streets proposed to be dedicated, with surfacing materials approved by the Town. When permanent street sections have been approved, the land divider shall finish grade all shoulders and ditches, and install all necessary culverts and other storm and surface water drainage structures or systems to achieve positive drainage away from buildings and service facilities and to prevent erosion and sedimentation.

3. Curb and Gutter

The Town board may require concrete curbs and gutters within platted subdivisions in accordance with plans and standard specifications approved by the Town Board.

4. Sidewalks

The Town may require a concrete sidewalk on one side of all frontage streets and on one or both sides of all other streets within platted subdivisions, and/or bike lane/pedestrian walkway on both sides of all streets in the subdivision. Wider than standard sidewalks may be required in the vicinity of schools, commercial areas, and other places of public assemblage, or where joint pedestrian/bicycle use thereon is deemed desirable; and the Town may require the construction of sidewalks in locations other than required above if such walks are necessary, in the Town's opinion, for safe and adequate pedestrian or bicycle circulation.

5. Street Lamps

The Town may require street lamps along streets proposed to be dedicated within platted subdivisions in accordance with design, quality, and/or energy efficiency standards approved by the Town Board. Such lamps shall be placed at each street intersection and at such interior block spacing as may be required by the Town.

6. Street Name Signs

The Town may require the land divider to install at the intersection of all streets proposed to be dedicated a street name sign of a design specified or approved by the Town.

7. Street Trees

The Town may require the land divider to plant at least one tree of an approved species and of at least 6 feet in height for each 50 feet of frontage on all streets to be dedicated.

8. Public Sewage Disposal Facilities

If the Town determines that public sewer facilities are available, the land divider shall construct sanitary sewerage facilities to make sewer service available to each lot. The size, type, and installation of all sanitary sewerage facilities proposed to be constructed shall be in accordance with plans and standard specifications approved by the Town, and/or minimum state standards. The Town may require the installation and capping of sewer laterals for future connection.

9. Private Sewage Disposal Facilities

If the Town determines that public sewer facilities are neither presently available nor likely to become available within a reasonable time period, private on-site sewage disposal systems may be constructed to serve the individual lots. Cluster or other common sewage collection and disposal systems may be designed by the land divider and may be installed with the express consent of the Town Board and the state agency having jurisdiction over private sewage disposal. All private sewage disposal systems and site suitability shall conform to the requirements of Chapters Comm 83 and 85 of the Wisconsin Administrative Code, and to the requirements of the Sheboygan County Sanitary Ordinance.

10. Water Supply Facilities

When public water supply and distribution facilities in the opinion of the Town are available, the land divider shall cause such facilities to be installed to make adequate water service available to each lot. The Town shall review and approve the facilities in accordance with applicable codes and engineering practices. In the absence of public water supply and distribution facilities, private wells and water supply systems may be constructed to serve the individual lots. All such private wells and water supply systems shall conform to the requirements of Chapters NR 112, Comm 83 and 85 of the Wisconsin Administrative Code, and to the requirements of the Sheboygan County Sanitary Ordinance. **The Town Board may consider potential impacts on ground water resources and may require a hydrological study.**

11. Storm Water Management and Erosion Control Facilities

The land divider shall construct storm water management and erosion control facilities adequate to serve the subdivision or land division and which do not adversely affect adjacent lands.

12. Other Utilities

All new electric distribution lines (excluding lines of 15,000 volts or more), telephone lines from which individual lots are served, television cables, and other communication cables and lines within all newly platted subdivisions and land divisions shall be installed underground unless the Town Board determines that the location, topography, soil, stands of trees, or other physical barriers would make underground installation unreasonable or impractical. Associated equipment and facilities including but not limited to substations, pad-mounted transformers, switches, and pedestal-mounted terminal boxes may be located above ground. Costs for all utilities shall be borne by the developer. Utility easements shall be established on subdivision plats and certified survey maps.

13. Recreational and Open Spaces

The Town may require the land divider to dedicate and develop areas for recreational trails, parkland, and pedestrian access to adjacent lands, based upon the location, density, and neighboring uses of the land to be developed.

Section 5.00 Land Suitability

5.01 Land Suitability

No land shall be divided or subdivided for a use determined to be unsuitable by the Town Board because of flooding or potential flooding, wetlands, soil or rock limitations, inadequate drainage, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities, incompatible surrounding land use, or any other condition likely to be harmful to the health, safety, or welfare of the future residents or users of the area, or likely to be harmful to the community or the Township. Except as provided herein, the Town Board shall determine such unsuitability at the time the preliminary plat or certified survey map is considered for approval. The land divider shall furnish such maps and data as may be necessary to make a determination of land suitability. ***The land divider or his successor in interest shall be responsible for the cost of repair, correction and damage to preexisting drainage tiles or similar drainage systems that benefit other properties, and for damage from increased flow of surface water to other properties resulting from the development by the land divider.*** In addition to the data required to be submitted with the preliminary plat or certified survey map, the land divider may be required to submit some or

all of the following additional information for development located in an area where flooding or potential flooding may be a hazard:

1. Maps and Aerial Photographs.
Two copies of an aerial photograph, or two maps prepared by a registered land surveyor or professional engineer, which accurately locate the proposed development with respect to floodplain zoning district limits if present, channel or stream fill limits and elevations, and flood proofing measures taken or proposed to be taken.
2. Cross-sections.
Two copies of a typical valley cross section showing the channel of the stream or waterway, the floodplain adjoining each side of the channel, cross sectional area to be occupied by the proposed development, and high water information.
3. Profiles.
Two copies of a profile showing the slope of the channel or flow line of the stream or waterway.
4. Such other data as may be required by the Town Board to ensure compliance with this and other ordinances.

5.02 Woodland Preservation

It is the policy of the Town of Sherman to preserve the environmentally sensitive or significant natural areas including natural forests and woodlands areas in the town, and to retain, as far as practical, substantial tree stands which should be incorporated into the site. Trees which are to be destroyed in the development process shall be identified in the required landscaping plan. Any trees not approved for destruction in the approved development or landscape plan, which are subsequently destroyed, shall be replaced with similar tree types no less than equal caliper up to 6 inch caliper.

5.03 Soil Limitations

Lands made, altered, or filled with non-earth materials or with soils differing in texture and structure from the existing soils, and lands drained by agricultural drainage systems, shall not be served by on-site soil absorption sewage disposal systems, unless specifically approved by the Town Board and the state agency having jurisdiction over private sewage disposal. Certain soil types in Sheboygan County have moderate to severe limitations for the operation of soil absorption sewage disposal systems because of slow permeability, near-surface soil saturation, shallow bedrock, or steep slopes. Because of these limitations, land comprised of such soil types shall be reviewed by the Town Board to establish conformance with Chapters Comm 83 and 85, Wisconsin Administrative Code, and the Sheboygan County Sanitary Ordinance prior to approval of any subdivision or land division.

5.04 Suitability Determination

In applying the provisions of this Section, the Town Board shall in writing recite the particular facts upon which it bases its conclusion that the land is unsuitable for the intended use or development and afford the land divider an opportunity to present evidence and the means of overcoming such unsuitability, if he so desires. Thereafter the Town Board may affirm, modify, or withdraw its determination of unsuitability.

Section 6.00 Design Standards

6.01 Design Standards

1. Streets and Highways

- a. The land divider shall dedicate land for and improve public streets in any new subdivision or land division. The arrangement, character, extent, width, grade, and location of all streets shall conform to all applicable plans, official maps, or highway width maps adopted by the Town and the County. Streets and highway shall be related to and complimentary with existing and planned streets, topographic conditions, existing natural features, prospective utilities, public convenience and safety, and proposed land uses to be served by such streets. Each lot within the subdivision or land division shall abut on a public street. The right-of-way width and building setback requirements of all limited access expressways, highways, and county trunk routes shall be determined by the Town Board upon the recommendation of the Department of Transportation or the County Highway Commission, whichever is appropriate. All Town roads shall comply with the minimum design standards of Section 86.26, Wis. Stats.
- b. Arrangement of streets
 1. Arterial streets shall be arranged so as to provide ready access to centers of employment, governmental activity, commerce and recreation, and shall be properly integrated with the existing and proposed system of major streets, highways, and thoroughfares.
 2. Collector streets shall be arranged so as to provide ready collection of traffic from residential areas and conveyance of this traffic to the arterial street and highway system. The arterial street shall be properly related to mass transportation systems, to special traffic generators such as schools, churches, and shopping centers, to other concentrations of population, and to the arterial streets into which they feed.
 3. Local streets shall be arranged to conform as much as possible:
 - A. To topography,
 - B. To discourage use by through traffic,
 - C. To permit the design of efficient drainage and sewer systems,
 - D. To require the minimum amount of street necessary to provide safe and convenient access to property.
 4. Proposed streets shall be extended to the boundary lines of the tract being subdivided, unless prevented by topography or other physical conditions, or unless the Town finds that such extension is not necessary or desirable for the coordination of the subdivision layout or for the advantage of development of the adjacent tracts. Consistency with Master Street plans, area development plans, or official maps, if any, adopted by the Town, shall be the primary criterion in determining street layout.
- c. Where a subdivision abuts or contains an existing or proposed arterial street, the Town Board may require marginal access streets (frontage streets), reverse frontage lots with screen plantings contained in a non-access reservation along the rear of the property line, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

- d. When a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Town Board may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of intervening land. Such distances shall also be determined with regard for the requirements of approach grades and future grade separation.
- e. In (c) and (d) above, the Town Board may require a planting strip at least 30 feet in depth adjacent to the highway or railroad in addition to the normal lot depth. This planting strip shall then be a part of the platted lots but shall have the following restriction lettered on the face of the plat: "This planting strip is reserved for the planting of trees and shrubs, and the building of all structures excepting public or private utilities structures thereon is prohibited."
- f. The number of streets converging at one intersection shall not exceed two.
- g. The number of intersections along arterial streets shall be held to a minimum. Wherever practical, the distance between such intersections shall be not less than 1,200 feet.
- h. Street jogs with centerline offsets of less than 150 feet shall be avoided.
- i. Where possible, lot lines shall be perpendicular to the street line and to the tangent at the lot corner of curved streets.
- j. A tangent of at least 100 feet shall be introduced between reverse curves on arterial and collector streets.
- k. Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than 75 degrees.
- l. Reserve strips controlling access to streets shall be prohibited except where their control is placed with the Town or County under conditions approved by the Town Board.
- m. All street rights-of-way shall be of the width specified by comprehensive plans or official maps of the County or Town. If not specified therein, rights-of-way shall not be less than the width specified in the table below.
- n. The maximum street grade and the minimum radius of curvature on the centerline shall be as specified in the table below.

STREET WIDTH, CURVATURE AND GRADE STANDARDS

	Principal & Primary Arterials	Standard Arterials & Collectors	Local Streets	Marginal Access (frontage)
Minimum Right-of-Way Width (feet)	120	80	60	50
Radius of Curvature of Centerline (feet)	500	300	100	100
Maximum Grade	6%	8%	8%	8%

Exceptions: WIDTH: The right-of-way widths of minor residential streets may be reduced pursuant to Section 236.16(2), Wis. Stats.

GRADE: Where necessitated by exceptional topography and justifiable environmental considerations, the Town Board may approve a steeper grade, but in no case shall the grade of any street exceed 10%.

- o. The design of the vertical alignment of the centerline shall be based on the minimum safe stopping sight distance in accordance with the design standards of the American Association of State Highway Officials (AASHO).
- p. The use of cul-de-sacs or courts shall be limited to portions of developments, which, due to unusual topographical, environmental, or other particular conditions, may better be served by cul-de-sacs or courts than by continuous streets.
- q. Cul-de-sac streets designed as permanent installations shall not exceed 1,000 feet in length. All permanent cul-de-sac streets shall terminate in a circular turnaround having a minimum radius for the outside curve of 60 feet with a 45-foot minimum pavement radius.
- r. Dead-end streets other than cul-de-sacs shall not be permitted.
- s. The platting of half-streets (streets with less than full right-of-way width) shall not be permitted.
- t. In commercial and industrial districts, alleys or the equivalent shall be provided for off-street loading and service access consistent with and adequate for the uses proposed. The width of alleys shall not be less than 24 feet. Alleys shall not be permitted in residential areas.
- u. Street names
 - 1. The Town Board shall disapprove the name of any new street which is in use elsewhere in the Town. The Town Board may disapprove the name of any new street which is in use in a nearby community, or which may cause confusion because of similarity to the name of an existing street.
 - 2. Any street which is the continuation of an existing street shall bear the same name unless confusion would result.
 - 3. If the following street designations are utilized, the use shall be limited to the descriptions following:
 - BOULEVARD:** a street with a divided pavement either existing or planned. If the divided pavement ends but the street continues, the same street name and suffix shall continue.
 - LANE:** a street one block long, not ending in a cul-de-sac.
 - CIRCLE:** a cul-de-sac having nine or more lots.
 - COURT:** a cul-de-sac having eight or fewer lots.
 - PARKWAY:** a street abutting a park, greenway or creek.
 - 4. The name of the projection of a street shall continue the same suffix as the street even if the projection terminates in a cul-de-sac.
- v. No person shall sell any parcel of land of 40 acres or less in size that does not abut a public road.

2. Utility Easements

Perpetual, unobstructed easements centered on rear lot lines of subdivisions and land divisions shall be provided for utilities. Such easements shall be at least 12 feet wide and shall be designated as "Utility Easements" on the plat or certified survey map. Proper coordination shall be established between the land divider and the applicable utility companies for the establishment of utility easements along adjoining properties. Where topographical or other conditions are such as to make impractical the inclusion of utilities within the rear lot line, perpetual, unobstructed easements at least 12 feet wide shall be provided along side lot lines and shall be designated as "Utility Easements" on the plat or certified survey map.

3. Drainage Easements

- a. Where a subdivision is traversed by a stream, channel, watercourse, or drainage way, there shall be provided a stormwater drainage easement or right-of-way conforming substantially to the lines of such watercourse, and of such width and construction as will be adequate for the purpose. The location, width, alignment, and improvement of such drainage way or easement shall be consistent with the stormwater management and erosion control plans required in Section 6.01(8) of this Ordinance.
- b. Whenever topography or other conditions are such as to make impractical the inclusion of drainage facilities within road rights-of-way, then perpetual, unobstructed easements at least 15 feet wide, or as expressly recommended by the County Land Conservation Department for such drainage facilities, shall be provided across property outside the road lines and with satisfactory access to the road. Such drainage easements shall be so designated on the final plat or certified survey map followed by reference to the permitted use or uses or any prohibitions expressly required by the Town Board. Drainage easements shall be carried from the road to a natural watercourse or to other drainage facilities. When a proposed drainage system will carry water across private land outside the subdivision or land division, appropriate drainage rights must be secured and indicated on the final plat or certified survey map.
- c. **Field tiles: The developer shall reconstruct, replace or re-route all farm drainage tiles encountered or damaged during subdivision construction to provide equal or better farm drainage. The developer shall provide a permanent record to the town of such reconstruction, replacement or re-routing.**

4. Blocks

- a. The length, width, and shape of blocks shall be suited to the planned use of the land, zoning requirements, needs for convenient access, control and safety of street traffic, and the limitations and opportunities of topography.
- b. Blocks in residential areas shall not be more than 1,500 feet in length unless otherwise dictated by exceptional topography or other limiting factors of good design as expressly approved by the Town Board.
- c. Blocks shall have sufficient width to provide for 2 tiers of lots of appropriate depth, except where otherwise required to separate residential development from traffic, public parks, railroad right-of-way, bulkhead lines, shorelines of waterways, corporate boundaries, or except as may be necessary due to extreme topography.
- d. Pedestrian ways or crosswalks of not less than 5 feet in width may be required between rear lot lines where deemed necessary by the Town Board to provide safe and convenient pedestrian or joint pedestrian/bicycle circulation between the individual lots, streams, lakeshores, parklands, or other public areas, or may be required near the center and entirely across a block over 900 feet in length. The Town Board may require adequate pedestrian or joint pedestrian/bicycle circulation or access to schools, shopping centers, churches, or other transportation facilities.

5. Lots

- a. The size, shape, and orientation of lots shall be appropriate for the location of the subdivision and for the type of development and use contemplated. The lots shall be designed to provide an aesthetically pleasing building site and a proper architectural setting for the buildings contemplated.

- b. Side lot lines shall generally be at right angles to straight street lines or radial to curved street lines on which the lots face. Lot lines shall follow municipal boundaries rather than cross them.
- c. Every lot shall front or abut a public street.
- d. Double frontage and reverse frontage lots are prohibited, except where necessary to provide separation of residential development from traffic or to overcome specific disadvantages of topography and orientation.
- e. Excessive depth in relation to width (2:1 or greater) shall be avoided. Depth of lots or parcels reserved or laid out for commercial, condominium, and industrial use shall be adequate to provide for off-street service and parking required by the use contemplated and the area zoning restrictions for such use.
- f. Lands lying between the meander line and the water's edge and any otherwise unplattable lands which lie between a proposed subdivision and the water's edge shall be included as parts of lots, outlots or public dedications in the plat. All lands under option to the land divider or to which the land divider holds any interest that abut the proposed subdivision and a lake or stream shall be included.

6. Minimum Areas and Widths.

Residential lots for single-family residences, where served by public sewer, shall conform to the most restrictive provisions of local zoning, building, or subdivision ordinances or the County Shoreland-Floodplain Ordinance. Lands subdivided for multi-family residential, commercial, or industrial uses shall conform to the Town of Sherman Zoning Ordinances.

7. Storm Water Management and Erosion Control Facilities.

The Town Board shall require the land divider to provide storm water management and erosion control plans whenever it determines from the initial review of the preliminary plat or certified survey map that the soil, slope, vegetation, and/or other drainage characteristics of the site are such as to require significant cutting, clearing, grading, shoreline stabilization, or other land disturbing activities in the development of the subdivision or land division. Facilities designed under this Section shall be of a type, size, and grade to hydraulically accommodate the maximum potential volumes of flow resulting from:

- 10 year, 3.8 inch, 24 hour, rainstorm if the drainage area is less than 25 acres, or
- 25 year, 4.4 inch, 24 hour, rainstorm if the drainage area is more than 25 acres.

Runoff rates and volumes resulting from the project, in excess of amounts existing before the development, shall be managed on-site to the greatest extent practicable. However, the Town Board may allow storm water runoff that would be discharged in volumes or at rates in excess of those otherwise allowed by this Ordinance to be discharged into drainage facilities off the development site if all of the following conditions are met:

- a. It is not practicable to completely manage runoff on the site in a manner set forth in this Ordinance;
- b. The off-site drainage facilities and channels leading to them are designed, constructed, and maintained in accordance with the requirements of this Ordinance;

- c. Where oversized drainage facilities are deemed necessary by the Town Board to serve tributary drainage areas lying outside of the subdivision, the costs of such facilities shall be prorated on the basis of percent of service area lying within the subdivision; and,
- d. Adverse environmental impacts on and off the site of development will be minimized.

Storm water management and erosion control plans may require road ditches, waterways, storm sewers, curbs and gutters, catch basins and inlets, and water retention/settling basins. Landscaping techniques utilizing vegetative covers, **rain gardens**, grading specifications, berms, etc., may also be required. Regardless of whether a storm water management and erosion control plan is required, all land disturbing activity shall be conducted so as to prevent erosion and sedimentation and to least disturb the natural flora, fauna, water regimen, and topography. All areas in which the surface of the land is disturbed by construction shall be promptly seeded and mulched, sodded, or otherwise suitably protected against erosion at a time and in a manner satisfactory to the Town Board.

Section 7.00 Survey and Data Submission Requirements

1. Preliminary Plat.

A preliminary plat shall be prepared for all subdivisions by a land surveyor registered in this State. The plat shall be at a scale of not more than 100 feet to 1 inch and shall conform to the standards and specifications in Chapter 236, Wis. Stats., and shall utilize the Sheboygan County Coordinate System. The survey shall show the following:

- a. Title of the proposed subdivision.
- b. Location of the proposed subdivision by government lot, quarter section, section, township, range, and county.
- c. Date, scale, and north point.
- d. Name and address of the owner, land divider, and land surveyor preparing the plat.
- e. Entire area contiguous to the proposed plat owned or controlled by the land divider, even though only a portion of said area is proposed for immediate development.
- f. Exact length and bearing of the exterior boundaries of the proposed subdivision referenced to a comer established in the Sheboygan County Coordinate System, and the total acreage encompassed.
- g. Location and names of any adjacent subdivisions, parks and cemeteries, and owners of record of abutting unplatted lands.
- h. Location, right-of-way width, and names of any existing or proposed streets, alleys, or other public ways, easements, railroad and utility rights-of-way, and all section or quarter section lines within the exterior boundaries of the plat or immediately adjacent thereto.
- i. Location of existing property lines, structures, drives, streams and watercourses, lakes, wetlands, rock outcrops, wooded areas, and other significant features.
- j. Water elevations of adjoining lakes, ponds, streams, and flowages at the date of the survey, and approximate high and low water elevations.

- k. Type, width, and elevation of any existing street pavements within the exterior boundaries of the plat or immediately adjacent thereto with any legally established centerline elevations.
- l. Contours within the exterior boundaries of the plat and extending to the centerline of adjacent public streets at vertical intervals of not more than 2 feet.
- m. Location and approximate dimensions of any sites to be dedicated or reserved for parks, open space, drainage ways, schools, or other public uses.
- n. Approximate dimensions of all lots, and proposed lot and block numbers.
- o. Existing and proposed land use and zoning included within and immediately adjacent to the proposed subdivision.
- p. Location and a report identifying the results of soil boring and percolation tests within the exterior boundaries of the plat, conducted in accordance with Chapter Comm 85, Wisconsin Administrative Code.
- q. Floodplain, shoreland, wetland, and erosion hazard boundaries, pursuant to the County Shoreland-Floodplain Ordinance, and any proposed lake and stream access.
- r. Surface drainage pattern mapping and indication of direction and established peak volume of soil drainage pattern.
- s. Plans for all soil conservation and erosion control measures such as gutters, ditches, catch basins, storm sewers, culverts, open channels, sediment traps or basins, terraces, water diversions, and similar practices, keyed to locations on the preliminary plat, if required by the Town Board.
- t. Where the Town Board finds that it requires additional information relative to a particular problem presented by a proposed development to review the preliminary plat, it shall request such information from the land divider.

2. Final Plat.

A final plat prepared by a land surveyor registered in this State is required for all subdivisions. It shall comply in all respects with this Ordinance and the standards and specifications of Section 236.20, Wis. Stats.

Where the Town Board finds that it requires additional information or plat data relative to a particular problem presented by a proposed development to review the final plat, it shall request such information from the land divider.

3. Certified Survey Map.

A certified survey map prepared by a land surveyor registered in this State is required for all land divisions where the act of division creates:

- a. less than 5 lots, parcels, or building sites of 40 acres each or less in area; or,
- b. less than 5 lots, parcels, or building sites of 40 acres each or less in area by successive divisions from the same Mother Tract within a period of 5 years.

All area calculations are to be exclusive of any dedications, right-of-way easements, or reservations. Any lot created from a certified survey division may not be re-divided for a period of 5 years after the filing of the map. It shall comply in all respects with this Ordinance and the standards and specifications of Section 236.34, Wis. Stats.

Section 8.00 Review and Approval Procedures

8.01 Review and Approval Procedures

1. Pre-Application Procedure.

Prior to the filing of an application for approval of a preliminary plat or certified survey map, the land divider shall consult with persons designated by the Town and all affected utilities for assistance and advice regarding site suitability and general requirements, and with the County Land Conservation Department to obtain planning assistance to avoid potential soil erosion and sedimentation problems.

The Town shall retain the services of an independent professional engineer as well as its legal counsel for purposes of review and approval advice and the expenses of such professionals shall be paid by the land divider in accordance with the Town’s recoupment of professional fees ordinance.

a. Conceptual Plan

A sketch/conceptual plan of the proposed land division drawn on a topographic survey map should be submitted. The sketch plan should identify:

- Property boundaries,
- Proposed roads, lots, and any proposed dedications;
- Slopes exceeding 15%;
- General soil conditions;
- Building limitations, such as: wetlands, floodplains, erosion hazard areas, drainage ways, rock outcroppings, and vegetation;
- Proposed filling, grading, lagooning, or dredging;
- All contiguous property owned or controlled by the land divider; **and,**
- **Landscape plans**

2. Preliminary Plat Procedure.

a. Land divider Submittals: Prior to submitting a final plat for approval, the land divider shall prepare a preliminary plat and a letter of application for Town Board approval. The preliminary plat shall be prepared in accordance with this Ordinance. The land divider shall submit 4 copies of the plat, 1 copy of all on-site soil test data, and all other plans and specifications required in this Ordinance to the Town Board. Preliminary plats shall be submitted by the land divider to the Department of Development ("state clearinghouse") for redistribution of:

- 2 copies each to those agencies having "plat approval authority" and "plat objecting authority" pursuant to Sections 236.10 and 236.12, Wis. Stats.
- 2 copies to the Department of Transportation if the subdivision abuts or adjoins a state trunk highway or a connecting highway,
- 2 copies to the Department of Commerce if the subdivision is not served by public sewer and provision for such service has not been made,
- 2 copies to the Department of Natural Resources if navigable waters abut or are contained within the proposed subdivision,
- 2 copies to the applicable Town clerk, and

- 2 copies to the clerk of each adjoining city or village if the subdivision lies within the extraterritorial plat approval jurisdiction of the city or village.

The above review agencies shall be classified as "approving," "objecting," or "advisory" agencies as follows:

APPROVING AGENCIES

Sherman Town Board

The Applicable Adjoining Cities or Villages

OBJECTING AGENCIES

Wisconsin Department of Development ("state clearinghouse")

Wisconsin Department of Transportation

Wisconsin Department of Commerce

ADVISORY AGENCIES

Wisconsin Department of Natural Resources

Affected Public or Private Utilities

County Land Conservation Department

County Surveyor/Highway Engineer

Within 20 days after receiving their copies of the preliminary plat, the agencies above shall notify the Town and the land divider of any objections. If an agency fails to act within 20 days, it shall be deemed to have no objection to the plat.

Within 90 days of the date of filing the preliminary plat, the Town Board shall take action to approve, approve conditionally, or reject the preliminary plat, unless the time is extended by agreement with the land divider, based on its determination of conformance with the provisions of this Ordinance. One copy of the plat shall thereupon be returned to the land divider (or the Department of Development if the plat was submitted for state review) with the date and action endorsed thereon; and, if approved conditionally or rejected, a letter setting forth the conditions of approval or the reasons for rejection shall accompany the plat and shall be submitted to the land divider. Failure of the Town Board to act within 90 days of the date of filing, or agreed extension thereof, constitutes approval of the preliminary plat. If the final plat is submitted within 6 months of the preliminary plat approval and conforms substantially to the preliminary plat as approved, including any conditions of that approval, the final plat is entitled to approval. Plats that are not being processed under Section 236.12(2), Wis. Stats., may be reviewed under this Ordinance on the basis of any material that is capable of clearly legible reproduction.

- b. **Town Board Submittal:** The Town Board shall, within 20 days of receipt, forward one copy of the plat to the County Land Conservation Department for its review and recommendations pursuant to Sections 4.01 (3) and (8) of this Ordinance. One copy of all plats abutting or adjoining county trunk highways shall be submitted by the Town Board to the County Surveyor/Highway Engineer for review and recommendations with regard to access safety and design standards set forth in Section 6.01(1) of this Ordinance. The Town Board reserves the right to require all subdivision plats, as defined in this Ordinance, to undergo the review process set forth in this Section, regardless of statutory exemption.

3. Final Plat Procedure.

The land divider shall prepare a final plat and a letter of application in accordance with this Ordinance and applicable state statutes and administrative codes, for transmittal to

the Town Board (or the Department of Development if the plat was submitted for state review), within 6 months of preliminary plat approval, unless the time limitations be specifically waived by the Town Board or that Department. If the final plat is not submitted within 6 months of the last required approval of the preliminary plat, any approving authority may refuse to approve the final plat. The final plat may, if permitted by the approving authorities, constitute only that portion of the approved preliminary plat, which the land divider proposes to record at that time.

The objecting agencies shall, within 20 days of the date of receiving their copies of the final plat, notify the land divider, and all agencies having authority to object, of any objections. If there are no objections, they shall so certify on the face of the copy of the plat and return that copy to the Department of Development. If any objecting agency fails to act within 20 days from the date of receipt of copies of the plat, it shall be deemed to have no objections to the plat.

All improvements and construction plans thereof required by this Ordinance shall be made or guaranteed in a manner described in Section 4.00 of this Ordinance. The Town Board shall, within 60 days from the date received, approve or reject such plat unless the time is extended by agreement with the land divider. If the plat is rejected, the reasons shall be submitted in written form to the Department of Development and the land divider. Failure of the Town Board to act within 60 days shall be deemed approval of the final plat and a certificate to that effect shall be made on the face of the plat. Approved final plats shall be recorded with the Sheboygan County Register of Deeds in accordance with requirements of Section 236.25, Wis. Stats., before lots may be sold.

4. Replat Procedure.

When a replat of a recorded subdivision or part thereof is proposed so the boundaries are to be changed and/or areas to be dedicated to the public are to be altered, the land divider shall initiate action to vacate or alter the recorded plat as provided by Sections 236.36 through 236.44, Wis. Stats. The replat shall be prepared and submitted as provided in Sections 6.01 (1), (2), and (3) of this Ordinance. Both the title of the replat and the title of the original plat shall appear in the surveyor's certification.

5. Certified Survey Map Procedure.

No person shall divide any land located within the Town of Sherman which shall result in a land division as defined under Section 7.00 of this Ordinance, or which divides a block, lot, or out lot within a recorded subdivision plat without changing the boundaries of said block, lot, or out lot without first filing for approval by the Town Board and subsequently recording with the Sheboygan County Register of Deeds, a certified survey map which complies fully with Section 236.34, Wis. Stats., and with all applicable requirements contained in this Ordinance.

Two duplicates of the final certified survey map shall be submitted to the Town Board by the land divider or his agent.

Following review by and recommendation from the Commission, which shall occur within 30 working days from the date of filing of the map, the Town Board shall within 30 working days thereafter (unless the time is extended by agreement with the land divider) approve, approve conditionally, or reject the certified survey map based on a determination of conformance with the provisions of this Ordinance, the County Sanitary and Shoreland-Floodplain Ordinances, and any other applicable local or state codes and statutes. If the map is rejected, the reasons shall be stated in written form and submitted to the land divider or his agent. If the map is approved, the Town Board shall

so certify on the face of the original map and return the map to the land divider or his agent.

Whenever a certified survey map has been rejected by the Town for failure to conform to any locally adopted ordinance, such rejection, described in writing, shall be deemed to constitute an automatic rejection by the Town Board, unless specifically ruled otherwise by agreement with the Town Board and the land divider.

Soil and Site Evaluations, conducted in accordance with Comm 83, Wisconsin Administrative Code, and the County Sanitary Ordinance, are required if the lots being created will be served by on-site private sewage disposal systems, except that such tests may be waived by the Town Board if:

- a. The lots being created are already served by an acceptable on-site sewage disposal system, off-site common sewage disposal system, or municipal sewerage system; or,
- b. The lots being created are intended for uses other than residential and for which acceptable sewage disposal facilities plans have been filed with the Town Board; or,
- c. The lots are being created for land conveyance purposes only. In this instance, upon the certified survey map the land divider shall have prominently placed a restrictive covenant prescribed by the Town Board.

One copy of all certified survey maps abutting or adjoining county trunk highways shall be submitted by the Town Board to the County Surveyor/Highway Engineer for review and comment. Within five working days, he or she shall notify the Town Board of any recommendations or objections.

The survey shall be performed and the map prepared by a land surveyor registered in this State. The map shall be prepared in accordance with Sections 236.20(2)(a), (b), (c), (e), (f), (g), (i), (j), (k), and (1), Wis. Stats. at a scale of not more than 500 feet to 1 inch. The map, with at least 12 copies for filing with the Town Board, shall be prepared on durable white paper, or in the form of a silver haloid image on polyester film, 8 1/2 inches wide by 14 inches long. It shall include on its face in addition to the information required by Section 236.34, Wis. Stats., the following:

- a. Name of the owner.
- b. Date of survey.
- c. Graphic scale.
- d. All existing buildings, and other developed features on the parcel.
- e. Locations, rights-of-way, easements, and names of adjoining streets, highways, railroads, utilities, parks, cemeteries, subdivisions, as well as navigable ponds, streams, lakes, flowages, and zoned wetlands.
- f. Size of the parcels being created in square feet.
- g. Any applicable use or access restrictions and covenants.
- h. All floodplain, shoreland, wetland, or erosion hazard boundaries, and the contour lines lying at a vertical distance of 2 feet above the elevation of the 100 year recurrence interval flood, or, where such data is not available, at a vertical distance of 5 feet above the elevation of the maximum flood of record.
- i. Distances and bearings referenced to a line and a corner of the Sheboygan County Coordinate System.
- j. Surveyor's certification of compliance with all provisions of this Ordinance and other applicable laws.

- k. Owner's and mortgage's certification of dedication of streets and other public areas prepared in accordance with Sections 236.21(2) and 236.34(1)(e), Wis. Stats.
- l. Where the Town Board finds that it requires additional information relative to a particular problem presented by a proposed development to review the certified survey map, it shall have the authority to request such information from the land divider.

8.02 Planned Unit Developments (i.e., clusters, condominiums, cooperatives)

1. Purpose and Intent. The purposes of this Section are to encourage and promote flexibility, ingenuity, and efficiency in the land development process. Projects proposed under this Section are to be planned and designed as a unit, be compatible with the local environment and neighboring properties and uses. Objectives include:

- a. To encourage developers to use creative and imaginative approaches;
- b. To promote development that enhances energy efficiency;
- c. To encourage integration of compatible residential and non-residential uses;
- d. To encourage the provision of recreational facilities, open spaces, and buffer yards;
- e. To preserve existing topography, stands of trees, surface waters, floodplains, wetlands, and similar natural assets and landforms;
- f. To encourage a variety of living environments and a pleasing blend of housing types;
- g. To encourage unique approaches to architectural design; and,
- h. To promote greater efficiency in providing public and utility services.

2. Submittal Requirements.

In addition to the submittal requirements for conventional subdivisions, planned unit development proposals shall also include:

- a. A written statement of intent containing the major planning assumptions and objectives of the proposed development and the benefits that will accrue to the community;
- b. All contemplated land uses within the tract on the sketch or preliminary plan;
- c. Gross densities in each use;
- d. Proposed location of all principal and anticipated accessory structures and associated parking areas;
- e. Proposed circulation systems (pedestrian, bicycle, auto, mass transit) by type, and how systems correlate with existing networks outside of the site; and,
- f. Any other plans and supporting information deemed necessary by the Town Board.

3. Design.

The developer shall give consideration to the reservation of suitable sites of adequate area for future school, park/playground, and other public uses. If such areas are designated on a local comprehensive plan or official map prepared under Section 62.23, Wis. Stats., they shall be made part of the development.

Ecologically sensitive lands, or land with unsafe or hazardous conditions such as open quarries, unconsolidated fill, floodways, or steep slopes shall not be developed without adequate safeguards approved by the Town Board.

The site shall provide for adequate landscaping, pedestrian movement between dwelling units, common open space, and parking areas. Prior to approval of the final plat

or development plan, a written Developers Agreement must be executed between the land divider and the Town Board.

Parking areas shall be arranged to prevent through traffic to other parking areas, to be screened from adjacent development and roads, to be adequately lighted, and to be graded and drained to properly dispose of surface waters.

Planned unit developments shall be developed as a unit.

4. Maximum Number of Units.

The maximum number of lots permitted shall be determined by dividing the total area of the development, excluding streets, by the minimum lot sizes required in this Ordinance or the applicable zoning ordinance, whichever is LEAST restrictive. (In condominiums and similar developments, the term "maximum number of dwelling units" shall substitute for the term "maximum number of lots".)

5. Permitted Uses.

Customary residential uses in planned unit developments may include detached and semi-detached single-family, and attached multi-family residential buildings, and their accessory structures, **as permitted by the Zoning Ordinance.** Recreational, commercial, and quasi-public or institutional uses may be included. No category of use is specifically excluded, but each use shall be judged on its compatibility and consistency with the objectives of this Section. The Town Board shall approve all uses proposed in a planned unit development **and such uses must be consistent with the Town of Sherman Zoning Ordinance.**

6. Dedication and Maintenance.

Land not used for lots and streets shall be dedicated in perpetuity to recreation, open space, or buffer yard use (1) by conveyance in common to each lot owner via a homeowners' association, condominium association, or similar group, (2) by conveyance in fee simple of an equal, undivided interest in common to each lot owner, or (3) by dedication to the Town. Any conveyance or change of ownership of any lot shall convey with it ownership in the common property. No lot owner may convey his interest in the common property except in conjunction with conveyance of ownership of a platted lot. Lands dedicated to the public must be accepted by action of the Town. The care and maintenance of common open space areas and rights-of-way shall be assured either by establishment of an appropriate management association for development, by dedication of the open space areas and rights-of-way to the Town, or by agreement with the Town for establishment of a special service district for the development area. All streets within the planned unit development shall be dedicated to public use and shall substantially conform to the standards set forth in Section 6.01 (1) of this Ordinance. Right-of-way widths and street pavement widths may be reduced as deemed appropriate by the Town if the development provides for separation of motorized traffic and pedestrian and bicycle circulation, and if off-street parking is deemed to be adequate.

7. Expansion.

Any expansion of a planned unit development by adding units and/or by adding property shall meet the requirements of this Section and Sections 703.26(2)(a), (1)), and (c), Wis. Stats.

8.03 Plans, Maintenance, and Inspection

1. Plans.

The Town Board may require the following plans and accompanying construction specifications, pursuant to Section 4.01:

- a. Street plans and profiles showing existing and proposed grades, elevations, and cross sections of required improvements.
- b. Storm water management and erosion control plans showing those structures required to retard or control the rate of runoff water and those grading, excavating, and site management practices that will prevent erosion and sedimentation.
- c. Sanitary sewer plans and profiles showing the locations, grades, elevations, sizes, and materials of required facilities.
- d. Water main plans and profiles showing the locations, sizes, elevations, and materials of required facilities.
- e. Planting plans showing the locations, age, caliber, species, and time of planting of any required grasses, shrubs, trees, and other vegetation.
- f. Additional special plans or information as required.

2. Maintenance.

The installed system(s) required by this Ordinance shall be maintained by the owner except that the Town may accept certain systems for Town maintenance. The Town Board shall expressly approve the selection of critical areas and/or structures to be maintained by the Town. All areas and/or structures to be maintained by the Town must be dedicated to the Town by plat or separate instrument and accepted by the Town Board. The Town shall have the right of inspection of the system(s) to be maintained by the owner and, if necessary, to take corrective action should the owner fail to properly maintain the system(s). In the event of such failure, the Town Board shall give such owner written notice of the nature of the existing defects and the corrective action necessary. Should the owner fail, within 30 days from the date of the notice, to commence corrective action to the satisfaction of the Town Board, the Town may complete or cause the corrective action to be completed, the cost of which shall become a lien on the real property of the owner until paid.

3. Inspection.

The land divider shall notify the approving authorities having jurisdiction to provide for adequate inspection to review and approve all complete work prior to release of any sureties and to ensure compliance with the enacted requirements.

The Town Board shall have access to premises and structures during reasonable hours to make those inspections as deemed necessary to ensure compliance with this Ordinance. If the Town Board were refused entry after presentation of proper identification, it may procure a special inspection warrant in accordance with Chapter 968, Wis. Stats., except in cases of emergency.

Section 9.00 Definitions

9.01 Definitions

In this Ordinance, the present tense includes the future; the singular number includes the plural; and the plural includes the singular. The word "shall" is mandatory and not directory.

BLOCK

A tract of land bounded by streets or by a combination of one or more streets and public parks, cemeteries, railroad rights-of-way, bulkhead lines, shorelines of waterways, or corporate boundary lines.

BUILDING

Any structure having a roof supported by columns or walls.

BUILDING LINE

A line which indicates the distance from the boundaries of a lot within which buildings shall not be erected (see also SETBACK).

CERTIFIED SURVEY MAP

A map of a land division, not a subdivision, prepared in accordance with Section 236.34, Wis. Stats., and in full compliance with the applicable provisions of this Ordinance.

COMMISSION

The Plan Commission of the Town of Sherman.

COMMON OPEN SPACE

A parcel or parcels of land or an area of water, or a combination of land and water within the site designated for a planned unit development and designed and intended for the use or enjoyment of residents of the planned unit development. Common Open Space may contain such complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of residents of the planned unit development.

COMPREHENSIVE PLAN

A plan adopted by the Town of Sherman for guiding and shaping the protection and development of the Town. A comprehensive plan may be referred to as a master plan, long range plan, or smart growth plan. Components of a comprehensive plan include tools for implementation and enforcement, including zoning, official maps, land division ordinances, public safety programs, public services, and capital improvement programs.

CONDOMINIUM

A form of real property ownership under which a declaration of condominium has been recorded pursuant to Chapter 703, Wis. Stats.

EXTRATERRITORIAL PLAT APPROVAL JURISDICTION

That part of the Town within 1 1/2 miles of a fourth class city or a village, if such municipality has taken action to implement extraterritorial plat approval.

FLOODPLAINS

Those lands, including the flood fringes, floodways, and channels, subject to inundation by the 100-year recurrence interval flood (regional flood) or, where such data is not available, the maximum flood of record.

LAND DIVIDER

Any person, or his or her agent, dividing or proposing to divide land resulting in a subdivision, land division, planned unit development, or replat.

LAND DIVISION

A division of a lot, parcel, or tract of land by the owner thereof, or the owner's agent, for the purpose of transfer of ownership or building development where the act of division creates:

- (1) less than 5 lots, parcels, or building sites of 40 acres each or less in area;
- or,

- (2) less than 5 lots, parcels, or building sites of 40 acres each or less in area by successive divisions form the same Mother Tract within a period of 5 years.

All area calculations are to be exclusive of any dedications, right-of-way easements, or reservations. (See also SUBDIVISION).

LOT

A parcel of land 40 acres or less and equal to or larger than the minimum lot sizes set out in Section 6.01(6) having frontage on a public street or other officially approved means of access, occupied or intended to be occupied by a principal structure or use.

MOTHER TRACT

A parcel of land that is, or at any time in the previous twenty (20) years was, in the same ownership. Contiguous parcels in the same ownership are considered to be one parcel for the purposes of this definition, even though the separate parcels may have separate tax identification numbers or were acquired at different times or from different persons. See Section 2.02(3) for further discussion of "in the same ownership."

OFFICIAL MAP

A map indicating the location, width, extent of the existing and proposed streets, highways, parkways, parks, and playgrounds adopted by the Town and/or other municipalities in Sheboygan County in accordance with Section 62.23(6), Wis. Stats.

OUTLOT

A parcel of land, other than a lot or block, so designated on a plat or certified survey map, but not presently deemed either of standard lot size or suitability. An outlot may not be used as a building site unless the deficiencies that rendered it unbuildable are cured. An outlot may be either redivided into lots or combined with one or more other adjacent outlots or lots in adjacent subdivisions or land divisions in the future for the purpose of creating potentially buildable lots. An outlot may be conveyed regardless of whether it may be used as a building site.

PERSON

An individual, group of individuals, partnership, firm, LLC, corporation, association, state, county, city, village, township, sanitary district, or other government corporation.

PLANNED UNIT DEVELOPMENT

An area of land, controlled by a single owner, corporation, or any other legal entity to be developed as a single entity for a number of buildings, the plan for which is unique in its mixture of land uses and open spaces and not specifically provided for by applying customary block, lot, and density requirements of this Ordinance or town subdivision or zoning ordinances.

PLAT

A map of a subdivision.

PRELIMINARY PLAT

A map showing the salient features of a proposed subdivision submitted to an approving authority for purposes of preliminary consideration.

REPLAT

The process of changing or the map or plat which changes the boundaries of a recorded subdivision plat or part thereof. The legal dividing of a large block, lot, or out lot within a recorded subdivision plat without changing exterior boundaries of said block, lot, or outlot is not a replat.

SETBACK

The minimum horizontal distance from the center of the traveled way or the right-of-way, as specified, and the nearest point of a building, or proposed building, or any projection thereof, including uncovered steps.

SHORELANDS

Those lands established to be within the jurisdiction of the Shoreland-Floodplain Ordinance, Sheboygan County, as follows:

- (1) Lands 1,000 feet from the ordinary high water mark of navigable lakes, ponds, and flowages.
- (2) Lands 300 feet from the ordinary high water mark of navigable rivers and streams or to the landward side of a floodplain if that distance is greater.
- (3) The shorelands of all lakes, ponds, flowages, marshes, wetlands, rivers, streams, and creeks as shown on the "Shoreland Zoning Map, Sheboygan County, Wisconsin."

SOIL TESTS

Percolation tests and soil borings or soil and site evaluations conducted as provided by the Sanitary Ordinance, Sheboygan County, and Chapters Comm 83 and 85, Wisconsin Administrative Code.

STREETS

Public ways for vehicular or pedestrian and vehicular traffic.

1. Arterial Streets and Highways

Roadways which provide for rapid movement of concentrated volumes of traffic over relatively long distances between activity areas (i.e. freeways, expressways).

a. Principal Arterials

Streets serving the major interstate and interregional traffic corridors. These routes provide the highest level of mobility under a high degree of access control.

b. Primary Arterials

Streets serving major regions or connecting several significant cities and intercommunity corridors within the metropolitan area. These routes provide for a high degree of mobility under a high degree of access control.

c. Standard Arterials

Streets which most commonly provide for intermediate length trips, thus serving through traffic to the primary and principal arterials from lower activity areas not served by such routes.

2. Collector Streets

Streets which provide for moderate speed movements within large areas, and which serve to collect traffic from lower-volume local streets.

a. Connectors

Streets which perform a semi-arterial function as well as serving as distribution and land access streets.

b. Distributors

Streets which gather and distribute traffic from and to the local streets and adjacent lands.

3. Local Streets

Streets designed for low speeds and volumes, which provide access from low traffic generating areas to collector and arterial streets.

4. Marginal Access Streets (Frontage Streets)
Minor streets auxiliary to and located on the side of an arterial street for control of access and for service to abutting development.
5. Alleys
Special streets affording only secondary access to abutting properties.
6. Cul-de-sac Streets
Streets closed at one end with a turn-around bulb provided.
7. Dead-end Streets
Streets closed at one end without a turn-around bulb.

SUBDIVISION

A division of a lot, parcel, or tract of land by the owner thereof, or the owner's agent, for the purpose of transfer of ownership or building development where the act of division creates:

1. 5 or more lots, parcels, or building sites of 40 acres each or less in area; or,
2. 5 or more lots, parcels, or building sites of 40 acres each or less in area by successive divisions of the same Mother Tract within a period of 5 years.

All area calculations are to be exclusive of any dedications, right-of-way easements, or reservations. (See also LAND DIVISION).

SURETY BOND

A bond guaranteeing performance of a contract or obligation through forfeiture of the bond if said contract or obligation is unfulfilled by the land divider.

TOWN

The Town Board of the Town of Sherman, Sheboygan County, Wisconsin.

UTILITY EASEMENT

An easement to place, replace, maintain, or move utility facilities.

WETLANDS

Those areas where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.

WISCONSIN ADMINISTRATIVE CODE

The rules of administrative agencies having rule-making authority in Wisconsin published in loose-leaf, continual revision system as directed by Section 35.93 and Chapter 227, Wis. Stats., including subsequent amendments to those rules.

This ordinance shall take effect on the day after its publication in The Sounder, the official newspaper of the Town of Sherman.

Adopted this 7th day of December, 2006.

William Goehring, Town Chairman

ATTEST:

Bernadette Mondloch, Town Clerk

Dated and submitted for publication:

December _____, 2006

No. of insertions -----1

**TOWN OF SHERMAN
SHEBOYGAN COUNTY, WISCONSIN**

**ORDINANCE REGULATING THE USE OF SMALL
WIND ENERGY SYSTEMS**

The Town Board of the Town of Sherman, Sheboygan County, Wisconsin, does ordain as follows:

Section 1: Purpose

The purpose of this Ordinance is to provide a regulatory scheme for the construction and operation of Small Wind Energy Systems in the Town of Sherman, Sheboygan County, Wisconsin. This Ordinance is adopted pursuant to Wis. Stat. § 66.0401 and PSC 128 and pursuant to the Town's general police powers. All regulations contained herein are adopted to preserve and protect the public health and safety.

Section 2: Definitions

Wind Energy System: Has the meaning given in Wis. Stat. § 66.0403(1)(m) and is used to convert wind energy to electrical energy.

Small Wind Energy System: A Wind Energy System that has a total installed nameplate capacity of 300 kilowatts or less and that consists of individual wind turbines that have an installed nameplate capacity of not more than 100 kilowatts.

Other Definitions: The remaining definitions set forth in PSC 128.01 are incorporated by reference as though fully set forth herein.

Section 3: Permit Required

No Small Wind Energy System may be installed, constructed, or expanded in the Town without a Small Wind Energy System Permit granted pursuant to this Ordinance.

Section 4: Application

Every application for a Small Wind Energy System Permit shall be made in writing accompanied by the fees required by this Ordinance and shall include the following information:

- (1) A description of the Small Wind Energy System and maps showing the locations of all proposed wind energy facilities.
- (2) A technical description of the proposed wind turbines and wind turbine sites.
- (3) A proposed timeline and process for constructing the Small Wind Energy System.
- (4) Information regarding the anticipated impact of the Small Wind Energy System on local infrastructure.
- (5) Information regarding noise anticipated to be attributable to the Small Wind Energy System.
- (6) Information regarding shadow flicker anticipated to be attributable to the Small Wind Energy System.
- (7) Information regarding the anticipated effects of the Small Wind Energy System on existing land uses on parcels adjacent to the location of the proposed Small Wind Energy System.
- (8) Information regarding the anticipated effects of the Small Wind Energy System on airports and airspace.
- (9) Information regarding the anticipated effects of the Small Wind Energy System on line-of-sight communications.
- (10) A list of all state and federal permits required to construct and operate the Small Wind Energy System.
- (11) Information regarding the planned use and modification of roads within the Town during the construction, operation, and decommissioning of the Small Wind Energy System, including a process for assessing road damage caused by wind energy system activities and for conducting road repairs at the owner's expense.
- (12) A representative copy of all notices issued under Section 17(A).
- (13) Any other information necessary to understand the construction, operation, or decommissioning of the proposed Small Wind Energy System.

Section 5: Accuracy of Information

The owner shall certify that the information contained in an application is accurate. The Town may reject or deny the application if it contains false, misleading, or inaccurate information.

Section 6: Duplicate Copies

The applicant shall file an original and three copies of the application with the Town. Each copy shall include, but is not limited to, all worksheets, maps, and other attachments included in the application.

Section 7: Notice to Property Owners and Residents

- (1) On the same day an owner files an application for a Small Wind Energy System, the owner shall, under Wis. Stat. § 66.0401(4)(a)3, use commercially reasonable methods to provide written notice of the filing of the application to property owners adjacent to the location of the proposed Small Wind Energy System. The notification shall include all of the following:
 - a. A complete description of the Small Wind Energy System, including the number and size of the wind turbines.
 - b. A map showing the locations of all proposed Small Wind Energy System facilities.
 - c. The proposed timeline for construction and operation of the Small Wind Energy System.
 - d. Locations where the application is available for public review.
 - e. Owner contact information.
- (2) After the Town receives an application for a Small Wind Energy System, the Town shall publish the notice required by Wis. Stat. § 66.0401(4)(a)(1), which shall include a brief description of the proposed Small Wind Energy System and its proposed location, the locations where the application is available for public review, the method and time period for the submission of public comments to the Town, and the approximate schedule for review of the application by the Town.

Section 8: Public Participation

- (1) The Town shall make a copy of an application for a Small Wind Energy System available for public review at a local library and at the Town Hall or some other publicly-accessible location. The Town may also publish a copy of the application on the Town's website.
- (2) The Town shall accept written public comments on an application for a Small Wind Energy System filed with the Town Clerk and shall make them a part of the record at any public meeting held by the Town.
- (3) The Town may hold one or more public meetings to obtain comments on and to inform the public about the proposed Small Wind Energy System.

Section 9: Joint Application Review Process

If a Small Wind Energy System is proposed to be located in the Town and at least one other municipality with jurisdiction over the Small Wind Energy System, the Town may participate in the joint application review process set forth in PSC 128.30(7).

Section 10: Application Completeness

- (1) COMPLETE APPLICATIONS.
 - a. An application is complete if it meets the filing requirements set by this Ordinance and PSC 128.50(1)
 - b. The Town shall determine the completeness of an application, and shall notify the owner in writing of the completeness determination, no later than 45 days after the day the application is filed, unless the application was filed prior to the adoption of this Ordinance, in which case the Town shall notify the owner in writing of the completeness determination no later than 45 days after the day this Ordinance is adopted. An application is considered filed the day the owner notifies the Town in writing that all the application materials have been filed. If the Town determines that the application is incomplete, the notice provided to the owner shall state the reasons for the determination.
 - c. The owner may file a supplement to an application that the Town has determined to be incomplete. There is no limit to the number of times that

an owner may re-file an application. For incomplete applications, the owner shall provide additional information as specified in the notice under par. b.

- d. An additional 45-day completeness review period shall begin the day after the Town receives responses to all items identified in the notice under par. b.
- e. If the Town does not make a completeness determination within the applicable review period, the application is considered to be complete.

(2) REQUESTS FOR ADDITIONAL INFORMATION

The Town may request additional information necessary to understand the Small Wind Energy System after determining that an application is complete. An owner shall provide additional information in response to all reasonable requests. An owner shall respond to all inquiries made subsequent to a determination of completeness in a timely, complete, and accurate manner.

Section 11: Written Decision

- (1) The Town shall issue a written decision to grant or deny an application for a Small Wind Energy System. The written decision shall include findings of fact, supported by evidence in the record. If an application is denied, the decision shall specify the reason for the denial. The Town shall provide its written decision to the owner and to the Public Service Commission of Wisconsin. If the Town approves an application for a Small Wind Energy System, the Town shall provide the owner with a duplicate original of the decision. If an application is approved, the Town will issue a written permit with conditions.
- (2) The owner shall record the duplicate original of a decision approving an application with the Register of Deeds for Sheboygan County, Wisconsin.
- (3) The Town shall keep a complete written record of its decision-making relating to an application for a Small Wind Energy System. The record of decision shall include all of the following:
 - a. The approved application and all additions or amendments to the application.

- b. A representative copy of all notices issued under Section 17(A) and Section 7.
 - c. A copy of any notice or correspondence that the Town issues related to the application.
 - d. A record of any public meeting under Section 8(3) and any hearing related to the application. The record shall include any documents or evidence submitted by meeting or hearing participants.
 - e. Copies of any correspondence or evidentiary material that the Town considered in relation to the application, including copies of all written public comments filed under Section 8(2).
 - f. Minutes of any Town Board or committee meetings held to consider or act on the application.
 - g. A copy of the written decision under Section 11(1).
 - h. Other materials that the Town prepared to document its decision-making process.
 - i. A copy of any Town ordinance cited in or applicable to the decision.
- (4) If the Town denies an application, the Town shall keep the record for at least seven years following the year in which it issues the decision.
- (5) If the Town approves an application, the Town shall keep the record for at least seven years after the year in which the Small Wind Energy System is decommissioned.

Section 12: Effect of Ownership Change on Approval

Approval of a Small Wind Energy System remains in effect if there is a change in ownership of the Small Wind Energy System. However, a Small Wind Energy System owner must provide notice within 30 days to the Town of any change of ownership of the Small Wind Energy System.

Section 13: Fees

- (1) The applicant shall deposit an application fee with the Town at the time the application is filed. The amount shall be as follows:
 - a. For a Small Wind Energy System with a total estimated project cost of \$5,000 or less the application fee shall be \$200.
 - b. For a Small Wind Energy System with a total estimated project cost of \$5,001 to \$25,000 the application fee shall be \$2,000.
 - c. For a Small Wind Energy System with a total estimated project cost greater than \$25,000 the application fee shall be \$5,000
- (2) All costs incurred by the Town relating to the review and processing of the application, including the cost of services necessary to review an application that are provided by outside engineers, attorneys, planners, environmental specialists, acousticians, and other consultants or experts shall be billed against the application fee. If the total cost of such services exceeds the amount of the application fee, the applicant shall make an additional payment to the Town in an amount equal to the amount by which the total cost exceeds the application fee. This additional payment shall be made prior to the Town's issuance of a Small Wind Energy System Permit or within 30 days of completion of the Town's application review, whichever occurs first. If the total cost of review services is less than the application fee, the Town shall refund the excess within 60 days of final inspection of the installed Small Wind Energy System if the Small Wind Energy System Permit is granted or within 60 days of completion of the Town's application review if the Small Wind Energy System Permit is not granted.
- (3) For a Small Wind Energy System with a total estimated project cost greater than \$25,000 the applicant shall maintain an application fee balance of at least \$1,000 at all times. If through the Town's billing of review services costs against the initial \$5,000 application fee the application fee balance drops below \$1,000, the applicant shall deposit additional money to bring the application fee balance to \$5,000 within five business days.
- (4) The Town reserves the right to refuse review of an application or issue a Small Wind Energy System Permit if an applicant fails to comply with this Section.

Section 14: Other Permits

A Small Wind Energy System owner shall submit to the Town copies of all necessary state and federal permits and approvals

Section 15: Modifications to an Approved Small Wind Energy System

(A) MATERIAL CHANGE

- (1) An owner may not make a material change in the approved design, location, or construction of a Small Wind Energy System without the prior written approval of the Town, unless the Town automatically approves the material change by taking either of the steps specified in PSC 128.32(2)(b)1. or 2.
- (2) An owner shall submit to the Town an application for a material change to an approved Small Wind Energy System.

(B) REVIEW LIMITED

- (1) The Town, upon receipt of an application for a material change to a Small Wind Energy System may not reopen the merits of the earlier approval but may consider only those issues relevant to the proposed change.
- (2) An application for a material change is subject to PSC 128.35(2)(b).
- (3) An application for a material change shall contain information necessary to understand the material change as determined by the Town.
- (4) The town may hold at least one public meeting to obtain comments on and to inform the public about a proposed material change to an approved Small Wind Energy System.

Section 16: Complaint Process

- (1) An aggrieved person may make a complaint regarding failure by an owner to comply with an obligation under this Ordinance.
- (2) A complaint must be made first to the owner of the Small Wind Energy System before it can be made to the Town.

- (3) A complainant may petition the Town for review of a complaint that is not resolved within 45 days of the day the owner receives the original complaint.
- (4) An owner must use reasonable efforts to resolve complaints regarding a Small Wind Energy System and shall investigate complaints regarding a Small Wind Energy System at the owner's expense.

Section 17: Owner Requirements

(A) PRE –APPLICATION NOTICE

- (1) At least 60 days before an owner files an application to construct a Small Wind Energy System, the owner shall use commercially reasonable methods to provide written notice of the planned Small Wind Energy System to all landowners adjacent to the proposed location of the Small Wind Energy System and to the Town. The written notice shall include all of the following information:
 - a. A complete description of the Small Wind Energy System, including the number and size of the planned wind turbines.
 - b. A map showing the planned location of all Small Wind Energy System facilities.
 - c. Contact information for the owner.
 - d. A list of all potential permits or approvals the owner anticipates may be necessary for construction of the Small Wind Energy System.
 - e. Whether the owner is requesting a joint application process under Section 9 and the name of each political subdivision that may participate in the joint review process.

(B) REAL PROPERTY PROVISIONS

- (1) A Small Wind Energy System easement or wind access easement shall be recorded under Chapter 706 of the Wisconsin Statutes. A Small Wind Energy System or a wind access easement shall include the term of the easement and a full legal description of the property subject to the easement.

- (2) A Small Wind Energy System lease and any waivers under PSC 128.14(5) or 128.15(4) shall hold harmless and indemnify the real property owner for any violation of federal, state, or local law by the owner of the Small Wind Energy System and for any damages or bodily injury caused by the construction, operation, or decommissioning of the Small Wind Energy System.

(C) LAND USE AND COMMERCIAL ENTERPRISES

- (1) An owner shall make reasonable efforts to ascertain and accommodate any existing land use or commercial enterprise located on a nonparticipating property adjacent to the location of the proposed Small Wind Energy System.
- (2) An owner shall design a Small Wind Energy System to reasonably minimize the conversion of land from agricultural use.

(D) SETBACK DISTANCES

- (1) An owner shall design and construct a Small Wind Energy System using the following wind turbine setback distances:
 - a. 1.0 times the maximum blade tip height from occupied community buildings.
 - b. No minimum setback from participating residences.
 - c. 1.0 times the maximum blade tip height from nonparticipating residences.
 - d. No minimum setback from participating property lines.
 - e. 1.0 times the maximum blade tip height from nonparticipating property lines.
 - f. No minimum setback from public road right-of-way.
 - g. 1.0 times the maximum blade tip height from overhead communication and electric transmission or distribution lines other than utility service lines to individual houses or buildings.
 - h. No minimum setback from overhead utility service lines to individual houses or outbuildings.

- (2) An owner shall measure wind turbine setback distances as a straight line from the vertical centerline of the wind turbine tower to the nearest point on the permanent foundation of a building or residence or to the nearest point on the property line or feature, as applicable.
- (3) An owner shall work with the Town and owners of participating and nonparticipating properties to site wind turbines to minimize individual hardships.
- (4) The owner of an adjacent nonparticipating residence or adjacent occupied community building may waive the applicable wind turbine setback distances.

(E) NOISE CRITERIA

- (1) In this section, nighttime hours are the hours beginning at 10:00 p.m. and ending at 6:00 a.m. daily and daytime hours are the hours beginning at 6:00 a.m. and ending at 10:00 p.m. daily.
- (2) The noise limits in this section apply at the outside wall of a nonparticipating residence or occupied community building that exists when the owner gives notice under Section 17(A) or for which complete publicly-available plans for construction are on file with the Town within 30 days of the date on which the owner gives notice under Section 17(A).
- (3) An owner shall design the proposed Small Wind Energy System to minimize noise at a residence or occupied community building to the extent reasonably practicable and to meet the standards in (5).
- (4) An owner shall design a wind energy system to comply with the noise standards in this section under planned operating conditions.
- (5) An owner shall operate the Small Wind Energy System so that the noise attributable to it does not exceed 50 dBA during daytime hours and 45 dBA during nighttime hours. In the event audible noise due to wind energy system operations contains a steady pure tone, such as a whine, whistle, screech, or hum, the owner shall promptly take corrective action to permanently eliminate the noise, unless the sound is produced by normal operating conditions. Methods available for the owner to comply with these standards shall include operational curtailment of one or more wind turbines. Upon receipt of a complaint about an audible noise containing a steady pure tone, the owner shall use operational

curtailment to eliminate the noise until the owner permanently corrects the problem.

- (6) If an owner uses sound level measurements to evaluate compliance with these noise restrictions at a nonparticipating residence or occupied community building, those measurements shall be made as near as possible to the outside wall nearest to the closest wind turbine, or at an alternate wall as specified by the owner of the nonparticipating residence or occupied community building. The owner may take additional measurements to evaluate compliance in addition to those specified by this Ordinance.
- (7) Upon receipt of a complaint regarding a violation of these noise standards, an owner shall test for compliance and provide the results to the Town.
- (8) Upon request by an owner of a Small Wind Energy System, an owner of an affected nonparticipating residence or occupied community building may relieve the owner of the Small Wind Energy System of the requirement to meet any of the above noise limits at the affected residence or occupied community building by written contract. Unless otherwise provided in a contract signed by an owner of a nonparticipating residence or occupied community building, a waiver by an owner is an encumbrance on the real property, runs with the land until the Small Wind Energy System is decommissioned, and shall be recorded under Chapter 706 of the Wisconsin Statutes. Before entering into such a contract, the owner shall provide written notice of these requirements to the owner of the affected nonparticipating residence or community building.
- (9) Before the initial operation of the Small Wind Energy System, an owner of a Small Wind Energy System shall provide notice of these noise criteria to each adjacent nonparticipating residence or occupied community building.

(F) SHADOW FLICKER

- (1) These shadow flicker requirements apply to a nonparticipating residence or occupied community building that exists when the owner gives notice under Section 17(A) or for which complete publicly-available plans for construction are on file with the Town within 30 days of the date on which the owner gives notice under Section 17(A).

- (2) An owner shall design the proposed Small Wind Energy System to minimize shadow flicker at a residence or occupied community building to the extent reasonably practicable and to meet the standards in (3).
- (3) An owner shall operate the Small Wind Energy System in a manner that does not cause more than 30 hours per year of shadow flicker at a nonparticipating residence or occupied community building. If a nonparticipating residence or community building experiences more than 30 hours per year of shadow flicker under the Small Wind Energy System's normal operating conditions, the owner shall use operational curtailment to comply with this requirement.
- (4) An owner of a Small Wind Energy System shall work with an owner of a nonparticipating residence or occupied community building to mitigate the effects of shadow flicker to the extent reasonably practicable.
- (5) Upon request by an owner of a Small Wind Energy System, an owner of an affected nonparticipating residence or occupied community building may relieve the Small Wind Energy System owner of a requirement under (3) at the affected nonparticipating residence or occupied community building by written contract with the Small Wind Energy System owner. Unless otherwise provided in a contract signed by an owner of the affected nonparticipating residence or occupied community building, a waiver by an owner of an affected nonparticipating residence or occupied community building is an encumbrance on the real property and runs with the land until the Small Wind Energy System is decommissioned, and shall be recorded under Chapter 706 of the Wisconsin Statutes.

(G) SIGNAL INTERFERENCE

- (1) An owner shall use reasonable efforts to avoid causing interference with commercial communications and personal communications in use when the Small Wind Energy System begins operation to the extent practicable.
- (2) An owner may not construct Small Wind Energy System facilities within the existing line-of-sight communication paths that are used by government or military entities to provide services essential to protect public safety.

(H) STRAY VOLTAGE

- (1) An owner shall work with the local electric distribution company to test for stray voltage at all dairy and confined animal operations within 0.5 mile of a Small

Wind Energy System facility pursuant to the stray voltage protocol established by the Public Service Commission of Wisconsin before any Small Wind Energy System construction activity that may interfere with testing commences and again after construction of the Small Wind Energy System is completed, except as otherwise specified by Public Service Commission of Wisconsin Staff.

- (2) Before conducting signal interference testing, an owner shall work with Public Service Commission of Wisconsin staff to determine the manner in which stray voltage testing will be conducted and on which properties. The electric distribution company serving a dairy or confined animal operation where testing is required under (1) shall conduct or arrange to conduct all required testing at the expense of the owner.
- (3) An owner and the electric distribution company shall provide the Public Service Commission of Wisconsin staff the results of all stray voltage testing in writing.
- (4) An owner shall work with the electric distribution company and farm owner to rectify any stray voltage problems attributable to the construction and operation of the Small Wind Energy System, in compliance with the Public Service Commission of Wisconsin's stray voltage protocol.

(I) PHYSICAL CHARACTERISTICS

- (1) An owner may not display advertising material or signage other than warnings, equipment information, or indicia of ownership on a wind turbine. An owner may not attach any flag, decorative sign, streamers, pennants, ribbons, spinners, fluttering, or revolving devices to a wind turbine. An owner may attach a safety feature or wind monitoring device to a wind turbine.
- (2) An owner shall ensure that a wind turbine has a conventional or unobtrusive finish.
- (3) An owner shall install lighting at a Small Wind Energy System that complies with standards established by the federal aviation administration. An owner shall also use shielding or control systems approved by the federal aviation administration to reduce visibility of lighting to individuals on the ground.
- (4) An owner shall take appropriate measures to ensure that a wind turbine is not readily climbable except by authorized personnel.

- (5) An owner shall ensure that all wind turbine access doors and electrical equipment are locked when authorized personnel are not present.
- (6) An owner shall place appropriate warning signage on or at the base of each wind turbine.
- (7) An owner shall clearly mark guy wires and supports for a Small Wind Energy System, meteorological tower, or other device for measuring wind speeds so that the wires and supports are visible to low flying aircraft under fair weather conditions.

(J) ELECTRICAL STANDARDS

An owner shall construct, maintain, and operate collector circuit facilities in a manner that complies with the national electrical safety code and PSC 114 and shall construct, maintain, and operate all Small Wind Energy System facilities in a manner that complies with the national electrical code.

(K) CONSTRUCTION, OPERATION, AND MAINTENANCE

An owner shall construction, operate, repair, maintain, and replace Small Wind Energy System facilities as needed to keep the Small Wind Energy System in good repair and operating condition and in a manner that protects individuals from injury.

(L) EMERGENCY PROCEDURES

An owner shall notify the Town of the occurrence and nature of a Small Wind Energy System emergency within 24 hours of the Small Wind Energy System emergency.

(M) DECOMMISSIONING

- (1) An owner of a Small Wind Energy System shall decommission and remove the Small Wind Energy System at the end of its useful life. A Small Wind Energy System is presumed to be at the end of its useful life if the Small Wind Energy System generates no electricity for a continuous 540-day period.
- (2) When decommissioning is required, the owner shall begin decommissioning within 360 days after the Small Wind Energy System has reached the end of its useful life. The owner shall complete decommissioning and the removal of the

Small Wind Energy System within 540 days after the Small Wind Energy System has reached the end of its useful life.

- (3) An owner shall file a notice of decommissioning completion with the Town and the Public Service Commission of Wisconsin when a Small Wind Energy System approved by the Town has been decommissioned and removed.

Section 18: Revocation and Enforcement

Any permit granted for the installation, construction, or expansion of a Small Wind Energy System may be revoked by the Town if the permit holder, its heirs, or assigns, violates the provisions of this Ordinance or the provisions of a Small Wind Energy System Permit granted pursuant to this Ordinance. Violations of this Ordinance are also punishable by forfeitures of not less than \$200 and not more than \$500 per violation plus costs and attorneys' fees. Each day a violation exists constitutes a separate offense. The Town may also seek equitable and injunctive relief in the event of a violation. Further, the Town may deny a pending application in the event of the applicant's failure to comply with the provisions of this Ordinance.

Section 19: Severability

If any section, subsection, sentence, or phrase of this Ordinance shall be held invalid, illegal, unenforceable, or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance; and there shall be substituted for the provision at issue a valid and enforceable provision as similar as possible to the provision at issue.

Section 20: Relationship of Parties

By filing an application, the owner agrees that neither the owner nor the Town is an agent, employee, contractor, vendor, representative, or partner of the other and that neither shall owe a fiduciary duty to the other or hold itself out to third parties that it is capable of binding the other party to any obligation or liability. The Town's approval of an application does not create or constitute a partnership, joint venture, or any other form of business organization or arrangement between the Town and the owner.

Section 21: Interpretation

In their interpretation and application, the provisions of this Ordinance shall be considered minimum requirements. Where the provisions of this Ordinance impose greater restrictions than any statute, other regulation, ordinance or covenant, to the extent allowed by law the provisions of this Ordinance shall prevail. Where the provisions of any statute, other regulation, ordinance, or covenant impose greater restrictions than the provisions of this Ordinance, to the extent allowed by law the provisions of such statute, other regulation, ordinance, or covenant shall prevail.

Section 22: Guaranty/Warranty

Nothing in this Ordinance may be interpreted as guaranteeing or warranting that any method, construction, product, service, building, or structure is free from risk. No issuance of a license or permit, approval, inspection, or other action by any Town official, employee, or agent shall constitute a warranty or guaranty that any method, construction, product, service, building, or structure is free from risk.

Section 23: Effective Date

This Ordinance shall take effect upon its adoption and publication or posting as required by law.

Section 24: Directive to Town Clerk and Town Attorney

The Town Clerk and Town Attorney are directed to make all changes necessary in the current Code of Ordinances to implement the terms of this Ordinance.

Adopted this 7th day of January, 2014.

TOWN OF SHERMAN

William Goehring, Town Chairperson

Attest:

Rhonda Klatt, Town Clerk

**TOWN OF SHERMAN
SHEBOYGAN COUNTY, WISCONSIN**

**ORDINANCE REGULATING THE USE OF
WIND ENERGY SYSTEMS**

The Town Board of the Town of Sherman, Sheboygan County, Wisconsin, does ordain as follows:

Section 1: Purpose

The purpose of this Ordinance is to provide a regulatory scheme for the construction and operation of Wind Energy Systems in the Town of Sherman, Sheboygan County, Wisconsin. This Ordinance is adopted pursuant to Wis. Stat., § 66.0401 and PSC 128 and pursuant to the Town's general police powers. All regulations contained herein are adopted to preserve and protect the public health and safety.

Section 2: Definitions

Wind Energy System: Has the meaning given in Wis. Stat., § 66.0403(1)(m) and is used to convert wind energy to electrical energy.

Small Wind Energy System: A Wind Energy System that has a total installed nameplate capacity of 300 kilowatts or less and that consists of individual wind turbines that have an installed nameplate capacity of not more than 100 kilowatts.

Other Definitions: The remaining definitions set forth in PSC 128.01 are incorporated by reference as though fully set forth herein.

Section 3: Permit Required

No Wind Energy System may be installed, constructed or expanded in the Town without a Wind Energy System Permit granted pursuant to this Ordinance.

Section 4: Application

Every application for a Wind Energy System Permit shall be made in writing accompanied by the fees required by this Ordinance and shall include the following information:

- (1) Wind Energy System description and maps showing the locations of all proposed wind energy facilities.
- (2) Technical description of wind turbines and wind turbine sites.
- (3) Timeline and process for constructing the Wind Energy System.

- (4) Information regarding anticipated impact of the Wind Energy System on local infrastructure.
- (5) Information regarding noise anticipated to be attributable to the Wind Energy System including options considered to eliminate noise, GIS maps showing noise levels surrounding wind turbines, computer modeling of noise impacts, information on ground absorption coefficients used to model noise, measures used to address low frequency noise and infrasound, and any other information necessary for the Town to assess noise impacts.
- (6) Information regarding shadow flicker anticipated to be attributable to the Wind Energy System including alternate turbine locations considered by the applicant that would eliminate shadow flicker, GIS maps showing shadow flicker zones for each turbine, shadow flicker computer monitoring results, and any other information necessary for the Town to assess shadow flicker impacts.
- (7) Information regarding the anticipated effects of the Wind Energy System on existing land uses within 0.5 mile of the Wind Energy System.
- (8) Information regarding the anticipated effects of the Wind Energy System on airports and air space.
- (9) Information regarding the anticipated effects of the Wind Energy System on line-of-sight communications.
- (10) A list of all state and federal permits required to construct and operate the Wind Energy System, copies of all correspondence with state and federal agencies, statements as to whether each permit has been approved or denied, and, for those permits that have not yet been obtained, the anticipated timeline for obtaining the permit.
- (11) Information regarding the planned use and modification of roads within the Town during the construction, operation, and decommissioning of the Wind Energy System, including a process for assessing road damage caused by Wind Energy System activities and for conducting road repairs at the owner's expense.
- (12) A copy of all emergency plans developed in collaboration with appropriate first responders under PSC 128.18(4)(b). An owner may file plans using confidential filing procedures as necessary.
- (13) A decommissioning and site restoration plan providing reasonable assurances that that the owner will be able to comply with PSC 128.19.
- (14) A representative copy of all notices issued under Section 7 of this Ordinance and PSC 128.105(1)(a) and 128.42(1).

- (15) Certification that the pre-application notice requirements of PSC 128.105(1) were met, including a list of all landowners who received pre-application notices under PSC 128.105(1)(a) and the date that the landowners were provided pre-application notices.
- (16) Information regarding any additional turbines that may be added to the project in the future.
- (17) Copies of all correspondence to or from Town residents.
- (18) Any other information necessary to understand the construction, operation or decommissioning of the proposed Wind Energy System.

Section 5: Accuracy of Information.

The owner shall certify that the information contained in an application is accurate. The Town may reject or deny the application if it contains false, misleading, or inaccurate information.

Section 6: Duplicate Copies.

The applicant shall file an original and three copies of the application with the Town. One copy shall be an electronic copy. Each copy shall include, but is not limited to, all worksheets, maps, and other attachments included in the application.

Section 7: Notice to Property Owners and Residents.

- (1) On the same day an owner files an application for a Wind Energy System, the owner shall, under s. 66.0401(4)(a)3., Stats., use commercially reasonable methods to provide written notice of the filing of the application to property owners and residents located within one mile of the proposed location of any wind energy system facility. At the same time, a copy of the written notice shall be provided to the Town. The notification shall include all of the following:
 - a. A complete description of the Wind Energy System, including the number and size of the wind turbines.
 - b. A map showing the locations of all proposed Wind Energy System facilities.
 - c. The proposed timeline for construction and operation of the Wind Energy System.
 - d. Locations where the application is available for public review.
 - e. Owner contact information.
- (2) After the Town receives an application for a Wind Energy System, the Town shall publish the notice required by Wis. Stat., § 66.0401(4)(a)(1), which shall include a brief description of the proposed Wind Energy System and its proposed location, the locations where the application is available for public review, the method and time period for the submission of public comments to the Town, and the approximate schedule for review of the application by the Town.

Section 8: Public Participation.

- (1) The Town shall make a copy of an application for a Wind Energy System available for public review at a local library and at the Town Hall or location where the Town maintains records for public access, and it may make an application available on the Town website.
- (2) The Town shall accept written public comments on an application for a Wind Energy System filed with the Town Clerk and shall make them part of the record at the public hearing held pursuant to subsection (3).
- (3) The Town shall hold at least one public meeting to obtain comments on and to inform the public about a proposed Wind Energy System.

Section 9: Joint Application Review Process.

If a Wind Energy System is proposed to be located in the Town and at least one other municipality with jurisdiction over the Wind Energy System, the Town may participate in the joint application review process set forth in PSC 128.30(7).

Section 10: Application Completeness:

- (1) COMPLETE APPLICATIONS.
 - a. An application is complete if it meets the filing requirements set by this Ordinance and PSC 128.50(1).
 - b. The Town shall determine the completeness of an application, and shall notify the owner in writing of the completeness determination, no later than 45 days after the day the application is filed, unless the application was filed prior to adoption of this Ordinance, in which case the Town shall notify the owner in writing of the completeness determination no later than 45 days after the day this Ordinance is adopted. An application is considered filed the day the owner notifies the Town in writing that all the application materials have been filed. If the Town determines that the application is incomplete, the notice provided to the owner shall state the reasons for the determination.
 - c. The owner may file a supplement to an application that the Town has determined to be incomplete. There is no limit to the number of times that an owner may re-file an application. For incomplete applications, the owner shall provide additional information as specified in the notice under par. b.
 - d. An additional 45-day completeness review period shall begin the day after the Town receives responses to all items identified in the notice under par. b.
 - e. If the Town does not make a completeness determination within the applicable review period, the application is considered to be complete.

(2) REQUESTS FOR ADDITIONAL INFORMATION.

The Town may request additional information necessary to understand the Wind Energy System after determining that an application is complete. An owner shall provide additional information in response to all reasonable requests. An owner shall respond to all inquiries made subsequent to a determination of completeness in a timely, complete and accurate manner.

Section 11: Owner Requirements

Pursuant to PSC 128.10(1), the Town incorporates by reference all owner requirements set forth in Subchapter II of PSC 128 (and all subsequent amendments thereto) to their fullest extent. (For example all permissive provisions are mandatory and all quantifiable standards are adopted in their most stringent form.) A copy of Subchapter II is attached for reference as Exhibit A. The attached Exhibit A is a current version of Subchapter II. It may be replaced without further notice, hearing, or Town approval in the event it is amended.

Section 12: Written Decision.

- (1) The Town shall issue a written decision to grant or deny an application. The written decision shall include findings of fact, supported by evidence in the record. If an application is denied, the decision shall specify the reason for the denial. The Town shall provide its written decision to the owner and to the Public Service Commission of Wisconsin. If the Town approves an application for a Wind Energy System, the Town shall provide the owner with a duplicate original of the decision. If an application is approved, the Town will issue a written permit with conditions.
- (2) The owner shall record the duplicate original of a decision approving an application with the Register of Deeds for Sheboygan County, Wisconsin.
- (3) The Town shall keep a complete written record of its decision-making relating to an application for a Wind Energy System. The record of a decision shall include all of the following:
 - a. The approved application and all additions or amendments to the application.
 - b. A representative copy of all notices issued under ss. PSC 128.105(1)(a), 128.30(5) and 128.42(1).
 - c. A copy of any notice or correspondence that the Town issues related to the application.
 - d. A record of any public meeting under s. PSC 128.30(6)(c) and any hearing related to the application. The record shall include any documents or evidence submitted by meeting or hearing participants.

- e. Copies of any correspondence or evidentiary material that the Town considered in relation to the application, including copies of all written public comments filed under s. PSC 128.30(6)(b).
 - f. Minutes of any Town Board or committee meetings held to consider or act on the application.
 - g. A copy of the written decision under s. PSC 128.32(3)(a).
 - h. Other materials that the Town prepared to document its decision-making process.
 - i. A copy of any Town ordinance cited in or applicable to the decision.
- (4) If the Town denies an application, the Town shall keep the record for at least seven (7) years following the year in which it issues the decision.
 - (5) If the Town approves an application, the Town shall keep the record for at least seven (7) years after the year in which the Wind Energy System is decommissioned.
 - (6) The Town may deny without a hearing an application for approval of a Wind Energy System with a nominal capacity of at least one megawatt if the proposed site of the Wind Energy System is in an area primarily designed for future residential or commercial development as shown on a map adopted as part of the Town's comprehensive plan prior to June 2, 2009 or on such maps adopted by the Town after December 31, 2015 under Wis. Stat., § 66.1001(2)(I).

Section 13: Effect of Ownership Change on Approval

Approval of a Wind Energy System remains in effect if there is a change in ownership of the Wind Energy System. However, a Wind Energy System owner must provide notice within 30 days to the Town of any change of ownership of the Wind Energy System.

Section 14: Fees

- (1) The applicant shall deposit an application fee of \$15,000 with the Town at the time the application is filed. All costs incurred by the Town relating to the review and processing of the application, including the cost of services necessary to review an application that are provided by outside engineers, attorneys, planners, environmental specialists, acousticians, and other consultants or experts shall be billed against the deposit. The applicant shall maintain a minimum of \$2,000 in the account until the review process and construction (if approved) is completed. If the balance in the account drops below \$2,000, the applicant shall deposit additional money to bring the account balance to \$5,000 within five (5) business days. The Town will refund any remaining balance in the account within 60 days after the final inspection of the constructed wind energy system. The Town reserves the right to refuse review of an application in the event an applicant fails to comply with this subsection.

- (2) The Town's fee or reimbursement requirement under par. (1) is based on the actual and necessary cost of the review and processing of the Wind Energy System application, and may include the cost of services necessary to review an application that are provided by outside engineers, attorneys, planners, environmental specialists, and other consultants or experts.

Section 15: Additional Requirements

The Town requires the following as conditions for approval of an application to construct a Wind Energy System:

- (1) **INFORMATION.** The owner shall inform the Town in writing whether the owner has consulted with and received any non-binding recommendations for constructing, operating or decommissioning the Wind Energy System from a state or federal agency, and whether the owner has incorporated such non-binding recommendations into the design of the Wind Energy System.
- (2) **STUDIES.** The owner shall cooperate with any study of the effects of Wind Energy System coordinated by a state agency.
- (3) **MONETARY COMPENSATION.** The owner of a Wind Energy System shall offer an agreement that includes annual monetary compensation to the owner of a nonparticipating residence, if the residence is located within 0.5 mile of a constructed wind turbine. For one turbine located within 0.5 mile of a nonparticipating residence, the initial annual monetary compensation shall be \$600. For two turbines located within 0.5 mile of a nonparticipating residence, the initial annual monetary compensation shall be \$800. For three or more turbines located within 0.5 mile of a nonparticipating residence, the initial annual monetary compensation shall be \$1,000. The initial monetary compensation under this subsection shall apply to agreements entered into in 2011. For agreements entered into in 2012 and thereafter, the initial annual amounts shall increase each year by the greater of two percent or the increase in the Consumer Price Index, as described in Wis. Stat., § 196.374(5)(bm)2.b., from the previous year. An agreement offered under this subsection shall specify in writing any waiver of a requirement or right under PSC 128 and whether the landowner's acceptance of payment establishes the landowner's property as a participating property under PSC 128.
- (4) **AERIAL SPRAYING.** The owner of a Wind Energy System shall offer an agreement that includes monetary compensation to a farm operator farming on a nonparticipating property located within 0.5 mile of a constructed wind turbine if the farm operator demonstrates all of the following:
 - a. Substantial evidence of a history, before the wind energy system owner gives notice under s. PSC 128.105(1), of using aerial spraying for pest control or disease prevention for growing potatoes, peas, snap beans or sweet corn on all or part of a farm field located within 0.5 mile of a constructed wind turbine.

- b. A material reduction in potato, pea, snap bean or sweet corn production or a material increase in application costs on all or part of a farm field located within 0.5 mile of a constructed wind turbine as a result of the wind energy system's effect on aerial spraying practices.
- (5) PERMITS. The owner shall submit to the Town copies of all necessary county, state, and federal permits and approvals.
- (6) ANNUAL REPORTS. The owner shall file an annual report with the Town documenting the operation and maintenance of the Wind Energy System during the previous calendar year. The annual report must be filed on or before the anniversary date of the issuance of the owner's permit.

Section 16: Post-Construction Filing Requirement

Within 90 days of the date a Wind Energy System commences operation, the owner shall file with the Town an as-built description of the Wind Energy System, an accurate map of the Wind Energy System showing the location of all Wind Energy System facilities, geographic information system information showing the location of all Wind Energy System facilities and current information identifying the owner of the Wind Energy System. An owner shall in the filings under this section label each wind turbine location with a unique identifier consistent with the information posted at the wind turbine location under s. PSC 128.18(1)(g).

Section 17: Modifications to an Approved Wind Energy System

MATERIAL CHANGE.

- (1) An owner may not make a material change in the approved design, location or construction of a Wind Energy System without the prior written approval of the Town, unless the Town automatically approves the material change by taking either of the steps specified in s. PSC 128.32(2)(b)1. or 2.
- (2) An owner shall submit to the Town an application for a material change to an approved Wind Energy System.

REVIEW LIMITED.

- (1) The Town, upon receipt of an application for a material change to a Wind Energy System may not reopen the merits of the earlier approval but may consider only those issues relevant to the proposed change.
- (2) An application for a material change is subject to ss. PSC 128.30(1), (3) to (5), (6)(a) and (b) and (7) and 128.31 to 128.34.
- (3) An application for a material change shall contain information necessary to understand the material change as determined by the Town.
- (4) The Town may hold at least one public meeting to obtain comments on and to inform the public about a proposed material change to an approved Wind Energy System.

Section 18: Monitoring Compliance

- (1) **MONITORING PROCEDURE.** The Town may establish a procedure to monitor compliance by the owner with any condition on an approved Wind Energy System or to assess when Wind Energy System facilities are not maintained in good repair and operating condition. The procedure may include timelines, provide for payment of reasonable fees for conducting an assessment, and provide for notification to the public. Such procedures shall be included in the permits granted under this Ordinance. The Owner shall cooperate with the Town during its monitoring.
- (2) **THIRD-PARTY INSPECTOR DURING CONSTRUCTION.** The Town may require an owner to pay a reasonable fee for a third-party inspector to monitor and report to the Town regarding the owner's compliance with permit requirements during construction. An inspector monitoring compliance under this subsection shall also report to a state permitting authority upon the state permitting authority's request.

Section 19: Notice of Complaint Process

- (1) **NOTICE OF PROCESS FOR MAKING COMPLAINTS.** Before construction of a Wind Energy System begins, an owner shall provide written notice of the process for making complaints and obtaining mitigation measures to all residents and landowners within 0.5 mile of any Wind Energy System facility. An owner shall include in the notice the requirements under PSC 128.40(1) for submitting a complaint to the owner, a petition for review to the Town, and an appeal to the Commission, and shall include a contact person and telephone number for the owner for receipt of complaints or concerns during construction, operation, maintenance, and decommissioning.
- (2) **NOTICE TO TOWN.** An owner shall provide a copy of the notice provided under subsection (1) to the Town, and the owner shall keep the contact person and telephone number current and on file with the Town.

Section 20: Small Wind Energy Systems

- (1) The provisions of this Ordinance do not apply to Small Wind Energy Systems.
- (2) Section 10.0 of the Town of Sherman Zoning Ordinance is hereby repealed.
- (3) Pursuant to Wis. Stats. § 66.0401, if an application for a Small Wind Energy System is filed with the Town before the Town adopts an ordinance regulating Small Wind Energy Systems, the Town may adopt an ordinance regulating Small Wind Energy Systems by the first day of the fourth month after the application is filed and apply the ordinance to that application.

Section 21: Revocation and Enforcement

Any permit granted for the installation, construction or expansion of a Wind Energy System may be revoked by the Town if the permit holder, its heirs, or assigns, violates the provision of

this Ordinance or the provisions of a Wind Energy System Permit granted pursuant to this Ordinance. Violations of this Ordinance are also punishable by forfeitures of not less than \$200 and not more than \$500 per violation plus costs and attorneys' fees. Each day a violation exists constitutes a separate offense. The Town may also seek equitable and injunctive relief in the event of a violation. Further, the Town may deny a pending application in the event of the applicant's failure to comply with the provisions of this Ordinance.

Section 22: Severability

If any section, subsection, sentence or phrase of this Ordinance shall be held invalid, illegal, unenforceable, or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance; and there shall be substituted for the provision at issue a valid and enforceable provision as similar as possible to the provision at issue.

Section 23: Relationship of Parties

By filing an application, the owner agrees that neither the owner nor the Town is an agent, employee, contractor, vendor, representative, or partner of the other and that neither shall owe a fiduciary duty to the other or hold itself out to third parties that it is capable of binding the other party to any obligation or liability. The Town's approval of an application does not create or constitute a partnership, joint venture, or any other form of business organization or arrangement between the Town and the owner.

Section 24: Interpretation

In their interpretation and application, the provisions of this Ordinance shall be considered minimum requirements. Where the provisions of this Ordinance impose greater restrictions than any statute, other regulation, ordinance or covenant, to the extent allowed by law the provisions of this Ordinance shall prevail. Where the provisions of any statute, other regulation, ordinance, or covenant impose greater restrictions than the provisions of this Ordinance, to the extent allowed by law the provisions of such statute, other regulation, ordinance or covenant shall prevail. All references to statutes and regulations in this Ordinance and in Exhibit A refer to the current version of the statute or regulation referenced, as amended from time to time.

Section 25: Guaranty/Warranty

Nothing in this Ordinance may be interpreted as guaranteeing or warranting that any method, construction, product, service, building, or structure is free from risk. No issuance of a license or permit, approval, inspection, or other action by any Town official, employee, or agent shall constitute a warranty or guaranty that any method, construction, product, service, building, or structure is free from risk.

Section 26: Effective Date

This Ordinance shall take effect and be in force on March 31, 2013.

Section 27: Directive to Town Clerk and Town Attorney

The Town Clerk and the Town Attorney are directed to make all changes necessary in the current Code of Ordinances to implement the terms of this Ordinance.

Adopted this 18 day of March, 2013.

TOWN OF SHERMAN

By: William Goehring
William Goehring, Town Chairperson

Attest:

Rhonda Klatt
Rhonda Klatt, Town Clerk

sunlight shining through moving wind turbine blades resulting in alternating changes in light intensity

(20) "Small wind energy system" means a wind energy system that has a total installed nameplate capacity of 300 kilowatts or less and that consists of individual wind turbines that have an installed nameplate capacity of not more than 100 kilowatts.

(21) "Turbine host property" means real property on which at least one wind turbine is located

(22) "Wind access easement" means a written document that creates a legal interest in real property that restricts the use of the property to avoid interference with the wind resource on another property.

(23) "Wind energy system" has the meaning given in s 66.0403 (1) (m), Stats., and is used to convert wind energy to electrical energy

(24) "Wind energy system easement" means a written document that creates a legal interest in real property that permits an owner to place, construct or operate a wind turbine or other wind energy system facility on the property

(25) "Wind energy system emergency" means a condition or situation at a wind energy system that presents a significant threat of physical danger to human life or a significant threat to property or a natural event that causes damage to wind energy system facilities

(26) "Wind energy system facility" means any component of a wind energy system, such as a wind turbine, collector circuit, access road, electric system interconnection facility or operation and maintenance facility

(27) "Wind energy system lease" means a written agreement between a landowner and an owner that establishes the terms and conditions associated with the placement, construction or operation of a wind turbine or other wind energy system facility on a landowner's property

History: CR 10-057; cr. Register February 2011 No. 662, eff. 3-1-11

PSC 128.02 Applicability. (1) **POLITICAL SUBDIVISION APPLICATIONS** (a) Except as provided in par (b), this chapter applies to a political subdivision's review of a proposed wind energy system or regulation of a wind energy system under s 66.0401, Stats.

(b) This chapter does not apply to any of the following:

1. A wind energy system for which construction began before March 1, 2011.
2. A wind energy system placed in operation before March 1, 2011.
3. A wind energy system approved by a political subdivision before March 1, 2011.
4. A wind energy system proposed by an owner in an application filed with a political subdivision before the March 1, 2011.

(c) Notwithstanding par (b) 4., if an owner withdraws an application for a proposed wind energy system that is filed with a political subdivision before March 1, 2011, this chapter applies to the wind energy system if the owner re-files the application with the political subdivision on or after March 1, 2011.

(3) **COMMISSION APPLICATIONS** The commission shall consider whether the installation or use of a wind energy system is consistent with the standards specified in this chapter when reviewing an application under s. 196.491 (3) (d), Stats., filed on or after March 1, 2011.

(4) **INDIVIDUAL CONSIDERATION** Nothing in this chapter shall preclude the commission from giving individual consideration to exceptional or unusual situations and applying requirements to an individual wind energy system that may be lesser, greater, or different from those provided in this chapter

History: CR 10-057; cr. Register February 2011 No. 662, eff. 3-1-11

PSC 128.03 Political subdivision authority. A political subdivision may not place any restriction, either directly or in effect, on the installation or use of a wind energy system except by adopting an ordinance that complies with this chapter and s 66.0401, Stats., and is not more restrictive than this chapter

History: CR 10-057; cr. Register February 2011 No. 662, eff. 3-1-11

PSC 128.04 Enforcement. (1) **POLITICAL SUBDIVISIONS.** A political subdivision shall be responsible for enforcing its wind energy system ordinance and permit provisions

(2) **COMMISSION** The commission shall enforce its rules and orders under this chapter in the manner prescribed in s. 196.66, Stats., or by such other means as provided in the statutes or administrative code.

History: CR 10-057; cr. Register February 2011 No. 662, eff. 3-1-11

Subchapter II — Owner Requirements

PSC 128.10 Incorporating owner requirements into local ordinances. (1) **ORDINANCES WITH ALL THE OWNER REQUIREMENTS** A political subdivision may enact an ordinance that incorporates all the owner requirements specified in this subchapter, but may not enact an ordinance whose requirements on the installation or use of a wind energy system are more restrictive than specified in this subchapter

(2) **ORDINANCES WITH LESS RESTRICTIVE OWNER REQUIREMENTS** Except as provided in sub (4), a political subdivision may enact an ordinance whose requirements on the installation or use of a wind energy system are less restrictive than specified in this subchapter.

(3) **NO ORDINANCE** Except as provided in sub. (4), if a political subdivision does not enact an ordinance establishing requirements on the installation or use of a wind energy system, this subchapter does not apply within the political subdivision

(4) **MANDATORY REQUIREMENTS** (a) Section PSC 128.105 applies to every owner of a wind energy system, regardless of the political subdivision in which the wind energy system is located and regardless of the contents of a political subdivision's ordinance or the lack of an ordinance.

(b) Section PSC 128.13 (2) (a) applies to every political subdivision, regardless of the contents of its ordinance or the lack of an ordinance.

(c) Section PSC 128.19 applies to every owner of a wind energy system of at least one megawatt, regardless of the political subdivision in which the wind energy system is located and regardless of the contents of a political subdivision's ordinance or the lack of an ordinance.

(5) **SMALL WIND ENERGY SYSTEMS** For a small wind energy system, this subchapter applies as provided in ss PSC 128.60 and 128.61

History: CR 10-057; cr. Register February 2011 No. 662, eff. 3-1-11

PSC 128.105 Development of a wind energy system; notice requirements. (1) **PRE-APPLICATION NOTICE** At least 90 days before an owner files an application to construct a wind energy system, an owner shall use commercially reasonable methods to provide written notice of the planned wind energy system to all of the following:

(a) Landowners within one mile of a planned wind turbine host property.

(b) Political subdivisions within which the wind energy system may be located

(c) Emergency first responders and air ambulance service providers serving a political subdivision within which the wind energy system may be located

(d) The Wisconsin department of transportation

(e) The commission

(f) The DNR.



(g) The Wisconsin department of agriculture, trade and consumer protection

(h) The office of the deputy undersecretary of the U.S. department of defense

(1m) ADDITIONAL PRE-APPLICATION NOTICE TO COMMISSION. At least 180 days before filing an application to construct a wind turbine with a maximum blade tip height exceeding 600 feet, or a wind energy system in those portions of Lake Michigan or Lake Superior that are within the jurisdiction of the state, the owner shall provide written notice of the planned wind energy system to the commission

(2) PRE-APPLICATION NOTICE REQUIREMENTS. The owner shall include all of the following in a notice under sub (1) or (1m):

(a) A complete description of the wind energy system, including the number and size of the planned wind turbines

(b) A map showing the planned location of all wind energy system facilities

(c) Contact information for the owner

(d) A list of all potential permits or approvals the owner anticipates may be necessary for construction of the wind energy system

(e) Whether the owner is requesting a joint application review process under s. PSC 128.30(7) and the name of each political subdivision that may participate in the joint review process

History: CR 10-057; cr. Register February 2011 No. 662, eff. 3-1-11.

PSC 128.11 Real property provisions. (1) EASEMENT RECORDING REQUIRED. A wind energy system easement or wind access easement shall be recorded under ch. 706, Stats. A wind energy system easement or wind access easement shall include the term of the easement and a full legal description of the property subject to the easement.

(2) WIND LEASE AND WAIVER PROVISIONS. A wind energy system lease and any waiver under s. PSC 128.14(5) or 128.15(4) shall hold harmless and indemnify the real property owner for all of the following:

(a) Any violation of federal, state or local law by the owner of the wind energy system

(b) Any damages or bodily injury caused by the construction, operation or decommissioning of the wind energy system

History: CR 10-057; cr. Register February 2011 No. 662, eff. 3-1-11.

PSC 128.12 Existing property uses. (1) LAND USE AND COMMERCIAL ENTERPRISES. An owner shall make reasonable efforts to ascertain and accommodate any land use or commercial enterprise located on a nonparticipating property within 0.5 mile of a proposed wind turbine site if the land use or commercial enterprise exists when the owner gives notice under s. PSC 128.105(1), or if complete publicly-available plans for construction are on file with a political subdivision within 30 days of the date the owner gives notice under s. PSC 128.105(1)

(2) AGRICULTURAL USE. An owner shall design a wind energy system to reasonably minimize the conversion of land from agricultural use

History: CR 10-057; cr. Register February 2011 No. 662, eff. 3-1-11.

PSC 128.13 Siting criteria. (1) SETBACK DISTANCE AND HEIGHT REQUIREMENTS. (a) An owner shall design and construct a wind energy system using the wind turbine setback distances shown in Table 1

Table 1

Setback Description	Setback Distance
Occupied Community Buildings	The lesser of 1,250 feet or 3.1 times the maximum blade tip height
Participating Residences	1.1 times the maximum blade tip height
Nonparticipating Residences	The lesser of 1,250 feet or 3.1 times the maximum blade tip height
Participating Property Lines	None
Nonparticipating Property Lines	1.1 times the maximum blade tip height
Public Road Right-of-Way	1.1 times the maximum blade tip height
Overhead Communication and Electric Transmission or Distribution Lines — Not including utility service lines to individual houses or outbuildings	1.1 times the maximum blade tip height
Overhead Utility Service Lines — Lines to individual houses or outbuildings	None

(b) An owner shall measure wind turbine setback distances as a straight line from the vertical centerline of the wind turbine tower to the nearest point on the permanent foundation of a building or residence or to the nearest point on the property line or feature, as applicable

(c) An owner shall work with a political subdivision and owners of participating and nonparticipating properties to site wind turbines to minimize individual hardships

(d) The owner of a nonparticipating residence or occupied community building may waive the applicable wind turbine setback distances in Table 1 for those structures to a minimum setback distance of 1.1 times the maximum blade tip height. The owner of a nonparticipating property may waive the applicable wind turbine setback distance in Table 1 from a nonparticipating property line.

(2) POLITICAL SUBDIVISION CRITERIA. (a) A political subdivision may not establish long-term land use planning requirements or practices that preclude the construction of a particular type, or any type, of wind turbine or wind energy system within the political subdivision's jurisdiction, except as provided in s. 66.0401(4)(f) 2., Stats.

(b) A political subdivision may not set height or setback distance limitations for a wind turbine near a public use airport or heliport that are more restrictive than existing airport and airport approach protection provisions under ss. 114.135 and 114.136, Stats. If no provisions have been established for public use airports or heliports under s. 114.135 or 114.136, Stats., the political subdivision may adopt wind turbine height or setback distance provisions that are based on, but not more restrictive than, the federal aviation administration obstruction standards in 14 CFR Part 77.

(c) A political subdivision may set height or setback distance limitations for wind turbines near a private heliport at a medical

facility used for air ambulance service that are based on, but not more restrictive than, federal aviation administration obstruction standards that apply to public use heliports

(d) A political subdivision may not set height or setback distance limitations for a wind turbine near a private use airport or heliport except as provided in par (c)

History: CR 10-057; cr Register February 2011 No. 662, eff 3-1-11.

PSC 128.14 Noise criteria. (1) **DEFINITIONS.** In this section, nighttime hours are the hours beginning at 10:00 p.m. and ending at 6:00 a.m. daily and daytime hours are the hours beginning at 6:00 a.m. and ending at 10:00 p.m. daily

(2) **PLANNING** (a) The noise limits in this section apply at the outside wall of a nonparticipating residence or occupied community building that exists when the owner gives notice under s. PSC 128 105 (1) or for which complete publicly-available plans for construction are on file with a political subdivision within 30 days of the date on which the owner gives notice under s. PSC 128 105 (1)

(b) An owner shall design the proposed wind energy system to minimize noise at a residence or occupied community building to the extent reasonably practicable

(c) An owner shall design a wind energy system to comply with the noise standards in this section under planned operating conditions

(3) **NOISE LIMITS** (a) Except as provided in par (b), subs (4) (c) and (5), an owner shall operate the wind energy system so that the noise attributable to the wind energy system does not exceed 50 dBA during daytime hours and 45 dBA during nighttime hours

(b) In the event audible noise due to wind energy system operations contains a steady pure tone, such as a whine, whistle, screech, or hum, the owner shall promptly take corrective action to permanently eliminate the noise. This paragraph does not apply to sound the wind energy system produces under normal operating conditions

(4) **COMPLIANCE** (a) If an owner uses sound level measurements to evaluate compliance with this section at a nonparticipating residence or occupied community building, those measurements shall be made as near as possible to the outside wall nearest to the closest wind turbine, or at an alternate wall as specified by the owner of the nonparticipating residence or occupied community building. The owner may take additional measurements to evaluate compliance in addition to those specified by this section

(b) Upon receipt of a complaint regarding a violation of the noise standards in sub. (3) (a), an owner shall test for compliance with the noise limits in sub. (3) (a). A political subdivision or monitoring committee established under s. PSC 128 41 may not require additional testing to show compliance with sub (3) (a) if the owner has provided the results of an accurate test conducted within 2 years of the date of the complaint showing that the wind energy system is in compliance with sub. (3) (a) at the location relating to the complaint

(c) Methods available for the owner to comply with sub (3) shall include operational curtailment of one or more wind turbines. Upon receipt of a complaint about a noise under sub (3) (b), the owner shall use operational curtailment to eliminate the noise until the owner permanently corrects the problem

(d) An owner shall evaluate compliance with sub (3) (a) as part of pre- and post-construction noise studies. An owner shall conduct pre- and post-construction noise studies under the most current version of the noise measurement protocol as described in s. PSC 128 50 (2)

(5) **WAIVER** Upon request by an owner of a wind energy system, an owner of an affected nonparticipating residence or occupied community building may relieve the owner of the wind energy system of the requirement to meet any of the noise limits in this section at the affected residence or occupied community building by written contract with the wind energy system owner

Unless otherwise provided in a contract signed by an owner of an affected nonparticipating residence or occupied community building, a waiver by an owner of an affected nonparticipating residence or occupied community building is an encumbrance on the real property, runs with the land until the wind energy system is decommissioned, and shall be recorded under ch 706, Stats

(6) **NOTIFICATION** (a) Before entering into a contract under sub. (5), an owner of a wind energy system shall provide written notice of the requirements of this section to the owner of an affected nonparticipating residence or occupied community building

(b) Before the initial operation of the wind energy system, an owner of a wind energy system shall provide notice of the requirements of this section to an owner of a nonparticipating residence or occupied community building within 0.5 mile of a constructed wind turbine that has not entered into a contract under sub. (5)

History: CR 10-057; cr Register February 2011 No. 662, eff. 3-1-11

PSC 128.15 Shadow flicker. (1) **PLANNING** (a) The shadow flicker requirements in this section apply to a nonparticipating residence or occupied community building that exists when the owner gives notice under s. PSC 128 105 (1) or for which complete publicly-available plans for construction are on file with a political subdivision within 30 days of the date on which the owner gives notice under s. PSC 128 105 (1)

(b) An owner shall design the proposed wind energy system to minimize shadow flicker at a residence or occupied community building to the extent reasonably practicable

(c) An owner shall use shadow flicker computer modeling to estimate the amount of shadow flicker anticipated to be caused by a wind energy system and shall design the wind energy system so that computer modeling indicates that no nonparticipating residence or occupied community building will experience more than 30 hours per year of shadow flicker under planned operating conditions

(2) **SHADOW FLICKER LIMITS** An owner shall operate the wind energy system in a manner that does not cause more than 30 hours per year of shadow flicker at a nonparticipating residence or occupied community building. If a nonparticipating residence or occupied community building experiences more than 30 hours per year of shadow flicker under the wind energy system's normal operating conditions, the owner shall use operational curtailment to comply with this subsection

(3) **SHADOW FLICKER MITIGATION** (a) An owner of a wind energy system shall work with an owner of a nonparticipating residence or occupied community building to mitigate the effects of shadow flicker to the extent reasonably practicable

(b) An owner shall provide reasonable shadow flicker mitigation at the owner's expense for a nonparticipating residence or occupied community building experiencing 20 hours or more per year of shadow flicker

(c) An owner shall model shadow flicker and a nonparticipating residence or occupied community building is eligible for mitigation if computer modeling shows that shadow flicker at the nonparticipating residence or occupied community building will be 20 hours or more per year. An owner of a nonparticipating residence or occupied community building is not required to document the actual hours per year of shadow flicker if modeling indicates the nonparticipating residence or occupied community building is eligible for mitigation. A nonparticipating residence or occupied community building that experiences 20 hours or more per year of shadow flicker based on records kept by the resident of a nonparticipating residence or the occupant of an occupied community building shall also be eligible for mitigation

(d) An owner may provide shadow flicker mitigation for any residence or occupied community building in addition to the mitigation required under par. (b).

(c) The requirement under par. (b) to mitigate shadow flicker applies when the owner receives a complaint or request for mitigation regarding shadow flicker for an eligible nonparticipating residence or occupied community building. If shadow flicker mitigation is required, the owner of the wind energy system shall allow the owner of the nonparticipating residence or occupied community building to choose a preferred reasonable mitigation technique, including installation of blinds or plantings at the wind energy system owner's expense.

(4) **WAIVER** Upon request by an owner of a wind energy system, an owner of an affected nonparticipating residence or occupied community building may relieve the wind energy system owner of a requirement under sub. (2) or (3) (b) at the affected nonparticipating residence or occupied community building by written contract with the wind energy system owner. Unless otherwise provided in a contract signed by an owner of an affected nonparticipating residence or occupied community building, a waiver by an owner of an affected nonparticipating residence or occupied community building is an encumbrance on the real property and runs with the land until the wind energy system is decommissioned, and shall be recorded under ch. 706, Stats.

(5) **NOTIFICATION** (a) Before entering into a contract under sub. (4), a wind energy system owner shall provide notice of the requirements of this section to individual owners of an affected nonparticipating residence or occupied community building.

(b) Before the initial operation of the wind energy system, a wind energy system owner shall provide notice of the requirements of this section to an owner of a nonparticipating residence or occupied community building within 0.5 mile of a constructed wind turbine that has not entered into a contract under sub. (4).

History: CR 10-057; cr. Register February 2011 No. 662, eff. 3-1-11.

PSC 128.16 Signal interference. (1) **PLANNING** (a) Except as provided in sub. (4), the signal interference requirements in this section apply to commercial communications and personal communications in use when the wind energy system begins operation.

(b) A owner shall use reasonable efforts to avoid causing interference with commercial communications and personal communications to the extent practicable.

(c) An owner may not construct wind energy system facilities within existing line-of-sight communication paths that are used by government or military entities to provide services essential to protect public safety. A political subdivision may require an owner to provide information showing that wind turbines and other wind energy system facilities will be in compliance with this paragraph.

(2) **COMMERCIAL COMMUNICATIONS INTERFERENCE MITIGATION** An owner shall use reasonable and commercially available technology to mitigate interference caused by a wind energy system with commercial communications in use when a wind energy system begins operation. Before implementing mitigation measures, the owner shall consult with affected parties regarding the preferred mitigation solution for commercial communications interference problems. Except as provided in sub. (4), an owner shall mitigate commercial communications interference caused by the wind energy system by making the affected party's preferred reasonable mitigation solution effective until either the wind energy system is decommissioned or the communication is no longer in use, whichever is earlier.

(3) **PERSONAL COMMUNICATIONS INTERFERENCE MITIGATION** (a) An owner shall use reasonable and commercially available technology to mitigate interference with personal communications in use when a wind energy system begins operation caused by a wind energy system. A political subdivision may require an owner to use reasonable and commercially available technology to mitigate interference with personal communications that were not in use when the wind energy system began commercial opera-

tion, if a wind energy system is causing the interference and the interference occurs at a location at least 0.5 mile from a wind turbine.

(b) Before implementing mitigation measures, the owner shall consult with affected parties regarding the preferred mitigation solution for personal communications interference problems. Except as provided in sub. (4), an owner shall mitigate personal communications interference caused by the wind energy system by making the affected party's preferred reasonable mitigation solution effective until either the wind energy system is decommissioned or the communication is no longer in use, whichever is earlier.

(4) **MITIGATION PROTOCOL** A political subdivision may, under a protocol established under s. PSC 128.50 (2), require an owner to implement a new mitigation solution that becomes commercially available before the wind energy system is decommissioned to address interference for which mitigation is required under sub. (2) or (3) and for which the original mitigation solution implemented is only partially effective.

History: CR 10-057; cr. Register February 2011 No. 662, eff. 3-1-11; correction in (1) (a) made under s. 13.92 (4) (b) 7, Stats., Register February 2011 No. 662.

PSC 128.17 Stray voltage. (1) **TESTING REQUIRED** (a) An owner shall work with the local electric distribution company to test for stray voltage at all dairy and confined animal operations within 0.5 mile of a wind energy system facility pursuant to the stray voltage protocol established by the commission before any wind energy system construction activity that may interfere with testing commences and again after construction of the wind energy system is completed, except as otherwise specified by commission staff under par. (b).

(b) Before any testing under par. (a) begins, an owner shall work with commission staff to determine the manner in which stray voltage testing will be conducted and on which properties. The electric distribution company serving a dairy or confined animal operation where testing is required under par. (a) shall conduct or arrange to conduct all required testing at the expense of the owner.

(2) **RESULTS OF TESTING** An owner and the electric distribution company shall provide to commission staff the results of all stray voltage testing in writing.

(3) **REQUIREMENT TO RECTIFY PROBLEMS** An owner shall work with the electric distribution company and farm owner to rectify any stray voltage problems attributable to the construction and operation of the wind energy system, in compliance with the commission's stray voltage protocol.

History: CR 10-057; cr. Register February 2011 No. 662, eff. 3-1-11.

PSC 128.18 Construction and operation. (1) **PHYSICAL CHARACTERISTICS** (a) An owner may not display advertising material or signage other than warnings, equipment information, or indicia of ownership on a wind turbine. An owner may not attach any flag, decorative sign, streamers, pennants, ribbons, spinners, fluttering, or revolving devices to a wind turbine. An owner may attach a safety feature or wind monitoring device to a wind turbine.

(b) An owner shall ensure that a wind turbine has a conventional or unobtrusive finish.

(c) An owner shall install lighting at a wind energy system that complies with standards established by the federal aviation administration. A political subdivision may not establish lighting requirements for a wind energy system that conflict with standards established by the federal aviation administration. A political subdivision may require use of shielding or control systems approved by the federal aviation administration to reduce visibility of lighting to individuals on the ground.

(d) An owner shall take appropriate measures to ensure that a wind turbine is not readily climbable except by authorized personnel

(e) An owner shall ensure that all wind turbine access doors and electrical equipment are locked when authorized personnel are not present

(f) An owner shall place appropriate warning signage on or at the base of each wind turbine

(g) An owner shall post and maintain up-to-date signs containing a 24-hour emergency contact telephone number, information identifying the owner, and sufficient information to identify the location of the sign within the wind energy system. An owner shall post these signs at every intersection of a wind energy system access road with a public road and at each wind turbine location.

(h) An owner shall clearly mark guy wires and supports for a wind energy system, meteorological tower or other device for measuring wind speeds so that the wires and supports are visible to low flying aircraft under fair weather conditions

(2) ELECTRICAL STANDARDS (a) An owner shall construct, maintain, and operate collector circuit facilities in a manner that complies with the national electrical safety code and ch PSC 114 and shall construct, maintain, and operate all wind energy system facilities in a manner that complies with the national electrical code

(b) An owner shall construct collector circuit facilities for a wind energy system underground to the extent practicable

(c) An owner shall establish an inspection schedule for all overhead collector circuits to ensure that third-party facilities, including cable television and telecommunications cables, are not attached or bonded to overhead collector circuit grounding. If third-party facilities are found attached to the overhead collector facilities, the owner shall ensure that the third-party facilities are promptly removed.

(3) CONSTRUCTION, OPERATION, AND MAINTENANCE STANDARDS (a) An owner shall construct, operate, repair, maintain and replace wind energy system facilities as needed to keep the wind energy system in good repair and operating condition and in a manner that protects individuals from injury

(am) An owner shall minimize soil compaction, topsoil mixing and damage to drainage systems on agricultural land during the construction or decommissioning of the wind energy system. A political subdivision may establish reasonable requirements designed to minimize soil compaction, topsoil mixing and damage to drainage systems on agricultural land

(b) Except for the area physically occupied by the wind energy system facilities, an owner shall restore the topography, soils and vegetation of the project area to original condition after construction is complete, unless otherwise provided in a contract signed by an affected landowner, considering any modifications needed to comply with DNR requirements.

(c) An owner shall carry general liability insurance relating to claims for property damage or bodily injury arising from the construction, operation or decommissioning of the wind energy system and shall include turbine host property owners as additional insured persons on the policy.

(4) EMERGENCY PROCEDURES (a) An owner shall notify a political subdivision of the occurrence and nature of a wind energy system emergency within 24 hours of the wind energy system emergency.

(b) An owner shall establish and maintain liaison with a political subdivision and with fire, police, and other appropriate first responders serving the wind energy system to create effective emergency plans that include all of the following:

1. A list of the types of wind energy system emergencies that require notification under par (a)

2. Current emergency contact information for first responders and for the wind energy system owner, including names and phone numbers

3. Procedures for handling different types of wind energy system emergencies, including written procedures that provide for shutting down the wind energy system or a portion of the system as appropriate

4. Duties and responsibilities of the owner and of first responders in the event of a wind energy system emergency

5. An emergency evacuation plan for the area within 0.5 mile of any wind energy system facility, including the location of alternate landing zones for emergency services aircraft

(c) The owner shall review the emergency plan at least annually in collaboration with fire, police and other appropriate first responders to update and improve the emergency plan as needed

(d) The owner shall distribute current copies of the emergency plan to the political subdivision and fire, police and other appropriate first responders as identified by the political subdivision

(e) A political subdivision may require the owner to provide annual training for fire, police and other appropriate first responders regarding responding to a wind energy system emergency until the wind energy system has been decommissioned

(f) An owner of a wind energy system shall do all of the following:

1. Furnish its operator, supervisors and employees who are responsible for emergency action a copy of the current edition of the emergency procedures established under this subsection to ensure compliance with those procedures

2. Train the appropriate operating personnel to ensure they have knowledge of the emergency procedures and verify that the training is effective

3. As soon as possible after the end of a wind energy system emergency, review employee activities to determine whether the procedures were effectively followed

History: CR 10-057; cr Register February 2011 No. 662, eff 3-1-11.

PSC 128.19 Decommissioning. (1) **REQUIREMENT TO DECOMMISSION** (a) An owner of a wind energy system shall decommission and remove the wind energy system when the system is at the end of its useful life

(b) A wind energy system is presumed to be at the end of its useful life if the wind energy system generates no electricity for a continuous 360-day period. This presumption may be rebutted under par (c)

(c) Upon application by the owner, and except as provided in par. (d), a political subdivision shall grant an extension of the time period for returning the wind energy system to service by one or more additional 180 day periods if the owner demonstrates it is likely the wind energy system will operate again in the future and any of the following occur:

1. The owner submits a plan to the political subdivision that demonstrates an ongoing good faith effort to return the wind energy system to service and outlines the steps and schedule for returning the wind energy system to service in a reasonable period of time, including by repairing, replacing or repowering the wind energy system facilities as necessary to generate electricity

2. The owner demonstrates that the wind energy system is part of a prototype or other demonstration project being used for ongoing research or development purposes

3. The owner demonstrates that the wind energy system is being used for educational purposes.

(d) A political subdivision may deny a request for an extension under par (c) if the wind energy system has not generated any electricity for a continuous period of 540 days or more and the political subdivision finds that the owner is not capable of return-

ing the wind energy system to service within a reasonable period of time

(c) A wind energy system is irrebuttably presumed to be at the end of its useful life if the wind energy system generates no electricity for a period of 540 days and any of the following occur:

1. The owner does not request an extension of the time period for returning the wind energy system to service under par (c)

2. The political subdivision denies a request for an extension under par (d) and any appeal rights have expired

(f) When decommissioning is required, the owner shall begin decommissioning within 360 days after the wind energy system has reached the end of its useful life. The owner shall complete decommissioning and removal of the wind energy system within 540 days after the wind energy system has reached the end of its useful life

(2) **DECOMMISSIONING REVIEW** A political subdivision may establish a decommissioning review process to determine when a wind energy system has reached the end of its useful life

(3) **FINANCIAL RESPONSIBILITY** (a) The owner of a wind energy system with a nameplate capacity of one megawatt or larger shall maintain proof of the owner's ability to fund the actual and necessary cost to decommission the wind energy system and shall ensure the availability of funds necessary for decommissioning throughout the expected life of the wind energy system and through to completion of the decommissioning activities

(b) A political subdivision may require an owner of a wind energy system with a nameplate capacity of one megawatt or larger to provide financial assurance of the owner's ability to pay for the actual and necessary cost to decommission the wind energy system before commencing major civil construction activities such as blasting or foundation construction at the wind energy system site. An owner may comply with this paragraph by choosing to provide a bond, deposit, escrow account, irrevocable letter of credit, or some combination of these financial assurances, that will ensure the availability of funds necessary for decommissioning throughout the expected life of the wind energy system and through to completion of the decommissioning activities

(c) A political subdivision may require an owner to provide the financial assurance under par (b) in an amount up to the estimated actual and necessary cost to decommission the wind energy system. If a political subdivision requires an owner to provide financial assurance under par (b), the political subdivision may do any of the following:

1. Require the owner to provide the political subdivision with up to 3 cost estimates of the actual and necessary cost to decommission the wind energy system that are prepared by third parties agreeable to the owner and the political subdivision

3. Require an owner to establish financial assurance that places the political subdivision in a secured position, and that any secured funds may only be used for decommissioning the wind energy system until either the political subdivision determines that the wind energy system has been decommissioned under sub. (5) (b), or until the political subdivision has otherwise approved the release of the secured funds, whichever is earlier

4. Require an owner to establish financial assurance that allows the political subdivision to access funds for the purpose of decommissioning the wind energy system if the owner does not decommission the wind energy system when decommissioning is required.

(d) If a political subdivision requires an owner to provide cost estimates under par (c) 1., a political subdivision may not require the amount of the financial assurance to exceed the average of the cost estimates provided

(e) A political subdivision may condition its approval of a wind energy system on the owner's compliance with pars (b) and (c)

(f) During the useful life of a wind energy system, the political subdivision may periodically request information from the owner regarding the industry costs for decommissioning the wind energy system. If a political subdivision finds that the future anticipated cost to decommission the wind energy system is at least 10 percent more or less than the amount of financial assurance previously provided under par (b), the political subdivision may correspondingly increase or decrease the amount of financial assurance required for the wind energy system. A political subdivision may not adjust the financial assurance under this paragraph more often than once in a 5-year period

(g) A political subdivision may require an owner to submit to the political subdivision a substitute financial assurance of the owner's choosing under par. (b) if an event occurs that raises material concerns regarding the viability of the existing financial assurance

(4) **SITE RESTORATION** (a) Except as provided in par (b), if a wind energy system was constructed on land owned by a person other than the owner of the wind energy system, the owner of the wind energy system shall ensure that the property is restored to preconstruction condition, unless otherwise provided in a contract signed by an affected landowner, considering any modifications needed to comply with DNR requirements

(b) If a wind energy system was constructed on a brownfield, as defined in s 560.13 (1) (a), Stats., the owner shall restore the property to eliminate effects caused by the wind energy system, except for the effects of environmental remediation activities, as defined in s 560.13 (1) (d), Stats.

(5) **DECOMMISSIONING COMPLETION** (a) An owner shall file a notice of decommissioning completion with the political subdivision and the commission when a wind energy system approved by the political subdivision has been decommissioned and removed

(b) Within 360 days of receiving a notice of decommissioning, a political subdivision shall determine whether the owner has satisfied the requirements of subs (1) (a) and (4)

History: CR 10-057: cr Register February 2011 No. 662, eff 3-1-11.

Subchapter III — Political Subdivision Procedure

PSC 128.30 Application and notice requirements.

(1) **APPLICATION REQUIRED** An owner shall file an application to construct a wind energy system with all political subdivisions with jurisdiction over the wind energy system

(2) **CONTENTS OF AN APPLICATION** An owner shall complete and file with the political subdivision an application that includes all of the following:

(a) Wind energy system description and maps showing the locations of all proposed wind energy facilities

(b) Technical description of wind turbines and wind turbine sites

(c) Timeline and process for constructing the wind energy system

(d) Information regarding anticipated impact of the wind energy system on local infrastructure

(e) Information regarding noise anticipated to be attributable to the wind energy system

(f) Information regarding shadow flicker anticipated to be attributable to the wind energy system

(g) Information regarding the anticipated effects of the wind energy system on existing land uses within 0.5 mile of the wind energy system

(h) Information regarding the anticipated effects of the wind energy system on airports and airspace

(i) Information regarding the anticipated effects of the wind energy system on line-of-sight communications

(j) A list of all state and federal permits required to construct and operate the wind energy system

Chapter 2 Public Nuisances

Section 5-2-1 Public Nuisance (May 2001) (amended August 2016 – items are bold, italicized and underlined)

- a) No person shall cause, allow or permit any person to create any public nuisance areas on premises owned, leased or controlled by that person in the Town of Sherman. The following are specifically declared by the Town board of the Town of Sherman to be public health nuisances. This declaration should not be construed to exclude other public nuisances affecting public health, safety and order in the Town of Sherman.
- 1) No disassembled, dismantled, junked, wrecked or otherwise inoperable motorized vehicle shall be stored or remain on public or private property for a period in excess of 30 days unless contained within a building or under cover such as a car cover or tarpaulin so as to be out of view of the public and by neighboring properties, or unless such property has a properly issued Salvage Junk yard permit issued by the Town Board of the Town of Sherman.
 - 2) A vehicle is to be considered abandoned for the purposes of this ordinance if it is not licensed and is not used on the public roadways at least one day each month.
 - 3) Dilapidated building area where old or dilapidated buildings, structures and equipment are allowed to stand while they are dangerous, unsafe, unsanitary, inhabitable or otherwise unfit for human use and occupancy. Should a building be damaged by fire, storm or other peril, the owner shall have one year's time to raze the building remaining.
 - 4) Dangerous tree area where trees and limbs are in a condition and location to cause a menace or danger to public safety are allowed to stand.
 - 5) Improper structure area where signs, billboards, awnings and other structures are installed or maintained near public highways, roads, streets, sidewalks, parks, public buildings, public premises and other public places that are a menace or danger to public safety but are allowed to stand in the Town of Sherman.
 - 6) Loud noise area where loud, discordant and unnecessary sounds of motor vehicles, animals or music repulsive to the senses of ordinary persons are allowed to continue to the annoyance or discomfort of person or injury to person or property in the Town of Sherman.
 - 7) Allowing an accumulation of decayed animal or vegetable matter, trash, rubbish, scrap lumber or metal, bedding or other waste material where flies, mosquitoes, insects, rats or other vermin are attracted without a proper waste management permit issued by the Town Board of the Town of Sherman.
 - 8) A noxious odor area where emissions of any noxious odors, foul odors, offensive odors, noisome odors, nauseous odors, gases or any stench repulsive to the senses of ordinary persons are allowed to continue to the substantial annoyance or substantial discomfort of persons or are allowed to cause injury to persons or property in the Town of Sherman.
 - 9) **The Town Board finds that lawns, grasses and noxious weeds on lots or parcels of residentially zoned land which exceed eight inches in length adversely affect the public health and safety of the public in that they tend to emit pollen and other discomforting bits of plants, constitute a fire hazard and a safety hazard in that debris can be hidden in the grass, interfere with the public convenience and adversely affect property values of other land within the Town, especially within densely populated areas.**
- b) Penalties.
- 1) **In the nuisance cases of Section 5-2-1 (a) (1-8):** If any condition described above becomes known to the Town of Sherman Constable, the individual involved shall be given a thirty (30) day warning period to correct the problem. If the problem is not then corrected with thirty (30)

days after notification and approval of the Town Board, a municipal citation in the amount of \$100 plus applicable court costs per day shall be issued until the problem has been corrected, or the Town of Sherman Town Board is satisfied that the problem is in the process of being corrected.

2) **In the nuisance case of Section 5-2-1 (a) (9):**

- a) **If any condition described in this section becomes known to any member of the Town Board, the town board shall immediately report such existence to the town clerk/treasurer who shall cause notice to be served that the Town intends to have the lot, grass or lawn cost so as to conform with this section, with the cost being charged to the owner.**
- b) **The notice shall be served on or mailed to the owner of the lot or parcel of land or, if he is not known and there is a tenant occupying the property, then to the tenant, at least five days prior to the date of enforcement.**
- c) **In any case where the owner, occupant or person in charge of the property shall fail to cut his lawn, grass or weeds as set forth above, then and in that event, the Town may cut said lawn, grass or weeds and charge the cost of abatement to the property owner.**

If the cost of abatement is not paid in full within 30 days thereafter, the Clerk/Treasurer shall enter the charges in the tax roll as a special charge against said lot or parcel of land, and the same shall be collected in all respects like other taxes upon real estate.

Ordinance #2015-04
Municipality Code 59028
State of Wisconsin
Town of Sherman
Sheboygan County

ORDINANCE ADOPTING NOTICE OF RECORDS ACCESS

The Town Board of the Town of Sherman, Sheboygan County, Wisconsin, has the specific authority under s. 19.34, Wis. stats., to adopt this ordinance.

This ordinance, adopted by a majority of the town board on a roll call vote with a quorum present and voting and proper notice having been given, adopts the attached Notice of Records Access, which, pursuant to s. 19.34(1), Wis. Stats., contains a description of the town's organization and the established times and places at which, the legal custodian from whom, and the methods whereby the public may obtain information from and access to records in the town's custody, make requests for town records, or obtain copies of town records, and the costs thereof, and the attached to this ordinance is so adopted:

NOTICE OF RECORDS ACCESS

Municipality Code 59028
State of Wisconsin
Town of Sherman
Sheboygan County

The clerk of the Town of Sherman, Sheboygan County, Wisconsin, by this notice states that the clerk of the Town of Sherman has been designated under s. 19.33, Wis. Stats., as the legal custodian of records for the Town of Sherman, except that elected officials are the custodians of their own records of office and chairpersons of committees of elected officials are custodians of the records of the committee.

The public may obtain information and access to records in the custody of the clerk or other appropriate legal custodian, make requests for records, or obtain copies of records, and learn the costs of obtaining copies of records from the town clerk or other appropriate legal custodian as follows:

The town clerk maintains regular office as posted, except legal holidays, at W6566 STH 144, Random Lake, WI.

As required under s. 19.34(1), Wis. Stats., each Town Local Public Office is listed below. The public may obtain information and access to records in the custody of elected officials and chairperson of committees of elected officials as the custodians of their own records of office, make requests for records, or obtain copies of records, and learn the costs of obtaining copies of records from the elected official or chairperson in accordance with the contact information designated as follows:

<u>Local Public Office</u>	<u>Office Holder</u>	<u>Contact Information</u>
Town Board Chair	(see website or contact clerk for current office holder)	(see website or contact clerk for current contact information)
Town Board Supervisor	(see website or contact clerk for current office holder)	(see website or contact clerk for current contact information)

The following are the fees for satisfying record requests under s. 19.35, Wis. Stats.:

Actual cost of transcription and reproduction:	\$0.25 per page
Actual cost of photography and photographic processing:	\$1.00 per page
Actual cost of locating a record if the cost is more than \$50:	\$15 per hour
Actual cost of shipping and mailing of any copy or photograph:	actual

Dated this 6 day of April, 2015 
Rhonda J. Klatt, Clerk/Treasurer

This ordinance is effective on April 7, 2015. The town clerk shall properly post or publish this ordinance as required under s. 60.80, Wis. Stats.

Adopted this 6 day of April 2015

William Goehring William Goehring, Town Chair

Kris Klein Kris Klein, Town Supervisor

Patricia Horne Patricia Horne, Town Supervisor

James Fahney James Fahney, Town Supervisor

Robert Boehlke Robert Boehlke, Town Supervisor

Attest: Rhonda J. Klatt Rhonda J. Klatt, Town Clerk

Resolution #2015-13
Municipality Code 59028
Town of Sherman
Sheboygan County
State of Wisconsin

RESOLUTION TO REVISE LOCAL LEGAL POSTING LOCATIONS

WHEREAS: Wisconsin Statute 985.01(7), 985.02 (2) (a), 985.02 (2) (b), 985.02 (2) (c), 985.02 (3) and 985.08 (1) provide a method of notification of legal notices

WHEREAS: Under previous law, a municipality must post notice in at least three public places likely to give notice to persons affected, and must post a notice that would be published before the act or event requiring notice no later than the time specified for the first newspaper publication, or if the notice would be published after the act or event requiring notice, must post the notice within one week after the act or event.

WHEREAS: Under 2015 Senate Bill 137, signed into law on November 11, 2015, a municipality that opts to post a legal notice in lieu of publication may, instead of posting the notice in three public places, post the notice in one public place and publish the notice on the municipality's Internet site.

NOW THEREFORE BE IT RESOLVED: That the Town of Sherman, Sheboygan County, Wisconsin does hereby consider our Town website and the posting board at our meeting location to be our legal posting locations.

This resolution repeals any previous resolutions or ordinances pertaining to the towns posting locations.

Signed this 1 day of December 2015.

William Goehring
William Goehring, Town Chair

Kris Klein
Kris Klein, Town Supervisor

Patricia Horne
Patricia Horne, Town Supervisor

James Fahney
James Fahney, Town Supervisor

Robert Boehlke
Robert Boehlke, Town Supervisor

ATTEST:

Rhonda J. Klatt 12/01/15
Rhonda J. Klatt, Town Clerk Date

Resolution #2015-14
Municipality Code 59028
Town of Sherman
Sheboygan County
State of Wisconsin

RESOLUTION RELATING TO THE REFUND OF CERTAIN OVERPAYMENTS TO THE TOWN

WHEREAS, in the process of collecting payments of property taxes, permit fees and other monies on behalf of the Town, the clerk/treasurer occasionally receives payment in excess of the amount owed to the Town through error, inadvertence or oversight; and

WHEREAS, the past policy of the Town has been to refund any such overpayments, regardless of amount, to the payor; and

WHEREAS, the Town Board recognizes that the cost to taxpayers to process such refunds often exceeds the amount of the refund; and

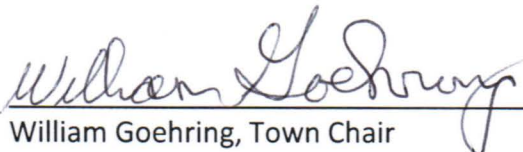
WHEREAS, the Town Board has determined that it is not cost effective to process refund of nominal overpayments in the absence of a demand for refund; and

WHEREAS, the Town Board determined that is in the interest of the Town to establish a policy to retain nominal overpayments absent demand by the payor for refund.

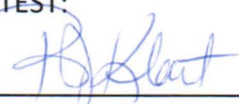
NOW THEREFORE BE IN RESOLVED, the Town Board of the Town of Sherman, Sheboygan County, Wisconsin, does hereby ordain a "Nominal Overpayment" shall be the overpayment of any tax, fee, or other obligation to the Town in an amount which does not exceed \$5, and as an administrative convenience the Town shall retain any nominal overpayment and shall not process a refund of the same, and the nominal overpayment retained by the Town shall be credited to the general fund.

This Resolution shall take effect and be enforced after its passage and posting.

Signed this 1 day of Dec, 2015.



William Goehring, Town Chair

ATTEST:


Rhonda J. Klatt, Town Clerk

ORDINANCE REGULATING USE AND OCCUPANCY OF PUBLIC RIGHTS-OF-WAY

SECTION 1.0 - GENERAL PROVISIONS

SECTION 1.01 – AUTHORITY

The Town Board of the Town of Sherman, Sheboygan County, Wisconsin, has the specific authority under §66.0103 and §19.34 Wis. Stats., to prepare and adopt this ordinance. Town hereby enacts this ordinance relating to administration of and permits to excavate, obstruct and/or occupy the public rights-of-way. This ordinance imposes reasonable regulations on the placement and maintenance of equipment currently within its rights-of-way or to be placed therein at some future time. It is intended to complement the regulatory roles of state and federal agencies.

SECTION 1.02 – PURPOSE

The purpose of this ordinance is to provide the Town a legal framework within which to regulate and manage the public rights-of-way, and to provide for recovery of the costs incurred in doing so. This ordinance provides for the health, safety and welfare of the residents of the Town as they use the right-of-way of the Town, as well as to ensure the structural integrity of the public rights-of-way. In the exercise of governmental functions the Town has priority over all other uses of the public rights-of-way. The Town desires to anticipate and minimize the number of obstructions and excavations taking place therein and to regulate the placement of facilities in the Rights-of-Way to ensure that the Rights-of-Way remain available for public services and safe for public use. The taxpayers of the Town bear the financial burden for the upkeep of the rights-of-way and a primary cause for the early and excessive deterioration of its rights-of-way is the frequent excavation by Persons who locate facilities therein. The Town finds increased use of the public rights-of-way and increased costs to the taxpayers of the Town and that these costs are likely to continue into the foreseeable future. The Town finds that occupancy and excavation of its rights-of-way causes costs to be borne by the Town and its taxpayers, including but not limited to:

1. Administrative costs associated with public right-of-way projects, such as registration, permitting, inspection and supervision, supplies and materials.

2. Management costs associated with ongoing management activities necessitated by public right-of-way users.

3. Repair or restoration costs to the roadway associated with the actual

excavation into the public right-of-way.

4. Degradation costs defined as depreciation caused to the roadway in terms of decreased useful life, due to excavations into the public rights-of-way.

SECTION 1.03 - EFFECTIVE DATE

This ordinance is effective on publication or posting. The town clerk shall properly post or publish this ordinance as required under §60.80 Wis. Stats.

SECTION 1.04 - RESERVATION OF REGULATORY AND POLICE POWERS

The Town, by the granting of a permit to excavate, obstruct and/or occupy the right-of-way, or by registering a person under this Ordinance does not surrender or in any extent lose, waive, impair, or lessen the lawful powers and rights, which it has now or maybe hereafter granted to the Town under the Constitution and statutes of the State of Wisconsin to regulate the use of the right-of-way by the permittee; and the permittee by its acceptance of a permit to excavate, obstruct and/or occupy the right-of-way or of registration under this Ordinance agrees that all lawful powers and rights, regulatory powers, or police power, or otherwise as are or the same may be from time to time vested in or reserved to the Town, shall be in full force and effect and subject to the regulatory and police powers of the Town to adopt and enforce general ordinances necessary to the safety and welfare of the public and is deemed to agree to comply with all applicable general law, and ordinances enacted by the Town pursuant to such powers.

SECTION 1.05 - SEVERABILITY

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

SECTION 2.0 – DEFINITIONS.

A. The following definitions apply in this ordinance. References hereafter to "sections" are unless otherwise specified references to sections in this ordinance. Defined terms remain defined terms whether or not capitalized.

1. **APPLICANT.** Any person requesting permission to excavate, obstruct and/or occupy a right-of-way.

2. **DEGRADATION.** The decrease in the useful life of the paved portion of the right-of-way, excluding the sidewalk right-of-way, caused by an excavation of the right-of-way, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation did not occur.

3. **EMERGENCY.** A condition that (1) poses a clear and immediate danger to life or health, or of a significant loss of property; or (2) requires immediate repair or replacement in

order to restore service to a customer.

4. EXCAVATE. To dig into or in any way remove or physically disturb or penetrate any part of a right-of-way.

5. FACILITIES. All equipment owned, operated, leased or subleased in connection with the operation of a service or utility service, and shall include but is not limited to poles, wires, pipes, cables, underground conduits, ducts, manholes, vaults, fiber optic cables, lines and other structures and appurtenances.

6. IN, when used in conjunction with "right-of-way". Over, above, within, on or under a right-of-way.

7. INSPECTOR. The Town Building Inspector.

8. LOCAL REPRESENTATIVE. A local person or persons, or designee of such person or persons, authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this Ordinance.

9. OBSTRUCT. To place any object in a right-of-way so as to hinder free and open passage over that or any part of the right-of-way.

10. PERMITTEE. Any Person to whom a permit to occupy, excavate or obstruct a Right-of-Way has been granted by the Town under this Ordinance.

11. PERSON. Corporation, company, association, firm, partnership, limited liability company, limited liability partnership and individuals and their lessors, transferees and receivers.

12. PUBLIC UTILITY. As defined in Wis. Stats 196.01(5).

13. REGISTRANT. Any person who has registered with the Town to have its facilities located in any right-of-way.

14. REPAIR. To perform construction work necessary to make the right-of-way useable for travel according to Inspector specifications, or to restore equipment to an operable condition.

15. RESTORE or RESTORATION. The process by which an excavated right-of-way and surrounding area, including pavement and foundation is reconstructed, per Inspector specifications.

16. RIGHT-OF-WAY. The surface and space above and below an improved or

unimproved public roadway, highway, street, bicycle lane and public sidewalk in which the Town has an interest, including other dedicated rights-of-way for travel purposes.

17. TOWN. The Town of Sherman, Wisconsin, a Wisconsin municipal corporation.

B. Administration. The Inspector or his/her designee is responsible for the administration of the rights-of-way, and the permits and ordinances related thereto.

SECTION 3.0 – APPLICATION FOR RIGHT-OF-WAY OCCUPANCY

SECTION 3.01 – GENERAL APPLICATION REQUIREMENTS

A. Each person who has, or seeks to have, facilities located in any right-of-way shall apply with the Inspector and pay the fee set forth in Section 3.03. Application will consist of providing information specified by the Town and paying a registration fee. This section shall not apply to those persons who have facilities in the right-of-way pursuant to a franchise or other agreement.

B. No person may construct, install, maintain, repair, remove, relocate or perform any other work on, or use any equipment or any part thereof in any right-of-way unless that person has made an application to the Inspector.

SECTION 3.02 – REQUIRED APPLICATION INFORMATION

A. Application Information. The information provided to the Inspector at the time of application shall include, but not be limited to:

1. Each registrant's name, Diggers Hotline registration certificate number, address and email address, if applicable, and telephone and facsimile numbers.
2. The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of application.
3. Reason for and a clear description of the proposed work, use, structure, or obstruction, and the exact location of said work, use, structure or obstruction.
4. The requested dates and hours of work or placement of obstruction;
5. Other local, state or federal approvals, if necessary;
6. A certificate of insurance.

7. If the registrant is a corporation, a LLC or LLP, a copy of any certificate required to be filed under Wisconsin Statutes as recorded and certified by the Secretary of State.

8. A copy of the registrant's certificate of authority from the Wisconsin Public Service Commission or other applicable state or federal agency, where the person is lawfully required to have such certificate from said commission or other state or federal agency.

9. Sufficient evidence of the following health, welfare, and safety concerns:

a. Town infrastructure shall remain fully operational and it shall not be disturbed or altered unless permitted by the Town;

b. Drainage shall not be affected in the location; and

c. The placement of any structure or obstruction shall not present a safety concern, with the construction site being sufficiently lit (if applicable) or fenced and guarded (if applicable).

10. Execution of an indemnification agreement in a form prescribed by the Inspector.

B. The registrant shall keep all of the information listed above current at all times by providing to the Inspector information as to changes within fifteen (15) working days following the date on which the registrant has knowledge of any change.

SECTION 3.03 – APPLICATION FEE

The Inspector shall charge an Application Fee to recover the costs incurred by the Town for processing the application and an annual fee to for costs for updating registration information. Said fees are set by and found in the Town Fee Schedule.

SECTION 3.04 – INTERACTION WITH OTHER TOWN RESOLUTIONS OR ORDINANCES

Nothing herein shall be construed to repeal or amend the provisions of a Town ordinance regulating excavation on private property, constructing sidewalks or driveways or other similar activities. Persons performing such activities shall not be required to obtain any permits under this Ordinance.

SECTION 3.05 – REVIEW OF AN APPLICATION FOR RIGHT-OF-WAY USER

A. The following standards shall be used in reviewing an application for a right-of-way user:

1. Applicant shall have a non-exclusive use of the premise;
2. Granting the request shall not contribute to public expense;
3. Applicant's use of the premise shall be in compliance with all local, state, or federal laws. Applicant shall obtain all permits required by local, state, or federal authorities required for the use of the premises;
4. Applicant shall not install any utility lines, equipment and/or facilities on private

property without written consent of the owner, and shall verify parcel boundaries. Easement/access agreements shall be obtained for any Town parcels not part of public rights-of way;

5. A Right-of-Way User Registration shall not be construed as a waiver of the applicant's obligation to comply with other or more restrictive Town ordinances;

6. Town infrastructure shall not be disturbed or altered unless otherwise permitted, and shall remain visible, accessible and operational. Any Town infrastructure damaged shall be immediately reported to the Inspector, be repaired to Town standards, and inspected and approved by the Inspector at the expense of the applicant;

7. Any construction, reconstruction, improvements or restoration of the public right-of-way after disturbance shall be consistent with Town standards and all public rights-of-way shall be restored to their original condition upon completion of the work, activities, or installation, unless otherwise permitted;

8. Drainage shall not be adversely affected due to the installation of any utility lines, structures, equipment or facilities;

9. Placement of obstructions during installation and all work and activities shall:

- a. Not present a public safety concern;
- b. Be sufficiently lit at night (if required by permit) so as to be in full view of the public from all directions;
- c. Be fenced or guarded (if required by permit) in a manner which insures public safety; and
- d. Be consistent with any limitations and conditions set forth in the approval.

10. The applicant shall indemnify and hold the Town harmless for any loss/liability, claims, or damage to any person or property arising from:

a. Applicant's installation, maintenance and/or operation under the approved registration;

- b. Vandalism;
- c. Interruption in any service from any cause; and
- d. Fire, water, rain, snow, steam, sewerage, gas or odors, from any source.

11. Any other standards as determined by the Inspector or Town Board.

SECTION 4.0 – PERMIT TO EXCAVATE IN RIGHT-OF-WAY REQUIRED

SECTION 4.01 – EXCAVATION PERMIT REQUIRED

Except as otherwise provided in this Ordinance or other Ordinances of the Town of Sherman, no person shall excavate any right-of-way without first having obtained an excavation permit from the Inspector. A copy of any permit issued under this Ordinance shall be made available at all times by the Permittee at the indicated work site and shall be available for inspection by the Inspector upon request.

SECTION 4.02 – EXCAVATION PERMIT APPLICATION REQUIREMENTS

A. Application for a permit shall be made to the Inspector.

B. Permit applications shall contain, and will be considered complete only upon compliance with the requirements of the following provisions:

1. Application with the Inspector as required by this Ordinance.

2. Submission of a completed permit application form, including all required attachments, and scaled drawings showing the location and area of the proposed project and the location of all existing and proposed facilities that are part of applicant's proposed project.

3. Payment of all money due to the Town for:

a. Applicable permit fees and costs as set forth below;

b. unpaid fees or costs due for prior excavations; or

c. any loss, damage, or expense suffered by the Town because of applicant's prior excavations of the rights-of-way or any emergency actions taken by the Town.

SECTION 4.03 – EXCAVATION PERMIT FEE

A. An Excavation Permit Fee shall be established by the Inspector in an amount sufficient to recover the costs incurred by the Town as set by and found in the Town Fee Schedule. This fee shall recover administrative and inspection costs, as well as degradation costs should the permittee choose to repair rather than restore the right-of-way. Payment of said fees shall be collected prior to issuance of the permit. However, the Inspector, with the advice and consent of the Town Board, shall establish a fee collection process from governmental agencies and private utilities in order to expedite the permitting system and recognize that certain excavations are deemed emergencies as referenced in the Town Fee Schedule.

B. Waiving of Fees. Fees shall not be waived unless the work involved is a direct result of the Inspector's demand that a structure owned by a utility be removed or relocated or unless waived by the Town Board on appeal.

C. Town Exemption. The Town and its contractors shall not pay degradation fees for excavations due to general government functions.

D. Permit fees paid for a permit that the Inspector has revoked are not refundable.

SECTION 4.04 – COMPLIANCE WITH OTHER LAWS

Obtaining a permit to excavate and/or occupy the right-of-way does not relieve Permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by any other Town, County, State, or Federal rules, laws or regulations. A permittee shall comply with all requirements of local, state and federal laws. A permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does

the work.

SECTION 5.0 – RIGHT-OF-WAY REPAIR/RESTORATION

SECTION 5.01 – RIGHT-OF-WAY REPAIR AND RESTORATION REQUIREMENTS

The Permittee shall be required to repair the public right-of-way to Inspector specifications, subject to inspection and acceptance by the Inspector, and to pay a degradation fee, as per Section 5.04 unless the Permittee elects to restore the right-of-way pursuant to Section 5.05. In addition to repairing its own work, the Permittee must repair the general area of the work, and the surrounding areas, including the paving and its foundations, to the specifications of the Inspector. The Inspector shall inspect the area of the work and accept the work when it determines that proper repair has been made, per specifications of the Inspector.

SECTION 5.02 – REPAIR/RESOTRATION GUARANTEES

The Permittee guarantees its work and shall maintain it for thirty-six (36) months following its completion. During this period it shall, upon notification from the Inspector, correct all work to the extent necessary, using the method required by the Inspector. Said work shall be completed within ten (10) calendar days of the receipt of the notice from the Inspector, not including days during which work cannot be done because of circumstances constituting force majeure.

SECTION 5.03 – FAILURE TO REPAIR/RESTORE

If the Permittee fails to repair/restore the right-of-way in the manner and to the condition required by the Inspector, or fails to satisfactorily and timely complete all work required by the Inspector, the Inspector at his/her option may do such work. In that event the Permittee shall pay to the Town, within thirty (30) days of billing, the cost of repairing/restoring the right-of-way.

SECTION 5.04 – DEGRADATION FEE

Degradation fee schedule is available upon request from the Inspector and is set by and found in the Town Fee Schedule.

SECTION 5.05 – RESTORATION IN LIEU OF REPAIR AND DEGRADATION

The Permittee may elect to restore the excavation and surrounding pavement in lieu of repair and a degradation fee. The restoration shall be in accordance with the Standard Specifications for Public Works Construction and the plans and specifications of the Inspector. The Permittee shall then also comply with Sections 5.02 and 5.03.

SECTION 6.0 – INSPECTION

A. Notice of Completion. When the work under any permit hereunder is begun and completed, the Permittee shall notify the Inspector.

B. Site Inspection. Permittee shall make the work site available to the Inspector and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

C. Authority of Inspector. At the time of inspection the Town may order the immediate cessation of any work which poses a threat to the life, health, safety or well being of the public. The Town may issue an order to the registrant or Permittee for any work that does not conform to the applicable Town standards, conditions or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten (10) days after issuance of the order, the registrant or Permittee shall present proof to the Inspector that the violation has been corrected. If such proof has not been presented within the required time, the Inspector may revoke the permit pursuant to Section 8.08(12).

SECTION 7.0 – ONGOING MANAGEMENT FEES

The cost of trimming trees around facilities is an ongoing cost to the Town. The specific cost will be determined and a fee to offset those costs may be assessed in the future.

SECTION 8.0 – PERMIT REVOCATION, SUSPENSION OR REFUSAL TO ISSUE/EXTEND

A. The Inspector may refuse to issue a permit or may revoke, suspend or refuse to extend an existing permit if it finds any of the following grounds:

1. The applicant or Permittee is required to be registered and has not done so;
2. Issuance of a permit for the requested date would interfere with an exhibition, celebration, festival or other event;
3. Misrepresentation of any fact by the applicant or Permittee;
4. Failure of the applicant or Permittee to maintain required bonds and/or insurance;
5. Failure of the applicant or Permittee to complete work in a timely manner;
6. The proposed activity is contrary to the public health, safety or welfare;
7. The extent to which right-of-way space where the permit is sought is available;
8. The competing demands for the particular space in the right-of-way;
9. The availability of other locations in the right-of-way or in other rights-of-way for the facilities of the Permittee or applicant;
10. The applicability of ordinances or other regulations of the right-of-way that affect location of facilities in the right-of-way;

B. Discretionary Issuance. The Inspector may issue a permit where issuance is necessary (a) to prevent substantial economic hardship to a customer of the Permittee or applicant, or (b) to allow such customer to materially improve its utility service, or (c) to allow the Permittee or

applicant to comply with state or federal law or Town ordinance or an order of a court or administrative agency.

C. Appeals. Any person aggrieved by a decision of the Inspector revoking, suspending, refusing to issue or refusing to extend a permit may file a request for review with the Town Board. A request for review shall be filed within ten (10) days of the decision being appealed. Following a hearing, the Town Board may affirm, reverse or modify the decision of the Inspector.

SECTION 9.0 – WORK DONE WITHOUT A PERMIT

A. Emergency Situations

1. Each registrant shall immediately notify the Town by verbal notice on an emergency phone number provided by the Town of any event regarding its facilities that it considers to be an emergency. The registrant may proceed to take whatever actions are necessary to respond to the emergency. Within two business days after the occurrence of the emergency the registrant shall apply for the necessary permits, pay the fees associated therewith and otherwise fully comply with the requirements of this Ordinance.

2. If the Town becomes aware of any emergency regarding a registrant's facilities, the Inspector may attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. The Town may take whatever action it deems necessary to protect the public safety as a result of the emergency, the cost of which shall be borne by the registrant whose facilities occasioned the emergency.

B. Non-Emergency Situations. Except in an emergency, any person who, without first having obtained the necessary permit, excavates a right-of-way must subsequently obtain a permit, and shall in addition to any penalties prescribed by ordinance, pay double the normal fee for said permit, pay double all the other fees required by this Ordinance and deposit with the Inspector the fees necessary to correct any damage to the right-of-way and comply with all of the requirements of this Ordinance.

SECTION 10.0 – LOCATION OF FACILITIES

A. Undergrounding. Unless in conflict with state or federal law, except when existing aboveground facilities are used, the installation of new facilities and replacement of old facilities shall be done underground or contained within buildings or other structures in conformity with applicable codes.

B. Limitation of Space. The Inspector may prohibit or limit the placement of new or additional facilities within the right-of-way if there is insufficient space to accommodate all of the requests of persons to occupy and use the right-of-way. In making such decisions, the Inspector shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but may prohibit or limit the placement of new or additional facilities when required to protect the public, health, safety or welfare.

C. Relocation of Facilities. A registrant must, promptly and at its own expense, permanently

remove and relocate its facilities in the right-of-way whenever the Town, acting in its governmental capacity, requests such removal and relocation. If requested, the registrant shall restore the right-of-way. Notwithstanding the foregoing, a person shall not be required to remove or relocate its facilities from any right-of-way which has been vacated in favor of a non-governmental entity unless and until the reasonable costs thereof are first paid to the person therefore.

D. Interference with Other Facilities during Town/Municipal Construction. When the Town performs work in the right-of-way and finds it necessary to maintain, support, shore, or move a registrant's facilities, the Town shall notify the local representative. The registrant shall meet with the Town's representative within twenty-four (24) hours and coordinate the protection, maintenance, supporting and/or shoring of the registrant's facilities. The registrant shall accomplish the needed work within seventy-two (72) hours, unless the Town agrees to a longer period. In the event that the registrant does not proceed to maintain, support, shore or move its facilities, the Town may arrange to do the work and bill the registrant, said bill to be paid within thirty (30) days.

SECTION 11.0 – ABANDONED FACILITIES

SECTION 11.01 – DISCONTINUED OPERATIONS

A. The registrant who has determined to discontinue its operations in the Town must either:

1. Provide information satisfactory to the Inspector that the registrant's obligations for its facilities under this Ordinance have been lawfully assumed by another registrant; or

2. Submit to the Inspector a proposal and instruments for dedication of its facilities to the Town. If a registrant proceeds under this clause, the Town may, at its option:

a. accept the dedication for all or a portion of the facilities; or
b. require the registrant, at its own expense, to remove the facilities in the right-of-way at ground or above ground level; or

c. require the registrant to post a bond or provide payment sufficient to reimburse the Town for reasonably anticipated costs to be incurred in removing the facilities.

B. Any registrant who has unusable and abandoned facilities in any right-of-way shall remove it from that right-of-way within two years, unless the Inspector waives this requirement.

SECTION 11.02 – ABANDONED FACILITIES

Facilities of a registrant who fails to comply with Section 11.01(A)(I), and which, for two (2) years, remains unused shall be deemed to be abandoned. Abandoned facilities are deemed to be a nuisance. In addition, to any remedies or rights it has at law or in equity the Town may, at its option (i) abate the nuisance, (ii) take possession of the facilities, or (iii) require removal of the facilities by the registrant, or the registrant's successor in interest.

SECTION 11.03 – PUBLIC UTILITIES

This section shall not apply to a public utility, as defined by Section 196.01(5), Wis. Stats, that is required to follow the provisions of Section 196.81, Wis. Stats.

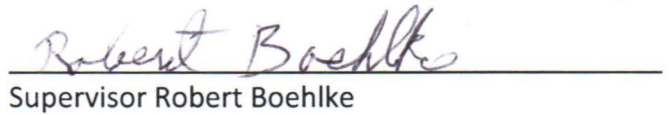
SECTION 12.0 – PENALTY

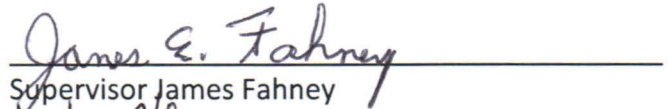
Any person who violates this ordinance or fails to comply with the provisions of this ordinance shall be subject to a forfeiture as set by and found on the Town Fee Schedule.

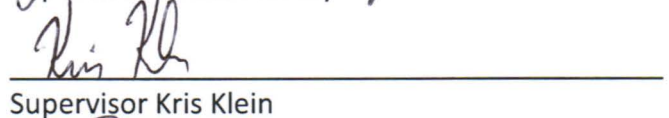
This ordinance is subject to renumbering by the Clerk/Treasurer upon entrance in the Town of Sherman Code of Ordinances.

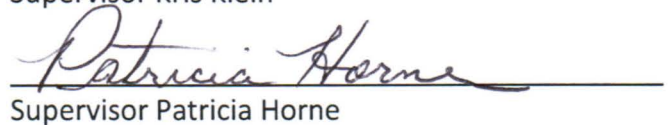
Adopted this 7th day of June, 2016


Chair William C. Goehring

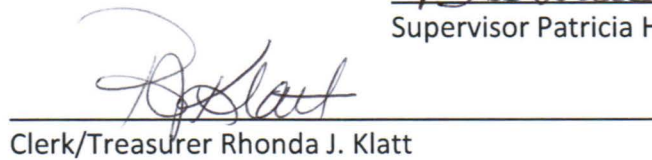

Supervisor Robert Boehlke


Supervisor James Fahney


Supervisor Kris Klein


Supervisor Patricia Horne

ATTEST:


Clerk/Treasurer Rhonda J. Klatt

Ordinance #2017-02
Municipality Code 59028
State of Wisconsin
County of Sheboygan
Town of Sherman

Ordinance to Designate Class "B" Highways

The Town Board of the Town of Sherman, Sheboygan County, Wisconsin, has the specific authority under s. 349.15 (2), Wis. stats., to adopt this ordinance.

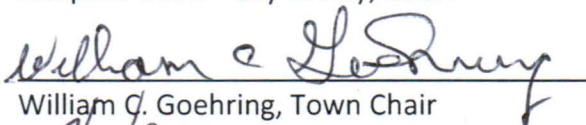
This ordinance, adopted by a majority of the town board on a roll call vote with a quorum present and voting and proper notice having been given, designates town highways as class "B" highways in the town as follows:

- A. The following town highways in the Town of Sherman are designated class "B" highways subject to the weight limits set forth in s. 348.16 (2), Wis. stats., unless increased by town ordinance: Town Line Road (Starting at Random Lake Road, west 1,350 feet on Town Line Road.)
- B. The town chairperson, or his or her designee, shall place appropriate traffic signs on the above-described highways on or before the effective date of this ordinance.
- C. No person may operate any vehicle on the above-noted highways in violation of the weight limits set forth in s. 348.16 (2), Wis. stats. Upon conviction for a violation of this ordinance, the violator shall pay a forfeiture of not less than \$100 nor more than \$500 plus the applicable surcharges, assessments, and costs for each violation. Each trip in violation of this ordinance constitutes a separate offense. In addition, the town board may seek injunctive relief from a court of record to enjoin further violations.

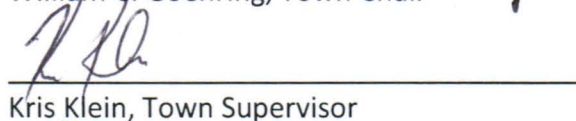
This ordinance is effective on Friday, July 14, 2017; Publication date of Class 1 notice: July 13, 2017

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

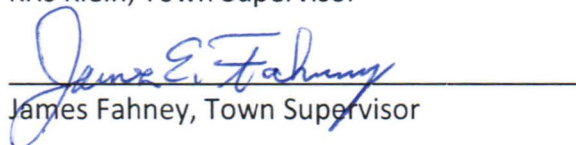
Adopted this 5th day of July, 2017.



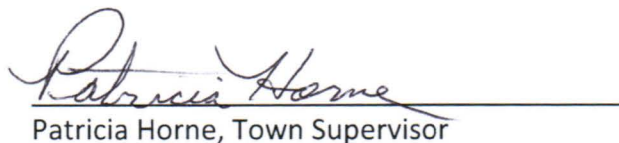
William C. Goehring, Town Chair



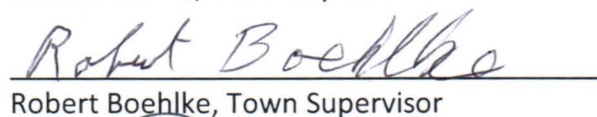
Kris Klein, Town Supervisor



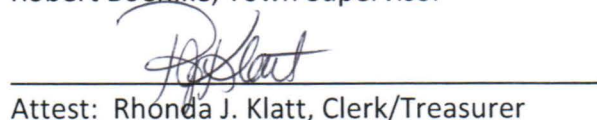
James Fahney, Town Supervisor



Patricia Horne, Town Supervisor



Robert Boehlke, Town Supervisor



Attest: Rhonda J. Klatt, Clerk/Treasurer

Ordinance #2021-01
Municipality Code 59028
STATE OF WISCONSIN
Town of Sherman
Sheboygan County

All-terrain Vehicle and Utility-terrain Vehicle Route Ordinance

SECTION I – TITLE AND PURPOSE

The title of this ordinance is the Town of Sherman All-Terrain Vehicle and Utility Terrain Vehicle Route Ordinance. The purpose of this ordinance is to establish all-terrain vehicle and utility terrain vehicle routes in the town and to regulate the operation of all-terrain vehicles and utility terrain vehicles in the town.

SECTION II – AUTHORITY

The Town Board of the Town of Sherman, Sheboygan County, Wisconsin, has the specific authority to adopt this All-Terrain Vehicle and Utility Terrain Vehicle Ordinance under s. 23.33 (8) (b) and (11), Wis. stats.

SECTION III – ADOPTION OF ORDINANCE

This ordinance adopted on proper notice with a quorum and roll call vote by a majority of the town board present and voting, provides the authority for the town to designate all-terrain vehicle and utility terrain vehicle routes in the town and to regulate the use of those routes and all-terrain vehicles and utility terrain vehicles in the town, designates all-terrain vehicle and utility terrain vehicle routes in the town and provides for the regulation of the use of those routes and of all-terrain vehicles [and utility terrain vehicles] in the town.

SECTION IV – OPERATION OF ALL-TERRAIN VEHICLES [AND UTILITY TERRAIN VEHICLES]

Pursuant to s. 23.33 (4) (d) 4., Wis. stats., except as otherwise provided in s. 23.33 (4), Wis. stats., no person may operate an all-terrain vehicle and utility terrain vehicle on the roadway portion of any highway in the town except on roadways that are designated as all-terrain vehicle and utility terrain vehicle routes by this ordinance. Operation of all-terrain vehicles [and utility terrain vehicles] on a roadway in the town that is an all-terrain vehicle and utility terrain vehicle route is authorized only for the extreme right side of the roadway except that left turns may be made from any part of the roadway that is safe given prevailing conditions.

SECTION V – DESIGNATION OF ALL-TERRAIN VEHICLE AND UTILITY TERRAIN VEHICLE ROUTES

All town roads (except for Townline and Mill Roads) will be open to all-terrain vehicles and utility terrain vehicles unless otherwise posted. Townline Road will be closed until the Town of Fredonia allows all-terrain vehicles and utility terrain vehicles on its town roads, and Mill Road will be closed until the Town of Holland allows all-terrain vehicles and utility terrain vehicles on its town roads.

All county and state roadways posted 35 mph or less will be open to ATV/UTV usage as authorized under Wis. Stats. S. 23.33 (11) (am) (4) unless otherwise posted.

Certain connector segments of county roads will be opened upon approval of the Sheboygan County Transportation Committee. (include a map and listing of connectors once approved)

SECTION VI – CONDITIONS APPLICABLE TO ALL-TERRAIN VEHICLE AND UTILITY TERRAIN VEHICLE ROUTES

Pursuant to s. [23.33 \(8\) \(d\)](#), Wis. stats., the following restrictions are placed on the use of the town all-terrain vehicle and utility terrain vehicle routes designated by this resolution:

- A. Routes shall be marked with uniform all-terrain vehicle and utility terrain vehicle route signs in accordance with s. [23.33 \(8\) \(e\)](#), Wis. stats., and s. [NR 64.12 \(7\)](#), Wisconsin Administrative Code. No person may do any of the following in regard to signs marking town all-terrain vehicle and utility terrain vehicle routes:
 - 1. Intentionally remove, damage, deface, move, or obstruct any uniform all-terrain vehicle and utility terrain vehicle route or trail sign or standard or intentionally interfere with the effective operation of any uniform all-terrain vehicle and utility terrain vehicle route or trail sign or standards if the sign or standard is legally placed by the state, any municipality, or any authorized individual.
 - 2. Possess any uniform all-terrain vehicle and utility terrain vehicle route or trail sign or standard of the type established by the department for the warning, instruction, or information of the public, unless he or she obtained the uniform all-terrain vehicle and utility terrain vehicle route or trail sign or standard in a lawful manner. Possession of a uniform all-terrain vehicle and utility terrain vehicle route or trail sign or standard creates a rebuttable presumption of illegal possession.
- B. Operation shall be subject to all provisions of s. [23.33](#), Wis. stats., which is adopted as a part of this ordinance by reference, pursuant to s. [23.33 \(11\)](#), Wis. stats.
- C. A copy of this ordinance shall be sent by the town clerk to the Department of Natural Resources, the Sheboygan County Sheriff's Department and any other law enforcement agency serving the Town of Sherman's jurisdiction.
- D. Additional restrictions: The town reserves the right to open and close any or all routes by a simple Town Board motion.

SECTION VII - ENFORCEMENT

This ordinance may be enforced by any law enforcement officer authorized to enforce the laws of the state of Wisconsin [and additionally as stated in the Town's citation authority ordinance adopted per s. [66.0113](#)]

SECTION VIII - PENALTIES

The penalties under s. [23.33 \(13\)](#), Wis. stats., are adopted by reference.

SECTION IX – SEVERABILITY

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

SECTION X – EFFECTIVE DATE

This ordinance is effective on publication or posting.

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

Adopted this 4 day of May, 2021



William C. Goehring, Town Chair



Howard C. Mitchell, Town Supervisor



Kris Klein, Town Supervisor



Patricia Horne, Town Supervisor



James Fahney, Town Supervisor



Attest: Rhonda J. Klatt, Clerk/Treasurer

ORDINANCE RELATING TO OPEN OUTDOOR BURNING

WHEREAS, the Town Board wishes to promote the safety and welfare of the Town of the Sherman, Sheboygan County, Wisconsin, by reducing fire hazards of open outdoor burning.

NOW THEREFORE, the Town Board of the Town of Sherman, Sheboygan County, Wisconsin, DO ORDAIN AS FOLLOWS:

SECTION 1: Open Outdoor Burning is defined as any fire that is not contained within a device or structure designed for such uses as cooking devices, outdoor furnaces, campfire pits or burn barrels.

SECTION 2: Open Outdoor Burning includes Controlled burning of grass or similar vegetation for environmental management, dry leaves, dry yard debris or clean wood is permitted provided such burning is:

1. With prior notification of Sheboygan County Dispatch non-emergency number 920-459-3112.
2. Monitored by a responsible person until the fire is extinguished itself completely.
3. Conducted on days when excessive wind or atmospheric conditions will not result in danger to public health or safety.
4. Located outside of any street, road or highway right-of-way, easements or areas dedicated for such purposes.
5. Located at least thirty (30) feet from neighboring residence.
6. Not used for covert incineration of offensive substances or materials.

SECTION 3: Liability. Persons utilizing and maintaining outdoor fires shall be responsible for any liability resulting from damage caused by the fire and/or the violation of this section, including, but not limited to all costs associated with the fire department or departments responding to the fire call.

SECTION 4: Buildings or Structures. An existing building or structure may be burned by the appropriate Town of Sherman Fire Department as necessary for practice and instruction of firefighters or testing of firefighting equipment within DNR regulations, if the fire department feels it is safe and useful for training exercises. Costs associated with such burn shall be paid by the owner of the property, whether fees, test results, removal of product, or loss.

SECTION 5: Enforcement and Penalties. The town Chairperson, or designee, are authorized to enforce the provisions of this ordinance. The penalty for violation of any portion of this ordinance shall be listed in the schedule of fees. Penalties shall be doubled for second and subsequent offenses.

This ordinance is effective on August 9, 2022. The town clerk shall properly post or publish this ordinance as required under s. 60.80, Wis. Stats.

Adopted this 2 day of August 2022

William Goehring William Goehring, Town Chair

Kris Klein Kris Klein, Town Supervisor

Patricia Horne Patricia Horne, Town Supervisor

James Fahney James Fahney, Town Supervisor

(absent) Howard Mitchell, Town Supervisor

Attest: Rhonda J. Klatt Rhonda J. Klatt, Town Clerk