

Trempealeau County Comprehensive Zoning Ordinance

Trempealeau County Zoning and Planning Department

October 16, 2000 Towns of Caledonia, Gale and Trempealeau
September 17, 2001 Towns of Albion, Sumner and Unity
March 20, 2006 Town of Hale
June 19, 2006 Town of Chimney Rock
July 17, 2006 Town of Pigeon
October 16, 2006 Town of Preston
December 18, 2006 Town of Ettrick
May 21, 2007 Town of Lincoln
January 21, 2008 Town of Burnside
April 30, 2008 Town of Arcadia
January 12, 2010 Town of Dodge

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CHAPTER 1

TITLE; AUTHORITY; AND GENERAL PROVISIONS

The County Board of Trempealeau County, Wisconsin does ordain as follows:

- 1.01 Title.** This Ordinance shall be known as the “Trempealeau County Zoning Ordinance hereinafter referred to as “this Ordinance”.
- 1.02 Authority.** This Ordinance is adopted pursuant to the authority granted by ss. 59.51, 59.696, 59.697, 56.698, 59.69, and 59.692, Wis. Stats.; additionally, it employs those powers or provisions provided for in ss. 59.694, 91.71 through 91.79, and 281.31, Wis. Stats. This Ordinance shall constitute a comprehensive revision, as described in s. 59.69 (5)(d), Wis. Stats. of the 1972 Trempealeau County Zoning Ordinance and its subsequent amendments.
- 1.03 Contents.** This Ordinance consists of written text and zoning maps, which shall, at all times, be considered as parts of a whole. In addition, other maps and materials referenced in the text are used to support this Ordinance.
- 1.04 Purpose.** The purpose of this Ordinance is to promote and protect public health, safety, aesthetics, and other aspects of the general welfare. Specific purposes of this Ordinance shall include but not be limited to:
- (1) Aid in the implementation of a county land use plan or plans as might be adopted and amended from time to time both prior to and after the adoption of this Ordinance.
 - (2) Promote public health, safety, convenience and general welfare.
 - (3) Encourage planned and orderly land use development.
 - (4) Protect property values and the property tax base.
 - (5) Permit the careful planning and efficient maintenance of highway systems.
 - (6) Ensure adequate highway, utility, health, educational, and recreation facilities.
 - (7) Recognize the needs of agriculture, forestry, industry, residential development and business in future growth.
 - (8) Encourage uses of land and other natural resources which are in accordance with their character and adaptability.
 - (9) Protect the groundwater and surface water resources.

- (10) Preserve wetlands.
- (11) Conserve soil, water, and forest resources.
- (12) Protect the beauty and amenities of landscape and man-made developments.
- (13) Provide healthy surroundings for family life.
- (14) Promote the efficient and economical use of public funds.
- (15) Manage storm water runoff from development and post development sites.

1.05 Compliance.

- (1) All use of land and water shall comply with the provisions of this Ordinance, and any structure or part thereof which is hereafter used, located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered shall be done in full compliance with the provisions of this Ordinance.
- (2) Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this Ordinance and obtain all necessary permits in areas under the jurisdiction of this Ordinance.
- (3) State agencies are required to comply when s. 13.48 (13), Wis. Stats., applies. The Wisconsin Department of Transportation is exempt from the requirements of this Ordinance when s. 30.12 (4), Wis. Stats., applies.
- (4) The owners or occupants of all land uses and structures regulated under this ordinance shall be required to maintain compliance in their use of property with all applicable state and local laws, rules and regulations and compliance with this Ordinance shall not be interpreted by them as affording them with the right or ability to avoid compliance with other, applicable laws, rules or regulations.

1.06 Force and effect.

- (1) Applicability. This Ordinance shall affect the unincorporated areas of Trempealeau County, or applicable portions thereof, as provided in sub. (2).
- (2) Effect. Upon enactment by the Trempealeau County Board of Supervisors, this Ordinance shall go into full force and effect as follows:
 - (a) This Ordinance shall go into effect upon approval by the applicable town board and upon filing with the Trempealeau County Clerk by the applicable town clerk of a certified copy of an approving resolution attached to one copy of this Ordinance, as provided in s. 59.69 (5) (c), Wis. Stats.

- (3) The Trempealeau County Zoning Ordinance of 1972, as amended, (1972 Ordinance) shall remain in effect in all towns in the County which did previously ratify the same for a period of one (1) year next following the adoption of this Ordinance by the County Board of Supervisors except for those towns whose town boards shall, prior to the end of said one (1) year period of time, ratify the application of this comprehensive revision, in which event the 1972 Ordinance shall become ineffective and this Ordinance shall replace it. If a town board of a town which is a party to the 1972 Ordinance fails to adopt this comprehensive revision on or before the passage of one (1) year from the time of the adoption of this Ordinance by the County Board of Supervisors, neither this Ordinance nor the 1972 Ordinance shall thereafter remain in effect in that town.

1.07 Abrogation and greater restrictions.

- (1) Subject to s. 1.06(3) of this Ordinance, it is the intent of the County Board of Supervisors that the Trempealeau County Zoning Ordinance of 1972, as amended, shall be repealed and recreated by this Ordinance. This repeal shall not take effect, however, until a period of one (1) year shall have passed from and after the adoption of this Ordinance by the County Board of Supervisors. Until the said one (1) year period of time shall have passed, the 1972 Ordinance, as amended, shall remain in effect to the extent prescribed under s. 1.06(3). It shall automatically expire without further action of the County Board of Supervisors at the end of that period of time.
- (2) Except as this Ordinance may conflict with Ch. 91, Wis. Stats., Farmland Preservation, wherever this Ordinance imposes greater restrictions than other similar regulations, the provisions of this Ordinance shall govern. Wherever the provisions of this Ordinance conflict with the provisions of Ch. 91, Wis Stats., Farmland Preservation, the provisions of Ch. 91 shall prevail.
- (3) It is not intended by this Ordinance to repeal, abrogate, annul, impair, or interfere with any existing easement, covenant, deed restriction, or agreement. Trempealeau County shall not enforce any easement, covenant, deed restriction, or agreement to which it is not a party.
- (4) It is not intended by this Ordinance to repeal, abrogate, annul, impair, or interfere with any permit previously issued pursuant to Trempealeau County ordinances.

1.08 Interpretation and application. The provisions of this Ordinance shall be construed to be minimum requirements. Further interpretation and application of the provisions of this Ordinance shall take into account the purposes of this Ordinance.

1.09 Severability. If any section, paragraph, 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. 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.

- 1.10 Warning and disclaimer of liability.** This Ordinance shall not create liability on the part of, or cause of action against, Trempealeau County or any office or employee thereof for any damages that may result from reliance on this Ordinance.
- 1.11 Vesting of rights.** No rights to any particular use vest in any property owner simply because the use is permitted by this Ordinance. Such use may be prohibited or restricted by future amendment to this Ordinance. However, the approval and issuance of a permit shall vest in the property owner the right to use the property in the manner specifically approved by the permit, unless and until the permit expires. Rights afforded to nonconforming uses and structures under this Ordinance will not be interfered with as a result of application of this Ordinance.
- 1.12 Headings.** Headings or titles as used throughout this Ordinance shall be for the assistance of the user only. In the event of a conflict between the language of a heading or title and the body of a given section, the language of the section shall control, nor shall any conflict between the heading or title and body be construed as creating any ambiguity in the body, in which event the language of the body shall be read as if the title did not exist.

CHAPTER 2

ZONING DISTRICTS AND ZONING MAP; USE REGULATIONS

2.01 Zoning districts. For the purpose of this Ordinance, the unincorporated areas of Trempealeau County are divided into the following zoning districts (with their symbols):

Agricultural Districts:

Exclusive Agriculture (EA)
Exclusive Agriculture – 2 (EA-2)
Primary Agriculture (PA)

Residential Districts:

Rural Residential (RR)
Residential - 8 (R-8)
Residential - 20 (R-20)

Commercial District

Commercial (C)

Industrial District

Industrial (IND)

Specialty Districts

Environmental Significance (ES)
Institutional (INST)
Planned Residential Development (PRD)

Transitional District

Transitional Agriculture (TA)

2.02 Zoning maps.

- (1) Zoning districts shall be bounded and defined as shown on zoning maps prepared by each town, and approved of by the County Board of Supervisors. The zoning maps shall be entitled, *Zoning Maps of Trempealeau County*, on file in the Trempealeau County Zoning Office.
- (2) Interpretation of Zoning District Boundaries. The following rules shall be used to determine the precise location of zoning district boundaries shown on the Zoning Maps of Trempealeau County:
 - (a) Boundaries shown as following or approximately following the limits of any municipal corporation shall be construed as following such limits.

- (b) Boundaries shown as following or approximately following highways shall be construed as following the centerlines of such highways; in the event of a change in the location of such highways, the zoning district boundary shall be construed as moving with the centerline.
- (c) Boundaries shown as following or approximately following platted lot lines or other property lines as shown on the Trempealeau County Real Property Listing Tax Maps shall be construed as following such lines.
- (d) Boundaries shown as following or approximately following the centerlines of streams, rivers, or other water courses shall be construed as following the centerline of such water courses; in the event of a natural change in the location of such water courses, the zoning district boundary shall be construed as moving with the centerline.
- (e) Boundaries shown as separated from, and parallel or approximately parallel to, any of the features listed in paragraphs (a) through (d), shall be construed to be parallel to such features and at such distances therefrom as are shown on the Zoning Maps of Trempealeau County. In the event such boundaries are not parallel or approximately parallel to any of the features listed in paragraphs (a) through (d) the interpretation of district boundaries by the Zoning Administrator shall be conclusive.

2.03 Purpose and intent of zoning districts. The following specifies the purpose and intent of each of the zoning districts established by this Ordinance.

- (1) Exclusive Agriculture (EA). This district preserves class I, II and III soils and additional irrigated farmland from scattered residential developments that would threaten the future of agriculture in Trempealeau County. The district is also established to preserve woodlands, wetlands, natural areas and the rural atmosphere of the County. The district is not intended to accommodate future nonagricultural growth. This district is intended to implement the *Trempealeau County Farmland Preservation Plan*. Further, it is intended to meet the provisions of the Wisconsin Farmland Preservation Program, Ch. 91, Wis. Stats., and thereby establish eligibility for tax credits to farm owners as provided in s. 71.59, Wis. Stats. It is intended that this district apply to lands included in productive farm operations and which have historically exhibited beneficial crop yields, or are capable of such yields; have demonstrated productivity for dairying, livestock raising, and grazing; have been used for production of specialty crops such as tree and plant materials, fruits, and vegetables; or have been integral parts of such farm operations.
- (2) Exclusive Agriculture -2 (EA -2). This district preserves class I, II and III soils and additional irrigated farmland from scattered residential developments that would threaten the future of agriculture in Trempealeau County. The district is

also established to preserve woodlands, wetlands, natural areas and the rural atmosphere of the County. Properties in this district are ineligible for receipt of farmland preservation tax credits.

- (3) Primary Agriculture (PA). This district is established to maintain, preserve, and enhance prime agricultural lands historically utilized for crop production but which are not included within the Exclusive Agriculture district. This district is also intended to provide farmland owners with additional management options by allowing limited residential development, but with residential density limits set so as to maintain the rural characteristics of the district.
- (4) Rural Residential (RR). This district is established to provide locations for low density residential developments which are consistent with a generally rural environment and allows for nonresidential uses which require relatively large land areas, and/or are compatible with surrounding rural land.
- (5) Residential - 8 (R-8). This district is established to provide for residential development in predominantly rural areas served by on-site absorption sanitary systems and private, shared or community wells. The district is intended to protect quality, large lot residential development from incompatible uses.
- (6) Residential - 20 (R-20). This district is established to provide for the densest residential development in the unincorporated areas of the county. The district is intended to be used where residential development is encouraged on lots served by on-site absorption sanitary systems and private, shared or community wells where such a density of development is compatible with surrounding uses. These locations should primarily be located near existing developed areas or on soils not suitable for agricultural operations.
- (7) Commercial (C). This district is established to provide for retail shopping, office and service uses to be developed either as a unit or in individual parcels to serve the needs of nearby residential neighborhoods as well as the entire County. The purpose of the district is to provide sufficient space in appropriate locations for certain commercial and other non-residential uses while affording protection to surrounding properties from excessive noise, traffic, drainage, or other nuisance factors.
- (8) Industrial (IND). The purpose of the district is to accommodate a heavy volume of traffic, the potential need for rail access to parcels and the presence of noise and other factors which could pose a nuisance in other districts. The intensity and use of land as permitted in this district is intended to facilitate the total range of industrial uses. The district is also designed to accommodate warehouse and limited commercial uses.

- (9) Environmental Significance (ES). The district identifies areas of environmental significance, including but not limited to wetlands, floodplains, lakes, streams and archeological/natural features. Development of these areas is discouraged but not prohibited unless federal, state or local ordinances that prohibit development regulate the areas.
- (10) Institutional (INST). This district provides locations for institutional uses such as schools, churches and government buildings.
- (11) Transitional Agriculture (TA). Properties categorized as transitional agriculture properties are recognized in their present state as agricultural properties. However, the adopted land use plan recognizes that in the future these properties may be suitable for development as detailed in the land use plan. Therefore, the properties are categorized as transitional agriculture properties. This district is established to provide existing agricultural properties the ability to continue their present agricultural uses.

2.04 Types of uses.

- (1) Principal uses. These uses are sorted and assigned to specific zoning districts. (See s. 2.05). Such uses shall be established only if they are located in the zoning district to which they are assigned. These uses are further divided into the following categories:
 - (a) Permitted uses. These uses are permitted by right, provided all requirements of the Ordinance are met.
 - (b) Uses permitted as conditional uses. These uses are not permitted by right. Rather, their allowance is subject to the discretionary judgment of the Zoning Committee, as described in s. 10.04.
- (2) Accessory uses. (See s. 2.07)
- (3) Temporary uses. (See s. 2.08) These uses are sorted and assigned to specific zoning districts. Such uses shall be established only if they are located in the zoning district to which they are assigned. These uses are further divided into the following categories:
 - (a) Permitted uses. These uses are permitted by right, provided all requirements of the Ordinance are met.
 - (b) Uses permitted as conditional uses. These uses are not permitted by right. Rather, their allowance is subject to the discretionary judgment of the Zoning Committee, as described in s. 10.04.

(4) Uses not listed. (See s. 2.09)

2.05 Table of uses. Land uses in Trempealeau County shall be allowed as shown in the Table of Uses.

(1) Table of uses.

2.06 Principal uses.

- (1) The principal uses allowed in each zoning district shall be as shown in s. 2.05(1).

2.07 Accessory uses. Accessory uses are permitted in all zoning districts without issuance of a land use permit. For accessory uses involving structures or buildings, such structures or buildings shall be subject to the requirements of s. 3.11, and such structures shall require a land use permit.

- (1) Accessory uses which have particular use requirements listed in Chapter 4 shall comply with such requirements and shall comply with parking requirements listed in Chapter 7.
- (2) Limitations on specific accessory uses.
 - (a) Commercial uses accessory to industrial uses shall be indoor, and limited to 15% of the building area devoted to the principal use.
 - (b) Industrial uses accessory to commercial uses shall be indoor, and limited to 15% of the building area devoted to the principal use and shall not create nuisances of noise, odor, glare, dust, heat, vibration or other condition which adversely affects surrounding businesses or properties.
 - (c) Incidental renting of agricultural buildings for indoor storage of boats, trailers, recreational vehicles, cars, and non-agricultural equipment shall be allowed provided that:
 1. Such building used for storage was originally constructed for agricultural purposes and was constructed at least 3 years prior to its use as incidental indoor storage.
 2. No signs shall be permitted which advertise or direct the public to such storage.
 3. Outside storage shall not be allowed.
 4. The agricultural building is located on the same parcel as an occupied dwelling.
 5. Storage structures must comply with applicable state building codes.

2.08 Temporary uses.

- (1) Temporary uses which have particular use requirements listed in Chapter 4 shall comply with such requirements.

2.09 Uses not listed.

- (1) Determination of use classification by the Zoning Administrator. The Zoning Administrator shall determine if a proposed use can be classified as one of the principal uses already listed for any of the zoning districts. If a proposed use can be so classified, then the use shall be regulated as specified by this Ordinance.

- (2) Unclassified uses. A proposed use that cannot be classified as one of the principal uses or conditional uses shall be considered an unclassified use and shall be regulated as follows:
 - (a) The Zoning Administrator shall determine if the proposed unclassified use is similar to other uses listed for the zoning district applicable to the site of the proposed unclassified use. If so, the application for the proposed unclassified use shall be processed as specified by this Ordinance.
 - (b) If the Zoning Administrator determines otherwise, then the application for the proposed unclassified use shall be denied and the applicant shall be so notified in writing.
 - (c) The Zoning Administrator shall refer unclassified uses to the Zoning Committee if the Zoning Administrator is uncertain how to classify any uses not listed.
- (3) After making a determination regarding an unclassified use, the Zoning Administrator shall recommend an amendment to this Ordinance adding the previously unclassified use to the table of principal uses upon consideration of the appropriate zoning district.

2.05 Table of Uses

Permitted Use = P
Conditional Use = C

Blank Space = Not Permitted in District

Principal Uses	Exclusive Ag.	Exclusive Ag. -2	Primary Ag.	Rural Res.	Resid. - 8	Resid. - 20	Commerc.	Indust.	Instut.	Envir. Sign.	Trans. Agric.
Agricultural Uses 4.03											
General Agriculture 4.03(1)	P	P	P	P	C			P			P
Green Houses	P	P	P	P	C		P	P			P
Aquaculture	P	P	P	P	C			P			P
Orchards	P	P	P	P	C			P			P
Commercial Uses 4.04											
Antique shop							P				
Bed & Breakfast 4.04(1)	P	P	P	C	C	C					P
Boardinghouse 4.04(2)	C	C	C	C	C	C					
Conven. Stores With Gas Pumps							C				
Family Day Care 4.04(3)	P	P	P	P	P	P					P
Farm Market 4.04(4)	C	C	P	P							C
Farm/Home Business 4.04(5)	C	C	C	C							C
Gasoline Stations							C				
General Retail Business							P				
General Service Business							P				
Home Businesses 4.04(6)	C	C	P	P	C						C
Home Occupation 4.04(7)	C	P	P	P	P	P					C
Indoor Maint. and Repair 4.04(8)		C	C	C			C	P			C
Kennels 4.04(9)	C	C	C	C							C
Lodging 4.04(10)							P				
Mini-Storage 4.04(11)							P	P			
Offices							P				
Restaurants							P				
Restaurants With Drive-thru							C				
Roadside Stands 4.04(12)	P	P	P	P							P
Trade/Contractor Estab. 4.04(13)							P	P			
Trade/Contractor Yards 4.04(14)							C	C			

2.05 Table of Uses

Temporary Uses

Permitted Use = P Blank Space = Not Permitted in District
 Conditional Use = C

Temporary Uses	Exclusive Ag.	Exclusive Ag. -2	Primary Ag.	Rural Res.	Resid. - 8	Resid. - 20	Commercial	Industrial	Institutional	Envir. Sign.	Trans. Agric.
Camping During Const. Of a Resid.	P	P	P	P	P	P					P
Contractor's Project Office		P	P	P	P	P	P	P	P		P
On-site Real Estate Sales Office				P	P	P					
Second Residence During Constr.	P	P	P	P	P	P					C
Temporary Ashpalt Plant	C	C	C	C							P

CHAPTER 3

GENERAL REQUIREMENTS

- 3.01 Compliance.** All development shall comply fully with the requirements of this Chapter.
- 3.02 District requirements.**
- 1) Developments shall meet the minimum requirements for the applicable district shown in the table in sub. (2).
 - 2) Table of district requirements.

3.03 Lot requirements.

- (1) No lot shall hereafter be created which does not meet the minimum width and area requirements of this Ordinance. No lot shall be so reduced that it fails to meet any density or dimensional requirement of this Ordinance.
- (2) Lot of record required. Every building hereafter erected, structurally altered, or relocated shall be placed on a lot of record.
- (3) No lot shall hereafter be created that does not have public highway frontage. All lots must have a minimum of 100 feet of public highway frontage, as measured at right angles to the existing property line.
- (4) The depth of a lot shall not exceed four times the width. The depth to width ratio may be increased if approved by the Zoning Committee. The applicant must demonstrate the necessity for a greater depth to width ratio due to topographic or site specific conditions that make it impractical to meet the depth to width ratio requirements.
- (5) Only one single family dwelling unit or one duplex shall be permitted on a lot, except as provided elsewhere in the Ordinance. Lots containing uses other than one and two family dwelling units may contain more than 1 principal structure or use provided that the lot contains the required minimum lot area for each such use and meets the requirements of the zoning district.
- (6) Lots created prior to the effective date of this Ordinance. Except as provided in par. (c), lots which were created before the effective date of this Ordinance shall be deemed to be building sites provided they meet with all of the criteria established in both pars. (a) and (b):
 - (a) They are of record in at least one of the following forms to establish the date of creation of the lot:
 1. A recorded land deed, plat or certified survey map on file in the Trempealeau County Register of Deeds Office showing the lot in its present form.
 2. A lot of record by means of a deed or land contract on file in the Trempealeau County Register of Deeds Office and which predates the effective date of this Ordinance.
 3. A recorded condominium plat.
 - (b) Minimum lot size for lots created prior to the effective date of this Ordinance shall be 20,000 square feet for lots without public sewer, and 10,000 square feet for lots with public sewer.
 - (c) Lots located in the Exclusive Agriculture district which are less than 35 acres shall be subject to s. 91.75, Wis. Stats.

- (d) Notwithstanding the table at Section 3.02(2), the minimum lot size in the Towns of Sumner and Lincoln shall be 1.5 acres. The Towns of Lincoln, Arcadia and Burnside have adopted a .5 acre minimum lot size in their sanitary district. The minimum lot size shall be 1 acre within the 1 ½ mile ring around the city limits in the Town of Arcadia, with a minimum lot size of 2 acres in the remainder of the town. The minimum lot size in the Town of Burnside shall be 1.5 acres. The minimum lot size in the Towns of Caledonia, Albion, Chimney Rock, Pigeon and Unity shall be 2 acres.
- (7) Lots which qualify as building sites as provided in sub. (6) may be enlarged through acquisition of adjacent property, but need not comply with the lot area provisions of s. 3.02 (2). Any lot so enlarged shall not thereafter be reduced below the minimum lot size required in the zoning district.
- (8) Slope. Construction on slopes of less than 20% is permitted. Construction on slopes of 20% - 30% shall require a conditional use permit. Construction on slopes of greater than 30% is prohibited. For the purpose of this section, slope shall be defined as the average change in elevation over an area which extends 30' from the perimeter footprint of the structure.
- (9) Erosion control. Prior to excavation of a construction site or excavations of greater than 4,000 Sq. ft. an erosion control plan must be submitted by the applicant and approved by the Land Conservation Department. Non-structural agricultural practices shall not require an erosion control plan.
- (10) For purposes of determining compliance of a given lot with the minimum spatial requirements under this code and the county subdivision code, including but not limited to lot size, width, depth, structure setbacks and lot coverage, all that portion of a given lot which included highway right of ways, whether in full or in part, shall be excluded and calculations shall be made of spatial requirements as if that portion of the lot was not legally a portion of its description. Only where lot lines end at the right of way line of an adjoining highway or highway shall the entire lot be included in this calculation.

3.04 Maximum residential density

- (1) Applicability. Maximum residential density shall apply to the creation of residential lots in the EA-2, PA, RR, R-8 and R-20 districts.
- (2) Number of residential lots. Parcels of land existing on the effective date of this ordinance shall not be divided into residential sites which exceed the allowable number of sites per 40 acres or portion thereof for each district as listed in s. 3.02.

- (a) Calculation. The allowable number of residential lots shall be calculated by multiplying the size of the tract in acres by the maximum residential density per 40 acres. (Example: 26 acre parcel in the R-8 district results in $26 \times 8/40 = 208/40 = 5.2$ lots or 5 lots)
- (b) Rounding. Any fractional lot resulting from the calculation in s. 3.04 (3) shall be rounded down to the next whole number.
- (c) Existing dwelling units. Any dwelling unit which exists on the tract of land to be divided, on the effective date of this ordinance, shall not count against the maximum residential density allowed.
- (d) Minimum lot size. No lot or building site shall be created which does not meet the minimum lot area requirements of this Ordinance.
- (e) All lots to contain allowance for residential use. No parcel shall be created which does not carry with it the allowance for at least one dwelling unit under the maximum density calculation unless such parcel is permanently deed restricted to nonresidential use.

3.05 Setbacks from highways.

- (1) State and federal highways. Except as provided in subs. (4) and (6), the required setback for all structures fronting on state and federal highways shall be 110 feet from the centerline of the highway or 50 feet from the edge of the right-of-way, whichever is greater.
- (2) County highways. Except as provided in sub. (4) and (6), the required setback for all structures fronting on county highways shall be 75 feet from the centerline of the highway or 42 feet from the edge of the right-of-way, whichever is greater.
- (3) Town highways. Except as provided in sub. (4) and (6), the required setback for all structures fronting on all town highways shall be 63 feet from the centerline of the highway or 30 feet from the edge of the right-of-way, whichever is greater.
- (4) Setback reduction. A setback of less than the required setback for the appropriate class of highway shall be permitted in cases where the adjacent principal buildings are located closer to the highway than the required setback.
 - (a) Where each side of the proposed building locations occupied by an adjacent principal building located within 500 feet of the proposed building footprint, the required setback for the proposed building shall be the average of the setbacks of the adjacent principal buildings.
 - (b) Where one side of the proposed building locations occupied by an adjacent principal building located within 500 feet of the proposed building footprint,

the required setback for the proposed building shall be the average of the setback of the adjacent principal building and the setback required for that particular highway.

- (5) How measured. Setbacks from highways shall be measured from the nearest portion of a structure. However, the first 2 feet of an overhanging eave and gutter and the first 6 feet of unenclosed stairs shall be excluded, provided that these items are not located within any public right-of-way.
- (6) Vision Clearance Triangle Setback. For each lot which fronts upon the intersection between two highways or highways and alleys or alleys there shall be a vision clearance triangle setback within the triangular space formed by the existing or proposed intersecting highway and alley right-of-way lines and a line joining points on those right-of-way lines located a minimum of 30 feet from the point of intersection of those right-of-way lines.
- (7) Exemptions. The following structures shall be permitted within the required setback of highways, provided that they do not violate any other provisions of this Ordinance:
 - (a) Structures which are not buildings and which are less than 6 inches above pre-construction grade.
 - (b) Public utility poles, lines, and related equipment without permanent foundations.
 - (c) Minor structures, as listed in s. 3.11 (1).
 - (d) Fences, provided they are not located within a public right-of-way.
 - (e) Signs, as provided in Chapter 7.
 - (f) Outdoor lighting in installations and unenclosed canopies for lighting and rain protection in conjunction with such uses as automobile fuel sales or drive-in facilities, provided these items are not located within a public right-of-way and provided that they are not located in side yards.
 - (g) Structures such as ramps and landings, lifts, or elevator housing, which are designed and intended to comply with the requirements of the Americans with Disabilities Act or fair housing laws to make existing buildings

accessible to disabled people, and where no feasible alternative locations exist.

- (h) In the vision clearance triangle, structures and vegetation are allowed subject to the requirement that they shall not extend 2 feet above the existing or proposed highway right-of-way elevations.

(Diagram to be inserted)

3.06 Setback from navigable water.

- (1) The required setback from all navigable water shall be 75 feet from the ordinary high water mark. The setback shall be measured from the nearest portion of a structure. Additional shore land and regulations are provided in Trempealeau County Wetland-Shore land Zoning Ordinance.

3.07 Height requirements.

- (1) Height limitation. Except as provided in subs. (2), (3) and (4) no building, structure, or sign shall exceed 35 feet in height above the pre-construction grade elevation.
 - (a) Exemptions. The following shall be exempted from the height requirements of this section: Architectural projections such as spires, belfries, parapet walls, domes, chimneys, church steeples, and cupolas, provided that such cupolas do not exceed 64 square feet in floor area, including stairwells, are not higher than 8 feet above the adjacent roof ridge, and contain no living quarters.
 - (b) Agricultural structures such as silos, barns, and grain storage buildings.
 - (c) Special structures such as elevator penthouses, grain elevators, observation towers in parks, communication towers, electrical poles and towers, and smoke stacks, provided that the height of each such structure shall not exceed the distance of the structure from the nearest lot line.
- (2) Public or semi-public facilities such as schools, churches, monuments, libraries,

and government buildings may be granted exemptions by the Zoning Committee to a height of 60 feet provided that all required setbacks and yards are increased by not less than one foot for each foot the structure exceeds 35 feet in height.

- (3) Industrial buildings may be granted exemptions by the Zoning Committee to a height of 60 feet provided that all required setbacks and yards are increased by not less than one foot for each foot the structure exceeds 35 feet in height.

3.08 Front, rear, and side yards. Except as required by Section 3.06 and Section 3.07, the following shall apply to front, rear, and side yards:

- (1) How measured. The yard distances shall be measured from the nearest portion of the structure, except that the first 2 feet of an overhanging eave of buildings shall not be included where the yard requirement exceeds 5 feet.
- (2) Exemptions. The following structures are permitted in front, rear, and side yards provided they do not violate any other provision of this Ordinance:
 - (a) Public utility poles, lines, and related equipment without permanent foundations.
 - (b) Fences, provided they are not located within public right-of-ways.
 - (c) Structures which are not buildings and which are less than 6 inches above preconstruction grade.
 - (d) Minor structures, as listed in s. 3.11 (1).
- (3) There shall be no construction over lot lines.

3.10 Vegetative screening or fencing.

- (1) Purpose. These requirements are intended to reduce potential adverse impacts that a particular land use might have on occupants of adjacent properties, such as glare of lights, dust, litter, and appearance. With vegetative screening or fencing, such adverse impacts will be lessened.
- (2) Applicability. Vegetative screening or fencing requirements shall only apply to proposed uses in cases where a commercial or industrial use abuts a residential or agricultural district; where a utility use requiring a land use permit abuts any

district; or such vegetative screening or fencing is required by a provision in this Ordinance. Commercial and industrial parcels which are developed as of the effective date of this Ordinance are exempt from this provision unless specified elsewhere in this ordinance or is deemed necessary by the Zoning Committee to assure compatibility with surrounding land uses. Such parcels shall comply when the structure or parcel is expanded in size or the use expands to an adjacent parcel which was previously undeveloped for such use.

(3) General Requirements Vegetative Screening.

- (a) Vegetative screening shall be located in such manner that principal buildings and outdoor storage areas associated with the proposed use are screened as viewed from the vantage point within 20 feet of the principal structures on adjoining lots.
- (b) Vegetative screening may be located in an area devoted to meeting minimum side or rear yard requirements.
- (c) Vegetative screening, when required, shall be established on a lot at the time of the lot's development, or at the time the use of the lot is changed to a use which requires a landscape buffer.
- (d) Vegetative screening shall be provided on each lot as required by this section independent of existing landscape buffers on adjoining lots.
- (e) Installation and maintenance of the required vegetative screening shall be the responsibility of the owner of the lot.
- (f) Existing vegetation may be used to meet the vegetative screening requirements if approved by the Zoning Committee.
- (g) Vegetation utilized to meet vegetative screening requirements must comply with the species, minimum planting sizes and plant spacing requirements in the "Trempealeau County Tree and Shrub List" kept on file in the Zoning/Planning Office.

(4) General Requirements Fencing.

- (a) A fence or wall used for screening must be opaque and of sufficient height to accomplish screening as determined by the Zoning Committee.
- (b) The exposed fence posts must face the interior of lot.

3.11 Accessory structures. Accessory structures are permitted subject to the following:

- (1) Permit required. Accessory structures shall require a land use permit except:

- (a) Minor structures, including but not limited to birdhouses, yard light poles, birdbaths, doghouses (housing dogs which are licensed as the personal pets of the residents of the property), tree houses, clothes line poles, lawn ornaments, flag poles, mailboxes, garbage containers, and school bus waiting shelters. Under no circumstances shall a structure whose footprint is less than 150 square feet be considered to be an accessory structure for which a permit is required.
 - (b) Fences.
- (2) An accessory structure shall be located on the same lot as the principal use to which it is accessory.
 - (3) An accessory structure may be constructed provided that its associated principal structure is under construction within 2 years of the completion of the accessory structure in the Residential –8 and Residential –20 districts.

CHAPTER 4

PARTICULAR USE REQUIREMENTS

4.01 Purpose. The purpose of these requirements is to minimize potential negative impacts from certain, specified uses and to promote compatibility between those uses and surrounding uses.

4.02 Applicability. In addition to complying with other regulations established in this Ordinance, these requirements must be met for each specific use as a condition to a land use permit.

4.03 Agricultural use requirements.

(1) General agriculture

- (a) General agricultural practices shall be allowed in all agricultural districts without issuance of a land use permit, except that structures shall require a land use permit.
- (b) Livestock structures must meet setbacks per Chapter 15- Trempealeau County Livestock Facilities Performance Standards. All other agriculture structures must meet the general setback requirements of Chapter 3.
- (c) General agricultural practices, except for barnyards, feedlots, and uses involving agricultural structures, shall be allowed in all nonagricultural zoning districts without issuance of a land use permit.
- (d) Agricultural uses must meet applicable requirements of Chapter 15 of this Ordinance.

4.04 Commercial use requirements.

(1) Bed and breakfast establishments.

- (a) There shall be no more than 8 rooms available for rent to transient guests. A Conditional Use Permit shall be required for bed and breakfasts with more than 2 rooms available to rent in the RR, R-8, R-20 districts.
- (b) Bed and breakfast establishments shall comply with the parking requirements of Section 6.02.
- (c) All lot size and other dimensional requirements for single family dwelling units shall be met.

- (d) No more than one on-premise sign shall be permitted. Such sign shall not exceed 9 square feet in sign face area.
- (2) Boardinghouses.
- (a) There shall be one off-street parking space per sleeping room provided, in addition to 2 spaces required for residents of the dwelling.
 - (b) There shall be no more than 4 sleeping rooms provided for boarding.
 - (c) All boardinghouses with sleeping rooms above the ground floor shall provide an outside fire escape or escape balcony from an area accessible to the occupants of the upper floor(s) and appropriate exit signs.
 - (d) All lot size and other dimensional requirements for single family dwelling units shall be met.
 - (e) No more than one sign shall be permitted. Such sign shall not exceed 9 square feet in sign face area.
- (3) Tourist Rooming House- It is the intent of this section to set standards under which a single family dwelling or duplex may be used as a tourist rooming house. Tourist rooming houses are to be licensed and may be permitted in all zoning districts with the exception of zoning districts C, I, or INST.
- (a) Property owner must obtain proper licensing from the State and/or County for the operation of a tourist rooming house.
 - (b) Property must be in compliance with all applicable laws and regulations including, but not limited to, the uniform building code and sanitary provisions
 - (c) Accessory structures and/or buildings shall not have habitable living spaces such as, but not limited to, sleeping accommodations, kitchens, or living spaces
 - (d) Tents or recreational vehicles, such as pop-up campers or motor homes or other means of overnight stay, are prohibited
 - (e) Adequate parking in compliance with Chapter 6.02 of the Zoning Ordinance must be provided for on the applicant's property, and parking is not allowed within the road right of way
 - (f) The property must remain free from citations and/or charges for nuisances, disorderly conduct, or any other illegal activity.
 - (g) One six square foot on premise sign is allowed. The sign must be placed out of the road right of way
 - (h) All pets shall be contained on the property during the stay
 - (i) Exclusive Agriculture districts (EA & EA2). In compliance with Wis. Stat 91.01(1)(c) and (21), a tourist rooming house in the exclusive agricultural district is limited to a farm residence or a nonfarm residence; it shall not impair or limit the current or future agricultural use of the farm or of other protected farmland and requires no buildings, structures, or improvements other than

those which are an integral part of, or are incidental to, an agricultural use or the farm residence.

(4) Family day care homes.

- (a) Family day care homes shall be permitted no more than one sign. Such sign shall not exceed 9 square feet in sign face area and shall not be illuminated.

(5) Farm markets accessory to agricultural uses are permitted subject to the following:

- (a) Such use shall principally involve the sale of farm and garden products, but other types of merchandise may be sold, provided such merchandise occupies not more than 25 percent of the indoor and outdoor display area of the farm market.
- (b) At least one off-street parking space shall be provided for each 100 square feet of indoor and outdoor display area.
- (c) Combined indoor and outdoor display areas shall not exceed 2,000 square feet.
- (d) Minimum lot size for the parcel on which the farm market is located shall be 10 acres.
- (e) The farm market shall obtain site plan approval and a land use permit.

(6) Farm/home based businesses accessory to permitted single family dwelling units shall be permitted by conditional use permit in the EA, EA-2, PA and RR districts, subject to the following:

- (a) The farm/home based business shall be conducted by the owner of the dwelling unit. No more than 8 persons not residing on the site may be employed in the business.
- (b) If located within a dwelling unit, the farm/home business shall occupy no more than 50% of the dwelling unit. If located in an accessory building the farm/home business shall not occupy an area greater than 5000 square feet.
- (c) Minimum lot size shall be 5 acres.
- (d) Such other conditions as specified by the Environment & Land Use Committee pursuant to Section 10.04.

- (7) Home businesses accessory to principal permitted single family dwelling units.
- (a) If located within a dwelling unit, the home business shall occupy no more than 50 percent of the floor area of the dwelling unit. If located in an accessory building the home business shall not occupy an area greater than 1500 square feet of such accessory building.
 - (b) The home business shall be conducted by a resident of the dwelling unit. Such home business shall not employ more than 2 persons who are not residents of the dwelling unit.
 - (c) Off-street parking shall be provided in accordance with the requirements in Chapter 6, parking, loading, and access requirements.
 - (d) Such use shall not include the operation of any machinery, tools, appliances, or other operational activity that would create a nuisance due to noise, dust, odors, or vibration, or be otherwise incompatible with the surrounding area.
 - (e) No more than 2 home businesses shall be permitted on a single lot. The total space allowed for 2 home businesses combined shall not exceed the maximum allowed for a single home business.
 - (f) A lavatory shall be provided for employees and clients of the home business.
 - (g) A home business which involves a use that has particular use requirements listed in Chapter 4 shall, in addition, comply with those requirements.
 - (h) No more than one on-premise sign shall be permitted. Such sign shall not exceed 12 square feet in sign face area.
 - (i) Only finished consumer goods that have been produced for a home business and products accessory to such goods may be offered for sale.
 - (j) Such use shall not involve any outdoor storage of any articles offered for sale or produced on the premises in conjunction with the home business. Outdoor storage of materials or machinery used in conjunction with the home business shall not be permitted.
- (8) Home occupations. The use of a principal permitted single family dwelling unit for a home occupation shall be clearly secondary to the residential use of the dwelling unit and shall not change the residential character of the dwelling unit. The following shall apply:

- (a) Home occupations shall be conducted only inside a single family dwelling unit (including any attached garage) and shall not occupy more than an area equal to 25 percent of the floor area of the dwelling unit. Home occupations shall not be conducted in an accessory building.
 - (b) The home occupation shall be conducted by a resident of the dwelling unit. Such use shall not employ more than one person that is not a resident of the dwelling unit.
 - (c) Such use shall not include the conduct of any retail or wholesale business on the premises, except for the sale of products produced by the home occupation.
 - (d) Such use shall not include the operation of any machinery, tools, appliances, or other operational activity that would create a nuisance due to noise, dust, odors, or vibration, or be otherwise incompatible with the surrounding area.
 - (e) Such use shall not involve any outdoor storage or display of any articles offered for sale or produced on the premises in conjunction with the home occupation. Outdoor storage of materials or machinery used in conjunction with the home occupation shall not be permitted.
 - (f) No more than one on-premise sign shall be permitted. The sign shall not exceed 4 square feet in sign face area. The sign shall not be illuminated.
 - (g) Off-street parking shall be provided in accordance with the requirements in Chapter 6, parking, loading, and access requirements.
- (9) Indoor maintenance and repair.
- (a) All repair, painting, parts storage, and bodywork activities shall take place within a building.
 - (b) All damaged or non-operable parts shall be stored indoors or in storage containers such as roll-offs, dumpsters, or bins of similar size and construction.
 - (c) Screening with vegetation and/or fencing in accordance with Section 3.10 and approved by the Environment & Land Use Committee shall be provided along property lines.
 - (d) Indoor maintenance and repair facilities existing at the time of the effective date of this ordinance are exempt from the screening requirements of (c) above unless deemed necessary by the Zoning Committee.
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(10) Kennels.

- (a) All dogs shall be housed in an enclosed structure during the hours from 9:00 p.m. to 6:00 a.m.
- (b) Minimum front, side and rear yards for all structures associated with kennels shall be 600 feet from any dwelling unit that is not the residence of the owner. This shall include fenced areas and runways.
- (c) Structures located at least 600 feet from the centerline of public highways are exempt from the screening requirement.
- (d) There shall be no more than 2 adult dogs in any single enclosure unit.
- (e) All dogs housed on the premises must be licensed with the County Treasurer.
- (f) Subject to the exception listed immediately below, kennels in operation and existing as of the effective date, of this ordinance are exempt from the setback requirements under (b), above. The exception to this is that all existing kennels shall provide screening in accordance with Section 3.10 if deemed necessary by the Environment & Land Use Committee.

(11) Lodging facilities:

- (a) Density requirements.
 - 1. Lodging facilities in which the floor area of each of the occupancy units is less than 450 square feet shall have a maximum density of 16 units per acre (1 unit per 2,723 square feet of lot area).
 - 2. Lodging facilities in which the floor area of each of the occupancy units is 450 to 750 square feet in area shall have a maximum density of 12 units per acre (1 unit per 3,630 square feet of lot area).
 - 3. Lodging facilities in which the floor area of each occupancy unit is greater than 750 square feet shall have a maximum density of 6 units per acre (1 unit per 7,260 square feet of lot area).
 - 4. The allowable density of lodging facilities which include a mixture of unit sizes shall be calculated as follows: The sum of all areas derived by multiplying each unit by its appropriate lot area requirement shall not exceed the total area of the parcel.
- (b) Multiple buildings with lodging facilities may be located on the same parcel, but shall be separated from each other by a distance of at least 30 feet.

- (12) Mini-Storage.
- (a) Except in industrial districts, all buildings shall be located a minimum of 50 feet from all lot lines.
 - (b) Commercial storage facilities shall not be used as workshops or retail shops.
 - (c) Outside storage shall be prohibited.
 - (d) Screening with vegetation and/or fencing in accordance with Section 3.10 shall be provided along property lines bordering residential districts.
 - (e) Lighting shall be shielded to prevent direct illumination of adjacent properties not in industrial and commercial districts or public rights-of-way.
 - (f) Mini storage structures existing at the time of the effective date of this ordinance are exempt from the screening requirements of (d) above unless deemed necessary by the Environment & Land Use Committee.
- (13) Roadside stands accessory to agricultural uses are permitted subject to the following:
- (a) Such use shall only involve the sale of farm products produced on the premises.
 - (b) Except for temporary structures not exceeding 160 square feet of floor area, all structures associated with roadside stands shall meet all setbacks and other provisions of this Ordinance. Temporary roadside stands which do not exceed 160 square feet of floor area are exempt from Section 3.06(1), (2) and (3), but shall not be placed in public right-of-ways.
 - (c) Only one roadside stand shall be permitted on a lot.
- (14) Trade and Contractors Establishment. The following shall apply to such uses located in the Commercial district.
- (a) Outside storage of equipment shall be screened with vegetation and/or fencing in accordance with Section 3.10 and from public rights-of-way and all property lines.
 - (b) Outside storage of equipment existing at the time of the effective date of this ordinance is exempt from the screening requirements of (a) above unless deemed necessary by the Environment & Land Use Committee.

- (15) Trade and Contractors Yards.
 - (a) Outside storage of equipment shall be screened with vegetation and/or fencing in accordance with Section 3.10 and from public rights-of-way and all property lines.
 - (b) Trade or contractor yards existing at the time of the effective date of this ordinance are exempt from the screening requirements of (a) above unless deemed necessary by the Environment & Land Use Committee.

4.05 Industrial use requirements.

- (1) Non metallic mining operations must meet the requirement of Chapter 13 of this Ordinance.
- (2) Salvage yards.
 - (a) Salvage materials shall not be located within 500 feet of any dwelling unit other than that owned by the owner of the premises or any residential or business district or one thousand feet from a lake, river, or stream. No junk or salvage operation shall be carried on within one thousand feet of any highway right-of-way and all establishments of this kind shall have minimum side and rear yards of 100 feet.
 - (b) Salvage material shall not be located in a wetland or floodplain.

- (c) Salvage materials shall be enclosed by a suitable fence or vegetative screening as approved by the Environment & Land Use Committee so that the materials are not visible from other property in the vicinity of the salvage yard, nor from a public highway, nor from navigable water. The fence or vegetative screen shall be a minimum of 8 feet in height and shall be properly maintained to satisfy the obscuring objective.
 - (d) Salvage materials shall not be piled higher than the height of the fence or vegetative screen.
 - (e) Such operation shall comply with any other conditions specified by the Environment & Land Use Committee pursuant to s. 10.04.
 - (f) For fire protection, an unobstructed firebreak shall be maintained, 15 feet in width and completely surrounding the salvage yard. Internal fire lanes, 15 feet in width must be located within the salvage yard. A determination of the number and approximate location of such a fire lane or lanes shall be made by the Zoning Administrator upon advice of local fire officials.
 - (g) At the site, appropriate measures shall be taken to prevent water and soil contamination from oils, gasoline, grease, or other contaminants. At a minimum, there shall be 10 feet of soil between the water table or bedrock. If wells are located within 1,000 feet of the site, the Environment & Land Use Committee may require a liner and bonds for removal of contaminated topsoil.
 - (h) Salvage yards existing at the time of the effective date of this ordinance are exempt from the setback requirements of (a) above.
- (3) Sawmills and planing mills.
- (a) Such uses shall be located a minimum distance of 500 feet from any dwelling unit other than that of the owner or operator of the establishment.
 - (b) No sawmill or planing mill shall produce a sound level beyond its property boundary that exceeds 55 decibels.
 - (c) Areas used for stockpiling and maneuvering shall be a minimum distance of 200 feet from any dwelling unit other than that of the owner or operator of the establishment.

4.06 Institutional use requirements.

- (1) Private institutional uses.

- (a) Principal buildings for such uses shall maintain a minimum 50 foot setback from any property line.

4.07 Outdoor recreational use requirements.

(1) Campgrounds and trailer camps.

- (a) Each recreational vehicle site, trailer site, or campsite shall be plainly marked and surfaced with gravel, asphalt, or other material to free the site of mud.
- (b) The maximum number of recreational vehicle, trailer, or campsites shall be 20 per acre.
- (c) The minimum size of a recreational vehicle park, trailer park or campground shall be 5 acres.
- (d) The minimum dimensions of a campsite shall be 25 feet wide by 40 feet long.
- (e) Each recreational vehicle, trailer, or campsite shall be separated from other recreational vehicle, trailer or campsites by at least 10 feet.
- (f) There shall be 2 off -street parking spaces for each recreational vehicle, trailer, or campsite.
- (g) All recreational vehicle, trailer, or camp sites shall meet the required setbacks from highways and from the ordinary high water mark and shall be located at least 50 feet from all exterior lot lines.
- (h) Each recreational vehicle park, trailer park, or campground shall be screened by means of a vegetative screening, as described in Section 3.10, along all lot lines. Such requirement may be waived by the Zoning Administrator if existing woody vegetation is such that the screening objective is or will be achieved.
- (i) Seasonal campsites shall be allowed subject to the following:
 - 1. No more than one wheeled camping unit or one shelter unit shall be allowed on any individual campsite. In addition to these facilities, a tent may be erected to serve as an auxiliary shelter, but shall not be erected for a period of more than 14 consecutive days.
 - 2. A seasonal camping unit shall not exceed 400 square feet in floor area nor 8 feet 6 inches in width when in the in-transit position.
 - 3. A seasonal camping unit shall not be occupied for more than 8 months in a calendar year, although a camping unit may remain on

an individual campsite for an entire calendar year. The wheels and tires shall remain in an in-transit position.

4. A porch, lean-to or deck may be constructed adjacent to but not attached to a camping unit. The foundation must not be permanently fixed in ground, a solid roof can be constructed with screen walls but no solid wall structures will be allowed.
 5. A camping unit and deck may only be skirted with lattice; however, solid skirting may be installed immediately adjacent to the tires.
 6. One storage shed shall be allowed per campsite. Said shed shall not exceed 80 square feet in floor area.
- (j) One dwelling unit to be occupied by the owner and not more than one additional dwelling unit to be occupied by the manager shall be allowed in a campground.
- (k) Camping shall be permitted in approved campgrounds without issuance of a regular land use permit.
- (l) Campgrounds existing as of the effective date of this ordinance are exempt from the screening requirements and setback requirements of (g) and (h) above.
- (2) Riding stables, commercial and private.
- (a) Minimum lot size for riding stables shall be 10 acres for commercial riding stables and 5 acres for private riding stables.
 - (b) There shall be at least 1 acre of open space provided on the lot for each horse kept on the lot.
 - (c) All stables shall be located at least 100 feet from the ordinary high water mark of navigable water and shall be located such that manure will not drain into navigable water.

4.08 Residential use requirements.

- (1) Accessory dwelling units.
- (a) Accessory dwelling units shall be permitted in the C and IND districts, subject to the following:
 1. There shall be no more than one accessory dwelling unit on a lot.
 2. The accessory dwelling unit may be either an attached or detached dwelling unit.
 3. The setbacks and minimum yards for such dwelling unit shall be the required setbacks and minimum yards for principal structures.

4. Such dwelling unit shall meet all other provisions of this Ordinance.
5. Such accessory dwelling unit shall not be a manufactured home.
6. Accessory dwelling units shall require a land use permit.

(2) Manufactured homes.

- (a) No person shall park, locate, or place any manufactured home outside of a licensed manufactured home park in Trempealeau County unless first obtaining a land use/ building permit and sanitary permit from the Department of Land Management. No permit shall be issued unless the manufactured home when placed on the site:
 1. Is set on a completely enclosed foundation of poured concrete or concrete block, not less than 8 inches wide, with footings extended to below the frost line, a minimum of 48 inches deep from ground level, and in accordance with subchapters III, IV, and V of Ch. ILHR 21, Wis. Admin. Code; and any amendments thereto.
 2. Is installed in accordance with manufacturer's instructions and is properly connected to utilities, and properly anchored to the foundation.
- (b) Manufactured homes of less than 550 square feet of living space, and all mobile homes are not permitted outside of a licensed park. Manufactured homes and mobile homes are limited for use as human habitation and shall not be utilized for storage structures. Existing manufactured homes of less than 550 square feet, mobile homes constructed prior to June 15, 1976, and mobile homes used for storage are all non-conforming structures and they cannot be replaced by another mobile home, enlarged, or structurally altered.
- (c) Each manufactured home located outside of parks shall be located on a parcel that in all respects comply with laws and ordinances regulating the location and construction of single family dwelling units. There shall not be more than one unit per parcel.
- (d) Temporary Occupancy. In the event of a fire or natural disaster, a permit for a manufactured home, or camping unit may be granted by the Zoning Administrator for up to one year. Application for the permit shall be made to the Zoning Administrator and shall be accompanied by a fee as established in the Fee Schedule Ordinance. The application shall state the name and permanent address of the occupants of the unit, the license number or serial number of the unit, and intended purpose and length of stay at the requested location. The application must state the exact location of the premises, the name of the owner and the occupant of any dwelling on the premises, and the owner's and/or occupant's permission to

locate. Sanitary facilities must comply with all applicable codes and all other applicable permits must be obtained.

- (e) Vacant or abandoned manufactured homes or mobile homes which are determined to be health hazards or nuisances as defined by State Statutes may be abated or removed as provided for Section 254.59, Wisconsin Statutes, or other applicable law and the cost of such abatement collected from the owner as permitted by law.
 - (f) The parking of only one unoccupied manufactured home in any accessory private garage building, or in a rear yard, may be permitted by special permit, providing no living quarters shall be maintained or any business practiced in said manufactured home while such manufactured home is parked or stored. Any permit issued under this section of the ordinance will expire in 60 days and will not be renewed unless all applicable provisions of the ordinance are complied with.
 - (g) A manufactured home utilized as a second farm dwelling unit is subject to the requirements of sub. (4) below and is exempt from the requirements of (2)(a)(1) above.
- (3) Manufactured home parks (See Chapter 16).
- (4) Second farm dwelling unit for worker principally engaged in the farm operation or for a retired farm owner, subject to the following:
- (a) The dwelling unit shall be a manufactured home.
 - (b) Manufactured homes used as dwelling units for farm employees, parents, and/or adult children of farm operators shall comply with the following:
 1. Such manufactured home shall provide housing for farm employees who assist farm operators engaged in general agriculture or intensive agriculture activities, or for parents and/or adult children of farm operators.
 2. The manufactured home shall not be placed on a separate lot.
 3. The manufactured home shall meet the minimum floor area requirements and all setback and yard requirements of this Ordinance.
 4. When the manufactured home is no longer occupied by said farm employees, parents, or adult children, the manufactured home shall be removed from the farm operator's property.
 5. The manufactured home shall be connected to a code compliant wastewater disposal system.
 6. There shall be no more than one manufactured home per farm where a single family dwelling already exists and is occupied.

7. All portions of such manufactured home shall be located within 300 feet of the dwelling unit of said farm operator.

4.09 Miscellaneous use requirements.

- (1) Airports, airstrips, and landing fields.
 - (a) The area proposed for this use shall be sufficient in size, and the site shall otherwise be adequate, to meet the standards of the Federal Aviation Administration, Department of Transportation, for the class of airport proposed.
 - (b) One off-street parking space shall be required for every tie-down space or plane space within hangars.
- (2) Clean Fill Site
 - (a) Applicability. A land use permit for a clean fill site shall be required for deposition of 2,000 or more cubic yards of clean fill. Filling for construction of public highway shall not require a permit.
 - (b) Application for a clean fill site permit shall include the following:
 1. Location, size, and ownership of land upon which the operation will be situated;
 2. Complete construction plans and specifications and proposed operating procedures for the operation, including but not limited to fill volume and type of fill;
 3. Copies of all application documents submitted to any other governmental agency for permitting purposes;
 4. An affidavit from the landowner giving the agent permission to conduct the operation on the landowner's property, and a copy of the contractor's disposal agreement;
 5. An affidavit from the solid waste manager that approval has been granted by the solid waste management board.
 6. An affidavit from the applicable town stating that the facility as proposed has local approval.
 7. A topographic map of the site showing existing contours with minimum vertical contour interval of five feet, trees, proposed and existing access roads and building, the area and dimensions of the fill site and distances to buildings, lot lines, existing wells, and other utilities.
 8. A restoration plan showing final slopes, extent of fill area, grading, seeding and mulching, depth and type of final cover, surface water runoff control, erosion control, restoration commencement and completion dates.

9. Sureties or bonds sufficient to allow the county to perform restoration in the event of default by the applicant.
10. A landscaping and screening plan.
11. Fees as established by the County Board of Supervisors.

(c) Approval. The Zoning Administrator shall be authorized to approve the application for a clean fill site with any conditions necessary. In approving the application, the Zoning Administrator shall consider the effect of the proposed operation upon existing streets, neighboring development, proposed land use, drainage, water supply, soil erosion, natural beauty, character, and land value of the locality. The Zoning Administrator shall also consider the practicality of the proposed restoration plan and screening plan for the site.

(d) Term of Approval. The land use permit for a clean fill site shall be in effect for two years and may be renewed upon application for a period not to exceed two years and a renewal fee as set by the County Board. Modifications or additional conditions may be imposed upon application for renewal.

(e) The requirements may be waived by the Environment & Land Use Committee if the work is in conjunction with other permitted work.

(3) Mobile Tower Siting Regulations

(a) **DEFINITIONS.** All definitions contained in s. 66.0404(1), Wis. Stat. are hereby incorporated by reference.

- (1) "Antenna" means communications equipment that transmits and receives electromagnetic radio signals and is used in the provision of mobile services.
- (2) "Application" means an application for a permit under this section to engage in an activity specified in sub. (3)(b)(c), or (d).
- (3) "Building permit" means a permit issued by the county that authorizes an applicant to conduct construction activity that is consistent with the county's building code.
- (4) "Class 1 collocation" means 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.
- (5) "Class 2 collocation" means 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.

- (6) "Collocation" means class 1 or class 2 collocation or both.
- (7) "Distributed antenna system" means 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.
- (8) "Equipment compound" means an area surrounding or adjacent to the base of an existing support structure within which is located mobile service facilities.
- (9) "Existing structure" means a support structure that exists at the time a request for permission to place mobile service facilities on a support structure is filed with the county.
- (10) "Fall zone" means the area over which a mobile support structure is designed to collapse.
- (11) "Mobile service" has the meaning given in 47 USC 153(33).
- (12) "Mobile service facility" means 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.
- (13) "Mobile service provider" means a person who provides mobile service.
- (14) "Mobile service support structure" means a freestanding structure that is designed to support a mobile service facility.
- (15) "Permit" means a permit, other than a building permit, or approval issued by the county which authorizes any of the following activities by an applicant:
 - a. A class 1 collocation.
 - b. A class 2 collocation.
 - c. The construction of a mobile service support structure.
- (16) "Public utility" has the meaning given in s. 196.01(5), Wis. Stat.
- (17) "Search ring" means 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.

- (18) "Substantial modification" means the modification of a mobile service support structure, including the mounting of an antenna on such a structure that does any of the following:
- a. For structures with an overall height of 200 feet or less, increases the overall height of the structure by more than 20 feet.
 - b. For structures with an overall height of more than 200 feet, increases the overall height of the structure by 10 percent or more.
 - c. 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.
 - d. Increases the square footage of an existing equipment compound to a total area of more than 2,500 square feet.
- (19) "Support structure" means 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.
- (20) "Utility pole" means a structure owned or operated by an alternative telecommunications utility, as defined in s. 196.01(1d), Wis. Stat.; public utility, as defined in s. 196.01(5), Wis. Stat.; telecommunications utility, as defined in s. 196.01 (10), Wis. Stat.; 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 s. 182.017(1g)(cq), Wis. Stat.; for video service, as defined in s. 66.0420 (2) (y), Wis. Stat.; for electricity; or to provide light.

(b) **NEW CONSTRUCTION OF MOBILE SERVICE SUPPORT STRUCTURES**

- (1) A conditional use permit is required for the siting and construction of any new mobile service support structure and facilities.

- (2) A written permit application must be completed by any applicant and submitted to the county. The application must contain the information required in 10.04 and the following information:
 - a. The name and business address of, and the 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. A construction plan which 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.
 - e. 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.
 - f. A statement from the applicant that such mobile service support structure will be constructed to accommodate at least two additional mobile service facilities, and that such additional facilities will be made available to commercial users at competitive rates.
 - g. A plan for abandonment of the mobile service support structure, together with such surety as the county may require to cover the cost of abandonment should the structure be abandoned.
- (3) A permit application will be provided by the county upon request to any applicant.
- (4) If an applicant submits to the county an application for a permit to engage in an activity described in this section, which contains all of the information required under this ordinance, the county shall consider the application complete. If the county does not believe

that the application is complete, the county 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.

- (5) Within 90 days of its receipt of a complete application, the county shall complete all of the following or the applicant may consider the application approved, except that the applicant and the county 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 county's building code and, subject to the limitations in this section, zoning ordinances.
 - 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 which supports the decision.
- (6) The county 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 paragraph (b)(2)e.
- (7) If an applicant provides the county 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 a zoning ordinance, then the zoning ordinance establishing such setback does not apply to such a structure unless the county provides the applicant with substantial evidence that the engineering certification is flawed.
- (8) Lighting or painting of mobile service support structures shall conform to all FAA standards. Flashing or strobe type lights shall only be installed if required by FAA regulations and if specified in the application. Strobe lights shall not be used during hours of darkness.

- (9) Mobile service support structures which exceed 200 feet in height shall be subject to the following:
 - a. Security. The base of structures at the point of entry into the earth shall be enclosed within security fencing. Any security lighting shall utilize fixtures whose hood, lens or combination thereof allows no direct beams of light to spill onto adjoining properties or to be cast skyward.
 - b. Access. The service drive providing access to the structure shall be the minimum necessary to provide maneuverability for service or emergency vehicles.
- (10) The fee for the permit is \$1,500.00.
- (c) CLASS 1 COLLOCATION.
 - (1) A conditional use permit is required for a class 1 collocation.
 - (2) A written permit application must be completed by any applicant and submitted to the county. The application must contain the information required in 10.04 and the following information:
 - a. The name and business address of, and the 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. A construction plan which 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.
 - (3) A permit application will be provided by the county upon request to any applicant.
 - (4) If an applicant submits to the county an application for a permit to engage in an activity described in this section, which contains all of the information required under this ordinance, the county shall consider the application complete. If the county does not believe that the application is complete, the county 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.

- (5) Within 90 days of its receipt of a complete application, the county shall complete all of the following or the applicant may consider the application approved, except that the applicant and the county 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 county's building code and, subject to the limitations in this section, zoning ordinances.
 - 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 which supports the decision.
- (6) If an applicant provides the county 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 a zoning ordinance, then such ordinance establishing a setback does not apply to such a structure unless the county provides the applicant with substantial evidence that the engineering certification is flawed.
- (7) The fee for the permit is \$1,500.00.

(d) CLASS 2 COLLOCATION

- (1) A class 2 collocation is a permitted use in the county but still requires the issuance of the county land use permit.
- (2) A written permit application must be completed by any applicant and submitted to the county. The application must contain the information required in 10.01 and the following information:
 - a. The name and business address of, and the contact individual for, the applicant.

- b. The location of the proposed or affected support structure.
- c. The location of the proposed mobile service facility.
- (3) A permit application will be provided by the county upon request to any applicant.
- (4) 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.
- (5) If an applicant submits to the county an application for a permit to engage in an activity described in this ordinance, which contains all of the information required under this ordinance, the county shall consider the application complete. If any of the required information is not in the application, the county 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.
- (6) Within 45 days of its receipt of a complete application, the county shall complete all of the following or the applicant may consider the application approved, except that the applicant and the county 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 which supports the decision.
- (7) The fee for the permit is the lesser of \$500.00 or the amount charged by the County for a building permit for any other type of commercial development or land use development.
- (e) LIMITATIONS
 - (1) The county may not (mandatory) do any of the following:

- a. Impose environmental testing, sampling, or monitoring requirements, or other compliance measures for radio frequency emissions, on mobile service facilities or mobile radio service providers.
- b. Charge a mobile radio service provider any recurring fee for an activity described in sub. (3)(b),(c), or (d).
- c. Permit 3rd party consultants to charge the applicant for any travel expenses incurred in the consultant's review of mobile service permits or applications.
- d. Disapprove an application to conduct an activity described under sub. (3)(b) or (c) based solely on aesthetic concerns.
- e. Disapprove an application to conduct an activity described under sub. (3)(d) on aesthetic concerns.
- f. Impose a surety requirement, unless the requirement is competitively neutral, nondiscriminatory, and commensurate with the historical record for surety requirements for other facilities and structures in the county which fall into disuse. There is a rebuttable presumption that a surety requirement of \$20,000 or less complies with this paragraph.
- g. Prohibit the placement of emergency power systems.
- h. Require that a mobile service support structure be placed on property owned by the county.
- i. Disapprove an application based solely on the height of the mobile service support structure or on whether the structure requires lighting.
- j. Condition approval of such activities on the agreement of the structure or mobile service facility owner to provide space on or near the structure for the use of or by the county at less than the market rate, or to provide the county other services via the structure or facilities at less than the market rate.
- k. Limit the duration of any permit that is granted.

- l. Require an applicant to construct a distributed antenna system instead of either constructing a new mobile service support structure or engaging in collocation.
 - m. Disapprove an application based on an assessment by the county of the suitability of other locations for conducting the activity.
 - n. Require that a mobile service support structure, existing structure, or mobile service facilities have or be connected to backup battery power.
 - o. Impose a setback or fall zone requirement for a mobile service support structure that is different from a requirement that is imposed on other types of commercial structures.
 - p. Consider an activity a substantial modification under sub. (a)(18)a. or b. if a greater height is necessary to avoid interference with an existing antenna.
 - q. Consider an activity a substantial modification under sub. (a)(18)c. if a greater protrusion is necessary to shelter the antenna from inclement weather or to connect the antenna to the existing structure by cable.
 - r. Limit the height of a mobile service support structure to under 200 feet.
 - s. Condition the approval of an application on, or otherwise require, the applicant's agreement to indemnify or insure the county in connection with the county's exercise of its authority to approve the application.
 - t. Condition the approval of an application on, or otherwise require, the applicant's agreement to permit the county to place at or collocate with the applicant's support structure any mobile service facilities provided or operated by, whether in whole or in part, the county or an entity in which the county has a governance, competitive, economic, financial or other interest.
- (4) Utility Facilities. Utility facilities shall be subject to the following.
- (a) No land use permit shall be required for any installation that is at or below grade elevation, nor for electrical distribution poles, towers, and wires.

- (b) Those structures which are 4 feet or less above grade elevation need not meet setback requirements nor need they be placed on conforming lots; However, such structures must comply with the requirements of Section 3.06(7)(h).
- (c) Electrical substations shall be enclosed by a chain link fence at least 10 feet high. Such structures shall additionally be located at least 75 feet from a dwelling unit and 50 feet from any residential lot line.
- (d) Utility facilities where the land area bounded by the location of such structure or equipment is less than 1,000 square feet shall be exempt from the permit requirements of this Ordinance.

4.10 Temporary uses.

- (1) Temporary uses, which are conducted for not more than 7 consecutive days nor more than 10 days in any one year period may be conducted in any zoning district, except the Shoreland-Wetland district. Uses which are conducted for more than 7 consecutive days or for more than 10 days in any one year period, except for those listed in sub. (2) - (6), shall be regarded as principal uses and regulated accordingly. Temporary uses shall be subject to the following:
 - (a) Such temporary uses shall not require a land use permit.
 - (b) Such temporary uses shall meet all setback and yard requirements of this Ordinance.
 - (c) Such temporary uses shall not involve the construction or alteration of any permanent structure.
 - (d) The previous operation of a temporary use shall not be considered grounds for reestablishment of such use on either a permanent or temporary basis.
 - (e) Assemblies may be held on property in any zoning district provided that in advance, a license is issued by the County Board of Supervisors under its authority to enact and enforce ordinances to preserve the public peace and good order in the county. In the absence of such a license, the use of property for the holding of an assembly shall be a violation of this ordinance.
- (2) Camping on a lot during construction of a single family dwelling shall be allowed, subject to the following:
 - (a) A land use permit for a single family dwelling unit has been secured and a slab, crawlspace, or foundation for the single family dwelling unit has been installed.

- (b) A land use permit which authorizes such camping has been secured.
 - (c) The camping unit shall be located at least 25 feet from all lot lines, at least 50 feet from any dwelling unit other than that of the landowner upon which the camping unit is placed, and shall meet the setback requirements.
 - (d) A permit for an approved on-site waste disposal system, designed to accommodate the single family dwelling unit has been issued. A camping unit must have an approved waste disposal system prior to locating on the site.
 - (e) The camping activity shall cease upon the completion of the single family dwelling unit on the property.
 - (f) Renewal permits shall only be issued when substantial progress toward completion of the single family dwelling unit is demonstrated during the previous year.
- (3) Contractor's project office shall be permitted subject to the following:
- (a) Structure shall not exceed 2,000 square feet in floor area.
 - (b) Structure shall be removed within 10 days of completion or ceasing of development activity.
 - (c) Such project office that is to be in place for more than 365 days shall require a conditional use permit.
- (4) On-Site Real Estate Sales Office shall be permitted by a land use permit subject to the following:
- (a) Structure shall not exceed 5,000 square feet in total floor area.
 - (b) Facility shall be removed or converted to a permitted land use within 10 days of the completion of sales activity.
 - (c) Such sales office that is to be in place for more than 365 days shall require a conditional use permit.
 - (d) Model homes shall be permitted under this subsection.
 - (e) No more than one on-premise sign shall be permitted. Such sign shall not exceed the size requirements in Section 7.04. No pennants, banners, flags, or similar devices shall be allowed.

- (5) Temporary dwelling unit during construction of principal dwelling. An existing dwelling or manufactured home may be used as a temporary dwelling unit during construction of a new dwelling on the same parcel, subject to the following:
- (a) A land use permit shall be obtained for the temporary dwelling unit.
 - (b) The temporary dwelling unit, if a manufactured home moved onto the lot, shall comply with all setback requirements of this Ordinance.
 - (c) Such temporary dwelling unit shall be connected to an approved wastewater disposal system.
 - (d) A permit for the temporary dwelling unit shall lapse at such time as the principal dwelling is completed and has been connected to utilities, or twelve months from the date of issuance, whichever is earlier.
 - (e) The temporary dwelling unit shall be removed or destroyed at the time the permit for such temporary dwelling unit lapses, or converted to a permitted nonresidential use.
- (6) Temporary concrete or asphalt batch plants, subject to the following:
- (a) Application. In addition to the application requirements established in s. 10.04, the following information shall be submitted with the application:
 - 1. Plans for controlling erosion of stockpiled material used in manufacturing concrete or asphalt.
 - 2. Restoration plans for the site which describes or illustrates measures taken to restore the site to a condition of practical usefulness and reasonable physical attractiveness. The restoration plan shall describe methods for establishing vegetative cover on all exposed soil.
 - (b) Conditional use permits granted for temporary concrete or asphalt batch plants shall be only for the period of the actual project work.
 - (c) Temporary concrete or asphalt batch plants shall be removed from the premises within 60 days of completion of the project.
- (7) Recreational Vehicles
- (a) No recreational vehicle shall be used as a permanent residence or accessory structure.
 - (b) Recreational vehicles located in a campground shall comply with DHS 178

- (c) Recreational vehicles outside of a licensed campground shall be permitted subject to the following:
- (d) The recreational vehicle shall be permitted in the EA, EA2, PA, RR, RR8, R20, C, IND, IST, and TA zoning districts without a location permit for a period not the exceed 90 total days in one calendar year period.
- (e) The recreational vehicle shall be permitted in the EA, EA2, PA, RR, and TA zoning districts to remain on a parcel for over 90 days if the following conditions are met:
 - 1. A Uniform Number System Number (fire number) shall be assigned to the access point for the parcel
 - 2. A Land Use Permit shall be obtained for each recreational vehicle on the parcel and must meet general setback requirements of Chapter 3.
 - 3. Approved sanitary provisions shall be provided. Sanitary provisions shall comply with the Trempealeau County Sanitary and Private Sewage System Ordinance.
 - 4. If water under pressure is introduced to the recreational vehicle a code complying private on-site wastewater treatment system (septic) must be installed.
 - 5. Number of recreational vehicles shall not exceed 3 unless parcel is licensed as a campground.
 - 6. No abandoned, dilapidated, unsafe or unsanitary unit will be allowed on the parcel. The removal of such unit will be required within 30 days of the notification by the Department

CHAPTER 5

PLANNED RESIDENTIAL DEVELOPMENT

5.01 Purpose

- (1) The planned residential development is intended to provide opportunities for multiple family dwellings.
- (2) The planned residential development option is intended to promote the benefits of:
 - (a) Coordinated area site planning.
 - (b) Diversified location of structures.
 - (c) Safe and efficient pedestrian and vehicular traffic systems.
 - (d) Attractive recreation and open spaces.
 - (e) Economical arrangement of public and private utilities and community facilities.
 - (f) Preservation of natural resources and agricultural land.

5.02 General requirements

- (1) A planned residential development is permissible only on tracts of 5 acres or more in areas zoned PRD.
- (2) The overall density of a tract developed as a planned residential development shall not be greater than 4 units per acre. Density per acre can be transferred between contiguous acres. Example: A five acre development can have four housing units on each acre or all the housing units (20) could be located on one acre provided the remaining contiguous acres remain undeveloped.
- (3) Permissible types of residential development shall include multi-family dwellings. Approval of a planned residential development by the Zoning Committee shall remove the necessity to receive a Conditional Use Permit where required by these regulations.
- (4) To the extent practicable, multi-family structures of a planned residential development shall be constructed more toward the interior rather than the periphery of the tract.

- (5) In a planned residential development, landscape buffers shall apply between the development parcel and adjacent properties.
- (6) The minimum lot width, side yards and rear yards in a planned residential development may be varied by twenty (20) percent from those of the underlying zoning district as contained in Table 3.02 (2) of these regulations.
- (7) The setback from highways as contained in Section 3.06 of these regulations and the height requirements as contained in Section 3.08 of these regulations may be varied by twenty (20) percent.

5.03 Preserved open space. At least twenty five (25) percent of the parcel designated as a planned residential development shall be devoted to open space and/or recreation uses.

5.04 Reservation of development rights agreement. Within thirty (30) days following the approval of a development plan, a statement in recordable form under ch. 706, Wis. Stats. shall be recorded with the Register of Deeds for Trempealeau County which shall evidence the approval of that plan, to include at the minimum, the following information:

- (1) A legal description of the property.
- (2) A statement that copies of the plan are on file with the Zoning Administrator.
- (3) A statement as to the nature of the plan, the proposed density of land uses and other pertinent information sufficient to notify any prospective purchasers or users of land of the existence of such a plan.
- (4) A statement that the development plan shall become binding upon all successors and assigns unless amended in conformance with these regulations, or amendments thereto.

5.05 Application

- (1) All applicants who desire to construct a planned residential development shall submit a development plan to the Zoning Administrator upon forms furnished by the Trempealeau County Zoning Department. The development plan shall contain the following information:
 - (a) All the information required for a land use permit listed in Section 10.01.
 - (b) Views within the site and vistas to and from the site.
 - (c) Noise generation sources.

- (d) Surrounding uses, activities and influences on the site within two hundred (200) feet including any existing or proposed streets, drives or buildings.
 - (e) A schedule of all total floor area, dwelling units, land area, parking areas and other aspects relative to these requirements in order that compliance with these regulations can be determined.
 - (f) A letter from the Town Board regarding the proposed development.
 - (g) Upon written request of the Zoning Administrator, such additional information as may be required by the Zoning Administrator so that the Zoning Committee and/or the Trempealeau County Board of Supervisors can determine whether or not the proposed planned residential development at the proposed location will not be contrary to the public interest and will not be detrimental or injurious to public health, public safety or the character of the surrounding area. The written request shall contain an explanation of why the additional information is needed.
- (2) Fee. All development plans shall be accompanied by a fee established by the County Board of Supervisors.
 - (3) No application shall be accepted by the Zoning Administrator until complete as judged by the Zoning Administrator and until all fees established by Trempealeau County have been paid in full.
 - (4) Public Hearing. A public hearing shall be held by the Zoning Committee after public notice has been given as provided in s. 10.08. At the public hearing, any party may appear in person or be represented by agent or attorney.
 - (5) Determination. Following review, investigation and public hearing, the Zoning Committee shall render a decision.
 - (a) If the application is approved by the Zoning Committee, such decision shall include an accurate and complete description of the uses as permitted, including all the conditions attached thereto. The Zoning Committee may, in the process of approving the application, limit the use of the land to one specific permitted use in the zoning district for which the application has been submitted.
 - (b) If the application is denied, the reasons for denial shall be stated.
 - (6) Basis of Approval
 - (a) The Zoning Committee shall review each application for a planned residential development for compliance with all relevant provisions of

these regulations. In approving a planned residential development, the Zoning Committee shall determine that the proposed planned residential development at the proposed location will not be contrary to the public interest and will not be detrimental or injurious to the public health, public safety or character of the surrounding area.

- (b) To aid in the review of the proposed planned residential development consistent with the above criteria, the Zoning Committee may evaluate the development according to criteria which shall include but shall not be limited thereto:
 - 1. The basis for approval of a site plan contained in Section 10.03.
 - 2. The basis for approval of a conditional use contained in Section 10.04.
 - 3. Any additional criteria deemed relevant by the Zoning Committee, including sureties, restrictions and conditions.

- (7) Resubmission. A development plan that has been heard and decided shall not be eligible to be resubmitted during the six (6) months following the decision. The six month period may be waived by the Zoning Committee in the same manner provided for conditional uses contained in Section 10.04.

5.06 Permit requirements

- (1) Changes to Development Plan
 - (a) In the event of any proposed substantive change in the development plan of a planned residential development, the modified development plan must again be submitted for to the Zoning Committee and a public hearing must be held before such modification can be made.

 - (b) For the purposes of this section, substantive changes shall mean the following:
 - 1. Increases in the density of residential uses of more than five (5) percent.
 - 2. Increases of lot coverage of more than five (5) percent.
 - 3. Increases in the height of any building of more than ten (10) percent.
 - 4. Changes of architectural style and building materials.
 - 5. Changes in ownership patterns or stages of construction that will lead to a different development concept.
 - 6. Decreases of any peripheral setback of more than five (5) percent.
 - 7. Decreases of areas devoted to open space of more than five (5) percent or the substantial relocation of such areas.
 - 8. Changes of traffic circulation patterns that will affect traffic outside of the project boundaries.

9. Modification or removal of conditions or stipulations to the development plan approval.
 - (c) All changes to the development plan which are not substantive shall be approved by the Zoning Administrator before the modification occurs.
- (2) Abandonment of a Development Plan. In the event that a plan is given approval and there after the landowner shall abandon said plan and shall so notify the Zoning Administrator in writing, or in the event the landowner shall fail to commence the planned residential development within eighteen (18) months after approval has been granted, then in either event such approval shall terminate and shall be deemed null and void unless such time period is extended by the Zoning Committee upon written application of the landowner. Whenever a plan has been abandoned as provided by this section, no development shall take place on the property until a new development plan has been approved and filed in conformance with these regulations.

CHAPTER 6

PARKING, LOADING, AND ACCESS REQUIREMENTS

6.01 Purpose. These provisions are intended to reduce traffic congestion on highways by requiring adequate off-street parking and loading areas for each land use. These provisions provide landscaping requirements to improve the appearance of parking lots and to reduce the nuisance of glare. These provisions are also intended to promote traffic safety by ensuring proper access to highways

6.02 Off-street parking requirements.

- (1) Required number of off-street parking spaces. The minimum number of off-street automobile parking spaces to be provided shall be in accordance with the following schedule. In cases where garages are provided, the number of required spaces shall be reduced by the number of parking spaces within the garages. The Zoning Committee may at its discretion reduce the number of parking spaces required if the applicant demonstrates that traffic safety is not jeopardized.

One space per employee during the peak shift shall be provided in addition to the following:

<u>USE</u>	<u>OFF-STREET PARKING REQUIREMENT</u>
Residential	2 spaces per dwelling unit.
Commercial Lodging	1 space per room.
Auditorium/Theater	1 space per 3 seats.
Church/Funeral Home	1 space per 4 seats.
Restaurant/Tavern	1 space per 100 square feet of primary floor area or 1 space per 3 seats, whichever is greater.
Boarding House	1 space per bedroom or sleeping room.
Bed and Breakfast Establishment	2 spaces plus 1 space per rental room.
Medical/Dental Clinic or Office	5 spaces per doctor/dentist
Public Boat Launching Ramp	15 spaces per launching lane, each space 10 feet wide x 40 feet long.
Office Uses	1 space per 250 sq. ft. of primary floor area.
Retail Stores and Personal Services Establishments	1 space per 200 sq. ft. of primary floor area.
Manufacturing/Trade or Contractor Establishments	1 space per 500 sq. ft. of primary floor area.

Warehouse/Commercial Storage	1 space per 1,000 square feet of primary floor area.
Marinas	2 spaces per boat slip.
Commercial Riding Stables	1 space per 3 horses.
Convenience Store	1 space per 100 square feet of primary floor area
Auto Repair	3 spaces per service bay
Outside Retail Sales	1 space per 500 square feet of display area.
Commercial Recreation	1 space per 4 patrons.
Hospital	2 spaces per 3 beds.
Nursing Home	1 space per 3 beds.
School, K-12	1 space per 10 students.
School, College	1 space per 2 students.
School, Nursery	1 space per 6 children.
Golf Course	90 spaces per 9 holes.
Driving Range	1 space per tee.
Drive-thru Facilities	4 vehicle queuing spaces.

- (a) If the parking requirements for particular uses described in Chapter 4 are different from those shown here, the most restrictive requirements shall apply.
- (b) Commercial establishments with drive-through facilities shall, in addition to providing the required off-street parking spaces, maintain an off-street queuing capacity of 4 vehicles per service lane. Such queuing capacity shall be designed so that vehicles queuing in the drive-through lane do not interfere with street traffic flow.
- (c) Computation. When the computation of the minimum number of parking spaces results in a fractional number, the number shall be rounded up.
- (d) Uses not enumerated. In the case of uses not specifically listed in sub. (1), the minimum number of parking spaces shall be determined by the Zoning Administrator, based upon the requirements for similar uses.
- (e) Multiple uses on a lot. Where more than one use is located on a lot, the required number of parking spaces shall be determined by the sum of the minimum total number of parking spaces for each individual use.

However, the Zoning Administrator, may allow a reduction of parking facilities if:

1. The peaks of demand for individual uses do not coincide, or
 2. The same parking space can simultaneously serve both uses.
- (2) Application to existing uses. Uses existing on the effective date of this Ordinance which do not have the required amount of parking space shall not further reduce said space; and no expansion of the use shall be permitted, unless parking spaces equal to the parking requirement for the size of the expansion are provided as part of the expansion.
- (3) Application to change of use. Whenever an existing use of a lot is hereafter proposed to be changed to a use having greater parking requirements, the applicant shall provide additional parking spaces equal to the difference in required parking spaces between the existing use and the proposed use.
- (4) Location. Except for commercial, industrial, and institutional uses, all required off-street parking shall be provided on the same lot as the use it serves or on an adjoining lot under the same ownership as the lot containing the use it serves. For commercial, industrial, and institutional uses, parking may be provided off-premise, subject to the following criteria:
- (a) The off-premise property shall be under the same ownership as the lot containing the commercial, industrial, or institutional use; or the off-premise property to serve as the required parking lot shall be leased for such purpose for 20 years or more.
 - (b) Each of the parking spaces shall be within 500 feet of the structure housing the use that the parking spaces are intended to serve.
 - (c) The off-premise parking area shall be located in the same district as the use that the parking spaces are intended to serve, or in an industrial or commercial district.
 - (d) A separate land use permit shall be obtained for the off-premise parking area.
- (5) Abandonment. No parking space, or driveway providing access thereto, shall be abandoned, closed, converted to another use, or in any way eliminated from use as a parking space or driveway, unless adequate off-street parking and access are provided to the property in full compliance with the provisions of this Ordinance.
- (6) Design requirements.
- (a) Each parking space shall be not less than 180 square feet exclusive of the space required for ingress and egress.

- (b) No parking lot shall be constructed within 5 feet of the front, side, and rear property lines. The 5-foot setback shall act as a buffer strip between adjacent properties.
 - (c) Parking lots shall be constructed and maintained to control surface water runoff.
- (7) **Lighting.** Lighting established for the purpose of illuminating off-street parking areas shall utilize lighting fixtures whose hood, lens, or combination thereof allow no direct beams of light from the fixture to be seen from off the property or to be cast skyward.
- (8) **Maintenance.** All parking areas shall be properly maintained by the owner, or lessee, of the property.
- (9) **Handicapped parking.** All off-street parking areas shall provide parking spaces for use by motor vehicles which transport physically disabled persons, in accordance with ILHR 52, Wis. Admin. Code, or the following minimum requirements, whichever are more restrictive:
- (a) Two percent of the total number of spaces shall be provided for use by physically disabled persons with a minimum of one space.
 - (b) The minimum dimensions for all parking spaces provided for use by physically disabled persons shall be 12 feet in width and 18 feet in length.
 - (c) Parking spaces provided for use by physically disabled persons shall be located as close as possible to an entrance which allows such persons to enter and leave the parking area without assistance.
- (10) All parking areas shall be surfaced with gravel or be paved. For the purpose of meeting the requirements of this ordinance crushed limestone is a suitable surface.

6.03 Parking area landscaping requirements

- (1) **Applicability.** These requirements shall apply to all parking spaces created after the effective date of this Ordinance, except for parking spaces located in parking areas which accommodate fewer than 6 vehicles, and except for parking spaces located in multi-level parking structures.
- (2) **Parking lot landscaping required.**
- (a) A minimum ten (10) foot wide landscape strip shall be provided between any parking lot designed or intended to accommodate six (6) cars or more and the front property line of the property on which the parking lot is

located, unless the parking area is otherwise screened from the public highway by a building or other means.

- (b) Trees shall be provided within any parking lot designed or intended to accommodate six (6) cars or more, in accordance with the requirements of this section.
 - (c) Landscape strips and trees required by this section must be maintained in accordance with ordinance requirements. Tree, shrubs, and grasses must be replaced if damaged or destroyed. Replacement must take place within 180 days of their being damaged or destroyed.
- (3) Parking lot landscaping design standards.
- (a) Landscape strips required herein shall meet the following criteria:
 - 1. Landscape strips shall contain no structures, parking areas, patios, storm-water detention facilities, or any other accessory uses except for retaining walls or earthen berms constructed as part of an overall landscape design, pedestrian-orientated facilities such as sidewalks and bus stops, underground utilities, driveways required to access the property, and signs otherwise permitted by this ordinance.
 - 2. One tree shall be provided within the landscape strip for every fifty (50) feet of length of the lot frontage, or portion thereof. Such trees may be deciduous or evergreen, but must be of a type that is suitable to local growing conditions and that will normally reach at least twelve (12) inches at diameter at breast height upon maturity.
 - 3. All portions of a landscaped strip shall be planted in trees, shrubs, grass or ground cover, except for those ground areas that are mulched or covered by permitted structures.
 - 4. Upon planting, new trees shall have a caliper of no less than one (1) inch at the base of the tree.
 - (b) Parking lot landscaping shall be provided as follows:
 - 1. One tree shall be provided within the parking lot for every twenty (20) parking spaces, or portion thereof. Each tree shall be located within the parking lot adjacent to the spaces for which the tree was required. Trees provided to meet the minimum requirements of any landscape strip or buffer may not be counted toward this requirement.
 - 2. A landscaping island shall be located at the end of every parking bay between the last parking space and an adjacent travel aisle or driveway. The island shall be no less than eight (8) feet wide for at least one-half the length of the adjacent parking space. The island shall be planted in trees, shrubs, grass, or ground cover except for those areas that are mulched.

3. Tree planting areas shall be not less than eight (8) feet in width and shall provide at least 100 square feet of planting area per tree. No tree shall be located less than two and one-half (2 ½) feet from the edge of pavement or back of curb; if curbing is not provided around the tree planting area, curb stops shall be placed such that vehicles will not overhang the tree planting area.
4. Landscaping island and tree planting areas shall be well drained and contain suitable soil and natural irrigation characteristics for the planting materials they contain.

6.04 Loading and unloading requirements.

- (1) Any use which requires deliveries or shipments shall provide sufficient off-street loading and unloading space so that no public highway, alley, or access to any parking area is blocked by such activities.
- (2) The loading and unloading space shall be separate from any parking aisle or parking spaces unless delivery or pickup activities are scheduled for hours when the parking area is not in use.

6.05 Driveway requirements

- (1) Every lot upon which uses permitted under this code may take place shall have access to a public highway.
- (2) For all uses, except agricultural uses, as listed in Section 2.05, no more than 2 access points per lot shall be permitted.
- (3) For all uses, except agricultural uses, as listed in Section. 2.05, access shall not be allowed directly to a state highway if access to a town or county public highway is available.
- (4) Driveway width.
 - (a) For all single family residential and duplex residential uses, driveways shall be at least 12 feet wide and not more than 24 feet wide extending 50 feet back from the highway centerline.
 - (b) Driveways for all other uses, except agricultural uses, shall be at least 20 feet wide and not more than 35 feet wide extending a minimum of 50 feet back from the highway centerline. Such drives may be reduced to 12 feet wide if they are enter-only or exit-only drives.
- (5) Setback. All driveways shall be placed such that the driveway edge nearest to an adjoining property owners lot line is at least 5 feet from the lot line, unless driveways are shared by adjoining property owners.

- (6) All driveways, except those to farm fields, shall be surfaced with gravel or paved and pitched to prevent ponding.
- (7) Location. Driveways shall be located opposite median crossover where present.
- (8) Grade. All driveways shall accommodate emergency vehicles. The maximum grade for driveways serving dwelling units constructed after the effective date of this Ordinance shall be 20%. Any applicant seeking to construct a driveway, any portion of which shall contain a grade in excess of 20%, may seek a Conditional Use Permit from the Zoning Committee, and present any plans and information which demonstrate that the steeper grade satisfies driveway requirements.
- (9) Intersection with highway. All driveways shall intersect a public highway at a 90 degree angle. All driveways shall be sloped down from the highway edge for at least 20 feet from the highway edge so the elevation of the driveway is at least 6 inches below the level of the highway at a point 20 feet from the edge of the highway.
- (10) Culverts. All driveways shall have a minimum 24 foot culvert with a 15 inch minimum diameter, the culvert requirement shall remain in effect unless the highway agency with jurisdiction grants an exception.
- (11) Clearance. All driveways shall have a minimum elevation clearance of 18 feet.
- (12) Emergency Access. Driveways shall be of adequate design to allow for emergency vehicle ingress and egress.
- (13) Sight Distance. Driveways shall be so located to have a minimum 400 foot sight distance in either direction. A greater sight distance may be required at the discretion of the highway agency with jurisdiction.

CHAPTER 7

SIGNS

7.01 Purpose. The purpose of these requirements is to ensure that the visual resources of the county are protected and that traffic safety is enhanced by setting requirements for the size, number, placement, and lighting of signs.

7.02 Applicability

(1) Signs restricted. Unless exempted under sub. (2), no sign shall hereafter be located, erected, structurally altered, maintained, moved, or reconstructed, except as permitted by this chapter.

(2) Signs exempted. The following shall be exempt from the requirements of this chapter:

(a) Memorial signs and tablets displayed on public property or in cemeteries.

(b) Official traffic and parking signs, and informational, legal or directional notices erected by federal, state, or local units of government.

(c) Guidance signs authorized by the Wisconsin Department of Transportation under Trans. 200.03, Wis. Admin. Code.

(d) Official government entity flags.

(e) Outdoor murals or other outdoor artwork determined by the Zoning Administrator not to be signs.

7.03 General sign requirements. The following requirements shall apply to all permitted signs, unless exempted in s. 7.02 (2):

(1) No undulating, swinging, rotating, or otherwise moving sign shall be permitted.

(2) Except for flashing or fluttering time and/or temperature sign messages, no flashing, fluttering, or otherwise animated sign messages shall be permitted.

(3) No sign shall obstruct clear visibility of traffic along any public highway or at the intersection of any highways with either driveways or highways.

(4) No signs, except signs erected by a unit of government, shall project over or be located within any public right-of-way.

(5) Signs shall not resemble, imitate, or approximate the shape, size, form, or color of traffic signs, signals, or devices. Signs shall not obstruct or interfere with the

- effectiveness of traffic signs, signals or devices, nor be lighted in such a way so as to cause glare or impair driver visibility upon public highways.
- (6) Signs shall not be located or maintained in such a way that prevents free ingress or egress from any floor, window, or fire escape; and no sign shall be attached to a fire escape.
 - (7) Any spotlights used to illuminate signs shall be shielded such that their light source cannot be seen from adjoining highways or properties.
 - (8) No sign shall be placed on or over the roof of any building.
 - (9) No sign shall be painted or mounted on rocks or other natural features, except that nameplates and/or addresses for dwelling units and “No Hunting,” “No Trespassing”, “No Dumping,” and signs of a similar nature may be affixed to trees.
 - (10) No sign shall contain obscene or derogatory language, symbols, or pictures.

7.04 Sign types

- (1) Wall signs.
 - (a) Size. The sign face area of a wall sign shall not exceed 15 percent of the area (to a maximum of 200 sq. ft.) of the side of the building to which it is attached. If more than one sign is present, the combined sign face area shall not exceed 15 percent of the area (to a maximum of 200 sq. ft.) of the side of the building to which they are attached.
 - (b) Design. Wall signs shall not extend more than 6 inches from the building’s wall surface, nor beyond the end of the wall.
- (2) Projecting signs.
 - (a) Size. The sign face area of a projecting sign shall not exceed 24 square feet.
 - (b) The sign shall not extend more than 5 feet from the wall to which it is attached.
 - (c) The bottom of such sign shall be at least 7 feet above the grade directly below the sign.
 - (d) The top of such sign shall not extend above the building’s roof.
- (3) Freestanding signs.

- (a) Size. The maximum size of freestanding signs shall be as follows:
 - 1. Nameplates and/or addresses for dwelling units; “No Hunting,” “No Trespassing,” “No Dumping,” and signs of a similar nature; “Open/Closed” signs; “Vacancy/No Vacancy” signs; and operational signs designating entrances, exits, service areas, parking areas, restrooms, and other functional operations of a building or premises shall not exceed 4 square feet in sign face area.
 - 2. Free standing signs sign area shall not exceed .6 x lineal front foot of the lot for which the sign is located to a maximum of 200 sq. ft. If more than one sign is present, the combined sign face area shall not exceed .6 x lineal front foot of the lot for which the signs are located to a maximum of 200 sq. ft.
 - (b) Such signs shall be located at least 5 feet from all side lot lines.
 - (c) Such signs shall not exceed 25 feet in height.
- (4) Election campaign signs.
- (a) Such signs located on residential property, as defined in s. 12.04, Wis. Stats, shall not be erected or displayed prior to the election campaign period, as defined in s. 12.04, Wis. Stats., and shall be removed within 7 days after the election.
 - (b) Such signs located on property other than residential property, as defined in s. 12.04, Wis. Stats., shall meet the following:
 - 1. The signs shall not be placed on public property.
 - 2. The signs shall not exceed 32 square feet in sign face area.
 - 3. The signs shall not be erected or displayed earlier than 60 days prior to the election to which they pertain.
 - 4. The signs shall be removed within 7 days after the election.
- (5) Real estate signs, advertising the sale, rent, or lease of property on which the sign is placed, shall be subject to the following:
- (a) Such signs shall be removed within 10 days of the sale, rent, or lease of the property.
 - (b) The number of such signs shall be limited to one along each highway that abuts the property.
 - (c) Signs can be located on a property for a maximum of two (2) years in any five (5) year period.

- (d) Such sign shall not exceed 8 square feet in gross area on residential properties.
 - (e) Signs for commercial properties and residential developments shall not exceed 32 square feet in gross area.
 - (f) Signs may be placed at the right-of-way line of the highway.
- (6) On-site construction signs, promoting a building under construction and/or the contractor(s) for such building, shall be subject to the following:
- (a) Only one construction sign shall be allowed per construction project.
 - (b) No such sign shall exceed 32 square feet in sign face area.
 - (c) No such sign shall be erected prior to beginning of construction.
 - (d) All such signs shall be removed within one week after completion of construction and prior to occupancy.
- (7) On-premise residential neighborhood signs shall be freestanding signs only, shall be limited to identifying the name of a neighborhood area such as a subdivision or housing development, shall not exceed 32 square feet in sign face area and shall be placed only at the entrance(s) to the neighborhood area.
- (8) Billboards.
- (a) All billboards require a conditional use permit.
 - (b) Billboards shall not be located in the R-8 and R-20 district.
 - (c) Billboards must be setback 50 feet from the right of way line.
- (9) Temporary Signs. Temporary signs shall be subject to the following:
- (a) Temporary signs may only be displayed for a period of 14 days.
 - (b) Temporary signs must be firmly fastened or anchored to a structure or ground.
 - (c) Temporary signs shall not exceed 32 sq. ft. in area.
 - (d) Such signs shall not be located in the public highway right-of-way.
- (10) Directional signs. Directional signs shall be subject to the following:

- (a) Such signs may be in addition to, or in lieu of, off-premise advertising signs erected in accordance with Section 7.05(1).
 - (b) Directional signs are permitted where a change in travel direction is required. A directional sign which indicates that a use is straight ahead is permitted only where the person seeking the use might not normally follow a main travel route.
 - (c) Unless limitation is waived, no more than 4 such signs shall be permitted for each use. If multiple travel routes to a particular use are logical the Zoning Administrator, may waive this limitation and authorize the number of such signs deemed necessary.
 - (d) Directional signs shall only contain information identifying the name of an establishment, the distance to the establishment, and a directional arrow. No other information shall be identified on the sign.
 - (e) Such signs shall only be permitted in proximity of highway intersections, but shall not obstruct clear visibility of traffic along any public highway or intersection of highways.
 - (f) Directional signs shall not exceed 4 square feet in sign face area.
- (11) On-premise dwelling unit or farm identification signs shall meet the following requirements:
- (a) Signs shall not exceed 32 sq. ft. in area. In R-8 and R-20 districts such signs shall not exceed 4 sq. ft. in size.
 - (b) Signs must be located on the same parcel as the dwelling unit or farm. Such signs shall not be located on the public highway right-of-way.
- (12) Agriculture/crop plot identification signs shall meet the following requirements:
- (a) One sign exceeding 8 sq. ft. to a maximum of 32 sq. ft. in size is permitted per parcel.
 - (b) Signs 8 sq. ft. or less in size are permitted without a number limitation.
 - (c) Signs must be removed within 10 days of the crop being harvested.
 - (d) Signs shall not be located in the public highway right-of-way.

7.05 On and off-premise signs. In addition to the requirements of Section 7.03 and 7.04, the following requirements shall be met for on and off-premise signs.

- (1) Off-premise. Advertising signs which are off-premise signs shall meet the following:
 - (a) Number limited. No more than 2 such signs shall be permitted for each business establishment, commodity, or product. There shall be not more than 2 such signs relating to any one such use in the approaching direction along any one highway. No such sign shall be more than 10 miles away from the location to which it relates.
 - (b) Off-premise advertising signs shall not be allowed in the R-8, and R-20 districts.
 - (c) Off-premise signs placed at the entrance to a community advertising a community, public, or semi-public use shall be allowed in all districts provided they do not exceed 32 sq. ft. in sign face area and no more than 1 sign is placed at each entrance point to the community.
 - (d) Off-premise wall signs and free-standing signs shall not exceed 32 sq. ft. in area.
- (2) On-premise. Advertising signs which are on-premise signs shall meet the following:
 - (a) Number limited for free-standing, projecting signs and wall signs. The maximum number of on-premise advertising signs shall be a total of 3 such signs per business to a maximum of 6 signs per parcel.
 - (b) Sign spacing for freestanding and projecting signs. This spacing requirement shall only apply to advertising signs which are freestanding or projecting signs. No on-premise advertising sign shall be located closer than 50 feet to another free-standing or projecting sign.

7.06 Permits.

- (1) The following signs shall require a sign permit as provided in Section 10.02:
 - (a) On-premise advertising signs which are wall signs Section 7.04(1), projecting signs Section 7.04(2) or freestanding signs 7.04(3).
 - (b) All off-premise signs Section 7.05(1), except temporary civic event signs which promote events of community significance.
 - (c) Billboards Section 7.04(8).
- (2) All other signs not listed in sub. (1) shall not require a sign permit, but shall comply with the other requirements of this chapter.

- (3) The changing or altering of the sign face area shall require a sign permit, unless the sign is exempted from the permit requirements as provided in sub. (2). The changing of text or logos or the repainting and routine maintenance of signs shall not be deemed changes or alterations requiring a sign permit.
- (4) The area of a sign face shall be computed as the area within the square, rectangle, triangle, circle or combination or portions thereof enclosing the limits of a sign face, or the combination of the areas of all such geometric figures delimiting each sign face module, together with any frame material, texture or color forming an integral part of the sign face or used to differentiate the sign face from the structure upon which it is placed.
- (5) For Multi-faced Signs, when the Sign Face surfaces are parallel (back-to-back), or where the interior angle formed by the faces is forty-five (45) degrees or less, the area of the sign shall be taken as the area on the largest side. For all other Multi-faced Signs, the area of the sign shall be the total area on all sides that can be viewed at one time from any angle.

7.07 Nonconforming signs.

- (1) Any sign which is nonconforming at the effective date of this ordinance or which becomes a nonconforming sign at any future date may be continued provided that the sign is not increased in size or structurally altered, repaired by more than fifty percent (50%) of the assessed value of the sign.

7.08 Abandoned signs.

- (1) Abandoned signs shall be removed by the owner or lessee of the property upon which the sign is located, unless the sign's message is changed in compliance with this Ordinance. Such removal or change of message shall be completed within 1 year of the date upon which it becomes an abandoned sign.
- (2) If the owner or lessee fails to remove the sign, the Zoning Administrator shall give the owner 60 days written notice to remove said sign or change its message in compliance with this Ordinance. Upon failure to comply with this notice, the owner or lessee of the property upon which the sign is located shall be subject to prosecution and penalties as provided in Chapter 11, Enforcement.

CHAPTER 8

NONCONFORMING USES, STRUCTURES, LOTS

8.01 Previously lawful condition. Within the districts established and mapped by this Ordinance, or amendments thereto, there may exist uses of lands or buildings, structures, lots, or existing structures which were lawful before this Ordinance, or amendments thereto, became effective, but which do not conform to the regulations herein. As set forth in s. 59.69 (10), Wis. Stats., such nonconforming conditions may be continued, subject to the requirements of this chapter.

8.02 Nonconforming uses.

- (1) Nonconforming use of land.
 - (a) All nonstructural uses of land shall be authorized only by a conditional use permit.
- (2) The following shall apply to all buildings or structures which house a nonconforming use, except for such nonconforming uses as are otherwise regulated and controlled by the Trempealeau County Shore land Zoning Ordinance, Trempealeau County Wetland Zoning Ordinance and the Trempealeau County Floodplain Zoning Ordinance:
 - (a) Structural alterations or structural repairs of an existing building or structure which houses a nonconforming use shall be authorized by a land use permit.
 - (b) Additions to an existing building or an existing structure which houses a nonconforming use shall be authorized only by a conditional use permit. Such additions shall comply with all applicable setbacks and other dimensional requirements of this Ordinance, unless variances are granted as provided in s. 10.05.
 - (c) If a structure which houses a nonconforming use is destroyed by fire, materially damaged, explosion, storm damage, or other disaster, such structure may be restored and the nonconforming use may be restored therein upon issuance of a land use permit. Such restoration shall not exceed the original building floor area and volume, unless a conditional use permit is authorized, as provided in par. (b). If the original structure which housed the nonconforming use is also a nonconforming structure, the provisions of Section 8.03 shall also apply.
- (3) Change of use. A nonconforming use shall not be changed to any use other than a use permitted in the zoning district in which it is located.

- (4) Discontinuance. Where any such nonconforming use is discontinued for a period of 12 consecutive months, any future use of the building, structure, or land shall conform to the regulations of the district in which it is located.

8.03 Nonconforming structures.

- (1) Alterations and additions except the alterations and additions to structures regulated by the Trempealeau County Shore land Zoning Ordinance, Trempealeau County Wetland Zoning Ordinance and the Trempealeau County Floodplain Zoning Ordinance shall meet the following requirements:
 - (a) Structural alterations or structural repairs of nonconforming structures shall meet all the provisions of this ordinance, except that such alterations or repairs need not comply with the setback or yard provisions of this Ordinance, provided they do not result in an increase in floor area nor change the footprint of the structure.
 - (b) Additions to or extensions of nonconforming structures are permitted provided that such additions or extensions comply with all the provisions of this Ordinance. Additions or extensions of nonconforming structures along public highways where such structure and public highway existed prior to the effective date of this Ordinance are permitted provided that such additions or extensions do not extend further toward the public highway than the existing structure.
 - (c) A conforming use in a nonconforming structure may be changed to another conforming use without complying with the setback or yard requirements of these regulations, provided the new conforming use does not result in an increase in floor area nor change the footprint of the structure, and provided that all parking and other site requirements are met.
 - (d) Highway projects. When a structure becomes a nonconforming structure as to setback from a highway, because the highway was widened or relocated or changed in jurisdiction by the county, a town, or the Wisconsin Department of Transportation, such a structure shall not require a variance and shall not be considered a nonconforming structure in regards to setback from a highway. However, no such structure shall thereafter be enlarged or rebuilt in such a manner that it will be closer to the right-of-way of the highway.
- (2) Repairs and restoration except the alterations and additions to structures regulated by the Trempealeau County Shore land Zoning Ordinance, Trempealeau County Wetland Zoning Ordinance and the Trempealeau County Floodplain Zoning Ordinance shall meet the following requirements:

- (a) A nonconforming structure that is damaged or destroyed by fire, explosion, storm damage, or similar calamity, may be repaired or restored provided either 1) the repair or restoration would bring the structure into compliance with this Ordinance; or 2) the repair or restoration of the nonconforming portion of the structure occurs, fully within the building footprint of the structure before damage and there is no increase in the floor area of the nonconforming portion of the structure and repair or restoration takes place within 12 months of being damaged.
 - (b) Except for historic buildings, no repairs or restoration of nonconforming structures shall be located within any public right-of-way.
- (3) Nonconforming signs. All nonconforming signs shall be subject to the provisions contained in s. 7.07.

8.04 Nonconforming lots.

- (1) Existing lots of record which do not contain sufficient area and/or width to meet the criteria in Section 3 of this ordinance shall be considered nonconforming lots. If a nonconforming lot is in common ownership with abutting lands, the contiguous lots shall be considered a single parcel, unless the parcel is re-divided to conform to the dimensional requirements for new lots in the applicable zoning district.
- (2) A nonconforming lot may be used for any use permitted within the zoning district in which the lot is located, but shall not be a building site, unless a variance is granted as provided in Section 10.05. under circumstances in which, in the absence of the granting of the variance, no reasonable use can be made of the lot.

CHAPTER 9

ADMINISTRATION

9.01 Zoning Committee

- (1) The Zoning Committee, or its successor, created by the Trempealeau County Board of Supervisors, shall be the designated county zoning agency pursuant to s. 59.69 (2), Wis Stats.
- (2) The Zoning Committee shall adopt and follow any governing rules of procedure as specified in s. 59.69 (2) Wis. Stats., and shall comply with the Wisconsin Open Meeting Law as specified in ss. 19.81 through 19.98, Wis. Stats.
- (3) Duties and powers. In administering this Ordinance, the duties and powers of the Zoning Committee shall be as follows:
 - (a) Supervise the administration of this Ordinance.
 - (b) Exercise those duties and powers specified in s. 59.69, Wis. Stats.
 - (c) Hold public hearings as required by this Ordinance, by Wisconsin Statutes, or by its own motions.
 - (d) Submit recommendations to the County Board of Supervisors for or against proposed zoning text and map amendments, and planned residential developments.
 - (e) Issue or deny conditional use permits, and establish any conditions for such permits.
 - (f) Approve or deny development plans for planned residential developments.
 - (g) Review and approve site plans pursuant to Section 10.03.
 - (h) Any other duties determined by the County Board of Supervisors.
- (4) Financial Sureties
 - (a) The Zoning Committee may require that a performance bond or letter of credit be provided for the benefit of the County and filed with the County so as to ensure compliance with the terms of this Ordinance or required permit.
 - (b) Failure to provide or maintain such bond or letter of credit shall invalidate any permit.

9.02 Zoning Board of Adjustment.

- (1) Establishment. There is hereby established a Board of Adjustment for the County of Trempealeau as authorized by s. 59.694, Wis. Stats.
- (2) Membership.
 - (a) Size and appointment. The Board of Adjustment shall consist of 5 regular members and up to two alternate members, all appointed by the chair of the County Board of Supervisors with the approval of the County Board of Supervisors.
 - (b) Eligibility. Members of the Board of Adjustment shall reside in the unincorporated areas of Trempealeau County. No two members of the Board of Adjustment shall reside in the same town.
 - (c) Terms of office. The term of office shall be 3 years. However, these terms of office shall be staggered such that no more than 2 members' terms of office are expired in any one year. Each term shall begin July 1st.
 - (d) Officers. The Board of Adjustment shall choose its own chairperson, vice-chairperson, and secretary.
 - (e) Removal. Members may be removed by the chairperson of the County Board of Supervisors per statutory requirements with the approval of the County Board of Supervisors.
- (3) Operation and rules.
 - (a) The Board of Adjustment shall adopt rules for the conduct of its business which shall be in accordance with the provisions of this Ordinance and s. 59.694, Wis. Stats.
 - (b) Call to meetings. The Board of Adjustment shall meet at the call of the chair, and at such other time as the Board of Adjustment may determine, at a fixed time and place.
 - (c) Open meetings. All meetings of the Board of Adjustment shall be open to the public, unless otherwise by Wisconsin law.
 - (d) Minutes. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be public record.

- (e) In the case of all appeals, the Board of Adjustment may call upon the Zoning Administrator for all information pertinent to the decision appealed.
 - (f) Quorum. The quorum for any meeting shall consist of 3 members.
 - (g) The chair may administer oaths and compel the attendance of witnesses.
- (4) Powers. The Board of Adjustment shall have the following powers:
- (a) Appeals. To hear and decide appeals, pursuant to s. 59.694, Wis. Stats., where it is alleged that there is an error or errors in any order, requirement, decision or determination made by the Zoning Administrator. In exercising the above mentioned powers, the Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination which is the subject of the appeal, and to that end shall have all the powers of the officer from whom the appeal is taken.
 - (b) Variances. To hear and authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship, and so that the spirit of this Ordinance will be observed and substantial justice done. Such variance shall not have the effect of permitting in any district a use that is prohibited in that district.

9.03 Zoning Administrator. In administering this Ordinance, the Zoning Administrator or such other person designated by the Zoning Committee, shall possess the following duties and powers:

- (1) Make necessary studies relevant to deliberations regarding conditional use permits, as directed by the Zoning Committee.
- (2) Recommend to the Zoning Committee amendments necessary to make this Ordinance more effective.
- (3) Administer and enforce this Ordinance as the authorized representative of the Zoning Committee.
- (4) Provide to the public the necessary permit application forms, variance and appeals forms. Assist the public in preparing permit applications, variance and appeal petitions.
- (5) Conduct all necessary on-site inspections and investigations of structures, lands, and waters to certify compliance with this Ordinance.

- (6) Issue or deny land use permits and sign permits.
- (7) Suspend or revoke land use permits and sign permits and/or issue cease and desist orders upon noncompliance with the terms of the permit and/or this Ordinance.
- (8) Investigate alleged zoning violations and give notice of all violations of this Ordinance to the owner, resident, agent, or occupant of the premises.
- (9) Issue citations for violations of this Ordinance, and/or assist the Corporation Counsel in enforcement proceedings.
- (10) Gain entry to premises, buildings, and structures during reasonable hours for the purpose of investigating applications for permits and for the purpose of determining compliance with this Ordinance or with any issued permit. If entry is refused after presentation of proper identification, a special inspection warrant may be procured in accordance with s. 66.122, Wis. Stats.
- (11) Record all permits issued, inspections made, work approved, and other official actions.
- (12) Assist in giving all legal notices required by State Statutes or this Ordinance.
- (13) When necessary, provide technical and clerical assistance for hearings conducted by the Board of Adjustment or the Zoning Committee.
- (14) Make referrals and recommendations to the Zoning Committee and Board of Adjustment in accordance with this Ordinance.

CHAPTER 10

PROCEDURES

10.01 Land use permits.

- (1) Applicability. Land use permits, certifying that any such use, structure, or site complies with the provisions of this Ordinance, shall be required in the following instances, unless specifically exempted therefrom by this Ordinance:
 - (a) Construction, reconstruction, location, relocation, erection, extension, enlargement, conversion, or structural alteration of any building, structure, or part thereof, except signs requiring a sign permit and structures which are less than 6 inches in height above grade elevation that do not contain habitable or usable area.
 - (b) Establishment of any accessory or principal use, except uses permitted as conditional uses.

- (2) Applications.
 - (a) An application for a land use permit shall be submitted to the Zoning Administrator on forms furnished by the Trempealeau County Zoning Department and shall include the following information:
 1. Name and address of the property owner.
 2. Signature of the property owner or agent.
 3. Proof of ownership of the parcel.
 4. Tax parcel number, deed, legal description or other identifier of the subject property.
 5. An accurate plot plan, drawn at a scale which produces a clearly legible drawing, showing the following:
 - a. Boundaries, dimensions, and area of the subject site.
 - b. The spatial relationship of the subject site to abutting public highways and right-of-ways, easements, and navigable waters.
 - c. The location and dimensions of any existing or proposed structures or additions and their relationship to abutting public highways and right-of ways, property lines, zoning district boundaries, existing and proposed wells and sanitary waste disposal systems, and the ordinary high water mark of navigable waters.
 - c. Location of proposed or existing highway access points, parking and loading areas, and driveways.

6. Additional information as may be required by the Zoning Administrator in order to determine the full compliance with the requirements of this Ordinance.
 7. Water supply and sewage disposal. Satisfactory evidence that a safe and adequate supply of water and approved sewage disposal facilities will be provided, in accordance with the requirements of the Trempealeau County Sanitary Ordinance, shall be submitted.
 - (b) Town Board approval shall be required for all land use permits requested for principal structures.
 - (c) Fee. All permit applications shall be accompanied by a fee established by the Trempealeau County Board of Supervisors.
 - (d) No application shall be accepted by the Zoning Administrator until complete as judged by the Zoning Administrator and until all fees established by Trempealeau County have been paid in full.
- (3) Permit issuance or denial. Upon the Zoning Administrator's determination that the proposed use or structure complies with the provisions of this Ordinance, a land use permit shall be issued. The permit shall authorize the applicant to proceed subject to all provisions of the Ordinance and any conditions attached to the permit. An application for a use or structure not in conformity with the provisions of this Ordinance shall be denied a land use permit and the reasons for denial shall be stated. No permit shall be issued for uses or structures involving human occupancy without documentation that provision has been made for safe and adequate water supply and disposal of sewage.
- (4) Expiration.
 - a) Land use permits to establish a use shall expire 12 months from date of issuance if the authorized use is not substantially completed or in operation. Any change of land use after the expiration of a land use permit shall be considered a violation of this Ordinance
 - (b) Except as sub. (5) applies, land use permits for construction of a structure shall expire 12 months from the date of issuance. Any exterior construction after the expiration of a land use permit shall be considered a violation of this Ordinance.
- (5) Renewal. If construction has commenced prior to the expiration of a land use permit, but is not completed prior to such expiration, a 12 month renewal land use permit shall be issued by the Zoning Administrator upon submittal of a renewal application and fee. Additional renewals shall be granted by the Zoning Administrator upon a finding that progress had been made during the previous

year toward completion of the structure. If a 12 month period passes without evidence of progress towards completion, the Zoning Administrator shall advise the Zoning Committee of same and the Zoning Committee may call a public hearing on the matter and may impose a completion schedule. For purposes of this Ordinance, a structure shall be deemed completed when the roof, exterior walls, doors, windows, and subfloors are in place and finished and sanitary waste disposal system has been installed.

- (6) Termination. If a use or structure does not comply with the issued land use permit or this Ordinance, the permit shall be terminated by the Zoning Administrator. If a use permitted by a land use permit ceases for a period of more than 12 months, the land use permit shall terminate, and all future activity shall require a new land use permit.

10.02 Sign permits.

- (1) Applicability. This section only applies to those signs requiring a sign permit as specified in Section 7.06, that are erected, moved, structurally altered, or reconstructed.
- (2) Applications.
- (a) All applications for sign permits shall be made to the Zoning Administrator on forms furnished by the Trempealeau County Zoning Department and shall include the following:
1. Name, address, and signature of the applicant.
 2. Name, address, and signature of the property owner, along with proof of ownership, of the site for the proposed sign, if different from the applicant.
 3. Type, description, and dimensions of the proposed sign.
 4. Location of the building, structure, or lot to which or upon which the sign is to be attached or erected.
 5. A plan, drawn at a scale which produces a clearly legible drawing, showing the following:
 - a. The distance from the proposed sign to abutting public highways and right-of-ways, and navigable water.
 - b. The distance from the proposed sign to existing structures and adjacent freestanding or projecting signs.
- (b) Fee. All sign permit applications shall be accompanied by a fee established by the County Board of Supervisors.
- (c) No application shall be accepted by the Zoning Administrator until complete as judged by the Zoning Administrator and until all fees established by Trempealeau County have been paid in full.

- (3) Permit issuance or denial. Applications for sign permits shall be reviewed by the Zoning Administrator for compliance with the requirements of this Ordinance. If compliance is found, the sign permit shall be issued. If compliance is not found, the sign permit shall be denied and the reasons for denial stated.
- (4) Expiration. All sign permits shall expire 12 months from the date of issuance if the sign has not been erected. No sign shall be erected, moved, reconstructed, or altered after expiration of a sign permit, unless a new sign permit is obtained.
- (5) Termination. If a sign does not comply with the issued sign permit or this Ordinance, the sign permit shall be terminated by the Zoning Administrator.

10.03 Site plan review.

- (1) Review and Approval
 - (a) Permits for new construction or additions to existing structures and buildings for commercial, industrial, institutional, or multi-family uses shall require site plan approval as set forth in this section. The purpose of such approval is to assure site designs which promote compatibility between land uses, create safe and attractive site layouts and structures, provide proper access to streets and transportation, protect property values, and contribute to efficient land use in Trempealeau County.
 - (b) The Zoning Committee or its designee shall review the site, existing and proposed structures, architectural plans, neighboring uses, use of landscaping and open space, parking areas, driveway location, loading and unloading areas, highway access, traffic generation and circulation, lighting, drainage, water and sewer systems, and proposed operations.
- (2) Site Plan Requirements. All site plans shall contain the following information:
 - (a) Identification.
 - 1. Name of project.
 - 2. Owner's and/or developer's name, address, and telephone number.
 - 3. Architect and/or engineer's name, address, and telephone number.
 - 4. Address of project.
 - 5. Date site plan was prepared.
 - (b) Graphic Representation.
 - 1. Three copies of the site plan shall be submitted.
 - 2. Site plan scale shall be no less than 50 feet to the inch, and show date, north arrow, and graphic scale.
 - (c) Site Plan Information.

1. Lot boundaries, including legal description, and required setback distances.
 2. Location of all public highways, official map streets, and easements.
 3. Location of all water courses, drainage ditches, Shoreland-Wetlands, floodplains, and required setbacks.
 4. Location of all existing and proposed public and private utilities, wells, drainage structures, and lighting.
 5. Existing and proposed structures and buildings, structures to be removed, the proposed use of all structures and their dimensions.
 6. Floor plans and elevations, including dimensions, and exterior plans showing the design and character of each structure and building.
 7. Traffic aspects of existing and proposed driveways and parking lots, including parking stall sizes and layout, handicap stalls and ramps, loading zones, driveway widths and traffic direction, sidewalks and pedestrian walkways, and similar improvements.
 8. Existing and proposed vegetation, areas of permanent open space, landscaping, fences, ground cover, areas of filling and grading in excess of 6", and a minimum of 2 foot contours.
 9. Location of signs.
 10. Operation plans, construction schedule, and construction phases.
 11. Other pertinent information as may be requested by the Zoning Committee or its designee. Items from the list of required information may be waived by the reviewer.
- (3) Review and Findings. The Zoning Committee or its designee shall review the site plan following submittal of complete and acceptable site plan materials. The Zoning Committee or its designee shall not approve a site plan unless it is determined that the proposed site plan is in conformance with the intent and purpose of the ordinance and is consistent with the following scope of review. No land shall be used or structure erected where the land is held unsuitable for such use or structure by the site plan reviewer by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility, or any other feature or condition likely to be harmful to the health, safety, prosperity, aesthetics, and general welfare of the county.

Any comments or objections to the site plan or general suitability of the site shall be communicated to the applicant who shall have an opportunity to respond and amend the site plan. The review by the Zoning Committee shall include:

- (a) The relationship of the site plan to adopted land use plans and policies.
- (b) Parking, loading, traffic generation and circulation layout so as to:
 1. Minimize hazardous traffic movements.

2. Achieve efficient traffic flow in accordance with standards in the Institute of Traffic Engineers' Transportation and Traffic Engineering Handbook.
 3. Provide for the optimum number of parking spaces.
 4. Provide for optimum loading and unloading in the case of commercial and industrial uses.
 5. Provide for optimum access to public streets and highways.
 6. Provide for pedestrian safety.
- (c) Provisions for surface and subsurface drainage and for connections to water and sewer lines, so as to not overload existing public utilities nor increase the danger of erosion, flooding, landslide, or other endangerment of adjacent or surrounding properties.
- (d) The use of landscaping so as to:
1. Maintain existing mature trees and shrubs to the maximum extent as is practical.
 2. Buffer adjacent uses which may be incompatible.
 3. Screen unsightly activities from public view.
 4. Break up large expanses of asphalt and buildings with plant material.
 5. Provide an aesthetically pleasing landscaping design.
 6. Make optimum use of open spaces.
 7. Provide plant materials and landscaping designs that can withstand the county's climate.
- (e) Location of principal structures, accessory structures, lighting, free-standing signs, refuse containers, mechanical equipment, etc. so that their locations do not impede safe and efficient traffic flow, adversely impact the development of adjacent property or the character of the surrounding neighborhood, and creates an attractive grouping, spacing, and placement of buildings and structures in relation to the site and its environs.
- (f) The operations of the proposed use to avoid any negative activity effect on adjacent properties.
- (4) Sureties. The Zoning Committee may impose time schedules for completion of buildings, parking areas, open space uses, drainage and erosion control systems, and landscaping. The Zoning Committee may require appropriate sureties, including but not limited to cash bonds, performance bonds, maintenance bonds, and letters of credit to guarantee that requirements will be completed on schedule. Failure to complete required improvements within specified time limits shall constitute a zoning violation and may result in cancellation of any permits subject to penalty and enforcement provisions of Chapter 11.

- (5) Appeals. Any person or persons aggrieved by any decision of the Zoning Committee or its designee related to site plan review may appeal the decision to the Board of Adjustment. Such appeal shall be filed with the zoning administrator within 30 days of the decision.

10.04 Conditional use permits.

- (1) Applicability. A conditional use permit shall be required for the establishment of each use permitted as a conditional use and for an addition to, or expansion or intensification of, a nonconforming use. Expansion of a use permitted as a conditional uses shall also require a conditional use permit, except that the minor expansion of a building housing a use permitted as a conditional use which would not increase the scale or intensity of that use shall only require a land use permit.
- (2) Application.
- (a) An application for a conditional use permit shall be submitted to the Zoning Administrator upon forms furnished by the Trempealeau County Zoning Department. The application shall contain the following information:
1. All the information required for a land use permit listed in s. 10.01.
 2. Upon written request by the Zoning Administrator, such additional information as may be required by the Zoning Administrator so that the Zoning Committee can determine whether or not the proposed use at the proposed location will not be contrary to the public interest and will not be detrimental or injurious to public health, public safety, or the character of the surrounding area. The written request shall contain an explanation of why the additional information is needed.
 3. Water supply and sewage disposal. Where the proposed use involves human occupancy, satisfactory evidence that a safe and adequate supply of water and approved sewage disposal facilities will be provided, in accordance with the requirements of the Trempealeau County Sanitary Ordinance, shall be submitted.
- (b) A letter from the Town Board regarding its position in response to the conditional use permit application. If a Town Board elects to not submit its position after an applicant makes such a request, then the County will deem the Town Board to have no position in regard to the conditional use permit application.
- (c) Fee. All conditional use permit applications shall be accompanied by a fee established by the County Board of Supervisors.

- (d) No application shall be accepted by the Zoning Administrator until complete as judged by the Zoning Administrator and until all fees established by Trempealeau County have been paid in full.
- (3) Public hearing. A public hearing shall be held by the Zoning Committee after a public notice has been given as provided in s. 10.08. At the public hearing, any party may appear in person or be represented by an agent.
- (4) Determination. Following review, investigation, and public hearing, the Zoning Committee shall render a decision in writing.
 - (a) If the application is approved, such decision shall include an accurate and complete description of the use as permitted, including all the conditions attached thereto.
 - (b) If the application is denied, the reasons for denial shall be stated.
- (5) Basis of approval.
 - (a) The Zoning Committee shall review each conditional use permit application for compliance with all requirements applicable to that specific use and to all other relevant provisions of this Ordinance. In approving conditional uses, the Zoning Committee also shall determine that the proposed use at the proposed location will not be contrary to the public interest and will not be detrimental or injurious to the public health, public safety, or character of the surrounding area.
 - (b) To aid in the review of the proposed project under the above criteria, the Zoning Committee may take into consideration such of the following factors or additional factors as are deemed by it to be relevant to its decision making process with respect to the project in question.
 1. Whether the proposed project will adversely affect property in the area.
 2. Whether the proposed use is similar to other uses in the area.
 3. Whether the proposed project is consistent with adopted Trempealeau County plans or any officially adopted town plan.
 4. Provision of an approved sanitary waste disposal system.
 5. Provision for a potable water supply.
 6. Provisions for solid waste disposal.
 7. Whether the proposed use creates noise, odor, or dust.
 8. Provision of safe vehicular and pedestrian access.
 9. Whether the proposed project adversely impacts neighborhood traffic flow and congestion.
 10. Adequacy of emergency services and their ability to service the site.
 11. Provision for proper surface water drainage.

12. Whether proposed buildings contribute to visual harmony with existing buildings in the neighborhood, particularly as related to scale and design.
 13. Whether the proposed project creates excessive exterior lighting glare or spillover onto neighboring properties.
 14. Whether the proposed project leads to a change in the natural character of the area through the removal of natural vegetation or altering of the topography.
 15. Whether the proposed project would adversely affect the natural beauty of the area.
 16. Whether the proposed project would adversely affect any historic or archeological sites.
- (c) The applicant's failure to satisfy the criteria listed in par. (b) or any other applicable requirement in this Ordinance may be deemed grounds to deny the conditional use permit. At all times the burden of proof to demonstrate satisfaction of these criteria remains with the applicant.
- (d) Applications for Conditional Use Permits in the Exclusive Agricultural District shall comply with any restrictions or limitations contained in Wis. Stats. Chapter 91.
- (6) Conditions and restrictions. The Zoning Committee may, in approving an application for a conditional use permit, impose such restrictions and conditions that it determines are required to prevent or minimize adverse effects from the proposed use or development of other properties in the neighborhood and on the general health, safety, and welfare of the county. Such conditions may include financial sureties. The Zoning Committee may limit the use of land to one specific use permitted in the zoning district for which the conditional use permit is sought.
- (7) Expiration. Except as otherwise stated in the Zoning Code, all conditional use permits shall expire 12 months from the date of issuance where no action has commenced to establish the authorized use or 24 months from issuance if the authorized use is not substantially completed or in operation. If a time limit has been imposed as a condition for the permit, the permit shall expire at the end of the time limit.
- (8) Notification.
- (a) Pursuant to s. 91.75 (5), Wis. Stats., the Trempealeau County Department of Zoning shall notify the Wisconsin Department of Agriculture, Trade and Consumer Protection of all conditional uses approved in the Exclusive Agricultural district.
 - (b) Pursuant to NR 115.05 (6) (h), Wis. Admin.. Code, a copy of any conditional use decision which affects shorelands shall be provided to the

district office of the Department of Natural Resources within 10 days of the date such decision is rendered.

- (9) Termination. If the use of land or a structure under a conditional use permit is not maintained in a manner consistent with and in compliance with the terms and conditions of the permit and of this Ordinance, the conditional use permit may be terminated by action of the Zoning Committee. In the event that a conditional use of property shall cease for a period of twelve (12) months in succession, the conditional use permit shall automatically terminate and all future use of the land or structure in question which is in the form of a conditional use shall require the issuance of a new conditional use permit.
- (10) Resubmission. A conditional use permit application that has been heard and decided shall not be eligible to be resubmitted during the 6 months following the decision. The 6 month period may be waived by the Zoning Committee, provided that the applicant submits a written report identifying how the new application differs materially from the previous application or identifying substantial new evidence that will be offered, and provided that the Zoning Committee votes, by simple majority, that the changes or new evidence would be of such significance that the Committee might consider changing the previous decision.
- (11) Appeal. Persons aggrieved by conditional use permit decisions issued by the Zoning Committee may, within thirty (30) days of the filing of each such decision in the office of the zoning administrator, file a certiorari review action with the Trempealeau County Circuit Court.

10.05 Variance from the requirements of this Ordinance.

- (1) Petition. A petition for variance shall be filed by the property owner, or the owner's agent, using forms furnished by the Trempealeau County Zoning Department. Such petition shall include the following:
 - (a) Name and address of the property owner and petitioner (if different).
 - (b) Signature of petitioner.
 - (c) Location of property involved in the petition.
 - (d) Proposed use or structure in question, including a site plan showing the preferred arrangement for which the variance is sought.
 - (e) Section(s) of this Ordinance from which a variance is requested.
 - (f) Details as to the narrowness, shallowness, shape, topography, or other characteristics of the land or the physical conditions applying to the building, structure, use or intended use which make it not merely

inconvenient but extremely difficult, if not impossible, to comply with the provisions of the Ordinance.

- (g) A statement which specifically identifies the conditions of the property which are believed by the owner or occupant to be unique to that property, justifying the granting of a variance and which are not shared by other properties in the same zoning district.
 - (h) A statement that the unnecessary hardship was not caused by the applicant nor by any persons still having an interest in the property.
 - (i) Fee. A petition for a variance shall be accompanied by a fee established by the County Board of Supervisors.
- (2) Processing.
- (a) Public hearing. The Board of Adjustment shall hold a public hearing in accordance with s. 59.694, Wis. Stats., and after a public notice has been given as provided in s. 10.08 (1). At the hearing, any party may appear in person or by agent or by attorney.
 - (b) Decision. Within a reasonable time, the Board of Adjustment shall render a decision to either grant or deny the request for variance.
 - 1. A variance granted shall be the minimum to permit a use of the property and may contain conditions or guarantees attached thereto by the Board of Adjustment.
 - 2. A variance denied shall be accompanied by the reasons for denial.
- (3) Standards for variance. The Board of Adjustment shall consider the following standards for granting a variance. The burden of proof at all times remains with the applicant to establish that the proposed variance meets the following standards:
- (a) Unnecessary hardship. That there are present actual physical conditions applying to the lot, parcel, building, structure, use or intended use on that parcel which are creating the unnecessary hardship in the application of this Ordinance, as distinguished from a mere inconvenience to the owner if the strict letter of the regulations are required.
 - (b) Unique condition. That the conditions described in par. (a) are unique, exceptional, extraordinary, or unusual circumstances applying only or primarily to the property under consideration and are not of such a general or recurrent nature elsewhere in the same zoning district as to suggest or establish the basis for Ordinance changes or amendments, or of having that effect if relied upon as the basis for granting a variance.

- (c) Conditions not self created. That the condition creating the hardship or difficulty was not caused by the petitioner nor by any person still having an interest in the property.
 - (d) Public interest. That in granting the variance there will not be a substantial detriment to neighboring property and the grant of variance will not be contrary to the purpose of this Ordinance and the public interest.
 - (e) Effect on uses. No variance shall have the effect of allowing in any district a use not permitted in that district.
- (4) Department of Natural Resources notification. Pursuant to Wis. Adm. Code NR 115.05 (6), with respect to variances from the County Shore land Zoning regulations, a copy of any variance granted shall be provided to the district office of the Department of Natural Resources within 10 days of the date such decision is rendered.
- (5) Resubmission. A variance petition that has been heard and decided shall not be eligible to be resubmitted during the 6 months following the decision. The 6 month period may be waived by the Board of Adjustment provided that the petitioner submits a written report identifying how the new petition differs materially from the previous petition or identifying substantial new evidence that will be offered and provided that the Board of Adjustment votes by simple majority that the changes or new evidence would be of such significance that the Board might consider changing the previous decision.

10.06 Appeals.

- (1) General provisions.
 - (a) Where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Administrator an appeal may be taken the Board of Adjustment by any person aggrieved, or by any officer, department, board, or bureau of the municipality affected.
 - (b) Such appeals shall be filed with the Zoning Department within 30 days after the date of written notice of the decision or order of the Zoning Administrator.
 - (c) Stays. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken shall certify to the Board of Adjustment, after the notice of appeal shall have been filed, that by reason of facts stated in the certificate a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order, which may be granted by

the Board of Adjustment or by a court of record or application and notice to the officer from whom the appeal is taken and on due cause shown.

- (2) Processing an appeal.
- (a) Petitions for appeals shall include:
 - 1. Name, address, and signature of the appellant.
 - 2. Location of property affected by the appeal.
 - 3. The decision being appealed and the grounds claimed for the appeal. The burden of proof at all times remains with the appellant.
 - 4. Such additional information as may be required by the Board of Adjustment.
 - (b) Fee. An appeal shall be accompanied by a fee established by the County Board of Supervisors.
 - (c) The Trempealeau County Zoning Department shall forthwith transmit to the Board of Adjustment the appeal and all documents constituting the record upon which the action appealed from was taken.
 - (d) Public hearing. The Board of Adjustment shall hold a public hearing in accordance with s. 59.694, Wis. Stats., and after a public notice has been given as provided in s. 10.08 (1). At the hearing any party may appear in person or by agent or attorney.
 - (e) Decision. The Board of Adjustment decision of the appeal shall be rendered in writing within 30 days after the public hearing. Such decision shall:
 - 1. State the specific facts which are the basis for the Board's decision.
 - 2. Either affirm, reverse, vary, or modify the order, requirement, decision or determination appealed from. The Board may also dismiss the appeal for lack of jurisdiction.
- (3) Department of Natural Resources notification. Pursuant to NR 115.05 (6) (h), Wis. Admin. Code, a copy of any appeal decision of the Board of Adjustment which affects shore lands shall be provided to the district office of the Department of Natural Resources within 10 days of the date such decision is rendered.

10.07 Amendments.

- (1) The County Board of Supervisors may amend this Ordinance in accordance with 59.69(5), Wis. Stats., and, where applicable, Wis. Admin. Code, Chs. NR 115 and 116 and after a public notice has been given as provided in s. 10.08. At the hearing any party may appear in person or by agent or attorney.

- (2) Fee. A petition for an amendment shall be accompanied by a fee established by the County Board of Supervisors.
- (3) Zoning amendments in the Exclusive Agriculture district.
 - (a) Trempealeau County may approve petitions for rezoning areas zoned for Exclusive Agriculture use only after findings are made based upon consideration of the following:
 1. Adequate public facilities to accommodate development either exist or will be provided within a reasonable time.
 2. Provision of public facilities to accommodate development will not place an unreasonable burden on the ability of affected local units of government to provide them.
 3. The land proposed for rezoning is suitable for development, and development will not result in undue water or air pollution, cause unreasonable soil erosion or have an unreasonable adverse effect on rare or irreplaceable natural areas.
 - (b) Pursuant to s. 91.77 (3), Wis. Stats., the Wisconsin Department of Agriculture, Trade, and Consumer Protection shall be notified of all rezonings pertaining to the Exclusive Agriculture district.
- (4) Department of Natural Resources notification. Pursuant to Wis. Admin. Code NR 115.05 (6) (h), a copy of any amendment decision which affects shorelands and Wis. Admin. Code NR 116.21 (6), a copy of any amendment which affects floodplains, shall be provided to the district office of the Department of Natural Resources within 10 days of the date such decision is rendered.
- (5) Resubmission. A petition for zoning amendment that has been heard and decided shall not be eligible to be resubmitted during the 6 months following final action by the Trempealeau County Board of Supervisors. The 6 month period may be waived by the Zoning Committee provided that the petitioner submits a written report identifying how the new zoning amendment petition differs substantially from the previous petition or identifying substantial new evidence that will be offered and provided that the Zoning Committee votes by simple majority that the changes or new evidence would be of such significance that the Trempealeau County Board of Supervisors might consider changing the previous decision.
- (6) Limitations on use. The Zoning Committee and the Trempealeau County Board of Supervisors may, in the process of approving a zoning amendment, limit the use of land to one or more specific uses permitted in the zoning district for which the amendment is sought.

10.08 Public hearings. When public hearings are required by this Ordinance or by Wisconsin statutes, the following shall apply:

- (1) Notice for public hearings.
 - (a) Notice of any public hearing which the Zoning Committee or Board of Adjustment is required to hold shall be given by publishing in the county a Class 2 notice in accordance with Ch. 985, Wis. Stats. The notice shall specify the time and place of such hearing.
 - (b) If the public hearing involves a petition for a zoning amendment, a copy of the hearing notice shall be mailed by registered mail to the town clerk of each town affected by the proposed amendment at least 10 days prior to the date of such hearing.
 - (c) If the public hearing involves a variance or an appeal before the Board of Adjustment, the Board of Adjustment shall give due notice to the parties in interest.
 - (d) For any public hearing involving shore lands, notice shall be mailed to the Department of Natural Resources at least 10 days prior to the date of such hearing.
- (2) Public hearing procedures. The Zoning Committee or Board of Adjustment may adopt any formal or informal public hearing procedures.

CHAPTER 11
ENFORCEMENT

11.01 Violations.

- (1) It shall be unlawful to locate, erect, construct, reconstruct, alter, enlarge, extend, convert, or relocate any building, structure, or sign or use any building, structure, land or sign in violation of the provisions of this Ordinance, or amendments or supplements thereto, lawfully adopted by the County Board of Supervisors. It shall also be unlawful to fail to comply with the provisions of this ordinance or fail to obtain permits as required by this Ordinance or to fail to comply with any requirement or condition imposed by the Board of Adjustment or Zoning Committee.
- (2) Each and every day of violation as described in sub. (1) may be deemed a separate offense and violation.
- (3) Any person, firm, association, or corporation or representative agent failing to comply with the provisions of this Ordinance may be subject to prosecution under the terms of this Ordinance.

11.02 Prosecution.

- (1) Civil proceedings. Pursuant to s. 66.12, Wis. Stats., an action for violation of this Ordinance shall be a civil action.
- (2) Notification. The Zoning Administrator shall serve any violators with a notice of violation stating the following:
 - (a) The nature of the violation.
 - (b) Corrective measures required to eliminate the violation.
 - (c) That the violator shall be subject to:
 1. Civil action to remove or otherwise eliminate the violation, and/or
 2. Penalties, upon conviction, as set forth in s. 11.04.
- (3) Corporation Counsel. The Zoning Administrator shall report violations to the Trempealeau County Corporation Counsel. At the Corporation Counsel's discretion, legal action or proceedings may be commenced to prosecute alleged violators pursuant to the proceedings outlined in s. 66.12, Wis. Stats., or pursuant to the issuance of a summons and complaint.

- (4) Injunction. Compliance with this Ordinance may also be enforced by an injunction at the suit of Trempealeau County or the owner or owners of real estate within the zoning district affected by such regulation.
- (5) Penalty. Those actions commenced on behalf of Trempealeau County may, in addition, seek a forfeiture or penalty as outlined herein.
- (6) Special inspection warrants. The provisions of s. 66.122, Wis. Stats., shall govern the issuance of all special inspection warrants.

11.03 Orders and citations

- (1) Trempealeau County zoning officials shall have the authority to issue orders and directives to any person subject to the provision of these regulations to:
 - (a) Cease any act, conduct or use which is deemed to be a violation of these regulations; or
 - (b) Correct within a specified period of days any violation of these regulations and to issue, with or without an order or directive, a citation and notice to appear in a court of competent jurisdiction for any violation of these regulations.

11.04 Penalties. Any person, firm, association, or corporation or representative agent who fails to comply with the provisions of this Ordinance or any order of the Zoning Administrator issued in accordance with this Ordinance shall, upon conviction thereof, forfeit not less than \$50 nor more than \$500 and the cost of prosecution for each violation including court costs and reasonable attorney fees; and in default of payment of such forfeiture and costs shall be imprisoned until payment thereof, but not exceeding 30 days. Each day a violation exists or continues shall constitute a separate violation.

11.05 After-the-fact conditional use applications and variance petitions.

- (1) After-the-fact conditional use situation. If building or structure or premises is used to establish a use, which by this Ordinance requires issuance of a conditional use permit, without a conditional use permit first being obtained, the responsible party may attempt to correct the violation by applying for a conditional use permit for the unauthorized use.
 - (a) Procedure.
 - 1. Upon notification of the violation, the responsible party may apply for a conditional use permit as provided in s. 10.04 (2).
 - 2. Upon submittal of a complete application, the application shall be processed as provided in s. 10.04.

- (b) During the pendency of the conditional use permit application, the responsible party shall not carry on any activities in furtherance of the unauthorized use.
- (2) After-the-fact variance situations. If a building or structure is constructed in violation of any dimensional requirement of this Ordinance, or if a lot is created in violation of minimum lot area and/or width requirements of this Ordinance, the responsible party may attempt to correct the violation by petitioning for a variance, except that the responsible party shall not be eligible for such correction if a summons and complaint regarding the violation has been filed by the Corporation Counsel prior to submittal of the variance petition.
- (a) Procedure.
 - 1. Upon notification of the violation, the responsible party may submit a written request to the Board of Adjustment asking that the Board of Adjustment consider a variance petition regarding the violation.
 - 2. As soon as can be conveniently scheduled, the Board of Adjustment shall decide whether or not to consider such variance petition. In deliberating on the issue, the Board of Adjustment shall consider a recommendation which the Zoning Administrator shall provide.
 - 3. If the Board of Adjustment refuses to accept the request, appropriate enforcement actions shall be applied.
 - 4. If the Board of Adjustment accepts the request, the responsible party may submit a variance petition as provided in s. 10.05 (1).
 - (b) During the pendency of a variance petition, the responsible party shall not carry on any activities in furtherance of the unauthorized act.

CHAPTER 12

INOPERABLE MOTOR VEHICLES AND JUNK

12.01 Purpose and intent. The purpose and intent of this section is to protect the health, safety and welfare of Trempealeau County residents and eliminate the inappropriate and unnecessary keeping and storage of inoperable motor vehicles, motor vehicle accessories and junk on public and private property.

12.02 Definitions. For the purpose of this chapter the following definitions shall be applicable:

- (1) “Inoperable motor vehicle” means any motor vehicle which satisfies one or more of the following criteria:
 - (a) That is partially dismantled or wrecked;
 - (b) That is not operable;
 - (c) That is unlicensed;
 - (d) That could not be safely or legally operated on a highway;
 - (e) That has become a habitat for rodents, vermin and insects;
 - (f) That in any other way constitutes a threat to public health, safety and welfare; or
 - (g) That has not been moved for a continuous period of more than 45 days.
- (2) “Junk” means items such as bottles, rags, paper and paper products, tires, barrels and other containers, inoperable appliances and other materials, including but not limited to worn out or discarded materials, whether owned, abandoned, purchased or donated and whether they are being kept or stored for purposes for sale or resale or for other purposes.
- (3) “Motor vehicle” means any self-propelled land vehicle which can be used for towing or transporting people, animals or materials, including but not limited to automobiles, trucks, buses, motorized campers, motorcycles and motor scooters.
- (4) “Motor vehicle accessories” means any part or parts of any motor vehicle.
- (5) “Person” shall mean all natural persons, partnerships, associations, corporations and other legal entities.

- (6) “Private property” means any real property not owned by the federal government, state, county, city, school board or other public subdivisions.
- (7) “Property Owner” shall mean the person shown of record to be the owner of the real property on which the inoperable motor vehicles, motor vehicle accessories or junk are located.
- (8) “Removal” shall mean the physical relocation of or destruction of or disposal of an inoperable motor vehicle, motor vehicle accessories or junk in a manner consistent with applicable state and federal laws and regulations and county and municipal ordinances.

12.03 Storage prohibited.

- (1) Subject to 12.04(b) it shall be unlawful for any person or property owner to keep or maintain upon or to allow any other person to keep or maintain upon real property under his/her control any of the following: junk, motor vehicle accessories or more than five (5) inoperable motor vehicles at any one time.
- (2) No person, having been notified by the County of the necessity of the removal of any inoperable motor vehicle, motor vehicle accessories or junk from private property shall physically relocate or dispose of or destroy the same in violation of state or federal laws or regulations or county or municipal ordinances.

12.04 Storage-permitted when and limitations on storage.

- (1) This section shall not apply to any inoperable motor vehicle, motor vehicle accessories or junk stored within an enclosed building, or on the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of such business enterprise, in a storage place or depository maintained in a lawful place and manner, or to seasonal use vehicles such as campers, etc. Such businesses enterprises shall include auto junk and salvage yards, auto repair and auto body shops but shall not include automobile service stations or tire, battery and accessory sales stores. The Zoning Committee may require auto junk and salvage yards, auto repair and auto body shops to provide screening in accordance with Section 3.10 of this ordinance.
- (2) This section shall not apply to the storage upon property under the control or ownership of persons, otherwise referred to as collectors, subject to this section, of not more than five (5) inoperable motor vehicles at one time. Such open storage shall, nonetheless, be subject to the following limitations: (a) Each such motor vehicle shall be stored in such a manner as to prevent oil, grease, battery acid, gasoline or other fuel or contaminants from leaking into or upon the soil. The existence of such contamination shall cause the motor vehicles in question to be classified as junk and subject the owner of the property on which they are found to prosecution hereunder. (b) Each such motor vehicle shall be stored at a

location on the collector's lot or parcel which is not visible beyond the lot line thereof. The failure or refusal of the owner of the lot or parcel on which such motor vehicles are found to abide by this requirement, even if such owner is not the owner of the motor vehicles in question, shall subject said owner to the requirement that screening be erected in a manner approved of by the zoning administrator, consistent with the standards under Section 3.10 of this Ordinance. Should an order for screening be disobeyed, the inoperable motor vehicles shall lose their exempt status under this section and their continued storage upon the lot or parcel in question shall be in violation of this section: (c) In the event that two (2) or more such motor vehicles are stored on a given lot or parcel, they shall not, at random, be scattered about the lot or parcel in a random or haphazard fashion or manner but shall, instead, be parked or stored in a row or rows in an orderly fashion. (d) Each collector shall take steps to keep each, such motor vehicle free and clear of brush, trees, weeds and grass or other vegetation which might otherwise grow in, upon or immediately around vehicles which have not been moved for a substantial period of time, otherwise defined as one or more growing seasons. Such a failure shall cause the motor vehicles to be classified as junk and subject the owner of the property on which they are found to prosecution hereunder.

- (3) Subject to the standards under 2., above, enforcement of this section with respect to the open storage of motor vehicles shall be subject to the sound discretion of the zoning administrator.

12.05 Notice of removal. Any person found in violation of the provisions of this section shall be given written notice by the zoning administrator or that person's designee requiring compliance with the provisions of this section. The notice shall include a description of the inoperable motor vehicle(s), motor vehicle accessories or junk, the location or address of the item(s) in violation, and that failure to comply with the provisions of this section may result in forfeitures being assessed. Additionally, the notice shall inform the violator that removal from the specified location to another location upon which such storage is not permitted is prohibited and shall subject the person to additional penalties. Notice is not required for second and subsequent violations occurring within a one-year period of the first violation of this section.

12.06 Violation – penalties. Any person who under this section violates any of its requirements shall be subject to imposition of an appropriate forfeiture in accordance with the Trempealeau County Citation Ordinance or injunctive relief or both in the discretion of the County.

CHAPTER 13

NON-METALLIC MINING

13.01 Non-metallic Mining. Non-metallic mining is an industrial land use pursuant to section 2.05 of this ordinance. Non-metallic exploration as defined in this chapter is a permitted use as outlined in this chapter and pursuant to section 2.05 Table of Uses. Non-metallic mining of Construction Aggregates as defined in this chapter, may be permitted as a conditional use in the Exclusive Agriculture (EA), Exclusive Agriculture-2 (EA-2), Primary Agriculture (PA), Transitional Agriculture (TA), and Industrial (I) zoning districts. Non-metallic mining of Industrial Sand, as defined in this chapter, may be permitted as a conditional use in the Industrial (I) zoning district. In addition to taking into consideration the general criteria governing the granting of conditional use permits under Sec. 10.04, the County shall specifically analyze non-metallic mineral mining proposals in light of the County's interest in providing for the wise use of the natural resources of the county, aesthetic implications of the siting of such a mine at a given location and the impacts of such a mining operation on the general health, safety and welfare of the public, including the impact on the market value of the lands adjacent to or in the vicinity of the proposed operation. Each application shall be judged on its own merits. Subject only to the standards set forth in this section and in the zoning ordinance as a whole, it is impossible to prescribe the criteria upon which such a permit may be granted in each and every case. A mining site may be permitted for Industrial Sand or Construction Aggregate, or both. If a mining site is permitted for both, then two separate conditional use permits shall be obtained and shall be enforced separately.

- (1) Permit Application. The application for a conditional use permit shall include:
 - (a) A narrative description of the proposed operation, together with a time line for commencement and reclamation and the nature and degree of land disturbing activities.
 - (b) A listing of the types of equipment and machinery proposed to be utilized in the operation, together with both the types and locations of structures necessary for the operation.
 - (c) The source, quality, quantity and means of disposition of surface or ground water encountered in the process of or extracted in and used in the course of operating the non-metallic mine. If required by the County, information on impacts on surrounding wells shall be generated and supplied for review.
 - (d) A topographic map of the site of proposed operations showing existing contours with minimum vertical contour interval of 10 feet or an alternative vertical contour interval approved by the County. The topographic map shall show the pre-existing vegetation, including but not limited to tree

cover, the locations of existing and proposed access highways or driveways and the depth of all pre-existing and proposed excavations.

- (e) County approved documents as specified within 13.02 (11) of this Ordinance.
 - (f) The County reserves the right to request additional or further information or materials from the applicant beyond that submitted by him/her/it so as to enable the County to adequately analyze the proposed operation in light of the standards imposed in this section.
 - (g) The appropriate permit fee.
 - (h) A statement whether the permit application is for Industrial Sand mining or Construction Aggregate mining.
 - (i) A lighting plan for the proposed site, including a pre-construction analysis to establish baseline night sky conditions, an assessment of future light impacts from the proposed non-metallic mining and related activities, and a photometric diagram showing lighting levels and locations of proposed fixtures.
- (2) Exploratory Permits
- (a) All exploratory drilling located outside of a permitted mining area is required to obtain a permit which shall include:
 - 1. County Permit Application
 - 2. Appropriate Permit Fee
 - 3. Map with location of drilling marked
 - (b) No public hearing is required for exploratory drilling, but approval of the permit must be obtained from the Department of Land Management prior to drilling.
 - (c) All drill holes must be reclaimed to the standards put forth in WI Adm. Code NR 812.26 and notice must be sent to the Department of Land Management as the regulatory authority upon closing.

13.02 Standard Conditional Use Permit Requirements.

- (1) Hours of operation for non-metallic mining shall be limited based upon the defined activities of Extraction and Processing.

- (a) Extraction. Extraction shall be allowed Monday through Friday between 6:00 a.m. and 8:00 p.m. during Daylight Savings time and between 6:00 a.m. and 6:00 p.m. during Standard Time. Extraction shall be allowed Saturday between 7:00 a.m. and 3:00 p.m. No Extraction shall be allowed on Sundays or Holidays, as defined in section 13.05 of this ordinance.
 - (b) Processing. Processing may be allowed between Monday at 6:00 a.m. through Saturday at 3:00 p.m. No Processing shall be allowed between Saturday at 3:00 p.m. and Monday at 6:00 a.m. No Processing shall be allowed on Holidays, as defined in section 13.05 of this ordinance.
 - (c) Emergency Extraction. If a non-metallic mine operator conducts non-metallic mining Extraction outside of the stated hours of operation due to an emergency and at the request of the Governor of the State of Wisconsin, Sheriff of Trempealeau County, Emergency Management Director of Trempealeau County, Zoning Administrator of Trempealeau County, Highway Commissioner for Trempealeau County, or any Chairperson of a Town in Trempealeau County on behalf of their respective Town, then such operator shall give notice to the Zoning Administrator within 48 hours of the emergency Extraction. If the Zoning Administrator is unable to verify the emergency requiring the Extraction outside of the stated hours of operation, the operator shall be deemed to have violated the conditional use permit. If after a second occurrence when the Zoning Administrator is unable to verify the emergency, then the conditional use permit may be revoked by the Zoning Administrator.
- (2) Noise. Audible noise emitted during any Non-metallic Mining is limited to the standards set forth in this provision:
- (a) Processing During Extraction Hours. Noise due to Processing during Extraction hours of operation is not limited by this ordinance.
 - (b) Processing During Non-Extraction Hours. Noise due to Processing during Non-Extraction hours of operation shall not exceed forty-five (45) decibels (dB) measured at the outside of any building or structure used for human habitation or the housing of farm animals, including but not limited to cattle, horses, and poultry, unless the owner/operator of the non-metallic mine obtains a written waiver from the affected property owner(s). Affected Property Owner(s) shall be defined as the fee owner(s) of real estate where noise at such building or structure is measured exceeding 45 dB and the non-metallic mine Processing contributes to the measured noise.
 - (c) Phase-One Noise Survey. If the owner/operator of a non-metallic mine, or applicant thereof, desires to conduct Processing at the non-metallic mining site during Non-Extraction hours of operation, then a phase-one noise

survey shall be conducted. Processing during Non-Extraction hours shall not commence until a phase-one noise survey is complete and the survey indicates that the proposed Processing during Non-Extraction hours will be compliant with the noise limitations in section (2)(b) above.

1. Phase-one noise survey shall be conducted by an independent noise consultant contractor at the expense of the owner/operator of a non-metallic mine, or applicant thereof.
2. A phase-one noise survey shall duplicate the level of noise that will be produced by the Processing during Non-Extraction hours of operation. While the duplicated Processing noise is being produced, the phase-one noise survey shall measure the noise levels, in decibels, at the outside of any building or structure used for human habitation or the housing of farm animals, including but not limited to cattle, horses, and poultry, on all properties that may be affected by the duplicated Processing noise. The party conducting the noise survey shall obtain consent from each property owner to enter property to measure noise. The phase-one noise survey shall also determine whether duplicated Processing noise contributes to the measured noise levels at any such buildings or structures.
3. The purpose of the phase-one noise survey is to identify any potential Affected Property Owner(s), and to afford the owner/operator of a non-metallic mine, or applicant thereof, the opportunity to mitigate the measured noise levels to achieve compliance with the noise limitations in section (2)(b) above.

(d) Phase-Two Noise Survey. Within 24-hours after commencement of actual Processing during Non-Extraction hours of operation, a phase-two noise survey shall be completed. Processing during Non-Extraction hours shall not continue until a phase-two noise survey is complete and the survey indicates that the actual Processing during Non-Extraction hours will be compliant with the noise limitations in section (2)(b) above.

1. Phase-two noise survey shall be conducted by an independent noise consultant contractor at the expense of the owner/operator of the non-metallic mine.
2. The phase-two noise survey shall measure the noise levels, in decibels, at the outside of any building or structure used for human habitation or the housing of farm animals, including but not limited to cattle, horses, and poultry, on all properties that may be affected by the actual Processing noise. The party conducting the noise survey shall obtain consent from each property owner to enter property to measure noise. The phase-two noise survey shall also

determine whether the actual Processing noise contributes to the measured noise levels at any such buildings or structures.

3. The purpose of the phase-two noise survey is to measure the actual Processing noise and to determine whether the actual Processing noise exceeds the limits in section (2)(b) above. The phase-two noise survey shall identify any Affected Property Owner(s).
 - (e) **Waivers.** The owner/operator of the non-metallic mine may obtain a waiver from an Affected Property Owner(s). Such waiver shall be in writing and shall be signed by all fee owners of the affected real estate, and shall be recorded in the Trempealeau County Register of Deeds Office. Such waiver shall state that the Affected Property Owner(s) is aware of the noise limitations imposed by this ordinance and that consent is granted to allow noise levels to exceed the maximum noise limits in section (2)(b) above.
 - (f) **Noise Complaints.** Any complaint of excessive noise due to Processing during Non-Extraction hours shall be made in writing and shall state the name and address of the party complaining. Any complaint shall be forwarded to the Zoning Administrator. The Zoning Administrator shall immediately forward any such complaint to the owner/operator of the non-metallic mine. Within 72-hours of the owner/operator of the non-metallic mine receiving the noise complaint, the owner/operator of the non-metallic mine shall install a decibel meter at the building or structure on the property of the complaining party at the sole expense of the owner/operator of the non-metallic mine.
 1. If the measured noise at the building or structure of the complaining party exceeds the limits stated in section (2)(b) above, then all Processing during Non-Extraction hours of operation shall immediately cease. The owner/operator shall conduct a phase-one and phase-two noise survey prior re-commencing any Processing during Non-Extraction hours of operation.
 2. If the measured noise does not exceed the limits stated in section (2)(b) above, then the installed meter shall continue to measure and record noise levels for a period of forty-five (45) days. If after forty-five (45) days no noise violations occur, the meter may be removed.
 - (g) **Extraction.** Noise due to Extraction is not limited by this section, but may be regulated through the conditions of the conditional use permit.
- (3) Notification must be provided to the County as to the specific non-metallic mining site location of equipment used to crush or separate non-metallic mining products. Notification of the re-location of crushing or separation equipment from one non-

- metallic mining site to another must be provided to the Zoning Administrator within twenty-four hours of the re-location of such equipment.
- (4) Notification must be provided to the Zoning Administrator and adjacent neighbors at least 24 hours prior to any blasting.
 - (5) Public roadways must be scraped clean of materials at the end of the working day where non-metallic mining equipment leaves a non-metallic mining site and enters a public road.
 - (6) Non-metallic mining operations must at all times remain at least 10 feet above the water table level, unless an alternative level proposed by the applicant and established by water table elevation monitoring is approved by the County. The County may require monitoring wells to establish the groundwater level prior to the commencement of non-metallic mining operations on a site. Non-metallic mining within 10 feet of the water table level or within the water table may be permitted provided the applicant receives a favorable letter from the Town Board regarding the mining proposal and receives the approval of the County. In addition the applicant must demonstrate with substantial evidence that the operation does not pose a legitimate risk as determined by the County to water table level or groundwater quality of the area.
 - (7) All wells within 1 mile of the mine boundary shall be tested prior to any mine activity and annually thereafter. The well test shall at a minimum test for Coliform Bacteria, Total Hardness, Alkalinity, Conductivity, pH, Saturation Index, Nitrogen-Nitrate, Chloride, Arsenic, Calcium, Copper, Iron, Lead, Magnesium, Potassium, Sodium, Sulfate, and Zinc, and the test result shall also include the depth of water in the well on the day the test is performed. The initial and annual test results shall be submitted to the Department of Land Management and shall be kept on file.
 - (8) All structures, buildings and wells within 1 mile of the mine boundary shall be inspected and documented by a qualified inspector (includes licensed building inspector and engineer) for type, quality and existing overall condition of foundations and structures. The inspection reports shall be submitted to the Department of Land Management prior to any mine activity and shall be kept on file.
 - (9) For all Construction Aggregate non-metallic mines, a 50-foot setback from the mining site boundary shall be maintained where no mining activity shall be allowed. In the event two adjoining property owners are permitted for Construction Aggregate non-metallic mining activity, the Zoning Administrator may review the mining and reclamation plans of the two sites and may authorize a setback less than 50-feet. In addition, a Construction Aggregate non-metallic mining boundary shall be setback at least 250 feet from any building or structure used for human habitation or for the housing of farm animals and from any potable water source, unless such

setback is waived, in writing, by the fee owner(s) of the applicable building/structure or potable water source.

- (10) For all Industrial Sand non-metallic mines, a 100-foot setback from the mining site boundary shall be maintained where no mining activity shall be allowed. In the event two adjoining property owners are permitted for Industrial Sand non-metallic mining activity, the Zoning Administrator may review the mining and reclamation plans of the two sites and may authorize a setback less than 100-feet. In addition, an Industrial Sand non-metallic mining boundary shall be setback at least 500 feet from any building or structure used for human habitation or for the housing of farm animals and from any potable water source, unless such setback is waived, in writing, by the fee owner(s) of the applicable building/structure or potable water source.
- (11) Non-metallic mining sites of less than one acre must attach County approved erosion control and non-metallic mining reclamation plans to a non-metallic mining Conditional Use Permit application. The reclamation plan shall meet the requirements as set forth in Section 13.04 of this Ordinance. Non-metallic mining sites of one acre or greater must attach a County approved erosion control plan, storm water management plan and a non-metallic mining reclamation permit issued through Chapter 20 of the County Comprehensive Zoning Ordinance. All DNR permits including, but not limited to, storm water discharge permits, air pollution control, wetland or floodplain fill must be obtained prior to permitting or by the end of the preliminary approved period. Any violation of a non-metallic mining sites' DNR permits will constitute a violation of this ordinance and will therefore, be enforced by the Zoning Administrator in addition to any possible enforcement by WDNR.
- (12) Verification that the applicant has requested that a Cultural Resource Site Review be performed by the Department of Natural Resources and that the site review has been completed. A copy of the site review report must be provided the County prior to the issuance of a Conditional Use Permit.
- (13) The County upon its review of the conditional use permit application may require screening from adjacent public highways and adjacent non-compatible land uses. Existing vegetation shall be taken into consideration provided it is of sufficient height and density.
- (14) If a mine site will utilize a haul route on a county or town road, the permit shall have a condition that requires a road use agreement between the permit holder and the county/town, unless the county/town waives a road agreement.
- (15) All mining and reclamation activities must follow the operation and timeline of commencement that were approved with the conditional use permit for non-metallic mining.

13.03 Term of Conditional Use Permit. Subject only to reclamation activities which may take place after the end of a permit term with the permission of the County, a conditional use permit for non-metallic mining operation shall be established by the County based on the information submitted by the applicant. Applicants may apply for extensions of a non-metallic mining permit for a period not to exceed an additional two (2) years at a time. Upon the filing of a request for an extension of a permit the County shall review the conformity of the applicant's operations/reclamation activities to date with the conditional use permit in effect, together with the current degree of compatibility of the non-metallic mining operation with surrounding land uses for the purpose of determining to what extent that further or additional permit conditions should be imposed in accord with this section and the ordinance in general. There shall be no limitation upon the number of permit extensions which may be applied for subject only to the right of the County to deny extensions on a case by case basis.

- (1) Non-metallic mining operations shall be inspected as needed, but at a minimum annually, by the Zoning Administrator to ensure compliance with the requirements of the conditional use permit. An inspection fee is required to be paid by the owner or operator. To determine the amount of the inspection fee, refer to 13.06 of this Ordinance.
- (2) Permit Modifications. In the event that during the life of a permit the operator seeks to have permit conditions modified or, in the event that the County recommends further or additional permit conditions as being required to meet with concerns of the County under this section or under the ordinance in general, upon request of either the operator or the Zoning Administrator the County shall hold a public hearing in the matter of altering the original permit conditions for the remaining life of the permit. Upon the basis of the public hearing and information received and reviewed, the County shall have the discretion to either impose additional and further permit conditions, to remove permit conditions or to allow the original permit conditions to stand. All requests for permit modifications or changes to permit conditions shall be based on substantial evidence.
- (3) Factors to be Considered for Conditional Use Permits.
 - (a) When considering an application for a non-metallic mineral mine permit, the County shall consider, among other factors, the following: the effect or impact of the proposed operation upon; (1) public infrastructure, including but not limited to streets and highways, schools, established bicycle routes/loops, and other public facilities; (2) present and proposed uses of land in the vicinity of the proposed operation; (3) surface water drainage, water quality and supply; (4) soil erosion; (5) aesthetics, including but not limited to scenic beauty and the conservation of natural resources of outstanding quality or uniqueness; (6) the market value of lands in the vicinity of the proposed operation; (7) the physical practicality of

reclamation of the site after the operation has been concluded; and (8) the public interest from the standpoints of smoke, dust, noxious or toxic gases and odors, noise, vibration, blasting and the operation of heavy machinery and equipment.

- (b) Other important factors to consider for a conditional use permit for non-metallic mineral mining are, that the proposed operation is an appropriate land use at the site in question, based upon consideration of such factors as: existence of non-metallic mineral deposits; proximity of site to transportation facilities and to markets; the ability of the operator to avoid harm to the public health, safety and welfare; the legitimate interests of properties in the vicinity of the proposed operation; the compatibility with the Town and County Comprehensive Land Use Plan.
- (4) The County reserves the right to impose additional site specific requirements and conditions upon an applicant. Any requirement or condition must be based on substantial evidence and follow the purpose of this ordinance. If all requirements and conditions are agreed to be met by the applicant, the permit will be preliminarily approved. The County reserves the right to deny an application for conditional use permit to engage in non-metallic mining if there is substantial evidence that any requirements of this section, zoning code, or site specific conditions are not able to be met. In the event that the County decides to deny a permit application it shall do so only in writing, setting forth the reasons and evidence for such denial.
- (5) Lapsing of Permits: Conditions Causing and Effect Of.
- (a) The County may preliminarily approve a conditional use permit if the County requires certain actions to take place prior to actual issuance of the conditional use permit. Any preliminarily approved conditional use permit shall expressly identify that the conditional use permit is only preliminarily approved and shall state that the issuance of the conditional use permit is dependent upon the satisfaction of all identified preliminary conditions.
 - (1) The applicant shall be allowed twelve (12) months from the date when the conditional use permit was preliminarily approved to satisfy all preliminary conditions. No mining will commence until all preliminary conditions have been met. The preliminarily approved conditional use permit shall lapse as a matter of law upon the failure to satisfy all of the preliminary conditions prior to the expiration of the twelve (12) month period.
 - (2) The County may allow one extension of time to the twelve (12) month period to satisfy the preliminary conditions, upon the applicant showing just cause. The length of any extension shall be for a fixed period of time in the discretion of the County. In order

to seek such an extension, the applicant must submit a written request to the Department of Land Management prior to the expiration of the 12-month period.

- (b) After a conditional use permit has been issued and if no activity has taken place at an Industrial Sand mining site, or rail load out facility under the permit whatsoever or, alternatively, where activity was originally commenced but then has been terminated and such condition of non-activity, exclusive of required, ongoing reclamation under such a permit, has continued for a period of twelve (12) months in succession, the permit shall lapse as a matter of law and no further or other activities in operating the site other than reclamation will be allowed. Conditional use permits for Construction Aggregate mining sites shall not lapse regardless of whether activity is taking place or not. The County shall identify at the time of permitting whether a site is Industrial Sand or Construction Aggregate.
- (1) The Zoning Administrator shall determine whether activity or non-activity has taken place at a mining site. The Zoning Administrator shall consider whether progress is being made at a mining site to produce a finished product intended to leave the site in determining whether a mining site is active. All activity shall follow the operation plan and timeline of commencement that were approved by the county at the time of permitting. All modifications to the conditional use permit for non-metallic mining must be approved as specified in section 13.03(2). If requested, the permit holder will supply substantial evidence to the County that activity has taken place at the mining site.
- (2) The legislative purpose of separating Construction Aggregate mining from Industrial Sand mining is based upon the type, volume of product, and the scale of the mining operations. Construction Aggregate sites are primarily used for infrastructure projects in a given area to reduce hauling from sites that are not in the vicinity. The foot print of a Construction Aggregate mining site is historically much smaller in scale and correspondingly runoff and erosion concerns are significantly reduced. Industrial Sand mine sites are rarely if ever used for local infrastructure projects; footprints are very large in nature. The separated sand particles from an Industrial Sand mining site are prone to both wind and runoff erosion at a much higher rate than Construction Aggregate.
- (c) In order to seek to engage in further operations pertaining to a non-metallic mineral mine whose permit has lapsed, it shall be required that the applicant file a new application for operation as if no permit had been granted in the first place and such permit application shall be processed in accord with all of the requirements of this action.

- (d) Upon the lapsing of a permit under this section the Zoning Administrator shall immediately inform the permit holder of the lapsing of the permit and notify of their obligation to engage in reclamation activities to the extent that they are required under and in order to fulfill the requirements of the original permit.
 - (e) Should a permit holder wish to contest the conclusion of the Zoning Administrator that no activity on site has taken place during the 12 month period immediately preceding notice to that effect, the holder may request a public hearing before the County to present evidence of activity at the site. At such hearing the burden shall be upon the permit holder to establish to the satisfaction of the County and the stipulations of this ordinance that activity did take place within that 12 month period of time other than site restoration or reclamation efforts. All activity shall follow the operation plan and timeline of commencement that were approved by the County at the time of permitting. The permit holder shall be responsible for all costs associated therewith. In the event the County shall conclude that the Zoning Administrator was in error, it shall continue the permit for the period of time remaining under the original permit commencing with the date of notice of its decision.
- (6) **Impact of Lapsed or Expired Permits Upon Application for New Permit.** No permit holder shall have a right to a new permit based upon their faithful performance under a lapsed or expired permit. In the event that a permitted operation has been completed and the site reclaimed in accord with the original permit or if it has been terminated due to a cessation of operations and the lapsing of the permit, future applications for operation of a non-metallic mineral mine at the same site shall be required to comply with and shall be subject to all of the terms and conditions of this section. With respect to future permit applications, the County may, however, take into consideration the nature and degree of cooperation and compliance of the permit holder with a previous conditional use permit for such activity on the site in question and may take such information into account in the process of either granting or refusing to grant a permit and in establishing permit conditions.
- (7) **Effect of Owner/Operator transfer on conditional use permit.** A conditional use permit issued under this chapter shall be transferable to a new owner or operator upon compliance with the terms and conditions of the existing conditional use permit. All new owners or operators must meet with the Zoning Administrator to review the terms and conditions of the existing conditional use permit.

13.04 Reclamation Plans. For non-metallic mining sites of less than one acre, the reclamation requirements as specified in 13.04 (2) and (3) shall apply. For sites of one acre or greater or in the event that a non-metallic mining site permitted under the reclamation requirements of this Ordinance expands to one acre or greater, the owner/operator of the non-metallic mining site must comply with the non-metallic

mining reclamation requirements of Chapter 20 of the County Comprehensive Zoning Ordinance.

- (1) **Goals or Purposes of Reclamation.** In deciding upon the appropriateness of a reclamation plan for sites under one acre the County shall at a minimum, base its determination upon the following goals or purposes. It shall be the intent of the County that upon reclamation the site shall be restored as closely as possible to its physical condition immediately prior to the commencement of construction and operation of the non-metallic mineral mine but for the removal of the non-metallic minerals. To this extent topsoil and overburden shall be stockpiled for use in restoring the site, all buildings and structures erected and used in the course of the operations and reclamation shall be destroyed, access driveways or roads shall be removed and through means of appropriate soil conservation and vegetation practices erosion shall be prevented and the site shall be restored to a vegetative state which is consistent with sound land management practices. The County may approve alternative final designs that enhance property values and/or natural habitat through wetland development and/or surface water creation.
- (2) **Required reclamation plan contents for all non-metallic mining operations are as follows:**
 - (a) Two (2) copies of a map of the site described in the original application showing the final, proposed contours of all restored excavations including but not limited to final slope angles and measures to be taken to stabilize all slopes.
 - (b) A description of the methods used during the course of operations and reclamation for topsoil stripping, stabilization and conservation and the process proposed to be utilized for its replacement during site restoration efforts.
 - (c) Two (2) copies of a plan and description of proposed revegetation and anticipated future land use of the site.
 - (d) A description of the proposed means of destruction of or other disposition of surface structures and related facilities and restoration of access roads after mining operations have ceased.
 - (e) The estimated cost of reclamation for each stage of the project or the entire site if staging is not planned. Include in the estimate the number of man-hours and equipment hours needed for the reclamation.
 - (f) A seeding plan which shall include methods of seed bed preparation, seeding rates, mulching, netting and/or other techniques needed to accomplish soil and slope stabilization.

- (g) An estimated timetable of the commencement, duration, and cessation of reclamation activities.
 - (h) The County may require additional or further information, data or materials so as to enable it to adequately analyze the proposed operation in light of the standards imposed in this section.
- (3) Minimum reclamation standards for sites under one acre are as follows:
- (a) Slopes. Final reclaimed slopes may not be steeper than a 3:1 horizontal to vertical incline. The County may approve final slopes steeper than 3:1 horizontal to vertical ratio, such as existing stable slopes or rock faces that do not require final grading and seeding, if the applicant demonstrates to the County's satisfaction that the proposed final slope is not a safety or environmental hazard.
 - (b) Groundwater. Upon completion of reclamation of the site it must be established to the satisfaction of the County that the finished grade is at least ten (10) feet above the water table level. This condition may be waived by the County if the applicant demonstrates to County satisfaction that a finished grade which is closer to or below the water table level will not adversely impact upon the quality of the groundwater.
 - (c) Topsoil storage and reapplication.
 - 1. All topsoil on a nonmetallic mining site shall be saved for future application, unless it can be proven that it is not all needed for reclamation.
 - 2. Topsoil shall be reapplied to the slopes as uniformly as possible. Sites which lack stored topsoil in amounts sufficient to restore all disturbed areas shall have the topsoil preferentially applied to the sloped areas; nonetheless, the County reserves the option to require that alternative means of surface restoration be engaged in if topsoil reserves are insufficient.
 - (d) Seeding/re-vegetation/stabilization.
 - 1. Seeding shall be done in accord with a specific Natural Resource Conservation Service Critical Area Plan or the most recent edition of the "State of Wisconsin, Department of Transportation Standard Specification for Road and Bridge Construction", standards at Sec. 630, entitled "Seeding", whichever is determined to be more appropriate for the site in question by the County.
 - 2. Alternative seeding mixtures shall be considered by the County on a case by case basis. Evidence must be provided showing that the proposed mix will be sufficient to deter erosion on the site.

3. Planting of woody vegetation may be accepted in combination with other stabilization techniques if approved by the County.
4. Drainage ways, ditches or other highly erodible areas shall be protected by sod or riprap as approved by the County.

13.05 Definitions. The following definitions shall apply in the interpretation of an application of this chapter.

- (1) “Activity” shall include, but is not limited to: Blasting, Construction, Crushing, Drying, Extraction, Hauling (truck/rail load out), Washing, Screening, Stripping, Non-metallic Mining, Operation, and Processing, as defined in this section. With the ultimate goal of selling and/or removing non-metallic minerals from a given mining site to produce a finished product.
- (2) “Applicant” shall mean the person, corporation, partnership or other legal entity which makes application for a conditional use permit under this section.
- (3) “Blasting” is the act of using a set charge of dynamite or other explosive at one firing to free up, loosen, or dislodge a desired product at the permitted mine site.
- (4) “Construction” shall mean the process involved in preparing a site for non-metallic mineral extraction activities, including but not limited to the stripping of topsoil and overburden, the destruction of tree cover and other vegetation, the building of access roads and the construction of accessory structures and buildings to be used in the course of mining activities.
- (5) “County” shall mean the standing committee of the County Board of Supervisors that is assigned the responsibility for the implementation of the County Non-metallic Mining Ordinance.
- (6) “Crushing” is the act of breaking down, squeezing, pressing and pounding an object or material so that the action destroys or deforms the object into a usable or desired form.
- (7) “Drying” is the action to remove moisture from the intended marketable material.
- (8) "Exploration" shall mean the on-site geological examination from the surface of an area by core, rotary, percussion or other drilling, where the diameter of the hole does not exceed eighteen inches (18"), for the purpose of searching for nonmetallic minerals or establishing the nature of known mineral deposits, and includes associated activities such as clearing and preparing sites or constructing roads for drilling.
- (9) “Extraction” shall mean obtaining the raw material from the permitted site following the permitted conditions. This also includes the acts of “Blasting”, “Stripping,” “Hauling,” and “Construction.”

- (10) “Hauling” is the action of carting or transporting of any material on public roadways, either raw or processed, from the original location of the raw or processed material to another location not on the permitted grounds.
- (11) “Holiday” shall mean those legal holidays recognized by the State of Wisconsin on which no work is performed by employees of the State. These shall include; New Year’s Day, Martin Luther King Jr. Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Eve Day, Christmas Day, and New Year’s Eve Day.
- (12) “Non-Metallic Mineral-Mining” or “Non Metallic Mining” shall mean all or any part of the process involved in the mining of non-metallic minerals including but not limited to the commercial extraction, agglomeration, beneficiation, removal of overburden and the production of refuse. It does not mean exploration, prospecting, or mining of non-metallic minerals for a property-owner’s sole use on the property-owner’s property.
- (a) “Industrial Sand” is a high purity silica sand or silicon dioxide (SiO₂). It is nearly pure quartz, very well rounded, of uniform particle shape and size, having a high compressive strength, and meeting size gradation standards for its various uses. Industrial sand is sold for any of the following uses: glassmaking, metal casting, metal production, chemical production, paint and coatings, ceramics and refractories, moldings, abrasives, and otherwise preparing sand for uses other than construction. It is most commonly used by the oil and gas industry as a proppant for the hydraulic fracturing of shale for the exploration, drilling, production, and recovery of oil and gas (i.e. “frac sand”). This sand is classified as 212322 Industrial Sand Mining according to the NAICS (North American Industry Classification System), and as 1446 Industrial Sand, and 1481 Nonmetallic Mineral Services except fuels, according to the SIC (Standard Industrial Classification) System.
- (b) “Construction Aggregate” is sand gravel, or crushed stone (stone crushed from bedrock) that is predominately produced and used for local construction purposes. Construction aggregate is sold for any of the following uses: asphalt or concrete roads, concrete, asphalt, building or dimension stone, railroad ballast, decorate stone, retaining walls, revetment stone, and other similar uses. It is also used in agriculture for fertilizers, aglime, and bedding sand for livestock operations. Small amounts of sand and gravel or crushed stone may be produced and used for other purposes such as salt and sand for icy roads, water filtration systems in septic systems, landfills, mortar sand, and sand for sand blasting. It is historically viewed as for agricultural use on the farm and to construct the infrastructure needed to transport supplies to the farm and products from the farm to various markets. This aggregate is classified as 212321 Construction Sand and Gravel Mining according to the NAICS (North American Industry Classification System), and as 1422 Crushed and Broken Limestone, 1429 Crushed and Broken

- Stone not elsewhere classified, and 1442 Construction Sand and Gravel, according to the SIC (Standard Industrial Classification) System.
- (13) “Operation” shall mean the conducting of all activities associated with the mining of non-metallic minerals from the site, their removal from the ground and their processing on site.
- (14) “Operator” shall mean a person or corporation, its subsidiaries and parent corporations which have been granted a permit under this Section for mineral exploration, or mining.
- (15) "Parent corporation" shall mean a duly incorporated for profit or nonprofit corporation which is engaged in the business of mining but shall not include a corporation five percent (5%) or more of whose outstanding common stock is owned by another corporation.
- (16) “Permit Holder” shall mean that person to whom a permit has been issued under this section.
- (17) “Processing” shall mean to convert raw material into a marketable form, on site, by a special process that includes the actions of “crushing”, “washing”, “screening”, “drying” and “rail-load out”. Processing shall also include moving material by way of conveyor system or other forms of transportation, but shall not include moving material on public roadways.
- (18) “Rail-load out” means to load the marketable material at a rail site and transport the material to the necessary location by train.
- (19) “Reclamation” shall mean the restoration efforts required to be engaged to restore the Site pursuant to Wisconsin Statutes Chapter 295, Wisconsin Administrative Code NR 135, Trempealeau County Comprehensive Zoning Ordinance Chapter 20, a reclamation permit, and/or any approved reclamation plan.
- (20) “Regulatory Authority” shall refer to the Department of Land Management unless otherwise indicated.
- (21) “Screening” is sorting or sizing of material into a marketable product size.
- (22) “Site” shall mean the entire legally described location of a non-metallic mining operation including but not limited to the actual sites of land disturbing activities, non-metallic mineral extraction, storage, access roadways and associated structures, buildings and other facilities.
- (23) “Stripping” is to take away or remove soil, rock, or other overburden materials from nonmetallic minerals and use that material in the reclamation process, where applicable.

- (24) “Substantial evidence” means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.
- (25) “Washing” is the action that involves water or some other liquid for the purpose of cleansing by removing impurities or undesirables from the intended product.
- (26) “Water table” shall mean the upper surface of the unconfined saturated zone where the pore pressure is equal to the atmospheric pressure. It is measured by installing wells extending a few feet into the zone of saturation and then measuring the water level in those wells.
- (27) “Zoning Administrator” shall mean the person(s) designated by the County to administer the County Zoning Ordinances.

13.06 Fees. Permit fees which apply to this chapter are established annually by Trempealeau County and are listed in the Trempealeau County fee schedule. Copies of the current fee schedule shall be kept on file at the Trempealeau County Department of Land Management.

CHAPTER 14

METALLIC MINERAL MINING AND PROSPECTING.

14.01 Metallic Mining. Metallic mineral mining is an industrial land use and only allowed as a Conditional Use in an Industrial (I) Zoned area pursuant to section 2.05 of this ordinance. Metallic mining exploration as defined in this chapter, may be permitted as a conditional use of land in the Exclusive Agriculture (EA), Exclusive Agriculture-2 (EA-2), Primary Agriculture (PA), Transitional Agriculture (TA), and Industrial (I) zoning districts. Metallic mining, prospecting, and bulk sampling as defined in this chapter, may be permitted as a conditional use in the Industrial (I) zoning district. In addition to taking into consideration the general criteria governing the granting of conditional use permits under Sec. 10.04, the County shall specifically analyze metallic mining proposal in light of the County's interest in providing for the wise use of the natural resources of the county, aesthetic implications of the siting of such a mine at a given location and the impacts of such a mining operation on the general health, safety and welfare of the public, including the impact on the market value of the lands adjacent to or in the vicinity of the proposed operation. Each application shall be judged on its own merits. Subject only to the standards set forth in this section and in the zoning ordinance as a whole, it is impossible to prescribe the criteria upon which such a permit may be granted in each and every case. A metallic mining site may be permitted for exploration, prospecting, bulk sampling and mining, or all four categories of metallic mining as defined in this chapter. If a metallic mining site is permitted for all four, then a separate conditional use permit shall be obtained for each, and enforced separately.

- (1) Permit Application. The application for a conditional use permit shall include:
 - (a) A narrative description of the proposed operation, together with a time line for commencement and reclamation and the nature and degree of land disturbing activities.
 - (b) A listing of the types of equipment and machinery proposed to be utilized in the operation, together with both the types and locations of structures necessary for the operation.
 - (c) The source, quality, quantity and means of disposition of surface or ground water encountered in the process of or extracted in and used in the course of operating. If required by the County, information on impacts on surrounding wells shall be generated and supplied for review.
 - (d) A topographic map of the site of proposed operations showing existing contours with minimum vertical contour interval of 10 feet or an alternative vertical contour interval approved by the County. The topographic map shall show the pre-existing vegetation, including but not

limited to tree cover, the locations of existing and proposed access highways or driveways and the depth of all pre-existing and proposed excavations.

- (e) A lighting plan for the proposed site, including a pre-construction analysis to establish baseline night sky conditions, an assessment of future light impacts from the proposed non-metallic mining and related activities, and a photometric diagram showing lighting levels and locations of proposed fixtures.
- (f) County approved documents as specified within 14.02 (13) of this ordinance.
- (f) The County reserves the right to request additional or further information or materials from the applicant beyond that submitted by him/her/it so as to enable the County to adequately analyze the proposed operation in light of the standards imposed in this section.
- (g) The appropriate permit fee.

14.02 Standard Conditional Use Permit Requirements.

- (1) Hours of operation for metallic exploration, prospecting, bulk sampling, or mining shall be limited based upon the defined activities of Extraction and Processing.
 - (a) Extraction. Extraction shall be allowed Monday through Friday between 6:00 a.m. and 8:00 p.m. during Daylight Savings time and between 6:00 a.m. and 6:00 p.m. during Standard Time. Extraction shall be allowed Saturday between 7:00 a.m. and 3:00 p.m. No Extraction shall be allowed on Sundays or Holidays, as defined in section 13.05 of this ordinance.
 - (b) Processing. Processing may be allowed between Monday at 6:00 a.m. through Saturday at 3:00 p.m. No Processing shall be allowed between Saturday at 3:00 p.m. and Monday at 6:00 a.m. No Processing shall be allowed on Holidays, as defined in section 14.05 of this ordinance.
 - (c) Emergency Extraction. If a mine operator conducts mining Extraction outside of the stated hours of operation due to an emergency and at the request of the Governor of the State of Wisconsin, Sheriff of Trempealeau County, Emergency Management Director of Trempealeau County, Zoning Administrator of Trempealeau County, Highway Commissioner for Trempealeau County, or any Chairperson of a Town in Trempealeau County on behalf of their respective Town, then such operator shall give notice to the Zoning Administrator within 48 hours of the emergency Extraction. If the Zoning Administrator is unable to verify the emergency

requiring the Extraction outside of the stated hours of operation, the operator shall be deemed to have violated the conditional use permit. If after a second occurrence when the Zoning Administrator is unable to verify the emergency, then the conditional use permit may be revoked by the Zoning Administrator.

- (2) Noise. Audible noise emitted during any metallic exploration, prospecting, bulk sampling, or mining is limited to the standards set forth in this provision:
- (a) Processing During Extraction Hours. Noise due to Processing during Extraction hours of operation is not limited by this ordinance.
 - (b) Processing During Non-Extraction Hours. Noise due to Processing during Non-Extraction hours of operation shall not exceed forty-five (45) decibels (dB) measured at the outside of any building or structure used for human habitation or the housing of farm animals, including but not limited to cattle, horses, and poultry, unless the owner/operator of the non-metallic mine obtains a written waiver from the affected property owner(s). Affected Property Owner(s) shall be defined as the fee owner(s) of real estate where noise at such building or structure is measured exceeding 45 dB and the metallic mine Processing contributes to the measured noise.
 - (c) Phase-One Noise Survey. If the owner/operator of a metallic operation, or applicant thereof, desires to conduct Processing at the site during Non-Extraction hours of operation, then a phase-one noise survey shall be conducted. Processing during Non-Extraction hours shall not commence until a phase-one noise survey is complete and the survey indicates that the proposed Processing during Non-Extraction hours will be compliant with the noise limitations in section (2)(b) above.
 - 1. Phase-one noise survey shall be conducted by an independent noise consultant contractor at the expense of the owner/operator of a operation site, or applicant thereof.
 - 2. A phase-one noise survey shall duplicate the level of noise that will be produced by the Processing during Non-Extraction hours of operation. While the duplicated Processing noise is being produced, the phase-one noise survey shall measure the noise levels, in decibels, at the outside of any building or structure used for human habitation or the housing of farm animals, including but not limited to cattle, horses, and poultry, on all properties that may be affected by the duplicated Processing noise. The party conducting the noise survey shall obtain consent from each property owner to enter property to measure noise. The phase-one noise survey shall also determine whether duplicated Processing

noise contributes to the measured noise levels at any such buildings or structures.

3. The purpose of the phase-one noise survey is to identify any potential Affected Property Owner(s), and to afford the owner/operator of a metallic operation, or applicant thereof, the opportunity to mitigate the measured noise levels to achieve compliance with the noise limitations in section (2)(b) above.
- (d) Phase-Two Noise Survey. Within 24-hours after commencement of actual Processing during Non-Extraction hours of operation, a phase-two noise survey shall be completed. Processing during Non-Extraction hours shall not continue until a phase-two noise survey is complete and the survey indicates that the actual Processing during Non-Extraction hours will be compliant with the noise limitations in section (2)(b) above.
1. Phase-two noise survey shall be conducted by an independent noise consultant contractor at the expense of the owner/operator of the site.
 2. The phase-two noise survey shall measure the noise levels, in decibels, at the outside of any building or structure used for human habitation or the housing of farm animals, including but not limited to cattle, horses, and poultry, on all properties that may be affected by the actual Processing noise. The party conducting the noise survey shall obtain consent from each property owner to enter property to measure noise. The phase-two noise survey shall also determine whether the actual Processing noise contributes to the measured noise levels at any such buildings or structures.
 3. The purpose of the phase-two noise survey is to measure the actual Processing noise and to determine whether the actual Processing noise exceeds the limits in section (2)(b) above. The phase-two noise survey shall identify any Affected Property Owner(s).
- (e) Waivers. The owner/operator of the metallic operation may obtain a waiver from an Affected Property Owner(s). Such waiver shall be in writing and shall be signed by all fee owners of the affected real estate, and shall be recorded in the Trempealeau County Register of Deeds Office. Such waiver shall state that the Affected Property Owner(s) is aware of the noise limitations imposed by this ordinance and that consent is granted to allow noise levels to exceed the maximum noise limits in section (2)(b) above.
- (f) Noise Complaints. Any complaint of excessive noise due to Processing during Non-Extraction hours shall be made in writing and shall state the

name and address of the party complaining. Any complaint shall be forwarded to the Zoning Administrator. The Zoning Administrator shall immediately forward any such complaint to the owner/operator of the metallic operation. Within 72-hours of the owner/operator of the metallic site receiving the noise complaint, the owner/operator of the metallic operation shall install a decibel meter at the building or structure on the property of the complaining party at the sole expense of the owner/operator of the metallic mine.

1. If the measured noise at the building or structure of the complaining party exceeds the limits stated in section (2)(b) above, then all Processing during Non-Extraction hours of operation shall immediately cease. The owner/operator shall conduct a phase-one and phase-two noise survey prior re-commencing any Processing during Non-Extraction hours of operation.
 2. If the measured noise does not exceed the limits stated in section (2)(b) above, then the installed meter shall continue to measure and record noise levels for a period of forty-five (45) days. If after forty-five (45) days no noise violations occur, the meter may be removed.
- (g) Extraction. Noise due to Extraction is not limited by this section, but may be regulated through the conditions of the conditional use permit.
- (3) Notification must be provided to the County as to the specific operation site location of equipment used to crush, separate, or drill metallic mining products. Notification of the re-location of crushing or separation equipment from one metallic mining site to another must be provided to the Zoning Administrator within twenty-four hours of the re-location of such equipment.
 - (4) Notification must be provided to the Zoning Administrator and adjacent neighbors at least 24 hours prior to any blasting.
 - (5) Public roadways must be scraped clean of materials at the end of the working day where mining equipment leaves a mining site and enters a public road.
 - (6) Prospecting, bulk sampling, and metallic mining operations must at all times remain at least 10 feet above the water table level, unless an alternative level proposed by the applicant and established by water table elevation monitoring is approved by the County. The County may require monitoring wells to establish the groundwater level prior to the commencement of operations on a site. Prospecting, bulk sampling, and metallic mining within 10 feet of the water table level or within the water table may be permitted provided the applicant receives a favorable letter from the Town Board regarding the proposal and receives the approval of the County. In addition the applicant must demonstrate with

substantial evidence that the operation does not pose a legitimate risk as determined by the County to water table level or groundwater quality of the area.

- (7) All wells within 1 mile of the conditional use permit boundary shall be tested prior to any mine activity and annually thereafter. The well test shall at a minimum test for Coliform Bacteria, Total Hardness, Alkalinity, Conductivity, pH, Saturation Index, Nitrogen-Nitrate, Chloride, Arsenic, Calcium, Copper, Iron, Lead, Magnesium, Potassium, Sodium, Sulfate, and Zinc, and the test result shall also include the depth of water in the well on the day the test is performed. The initial and annual test results shall be submitted to the Department of Land Management and shall be kept on file.
- (8) All structures, buildings and wells within 1 mile of the conditional use permit boundary for bulk sampling, or mining shall be inspected and documented by a qualified inspector (includes licensed building inspector and engineer) for type, quality and existing overall condition of foundations and structures. The inspection reports shall be submitted to the Department of Land Management prior to any activity and shall be kept on file.
- (9) Verification that the applicant has requested that a Cultural Resource Site Review be performed by the Department of Natural Resources and that the site review has been completed. A copy of the site review report must be provided the County prior to the issuance of a Conditional Use Permit.
- (10) The County upon its review of the conditional use permit application may require screening from adjacent public highways and adjacent non-compatible land uses. Existing vegetation shall be taken into consideration provided it is of sufficient height and density.
- (11) If a site will utilize a haul route on a county or town road, the permit shall have a condition that requires a road use agreement between the permit holder and the county/town, unless the county/town waives a road agreement.
- (12) All exploration, prospecting, bulk sampling, mining and reclamation activities must follow the operation and timeline of commencement that were approved with the conditional use permit.
- (13) Metallic exploration, prospecting, bulk sampling or mining sites must attach County approved erosion control and reclamation plan to a Conditional Use Permit application. The reclamation plan shall meet the requirements as set forth in Section 14.09 of this Ordinance. All DNR permits including, but not limited to storm water discharge permits, air pollution control, wetland or floodplain fill must be obtained prior to permitting or by the end of the preliminary approved period. Any violation of DNR permits on active metallic mining sites are a violation of this ordinance and will therefore, be enforced by the Zoning Administrator as well as the WDNR.

14.03 Mining Exploration Permit Requirements. Each person who wishes to engage in exploration on lands subject to this Ordinance shall first apply for and obtain a mining exploration permit. Before issuing a CUP for a mining exploration permit, the Committee shall satisfy itself that each applicant shall meet all of the following criteria. In addition, should the factual circumstances of the proposed exploration project warrant it, the Committee may impose more restrictive conditions than those expressed below and/or additional or further conditions, all of which shall be designed to promote the public health, welfare and safety.

- (1) An applicant for an exploration permit shall submit proof of existence of its state exploration license under ss 293.21(2), Wis. Stats., a copy of the application submitted to secure the state exploration license and proof of permission granted to it by the affected landowner, to engage in such activity, identifying each lot or parcel on which drilling activity is proposed. The granting of an exploration permit shall be subject to the restrictions against undertaking mining activity in proximity to residential areas as described in ss 293.21(2).
- (2) In addition to submitting its application for its state exploration license, an applicant shall submit all other materials which it provided to the DNR to the Committee with respect to its plan for reclamation and permanent closure of exploratory bore holes. At a minimum, the standards set for at Wis. Adm. Code NR 130.06(1), (2) and (4), as applied by the DNR, shall apply.
- (3) Exploration shall be prohibited within those areas of the County in which mining is expressly prohibited by conditions set forth under this Ordinance or within state statutes, DNR variances notwithstanding.
- (4) Subject to (9), below, with respect to notification of the intent to drill, each application shall include both the number of bore holes expected to be drilled per lot or parcel together with the total number of bore holes expected to be drilled in the County during the term of the exploration permit.
- (5) It shall be a condition of each permit that the angle and length of bore holes shall not be such as to cross property lines between a lot or parcel with respect to which permission has been granted by the land owner for exploration activity and adjoining lots or parcels unless the owner(s) of said adjoining lot(s) or parcel(s) have similarly granted their permission to the permit holder. For purposes of this provision, property lines shall be assumed to extend groundward at a ninety degree (90) angle to the horizon.
- (6) A minimum 48-hour notice must be provided to the Zoning Department prior to commencing exploratory drilling and drill site reclamation.
- (7) Initial exploration efforts shall be limited as follows:

- One (1) bore hole may be drilled for each ten (10) acres subject to a given permit. The permit holder shall then contact the zoning administrator who, upon receipt of the hereinafter referred to hydro-geological report, with respect to conditions encountered during the course of said drilling, shall convene the Committee as soon as is practicable. Such a hydrological report shall address the potential environmental impacts of the mixing of waters from aquifers as well as ground water contamination from surface water runoff resulting from the drilling activity. If deemed necessary in the interest of the public health, safety and welfare, as based upon the findings from the initial bore hole drilling, conditions may be imposed as to additional drilling within the given ten(10) acre plot. Should the permit holder desire to drill additional holes in that area it shall both identify the number and approximate location of the same to the Zoning Administrator. Subject to conditions imposed as a result of the initial drilling, the permit holder may proceed to drill additional bore holes as identified to the Zoning Administrator.
- (8) To the extent that the DNR in administration of Wis. Adm. Code Chapter NR 130 establishes limitations and/or conditions on the drilling of bore holes, said conditions shall apply and shall be enforceable with respect to bore holes subject to each exploration permit granted by the County.
- (9) The granting of an exploration permit shall not constitute a pre-approval of nor afford to such permit holder the expectation that it will be entitled to a subsequent bulk sampling, prospecting, or mining permit for the same site or sites. Any investments made as part of mining exploration or the value of any minerals found cannot be claimed as a vested interest by the applicant or any subsequent person(s) pursuant to an application for active mining.
- (10) Each permit shall expire one (1) year after issuance or upon satisfaction of permit conditions.

14.05 Bulk Sampling Permit Requirements. Each person who wishes to engage in bulk sampling on lands subject to this Ordinance shall first apply for and obtain a mining bulk sampling permit. Before issuing a CUP for a bulk sampling permit, the Committee shall satisfy itself that each applicant shall meet all of the following criteria. In addition, should the factual circumstances of the proposed bulk sampling project warrant it, the Committee may impose more restrictive conditions than those expressed below and/or additional or further conditions, all of which shall be designed to promote the public health, welfare and safety.

- (1) An applicant for a bulk sampling permit shall submit proof of existence of its state bulk sampling license under ss 293.26(2), Wis. Stats., a copy of the application submitted to secure the state bulk sampling license and proof of permission granted to it by the affected landowner, to engage in such activity, identifying each lot or parcel on which drilling activity is proposed.

- (2) In addition to submitting its application for its state exploration license, an applicant shall submit all other materials which it provided to the DNR to the Committee with respect to its plan for reclamation.
- (3) Bulk sampling shall be prohibited within those areas of the County in which mining is expressly prohibited by conditions set forth under this Ordinance or within state statutes, DNR variances notwithstanding.
- (4) Bulk sampling permits shall cover both the act of bulk sampling and such reclamation efforts as are required under the applicant's state permit. Bulk sampling permits shall be automatically revoked in the event of revocation of or expiration of the applicant's state permit. Even in the event, however, of revocation or expiration of the applicable state permit, the permit holder shall still have the responsibility to fully reclaim the site. No such permit shall take effect until a state permit has been issued.
- (5) The granting of a bulk sampling permit shall not afford the applicant with the expectation that a subsequent mining permit will be issued to it with respect to the site or sites in question. Any investment made as part of the bulk sampling activity or the value of any minerals found shall not be claim to entitle the permit holder to a vested interest in a subsequent permit for prospecting or active mining of the site in question.
- (6) Each permit shall expire one (1) year after issuance or upon satisfaction of permit conditions.

14.06 Prospecting Permit Requirements. Each person who wishes to engage in metallic mining prospecting on lands subject to this Ordinance shall first apply for and obtain a prospecting permit. Before issuing a CUP for a prospecting permit, the Committee shall satisfy itself that each applicant shall meet all of the following criteria. In addition, should the factual circumstances of the proposed bulk sampling project warrant it, the Committee may impose more restrictive conditions than those expressed below and/or additional or further conditions, all of which shall be designed to promote the public health, welfare and safety.

- (1) An applicant for an prospecting permit shall submit proof of existence of its state prospecting license under ss 293.45, Wis. Stats., a copy of the application submitted to secure the state prospecting license and proof of permission granted to it by the affected landowner, to engage in such activity, identifying each lot or parcel on which drilling activity is proposed.
- (2) In addition to submitting its application for its state exploration license, an applicant shall submit all other materials which it provided to the DNR to the Committee with respect to its plan for reclamation and documents required under ss 293.45(3).

- (3) Prospecting shall be prohibited within those areas of the County in which mining is expressly prohibited by conditions set forth under this Ordinance or within state statutes, DNR variances notwithstanding.
- (4) Prospecting permits shall cover both the act of prospecting and such reclamation efforts as are required under the applicant's state permit. Prospecting permits shall be automatically revoked in the event of revocation of or expiration of the applicant's state permit. Even in the event, however, of revocation or expiration of the applicable state permit, the permit holder shall still have the responsibility to fully reclaim the site. No such permit shall take effect until a state permit has been issued.
- (5) Prospecting permits shall be valid solely for the site described therein and shall be further limited to the number of acres specified in the application.
- (6) The granting of a prospecting permit shall not afford the applicant with the expectation that a subsequent mining permit will be issued to it with respect to the site or sites in question. Any investment made as part of the prospecting activity or the value of any minerals found shall not be claim to entitle the permit holder to a vested interest in a subsequent permit for active mining of the site in question.
- (7) Each permit shall expire one (1) year after issuance or upon satisfaction of permit conditions.

14.07 Metallic Mineral Mining Permit Requirements. Before issuing a CUP for a mining project, the Committee shall satisfy itself that the operator shall meet certain, minimum conditions subject only to the exceptions set forth below. Each mining project shall meet all of the following criteria. In addition, should the factual circumstances of the proposed mining project warrant it, the Committee may impose more restrictive conditions than those expressed below and/or additional or further conditions, all of which shall be designed to promote the public health, welfare and safety.

- (1) An applicant for a metallic mining permit shall submit proof of existence of its state prospecting license under ss 293.45, Wis. Stats., a copy of the application submitted to secure the state prospecting license and proof of permission granted to it by the affected landowner, to engage in such activity, identifying each lot or parcel on which drilling activity is proposed.
- (2) In addition to submitting its application for its state exploration license, an applicant shall submit all other materials which it provided to the DNR to the Committee with respect to its plan for reclamation and environmental impact as required under ss 293.37(2) and 293.39.

- (3) Metallic mining shall be prohibited within those areas of the County in which mining is expressly prohibited by conditions set forth under this Ordinance or within state statutes, DNR variances notwithstanding.
- (4) A buffer zone, of a minimum of one thousand (1,000) feet along the property line, shall be required. The buffer zone shall be an area to be left in its natural state and which is to be left in its undisturbed condition for the entire term of the CUP or the state mining permit, whichever is longer. Principal or accessory structures are not to be located within the buffer zone. Security fences, pipelines, and other utilities, however may be located in the buffer zone provided that as a result of their construction and use only minimal disturbance to the buffer zone occurs. In the event that the buffer zone lacks trees, shrubs or other woody vegetation, the Committee may require the planting of trees or shrubs or the erection of a suitable screening fence.
- (5) Subject to review and approval by the Committee, the project design shall address the following considerations: adequate security measures, utility services, surface water drainage, storm water retention, water purification, de-watering and groundwater elimination and discharge, waste storage, dust and odor suppression, blasting limitations, noise and light, means of transportation and identification of substances and materials to be transported to and from the project, employee safety, visitor safety, environmental protection and site restoration. In addition, the operator shall make provision, by contract or otherwise, for all necessary public services to the project, including but not limited to police and fire protection, transportation and public education, as based upon the project design. The operator shall include in its application information as to public service requirements and the means of meeting those needs.
- (6) Each mining project shall be located, designed, constructed and operated in a manner as to protect ground water quality in accordance with the standards imposed under Chapters 281 and 293, Wis. Stats., and administrative rules adopted pursuant thereto.
- (7) Each mining project shall be located, designed and constructed in such a manner as to:
 - (a) Prevent any surface or subsurface discharge from the project into navigable and non-navigable waters that would cause a violation of state water quality standards issued pursuant to ss281.15(2)(b), Wis. Stats., as well as any surface discharge which shall cause an exceedance of the baseline temperature of and water quality parameters of the receiving surface waters.
 - (b) Prevent any surface or subsurface discharge from the mining project into waters of the state as defined at ss 283.01(20), Wis. Stats., which would cause a violation of the limitations on the discharge of toxic substances

- under ss283.21(1), Wis. Stats., generally and administrative rules adopted pursuant thereto.
- (c) Comply with all applicable regulations promulgated under Chapter 283, Wis. Stats., if point source discharges to surface waters shall be a feature of the mining project in question, including but not limited to point source discharges from Leachate Collection Systems or from Surface Water Runoff Collection Systems.
 - (d) Meet pretreatment standards, for discharges to publicly owned treatment works, issued pursuant to ss 283.21(2), Wis. Stats.
 - (e) Divert surface water runoff from a 72 hour, 100 year storm around portions of the facilities containing ore, product or mine or prospecting waste.
 - (f) Control surface water runoff from portions of the facilities containing ore, product or mine or prospecting waste up to the quantity anticipated from a 72 hour, 100 year storm by collecting, confining, treating and discharging it as may be required by regulations promulgated under Chapter 283, Wis. Stats.
- (8) Mining projects shall be located, designed, constructed and operated in such a manner as to prevent air emissions which constitute a violation of standards or regulations promulgated pursuant to Chapters 281 and 293, Wis. Stats., or administrative rules adopted pursuant thereto.
- (9) The proposed mining project shall also meet the following criteria:
- (a) All toxic and hazardous waste and refuse, the disposal of which is not subject to or controlled by the permit issued by the DNR under ss.293.37 or 293.49, Wis. Stats., shall be disposed of in licensed solid waste or hazardous waste facilities. No waste subject to the mine permit shall be disposed of contrary to the terms and conditions of the said permit. As a precondition to receiving a CUP, the applicant must supply a complete description of storage and transportation mediums to the Committee for such waste which shall be subject to the Committee's approval.
 - (b) All tunnels, shafts or other underground openings shall be sealed at or prior to the completion of the mining project, unless it can be demonstrated that alternative uses of tunnels, shafts or other openings may be made which do not threaten public health and safety and which conform to applicable environmental protection laws and rules.
 - (c) All underground or surface runoff waters from open pits or underground mining sites shall be managed, impounded and treated pursuant to state

and County standards so as to prevent soil erosion, or damage to agricultural lands or livestock.

- (d) All surface structures constructed as part of a mining project shall be destroyed and removed from the site and the waste resulting therefrom shall be disposed of in accord with the law, unless they are converted to an acceptable alternative use, which is approved of by the Committee in which event they may be authorized to be maintained but only if in compliance with the operator's state permit.
- (e) Adequate measures shall be taken to prevent surface subsidence, as determined by the Committee upon review, but if such subsidence does occur, as determined by the Committee upon review, provision for reclamation of the affected areas shall be taken.
- (f) All topsoil shall be preserved for purposes of future use in reclamation for this project.
- (g) Disturbed soils shall be re-vegetated for stabilization and reclamation, with the objective of re-establishing a variety of population of plants and animals indigenous to the area immediately prior to prospecting or mining, unless such re-establishment is determined by the Committee to be inconsistent with reclamation as defined herein.
- (h) Accessory structures may be constructed, maintained and operated in a manner consistent with the restrictions of the shoreland-wetland district, accessory structures to a mining project may be allowed in accord with ss293.13, 293.15 and 293.85, Wis. Stats., and the administrative rules and regulations adopted pursuant thereto. The purpose of said accessory structures shall be limited to those which are integral to and serve the mining project; however, disturbances created as a result thereby shall be minimized in such manner as is determined by the Committee upon review so as to limit adverse impacts upon shoreland-wetland properties.
- (i) The reclamation plan shall call for the removal of wastewater pipelines, pumping stations and/or outfall structures among other structures unless they are converted to an acceptable, alternative use, as determined by the Committee in which event they may be authorized to be maintained but only if in compliance with the operator's state permit.
- (j) No destruction, filling in or sedimentation of a lake bed, stream bed, impoundment or wetland shall occur.
- (k) A bond or bonds may be required to be provided to the County to the extent that those provided to the state DNR are not sufficient or designed to meet the needs of the County as set forth in this Ordinance.

- (10) A permit shall be denied by the Committee if any of the following situations may be expected to occur during or subsequent to prospecting or mining:
- (a) Landslides or deposition from the proposed operation in stream, lake beds, impoundments or wetlands.
 - (b) Surface subsidence which cannot be reclaimed.
 - (c) Hazards resulting in damage to any of the following, which cannot be avoided by removal from the hazard area or mitigated by purchase or by obtaining the consent of the owner:
 - 1. Dwellings
 - 2. Public Buildings
 - 3. Schools
 - 4. Churches
 - 5. Cemeteries and Native American burial grounds
 - 6. Commercial or institutional buildings
 - 7. Public highways
 - 8. Historical and geological landmarks
 - (d) Habitat required for survival of vegetation or wildlife designated as endangered species through prior inclusion in rules adopted by the DNR if such endangered species cannot be firmly re-established elsewhere.
 - (e) If the mining operation is projected to result in an adverse economic impact to the County for any period of time during the term of the conditional use permit, plus 20 years following completion of reclamation. For purposes of this paragraph "adverse economic impact to the County" as determined by the Committee shall include direct and indirect costs assumed by the taxpayers of the County or the affected town, city or village as a result of services provision, highway improvements or other expenditures projected to have to be made in conjunction with the project whether with respect to or as a result of construction, operation, closure and/or long term care, together with considerations of present or future unemployment, job retraining, educational and other impacts upon the public and private sectors in the County. Said determination may be made upon the basis of the Socioeconomic and Environmental Impact Report to be provided to the Committee by the operator in support of its request for a CUP and the Committee's investigation of the impact thereof. The Committee retains the right to require that an independent socioeconomic and environmental impact report be provided by a contractor selected by the Committee and that all associated costs be borne by the applicant.
- (11) The granting of a CUP under this Section shall not be deemed effective until the state environmental impact report has been issued and the master permit hearing

- under Chapter 293, Wis. Stats., has been held and the operator has procured its permit from the DNR to construct, operate and close the mining project subject thereto. Unless the state permit is obtained, and state and federally required environmental impact studies have been completed, and unless construction is commenced within one (1) year of it's being granted, the CUP permit shall be deemed to be null and void.
- (12) No withdrawal of groundwater or de-watering of mines shall be allowed pursuant to a CUP if it would detrimentally affect either the quality or quantity of a public or private water supply, as determined by the DNR or by the Committee. No discharge of groundwater, wastewater or treated water to surface waters shall be maintained if the discharge results in an increase to the receiving water's normal high water mark or would result in increased downstream flooding as a result of a 10-year frequency storm event or from an annual spring thaw based on a 10-year average event.

14.08 Term of Conditional Use Permit. Subject only to reclamation activities which may take place after the end of a permit term with the permission of the County, a conditional use permit for a metallic exploration, bulk sampling, prospecting, or mining operation shall be established by the County based on the information submitted by the applicant. Applicants may apply for extensions of a metallic exploration, bulk sampling, or prospecting permit for a period not to exceed an additional one (1) year at a time. Applicants may apply for an extension of a metallic mining permit for a period not to exceed an additional two (2) years at a time. Upon the filing of a request for an extension of a permit the County shall review the conformity of the applicant's operations/reclamation activities to date with the conditional use permit in effect, together with the current degree of compatibility of the metallic operation with surrounding land uses for the purpose of determining to what extent that further or additional permit conditions should be imposed in accord with this section and the ordinance in general. There shall be no limitation upon the number of permit extensions which may be applied for subject only to the right of the County to deny extensions on a case by case basis.

- (1) Metallic Mining operations shall be inspected as needed, but at a minimum annually, by the Zoning Administrator to ensure compliance with the requirements of the conditional use permit. An inspection fee is required to be paid by the owner or operator. To determine the amount of the inspection fee, refer to 14.11 of this Ordinance.
- (2) Permit Modifications. In the event that during the life of a permit the operator seeks to have permit conditions modified or, in the event that the County recommends further or additional permit conditions as being required to meet with concerns of the County under this section or under the ordinance in general, upon request of either the operator or the Zoning Administrator the County shall hold a public hearing in the matter of altering the original permit conditions for the remaining life of the permit. Upon the basis of the public hearing and

- information received and reviewed, the County shall have the discretion to either impose additional and further permit conditions, to remove permit conditions or to allow the original permit conditions to stand. All requests for permit modifications or changes to permit conditions shall be based on substantial evidence.
- (3) Factors to be Considered for Conditional Use Permits.
- (a) When considering an application for a metallic mineral permit, the County shall consider, among other factors, the following: the effect or impact of the proposed operation upon; (1) public infrastructure, including but not limited to streets and highways, schools, established bicycle routes/loops, and other public facilities; (2) present and proposed uses of land in the vicinity of the proposed operation; (3) surface water drainage, water quality and supply; (4) soil erosion; (5) aesthetics, including but not limited to scenic beauty and the conservation of natural resources of outstanding quality or uniqueness; (6) the market value of lands in the vicinity of the proposed operation; (7) the physical practicality of reclamation of the site after the operation has been concluded; and (8) the public interest from the standpoints of smoke, dust, noxious or toxic gases and odors, noise, vibration, blasting and the operation of heavy machinery and equipment.
- (b) Other important factors to consider for a conditional use permit for - metallic mineral operation are, that the proposed operation is an appropriate land use at the site in question, based upon consideration of such factors as: existence of metallic mineral deposits; proximity of site to transportation facilities and to markets; and the ability of the operator to avoid harm to the public health, safety and welfare and to the legitimate interests of properties in the vicinity of the proposed operation.
- (4) The County reserves the right to impose additional site specific requirements and conditions upon an applicant as requested by citizens, the Town Board, County staff or Board members. Any requirement or condition must be based on substantial evidence and follow the purpose of this ordinance. If all requirements and conditions are agreed to be met by the applicant, the permit will be preliminarily approved. The County reserves the right to deny an application for conditional use permit with which to engage in metallic mining if there is substantial evidence that any requirements of this section, zoning code, or site specific conditions are not able to be met. In the event that the County decides to deny a permit application it shall do so only in writing, setting forth the reasons and evidence for such denial.
- (5) Lapsing of Permits: Conditions Causing and Effect Of.

- (a) The County may preliminarily approve a conditional use permit if the County requires certain actions to take place prior to actual issuance of the conditional use permit. Any preliminarily approved conditional use permit shall expressly identify that the conditional use permit is only preliminarily approved and shall state that the issuance of the conditional use permit is dependent upon the satisfaction of all identified preliminary conditions.
 - (1) The applicant shall be allowed twelve (12) months from the date when the conditional use permit was preliminarily approved to satisfy all preliminary conditions. No activity will commence until all preliminary conditions have been met. The preliminarily approved conditional use permit shall lapse as a matter of law upon the failure to satisfy all of the preliminary conditions prior to the expiration of the twelve (12) month period.
 - (2) The County may allow one extension of time to the twelve (12) month period to satisfy the preliminary conditions, upon the applicant showing just cause. The length of any extension shall be for a fixed period of time in the discretion of the County. In order to seek such an extension, the applicant must submit a written request to the Department of Land Management prior to the expiration of the 12-month period.
- (6) Impact of Lapsed or Expired Permits Upon Application for New Permit. No permit holder shall have a right to a new permit based upon their faithful performance under a lapsed or expired permit. In the event that a permitted operation has been completed and the site reclaimed in accord with the original permit or if it has been terminated due to a cessation of operations and the lapsing of the permit, future applications for operation of a metallic mineral operation at the same site shall be required to comply with and shall be subject to all of the terms and conditions of this section. With respect to future permit applications, the County may, however, take into consideration the nature and degree of cooperation and compliance of the permit holder with a previous conditional use permit for such activity on the site in question and may take such information into account in the process of either granting or refusing to grant a permit and in establishing permit conditions.
- (7) Due to the highly technical and time consuming procedure involved in processing a CUP for mining projects, Trempealeau County shall process applications for mining project CUP's under this section and shall impose against the applicant the costs of such processing as the Committee determines to be necessary in relationship thereto.
 - (a) Prior to processing an application for a CUP under this Section, the Committee shall undertake a permit approval process, for which costs,

including but not limited to staff time, equipment and material costs, legislative meetings and public hearings and the expenses associated with expert advice and assistance, if needed, the applicant shall be held liable. Prior to commencing permit processing, the Committee reserves the right to demand security against these expenditures and/or an agreement from the applicant that it will pay all processing costs billed to it. Should the applicant fail or refuse to pay costs on a timely basis upon request or demand from the Committee, such failure or refusal shall constitute cause for the Committee to terminate the permit application. Following termination of a permit application, the Committee reserves the right to refuse acceptance of future permit applications from the original applicant, its subsidiaries or parent companies.

- (b) As a condition of each CUP granted, the permit holder shall agree to reimburse the Committee for the Committee's costs of monitoring its compliance with the CUP. Such costs shall include, but not be limited to Committee expenses, staff costs, equipment and material costs and the cost of expert assistance required to assist the Committee in monitoring compliance with the terms and conditions of the permit.
- (8) Effect of Owner/Operator transfer on conditional use permit. A conditional use permit issued under this chapter shall be transferable to a new owner or operator upon compliance with the terms and conditions of the existing conditional use permit. All new owners or operators must meet with the Zoning Administrator to review the terms and conditions of the existing conditional use permit. Prior to transfer of the permit, all financial assurances must be secured, and approved by the County.

14.09 Reclamation Plan. A reclamation plan shall be prepared and submitted with an application for exploration, bulk sampling, prospecting, or mining activity.

- (1) A description of the proposed reclamation including final land use, final land shape, final topography, and the annual sequence of reclamation activity to be conducted.
- (2) A description of the utility and capacity of the reclaimed land to support the proposed sequential use.
- (3) A description of the measures to be taken to protect topsoils prior to, during and subsequent to prospecting or mining.
- (4) A description of the grading and backfilling sequences, final slope angles, highwall reduction, benching and terracing of slopes, slope stabilization and erosion control.
- (5) A description of the reclamation of waste areas, haulage highways, access roads, surface structures and related facilities.

- (6) A description of the final surface drainage, water impoundments and artificial lakes of the affected property.
- (7) A description of plant types, planting sequences and maintenance or replacement of vegetative cover both during the proposed operation and upon completion of site reclamation.
- (8) A plan for the adequate covering or disposal of all pollutant bearing minerals or materials.
- (9) The estimated cost of reclamation on a per acre of total project basis and proof that bonds sufficient to provide for such cost have been or will be provided to the DNR pursuant to state law. If decided upon by the committee an additional bond will be provided, payable to the County to cover the full estimated costs of reclamation.
- (10) A description of the manner of preventing environmental pollution as regulated by Chapter 293, Wis. Stats., resulting from the leaching of waste materials. The Committee reserves the right to perform an independent review of the viability of the technology used in preventing pollution from the leaching of waste materials. The applicant shall present to the Committee the past results (failures and successes) of the proposed technologies used in preventing pollution from the leaching of waste materials. This review will be done at the expense of the applicant.
- (11) A description of the manner of preventing environmental pollution as defined in SS285.01, Wis. Stats.

14.10 Definitions. The following definitions shall apply in the interpretation of an application of this chapter.

- (1) "Accessory structures" shall mean buildings and all other types of structures as defined at Chapter 16 of the Zoning Code which are erected or built for use in connection with a mining activity.
- (2) "Bulk sampling" means excavating in a potential mining site by removing less than 10,000 tons of material, including overburden and any other material removed from any portion of the excavation site, for the purposes of obtaining site-specific data to assess the quality and quantity of the nonferrous metallic mineral deposits and of collecting data from and analyzing the excavated materials in order to prepare the application for a mining permit or for any other approval. Bulk sampling does not constitute prospecting within the meaning of sub (16)
- (3) "CUP" shall mean conditional use permit for exploration, prospecting and/or mining.

- (4) "Committee" shall mean the Zoning Committee.
- (5) "DNR" shall mean the State of Wisconsin Department of Natural Resources.
- (6) "Exploration" shall mean the on-site geological examination from the surface of an area by core, rotary, percussion or other drilling, where the diameter of the hole does not exceed eighteen inches (18"), for the purpose of searching for metallic minerals or establishing the nature of known metallic mineral deposits, and includes associated activities such as clearing and preparing sites or constructing roads for drilling.
- (7) "Lot" or "parcel" shall mean a legally subdivided tract of land whose description has been recorded in a deed in the Office of the Register of Deeds on which lot or parcel or a combination of lots or parcels mining activity takes place.
- (8) "Metallic mineral mining" and "mining activities" shall include all exploration, prospecting and mining or mining operation activities as defined herein.
- (9) "Mining" and "mining operation" shall mean all or part of the process involved in the mining of metallic minerals, other than for exploration, bulk sampling or prospecting, including commercial extraction, agglomeration, beneficiation, construction of roads, removal of ore body and the production of refuse.
- (10) "Mining activity" and "mining project" shall mean prospecting and mining.
- (11) "Operator" shall mean a person or corporation, its subsidiaries and parent corporations which have been granted a permit under this Section for mineral exploration, bulk sampling, prospecting and mining.
- (12) "Ore" shall mean minerals of all types of geological origin which contain a valuable component, such as a metal which is extracted therefrom and is worked accordingly for such value.
- (13) "Original state standards" shall mean that language contained within referenced state statutes which are in effect on the date of Ordinance publication. Statutes referenced within this Ordinance shall be construed to be minimal County requirements.
- (14) "Parent corporation" shall mean a duly incorporated for profit or nonprofit corporation which is engaged in the business of mining but shall not include a corporation five percent (5%) or more of whose outstanding common stock is owned by another corporation.
- (15) "Property line" shall mean the exterior boundaries of the parcel or lot on which mining activities are taking place; however, for purposes of applying the buffer zone concept under Section 14.07(1), below, that portion of the right-of-way of a

public street or highway which extends onto the parcel or lot shall not be counted toward the calculation of the width of the buffer zone.

- (16) "Prospecting" means engaging in the examination of an area for the purpose of determining the quality and quantity of nonferrous metallic minerals, other than for exploration or bulk sampling but including the obtaining of a nonferrous metallic mineral sample, by such physical means as excavating, trenching, construction of shafts, ramps and tunnels and other means, other than for exploration or bulk sampling, which the department, by rule, identifies, and the production of prospecting refuse and other associated activities. "Prospecting" shall not include such activities when the activities are, by themselves, intended for and capable of commercial exploitation of the underlying nonferrous ore body. However, the fact that prospecting activities and construction may have use in mining, if approved, shall not mean that prospecting activities and construction constitute mining within the meaning of sub. (9), provided such activities and construction are reasonably related to prospecting requirements
- (17) "Prospecting site" shall mean an identified lot or parcel of land on which prospecting is proposed to take place within the County.
- (18) "Residential area" shall mean one or more houses or one or more building lots or parcels for residential use, consistent with minimum allowed County lot sizes which are used for residential purposes or zoned for such use and whether located in the same zoning district as mining activities or not.

14.11 Fees. Permit fees which apply to this chapter are established annually by Trempealeau County and are listed in the Trempealeau County fee schedule. Copies of the current fee schedule shall be kept on file at the Trempealeau County Department of Land Management.

**Trempealeau County Metallic Mining
Annual Reclamation Fee and Plan Review Fee Schedule**

- **Annual Fee for Existing Bulk Sampling, Prospecting, & Mining Permits**
 - \$200 per unreclaimed acre
- **Annual Fee for Newly Permitted Bulk Sampling, Prospecting, & Mining Permits**
 - \$200 per unreclaimed acre
- **Annual Fee for Bulk Sampling, Prospecting, & Mining Permits With No Land Disturbance**
 - \$75 per Area

Conditional Use Applications for Exploration

Acreage	Public Hearing Fee	Conditional Use Fee	Total:
0-5 acres	\$200	\$ 100	\$ 300
6-10 acres	\$200	\$ 100	\$ 300
11-15 acres	\$200	\$ 100	\$ 300
16-25 acres	\$200	\$ 150	\$ 350
26-50 acres	\$200	\$ 200	\$ 400
51-100 acres	\$200	\$ 300	\$ 500
101-200 acres	\$200	\$ 500	\$ 700
201 + acres	\$200	\$1000	\$1,200

Conditional Use Applications for Bulk Sampling

Acreage	Public Hearing Fee	Conditional Use Fee	Total:
All Applications	\$200	\$5,000	\$5,200

Conditional Use Applications for Prospecting

Acreage	Public Hearing Fee	Conditional Use Fee	Total:
0-5 acres	\$200	\$ 100	\$ 300
6-10 acres	\$200	\$ 300	\$ 500
11-15 acres	\$200	\$ 800	\$ 1,000
16-25 acres	\$200	\$ 1,300	\$ 1,500
26-50 acres	\$200	\$ 1,800	\$ 2,000
51-100 acres	\$200	\$ 3,800	\$ 4,000
101-200 acres	\$200	\$ 6,800	\$ 7,000
201 + acres	\$200	\$11,800	\$12,000

Conditional Use Permits (CUP) for Mining

Acreage	Public Hearing Fee	Conditional Use Fee	Total:
0-5 acres	\$200	\$ 1,000	\$ 1,200
6-10 acres	\$200	\$ 1,250	\$ 1,450
11-15 acres	\$200	\$ 1,500	\$ 1,700
16-25 acres	\$200	\$ 2,000	\$ 2,200
26-50 acres	\$200	\$ 5,000	\$ 5,200
51-100 acres	\$200	\$ 10,000	\$10,200
101-200 acres	\$200	\$ 20,000	\$20,200
201 + acres	\$200	\$ 30,000	\$30,200

- **Applicants applying for a permit modification, or extensions, will only be charged for the acreage open at the time of application, unless, the applicant is applying for an expansion. All applications applying for a modification to expand from the original permit shall be charged for the newly proposed acreage.**
- **Average review time is 60 days. Expedited review time is 30 days with fees doubled.**
- **In addition to the fee, applicants shall be responsible for the payment of all reasonable expenses of the committee for retaining outside expert assistance in analyzing the applicants' application and its conformity to the requirements of the Non-Metallic Mining Reclamation Ordinance.**

CHAPTER 15

TREMPEALEAU COUNTY LIVESTOCK FACILITIES PERFORMANCE STANDARDS

15.01 Title. This section shall be known, cited and referred to as the Trempealeau County Livestock Facilities Performance Standards.

15.02 Intent and purpose. This Ordinance is adopted for the purpose of:

- Establishing a procedure for the permitting of livestock facilities.
- Protecting livestock facilities from residential encroachment.
- Protecting human and animal health.
- Protecting human welfare.
- Protecting the natural environment.
- Protecting property values.
- Regulating the location, development, and expansion of livestock facilities.
- Protect agriculture's ability to grow and change.
- Reduce conflicts between municipalities, rural non farm dwellings and livestock facilities.
- Compliance with the requirements of ATCP50, ATCP51 and NR151 State Administrative Rules.

15.03 General provisions

- (1) Jurisdiction. Subject to 59.69 (5)(e), Wis. Stat., the jurisdiction of this Ordinance shall include all areas of Trempealeau County outside the incorporated limits of municipalities.
- (2) Scope. From and after the effective date of this Ordinance and subsequent amendments, all new livestock facilities, expanding livestock facilities and existing livestock facilities for which permits are required under this ordinance or are requested by a livestock facility operator shall be designed, built and operated in conformity with the provisions of this Ordinance.
- (3) Application.
 - (a) In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements.
 - (b) Where requirements under other laws, regulations or Ordinances are more restrictive than those set forth in this Ordinance, those requirements shall apply unless otherwise forbidden by ATCP51.

15.04 Definitions

- (1) Aids to interpretation.
 - (a) For the purpose of this Ordinance, words used in the present tense shall include the future. Words in the singular shall include the plural, and the plural the singular.
 - (b) The word “person” shall include a firm, association, organization, partnership, trust, company or corporation as well as an individual.
 - (c) The word “shall” is mandatory and not discretionary.
 - (d) The word “may” is permissive.
 - (e) The word “lot” shall include the word “plot”, “piece” and “parcel”.
 - (f) The masculine gender includes the feminine and neuter genders.
 - (g) All distances, unless otherwise specified, shall be measured horizontally.
- (2) Specific Words and Purposes Defined.
 - (a) “Agricultural use” means beekeeping; commercial livestock facilities; dairying; egg production; floriculture; fish or fur farming; licensed game farms; forest and game management; grazing; livestock raising; orchards; plant greenhouses and nurseries; poultry raising; raising of grain, grass, mint and seed crops; raising of fruits, nuts and berries; sod farming; placing land in federal programs in return for payments in kind; owning land, at least 35 acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836; participating in milk production termination program under 7 USC 1446 (d); and vegetable raising.
 - (b) “Animal” means domesticated and other types of animals together with fish and birds.
 - (c) “Animal manure” means poultry, livestock or other animal excrement or a mixture of excrement with feed, bedding or other materials.
 - (d) “Animal unit” means a unit of measure used to determine the total number of single animal types or combination of animal types which are fed, confined, maintained or stabled in a livestock facility. For purposes of this Ordinance, animal unit equivalents are based on s. NR243(3) as it existed on April 27, 2003, or subsequent amendments. For animals not listed, the number of animal units shall be defined as the average weight of the animal divided by one thousand (1,000) pounds.

Livestock Type		Animal Unit Factor
Dairy Cattle	Milking and Dry Cows	1.4
	Heifers (800 lbs. to 1200 lbs.)	1.1
	Heifers (400 lbs. to 800 lbs.)	0.6
	Calves (up to 400 lbs.)	0.2
Beef	Steers or Cows (600 lbs. to market)	1.0
	Calves (under 600 lbs.)	0.5
	Bulls (each)	1.4
Swine	Pigs (55 lbs. to market)	0.4
	Pigs (up to 55 lbs.)	0.1
	Sows (each)	0.4
	Boars (each)	0.5
Poultry	Layers (each)	0.01
	Broilers (each)	0.005
	Broilers – continuous overflow watering	0.01
	Layers or Broilers - liquid manure system	0.033
	Ducks – wet lot (each)	0.2
	Ducks - dry lot (each)	0.01
	Turkeys (each)	0.018
Sheep (each)		0.1
Goats (each)		0.1

*Number of units is based on an average weight per growing cycle.

- (e) “ATCP51” means the DATCP Administrative Rule that Counties are required to comply with in the implementation of Wisconsin’s Livestock Facility Siting Law, s.93.90 Stats., created by 2003 Wis. Act 235.
- (f) “Drylot” means an enclosure usually bare of vegetation and used for the holding of livestock.
- (g) “Expansion” means an increase in the largest number of animal units kept at an existing livestock facility on at least 90 days in any 12-month period. Ordinance requirements associated with the expansion of livestock facilities is dependant on the size of the facility and are specified in 15.06(1) of this Ordinance.
- (h) “Existing Livestock Facility” has the meaning as defined in s. NR151.095(5)(b).

- (i) “Hobby farm” means a use of the land that is primarily residential in nature but may include the raising of livestock primarily for recreational purposes. A hobby farm shall consist of less than ten (10) animal units.
- (j) “Lagoon” means a biological treatment system designed and operated for biodegradation, converting organic matter in animal wastes to more stable end products. This system is differentiated from a storage facility by design in that it is a system that reduces the amount of material that needs to be removed. A lagoon is also characterized as a long term facility versus the short term nature of a storage facility.
- (k) “Livestock” means animals kept for use on a farm, range or lot and/or raised for sale and profit. For purposes of this Ordinance, livestock types to be subject to regulation are limited to cattle, swine, poultry, sheep and goats.
- (l) “Livestock facility” means an operation or facility, including a dairy facility, feedlot, drylot other than a pasture, where animals have been, are or will be fed, confined, maintained or stabled for a total of forty-five (45) consecutive days or more, or such other period of time which is equivalent to the shortest growth cycle for the type of animal so fed, confined, maintained or stabled, in any twelve (12) month period.

Two or more Livestock facilities that are under common ownership, farmed or managed by a common operator and are separated by no greater than 750 feet are considered to be a single facility for the purposes of this Ordinance.

For the purpose of developing the 590 Nutrient Management Plan two or more livestock facilities whether under common ownership or not, are deemed to be a single livestock facility if they utilize a common area or system for the disposal of wastes and are separated by no greater than 750 feet.

- (m) “Manure storage area” means an area used for the temporary storage of animal manure or run-off containing animal manure until it can be utilized as domestic fertilizer or removed to a permitted animal manure disposal site.
- (n) “Manure storage facility” means a permanent site used in conjunction with a livestock facility on which animal manure or run-off containing animal manure is stored until it is utilized as domestic fertilizer or removed to a permitted animal manure disposal site.
- (o) “Navigable waters” means Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state.

Under s.281.31(2m), Wis. stats, notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under s. 59.69, Wis. Stats, and ch. NR 115, Wis. Adm. Code, do not apply to lands adjacent to farm drainage ditches if:

1. Such lands are not adjacent to a natural navigable stream or river.
 2. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
 3. Such lands are maintained in nonstructural agricultural use.
- (p) “New livestock facility” has the meaning as defined in s. NR151.095(4)(d).
- (q) “Non-conforming structure and use” means any structure, land or water lawfully used, occupied, or erected at the time of the effective date of this Ordinance or amendments thereto which use or structure does not conform to the regulations of this Ordinance or amendments thereto. Any such structure conforming as to use but not as to locations or dimensional limitations shall be considered non-conforming.
- (r) “NR151 Agriculture Performance Standards and Prohibitions” means those Agriculture Performance Standards and Prohibitions specified in Subchapter II of s. NR151.
- (s) “Pasture” means land with a permanent, uniform cover of grasses or legumes used for providing forage to livestock. For this ordinance, pastures also include areas where cattle are wintered or carried on crop residue (corn stover, bean stover, hay, etc.), along with some supplemental feeding during the winter, drought or flooding. Pastures are not bare of vegetation or crop residue. What is a pasture shall be further limited by and be subject to the grazing rates established in accord with University of Wisconsin Extension “Grazing Reference Material Manual”.
- (t) “Permit” means the granting of authority by the County to conduct certain activities subject to this Ordinance which may also include a certificate of compliance.
- (u) “Permitted use” means a use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations and performance standards of such district.

- (v) “Water Quality Management Areas” means those areas in the County in which each livestock facility is required to comply with certain prohibitions through use of a variety of Best Management Practices (BMP) if his/her/its operation is:
 - Within 300 feet of a stream; or
 - Within 1000 feet of a lake; or
 - Specific sites based on susceptibility and the possibility of direct conduits to groundwater
- (w) “Wetland” means 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. The Wisconsin Wetlands Inventory Maps produced by the Wisconsin Department of Natural Resources Bureau of Planning will be used as references in determining the size and location of wetlands. Discrepancies between the wetland inventory maps and actual field conditions will be determined at the discretion of the Zoning Administrator.
- (x) “WPDES” means a State of Wisconsin Pollutant Discharge Elimination Permit issued pursuant to Chapter 283, Wis. Stats.
- (y) “590 Nutrient Management Plan” means a nutrient management plan developed following all the criteria within the USDA Natural Resource Conservation Service (NRCS) conservation practice standard Nutrient Management Code 590, dated 09/2005, or subsequent amendments.

15.05 Administration. The Trempealeau County Livestock Facilities Performance Standards Ordinance shall be administered by the Trempealeau County Zoning Department with technical assistance and support to be provided by the Trempealeau County Land Conservation Department and the University of Wisconsin Extension Agricultural Agent if and when available.

15.06 General regulations

- (1) Livestock Facilities Restricted to Agricultural Zone. Livestock facilities shall only be located on land parcels of Trempealeau County that are zoned to allow for livestock facilities as a permitted or conditional use. Livestock facilities will be designated as either permitted or conditional uses dependent on the size classification of the proposed operation:
 - (a) A new livestock facility with 10 to 299 animal units shall be considered a permitted use subject, however, only to the requirement that the livestock facility immediately comply with the Agriculture Performance Standards and Prohibitions as specified in Subchapter II of s. NR151. None of the setback limitations imposed under Section 15.08 (2) shall apply to livestock facilities with less than 299 animal units.

- (b) An expansion of an existing livestock facility of 10 to 299 animal units shall be considered a permitted use subject, however, only to the requirement that the expanded portion of the livestock facility immediately comply with the Agriculture Performance Standards and Prohibitions contained within Subchapter II of s. NR151.
- (c) A new livestock facility of 300 - 999 animal units shall be considered a conditional use and shall require a conditional use permit. The livestock facility shall immediately comply with the Agriculture Performance Standards and Prohibitions contained within Subchapter II of s. NR151 and the permit application and compliance requirements of s. ATCP51.30. A public hearing shall be required.
- (d) An expansion of an existing livestock facility of less than 300 animal units that shall be at least 300 animal units as a result of the expansion. This expansion shall be considered a conditional use and shall require a conditional use permit. A public hearing may be required. The livestock facility shall immediately comply with the Agriculture Performance Standards and Prohibitions contained within Subchapter II of s. NR151 and the permit application and compliance requirements of s. ATCP51.30.
- (e) An expansion of less than twenty (20) percent of an existing livestock facility of 300 to 999 animal units shall be considered a permitted use subject, however, only to the requirement that the expanded portion of the livestock facility immediately comply with the Agriculture Performance Standards and Prohibitions contained within Subchapter II of s. NR151.
- (f) An expansion of at least twenty (20) percent of an existing livestock facility of at least 300 animal units but less than 1000 animal units following expansion. This expansion shall be considered a conditional use and shall require a conditional use permit. A public hearing may be required. The livestock facility shall immediately comply with the Agriculture Performance Standards and Prohibitions contained within Subchapter II of s. NR151 and the permit application and compliance requirements of s. ATCP51.30.
- (g) A livestock facility containing 1,000 or more animal units shall be considered a conditional use and shall require a conditional use permit. A Wisconsin Pollution Discharge Elimination System (WPDES) Permit shall be obtained from the Wisconsin Department of Natural Resources and shall be attached to the permit application. A public hearing shall be required.

A livestock facility existing and operational at the time of this Ordinance that is not in compliance with regulations of this Ordinance shall be considered to be existing non-conforming. An existing non-conforming livestock facility that is

- abandoned or not operational for a period of sixty (60) consecutive months shall no longer retain its non-conforming status and must comply with all of the regulations set forth in this Ordinance prior to the reintroduction of livestock.
- (2) Livestock Facilities Permits Required. Under the following conditions a livestock facilities permit is required:
- (a) A new livestock facility of at least ten (10) animal units is proposed for a lot or a site on a lot where a livestock facility does not exist at the time of application for a permit nor at which site a livestock facility existed on October 1, 2002.;
 - (b) Expansion of an existing livestock facility is proposed;
 - (c) An existing livestock facility voluntarily seeks to be permitted;
 - (d) An existing permitted livestock facility is to be restocked after being abandoned, or unused for sixty (60) or more consecutive months.
 - (e) A livestock facility permitted prior to the effective date of this ordinance expands or seeks to expand beyond the number of animal units allowed by the pre-existing permit.
- (3) Duration of Livestock Facility Permit. Permits issued prior to the effective date of this Ordinance shall expire seven (7) years following the date of issuance. Permits issued following the effective date of this ordinance are issued to the livestock facility and shall be transferable. The permit shall remain in effect until such time that the county terminates the permit in accordance with s. ATCP51.34(4) or the livestock facility has been unused or abandoned for sixty (60) consecutive months.
- (4) Information Requirements for a Livestock Facilities Conditional Use Permit.
- (a) A completed conditional use permit application that meets the requirements of ATCP51.30. The application forms and accompanying worksheets required by ATCP51.30 are available from the Trempealeau County Zoning Department. Each application for a conditional use permit shall be accompanied by the fee required.
 - (b) A list of all adjacent property owners and a separate listing of all property owners within a two (2) mile radius of the livestock facility.

- (5) Information Requirements for a Livestock Facilities Permit.
- (a) A completed permit application listing all owners and operators, if not the owners, signed by at least one of the owners. Each application for a permit shall be accompanied by the fee required.
 - (b) A statement as to the number of animal units by livestock type that existed on the facility on the effective date of this Ordinance.
 - (c) A statement as to the maximum number of animals, by average weight range, that will be confined at the livestock facility at one time.
 - (d) A scaled map of the site showing the following information:
 - 1. The locations and dimensions of all animal confinement buildings including outside lots.
 - 2. The locations, dimensions, and design criteria of any manure storage facilities.
 - 3. The location of any well, active or abandoned, and its distance to the nearest confinement building or outside lot.
 - 4. The drainage patterns on the site.
 - 5. The location of all structures within the setback area of the proposed facility.
 - 6. Proof of ownership or control and timeline for construction.
 - (e) New livestock facilities of 10-299 animal units must provide evidence that the livestock facility complies with the Agricultural Performance Standards and Prohibitions contained within Subchapter II of s. NR151 as well as the set back requirements of this ordinance.
 - (f) Existing livestock facilities expanding to less than 300 animal units must provide evidence that the expanded portion of the livestock facility complies with the Agriculture Performance Standards and Prohibitions contained within Subchapter II of s. NR151 as well as the set back requirements of this ordinance.
- (6) Notification of Adjacent Property Owners Required. As is required by ATCP51.30(6) all adjacent property owners shall be individually provided by the Zoning Administrator a copy of the notice of application completeness that is provided by an applicant for a livestock facilities conditional use permit.

15.07 Permit criteria

- (1) Standards Applicable to All Livestock Facilities. The following standards shall be met by all livestock facilities, whether permitted under this Ordinance or subject to a conditional use permit:

- a) All new or expanding manure storage facilities shall conform with the Trempealeau County Animal Waste Management Ordinance. All plans for manure storage lagoons and manure storage structures shall be designed and the plans signed, by an agricultural or civil engineer registered in the State of Wisconsin, or by an agricultural engineer practitioner as defined by the Wis. Adm. Code DATCP 50.95.
 - b) New or expanding livestock facilities and existing livestock facilities sought to be permitted shall conform with the County's Livestock Facilities Performance Standards Ordinance.
 - c) New or expanding livestock facilities and existing livestock facilities sought to be permitted must comply with Subchapter II of s. NR151.
 - d) All livestock facilities designs must be reviewed and approved by the Land Conservation Department.
 - e) The Land Conservation Department shall review all livestock facilities projects to ensure that runoff water from storm water and other sources does not create a pollution or sedimentation problem. Livestock facility construction projects must meet the requirements of the Wisconsin Department of Natural Resources "Wisconsin Construction Site Best Management Practice Handbook".
- (2) General Setbacks for Livestock Facilities .
- a) New or expanding livestock facilities are prohibited in the one hundred (100) year floodplain.
 - b) New or expanding livestock facilities shall comply with well separation requirements of s. NR812.08 as of 10-1-94.
 - c) New or expanding livestock facilities shall be set back a minimum of seventy five (75) feet from the normal high water mark of navigable waters. An existing livestock facility already located at less than seventy five (75) feet from navigable waters may expand, but the addition shall not further encroach upon the shoreline setback.
 - d) New or expanding livestock facilities shall be set back a minimum of seventy five (75) feet from a public or private drainage ditch, if the drainage ditch is connected to navigable waters. The expansion of an existing livestock facility already located at less than the required setback distance may expand, but the addition shall not further encroach upon the drainage ditch setback.

- (e) New or expanding livestock facilities of less than 1000 animal units shall be set back 100 feet from the property lot line. An existing livestock facility already located at less than the one hundred (100) feet may expand, but the addition shall not further encroach upon the property lot line setback.
 - (f) New or expanding livestock facilities of 1000 animal units or greater shall be set back 200 feet from the property lot line. An existing livestock facility already located at less than the two hundred (200) feet may expand, but the addition shall not further encroach upon the property lot line setback.
 - (g) New or existing livestock facilities shall not construct manure storage structures within 350 feet of a property lot line or within 350 feet of the nearest point of any road right-of-way. A manure storage structure on an existing livestock facility already located at less than the three hundred fifty (350) feet may expand, but the addition shall not further encroach upon the property lot line or road right-of-way setbacks.
- (3) General Standards and Setbacks for Manure Application.
- (a) New or expanding livestock facilities need an approved 590 Nutrient Management Plan. If the livestock facility owner does not own land sufficient to implement a 590 Nutrient Management Plan, the applicant must provide signed land spreading contracts providing for spreading rights consistent with the 590 Nutrient Management Plan. Permits shall automatically terminate upon the expiration of such contract(s) unless extensions or alternative contracts consistent with the 590 Nutrient Management Plan has been secured.
 - (b) Animal manure shall not be stored for longer than one (1) year.
 - (c) Setbacks for manure application shall be in compliance with the NRCS conservation practice standard Nutrient Management Code 590, dated 09/2005. Spreading of manure is not allowed on the Public right-of-way.
- (4) Livestock facilities Located in Water Quality Management Areas. In the event that it is proposed to place a livestock facility in one of the following described locations, before a permit shall be issued the owner or operator shall demonstrate its compliance with Sec. 15.07 (1) (c) of this Ordinance:
- (a) Within three hundred (300) feet of a stream.
 - (b) Within one thousand (1000) feet of a lake.
 - (c) Specific sites identified by the Zoning Department as susceptible to groundwater contamination.

15.08 Conditional use permits for livestock facilities

- (1) Circumstances Requiring Issuance of Conditional Use Permits. Conditional use permits shall be required for all livestock facilities described in Sec. 15.06(1)(c), (d), (f), and(g), and for the siting of single family dwellings (see (2), below).

- (2) Siting of Single Family Dwellings Limited. A single family dwelling, other than that of the owner of the livestock facility or a family member, which is proposed to be located within twice the required setback area of a permitted livestock facility, shall require a conditional use permit. Conditional use permits granted for a single family dwelling to be located within the required setback area of a permitted livestock facility shall not preclude the permitted livestock facility from future expansion provided that all of the requirements of this Ordinance are satisfied. If granted, a conditional use permit for a single family dwelling in the setback area shall include as one condition that the applicant and his/her successors in interest shall be limited by Sec. 823.08, Wis. Stats., in their pursuit of nuisance actions against the owner or operator of the livestock facility.
 - (a) In addition to other information required under other applicable state and local regulations, an applicant for a conditional use permit must submit the following information to the Zoning Department:
 1. Standard Permit and/or Conditional Use Permit Application and fee.
 2. A topographical survey of the lot highlighting existing features, manmade and natural, and the structures and components of the proposed residence.
 3. Location of all livestock facilities within four hundred (400) feet.
 4. Well location for the proposed structure.
 5. Evidence of title to and/or right to use the property.
 6. Letter from the Town Board regarding the proposed single family dwelling.
 7. Names and addresses of all adjoining property owners.
 8. Any additional information the Zoning Committee may require in accordance with this Ordinance.

15.09 Permit Modification. For permit holders who want to make minor modifications to their existing permit, they must seek approval from the Department of Land Management (DLM). Permit modifications may include increasing animal unit threshold by 30% or less up to 600 animal units, minor building projects (30% of existing square footage up to 20,000 square feet or less), additional animal lots, transfer of operation, etc. Projects not subject to Permit Modification include manure storage construction, major building projects (greater than 30% of existing square footage up to 20,000 square feet), major animal unit expansions (greater than 30% of previous threshold or over 600 animal units), and permitted facilities under 300 animal units requesting an expansion that will put the total animal unit count at 300 or above.

A public hearing may still be required for a permit modification if your operation is over 300 animal units. Operations under 300 animal units that have a Trempealeau County Livestock Permit that wish to expand beyond 300 animal units will need to complete the Department of Agriculture, Trade, and Consumer Protection (DATCP) Livestock Facility Siting Permit, and have a public hearing. For permitted facilities requesting a permit modification that will increase their threshold to 1000 animal units or above, the permittee must first apply for a Wisconsin Pollutant Elimination Discharge System Permit (WPDES Permit, also known as CAFO Permit) through the Department of Natural Resources before DLM will approve a permit modification. Permit transfers of 300+ animal unit operations will not require a public hearing unless there will be changes to the operational practices currently taking place such as increase in animal units, change of animal type/species, and/or construction of additional buildings, structures, or manure storage. The fee schedule for permit modifications are listed in Section 15.15. The permit modifications must comply with Subchapter II of NR151.

15.10 Livestock facilities declared to be agricultural use. In accord with Sec. 823.08(2)(b), Wis. Stats., all livestock facilities operated pursuant to a permit or conditional use permit under this Ordinance are considered to be an agricultural use of land.

15.11 Entry to be afforded to Zoning Department as a permit condition. Each permit for construction and operation of a livestock facility shall be subject to the requirement that the owner of the lot on which it is located together with the occupant, if operated by someone other than the owner, shall constitute a right of entry to Zoning Department officers and agents and to entry to all parts of the livestock facility and the lot on which it is located for inspection purposes relating to conformity of its construction and operation to the terms of this Ordinance. Such inspections shall, except for emergencies, take place between 8:00 a.m. and 5:00 p.m. Monday through Saturday. Before entering upon the land of a permit holder the inspector shall make a reasonable attempt to contact the owner or occupant by telephone or in person at least 24 hours in advance of the proposed inspection.

15.12 County intervention to prevent or limit pollution from leaking lagoon or manure storage system. If a livestock facility, whether operated pursuant to a permit issued under this Ordinance or not, contains a lagoon or other storage system for the retention of animal manure, which lagoon or other storage system is in a state of disrepair or is otherwise neglected or has been abandoned by its owner or operator and if upon inspection by the County it is determined that manure is leaking into the groundwater or onto the surface of the ground or into adjacent surface waters, the County may, with or without notice to the owner or operator, take such steps as are necessary to drain or contain said manure so as to prevent or limit pollution resulting from such a release. If the County, through its own resources and employees or through a contractor, is forced to take such steps,

it shall collect the costs thereof against the owner and/or operator of the leaking lagoon or manure storage system. If necessary, legal action shall be commenced to compel reimbursement to the County.

15.13 Owner/operator responsibility for leaking lagoon or manure storage system not to be limited by county intervention under section 15.11. The decision of whether or not to intervene under Section 15.11 to prevent or limit pollution from a leaking lagoon or manure storage system shall be vested in the sound discretion of the Land Conservation Department Administrator and the Zoning Administrator. Even in the event, however, that the County engages in such a process it shall not, as a result thereof, be held to assume any responsibility for the negligence or failure of the owner or operator to properly maintain and operate the lagoon or manure storage system in question.

15.14 Violations subject to action. Any person who, with or without a permit, under this Ordinance violates any of its standards or requirements shall be subject to imposition of an appropriate forfeiture in accordance with the Chapter 11 of this Ordinance or injunctive relief or both in the discretion of the County.

15.15 Fees. The fee schedule adopted by the joint Zoning Committee/Land Conservation Committee as amended from time to time shall be in effect in the administration of this Ordinance.

Livestock Facilities Fee Schedule		
Animal Units	Permit Fee	Public Hearing Fee
10-49	\$100.00	NA
50-149	\$250.00	NA
150-299	\$500.00	NA
300-999	\$1,000.00	\$200.00
1000 +	\$1,000.00	\$200.00

Fee Schedule for Permit Modification

<u>AU</u>	<u>Fee</u>	<u>Public Hearing Fee</u>
10-49	\$20	N/A
50-149	\$30	N/A
150-299	\$40	N/A
300+	\$50	\$200

Transfer of operation to non-family member

10-49	\$50	N/A
50-149	\$100	N/A
150-299	\$150	N/A
300+	\$250	N/A (unless operational changes listed above take place, then \$200)

Transfer of operation to family member - \$25 for all size operations (\$200 public hearing fee if required)

Revised September 2018

CHAPTER 16

MANUFACTURED HOME PARKS

16.01 Purpose. This chapter is intended to provide for the orderly location and management of manufactured home parks in the County.

16.02 Definitions. In Chapter 16, unless the context dictates otherwise, the following definitions shall be used:

- (1) “Approved” means acceptable to the Department and Zoning Committee, based on its determination as to conformance with this ordinance and good public health practices.
- (2) “Basic Unit” means a mobile home or manufactured home without hitch, awnings, cabanas, storage unit, carport, garage, windbreak, non-winterized porch or similar appurtenant structures.
- (3) “Complete Bathroom Facilities” means a flush toilet, lavatory, bath and kitchen sink.
- (4) “Department” means the Trempealeau County Zoning Department.
- (5) “Manufactured Home” means a structure manufactured in compliance with the Federal Manufactured Home Construction and Safety Standards, 42 USC 5401 to 5425, which is designed to be used as a dwelling, with or without a permanent foundation, when connected to utilities.
- (6) “Mobile Home” means a vehicle manufactured or assembled before June 15, 1976, designed to be towed as a single unit or in sections upon a highway by a motor vehicle and equipped and used, or intended to be used, primarily for human habitation, with walls of rigid uncollapsible construction, and originally designed and built without self contained sanitary facilities. Mobile home includes the mobile home structure, its plumbing, heating, air conditioning and electrical systems, and all appliances and all other equipment attached to the unit. Mobile home also means any unit which lacks a title, serial number, manufacturer or other information which would clearly identify when it was constructed. All such units shall be presumed to be manufactured prior to June 15, 1976 unless proven otherwise.
- (7) “Mobile Home Park” means any parcel of ground upon which two or more units, occupied for dwelling or sleeping purposes are located, regardless of whether or not a charge is made for such accommodation.
- (8) “Mobile Home Park Management” means the person legally responsible for the operation of the park.

- (9) “Park” means a mobile home park whether such mobile home park is occupied entirely by mobile homes, manufactured homes or some combination of the two.
- (10) “Person” means any individual, firm, trust, partnership, association or corporation.
- (11) “Public Utility” means electric, telephone, fuel supply, water supply and sewage system meeting the requirements of the Department of Industry, Labor and Human Relations, the Department of Natural Resources and the Department.
- (12) “Recreation Vehicle” means a vehicle designed and intended to be moved from site to site, whether towed or self propelled, and containing a holding tank septic system designed to be used in connection with a sanitary dump station.
- (13) “Space” means a plot of ground within a park designed for the accommodation of one unit.
- (14) “Street” means the paved or surfaced portion of a roadway between curbs or, if not paved, the surfaced area providing public access.
- (15) “Unit” means a separate structure designed to be an individual living facility and is either a mobile home or a manufactured home.

16.03 General requirements.

- (1) **Certain Units May Only Be In Parks.** The following units may only be located in licensed parks: all manufactured homes of less than 550 square feet of year round living space and all mobile homes which were located in Trempealeau County in a licensed park as of February 15, 1994. No additional manufactured homes or mobile homes of a size of less than 550 square feet may be placed in any mobile home park beyond those already in place as of February 15, 1994 nor may any such manufactured or mobile home, whether for reasons of physical depreciation, damage or destruction through any cause, or otherwise, be replaced with another manufactured or mobile home of less than 550 square feet. Under no circumstances shall a new or replacement mobile home be placed anywhere in the County outside of a mobile home park.
- (2) **Other Units Permitted In Parks.** Manufactured homes 550 square feet or larger may also be located in parks.
- (3) **Pre-Existing Parks.** All expansions of existing parks must comply with this and other county ordinances. All existing parks must be licensed and comply with this ordinance except for certain design requirements not previously in effect. All replacement units must comply with this ordinance.
- (4) **Licensing.**

- (a) License Required. It shall be unlawful for any persons to establish, operate or maintain or permit to be established, operated or maintained upon property owned, leased, or controlled by him, a park within the limits of Trempealeau County without having first secured a license for each such park from the Zoning Administrator pursuant to this ordinance.
 - (b) Fees. An annual licensing fee shall be paid for each park and for each license transfer. License and license transfer must be approved by the Zoning Committee in writing. License fees shall be established in the Trempealeau County Fee Schedule Ordinance.
 - (c) Specifications To Be Met. Before any park license is issued, the applicant must have met all of the specifications and codes set up by the State of Wisconsin, Trempealeau County, and the Town. Applicable documentation must be filed with the Zoning Administrator stating that the applicant has met and conformed with all specifications set forth by the State, County, and Town.
- (5) Registration. Any occupant of any unit located at an approved park must register with the owner of the park. The mobile home park management, within 7 days, must supply a list of occupants to the Zoning Committee at their written request.
- (6) Inspection. No park license shall be issued until the premises have been inspected by the Zoning Administrator or his/her designee to determine whether the applicant and the premises of the park comply with all regulations, ordinances, and laws applicable thereto. No license shall be renewed without a re-inspection of the premises. For the purpose of making inspections and implementing enforcement actions, the Zoning Administrator or his/her authorized agents shall have the right and are hereby empowered to enter on any premise on which homes are located, or about to be located, and to inspect the same and all accommodations connected therewith at any reasonable time.
- (7) Management Duties. The park owner or operator together with any attendants or persons in charge of a park shall:
- (a) Maintain an office on the park premises.
 - (b) Keep a register, which is to be open at all reasonable times to inspection by the Department, of all owners of units located in the park.
 - (c) Maintain the park in a clean, orderly and sanitary condition at all times.
 - (d) Report to the local health officers all cases of animals or conditions on the premises which may adversely affect the health or well-being of persons in the park.

- (e) Insure that the provisions of this ordinance are complied with and enforced and report promptly to the proper authorities any violations of this ordinance and/or any other violations of law which come to his attention.
 - (f) Post copies of these regulations in one or more conspicuous places in the park where they can be easily seen by the park personnel and visitors.
- (8) Occupant Duties. It is the duty of all unit occupants to:
- (a) Maintain their site in a clean, orderly and sanitary condition at all times.
 - (b) Abide by all applicable state and local regulations.

16.04 Park plan

- (1) Size Limitations.
- (a) All parks shall be located wholly within the boundaries of a single township, each site plainly marked, and must comply with Chapter HSS 77 Wisconsin Administrative Code. The number of park sites in any town may be regulated by a town.
 - (b) There shall be no more than two hundred (200) units in any single park.
- (2) Drainage.
- (a) Every unit and park shall be located on a well-drained area, and the premises shall be properly graded so as to prevent the accumulation of storm or other waters. No unit or park shall dispose of contaminated liquids or solids unless allowed or approved under state law and county ordinances.
 - (b) All parks, shall be sodded, or seeded, and shall be properly landscaped. New parks and expansion of existing parks must have an approved construction site erosion control plan prior to commencement of any work.
- (3) Space And Setbacks.
- (a) Each space shall be a clearly defined or delineated area of not less than 4,000 square feet. The basic unit shall not occupy in excess of one-third of the area of the site, and the complete unit including all accessory structures shall not occupy more than one-half of the area of the site. Expansion and modification of currently existing and operating parks shall be in accordance with current regulations.

- (b) The unit shall be so located on a site so there shall be at least a 20 foot clearance between basic units. No unit or accessory structure shall be located closer than 5 feet to any other space. No unit shall be located closer than the permitted setback, as established by Statute, ordinance, or local jurisdiction, to the right-of-way line of a public street or within 10 feet of an internal private street system of the park.
- (4) Streets.
 - (a) All spaces shall abut upon a street. For a 2-way street the width must be at least 32 feet if parking is to be permitted on both sides of the street; 24 feet in width if parking is permitted on only one side; or 18 feet in width if parking on the street is prohibited. A one-way street shall be at least 24 feet in width if parking is permitted on both sides; 18 feet wide if parking is permitted on one side; and 14 feet wide if parking on the street is prohibited. One-way streets shall be no longer than 500 feet.
 - (b) Streets shall be adequately graveled for year round use or be paved. They shall be maintained in good condition, have natural drainage and be adequately lighted at night.
- (5) Parking.
 - (a) For each space there shall be a graveled or paved parking area of at least 350 square feet. Parking areas shall be maintained in good condition and have adequate drainage. Unlicensed vehicles and collection of personal property, junk or debris are not allowed on a parking area or space or outside of a building anywhere in the boundaries of the mobile home park.
 - (b) There shall be a hard surface walkway at least two feet wide leading from the parking area to the unit entrances.
 - (c) There shall be no parking on the ungraveled or unpaved areas adjoining the units.
- (6) The management of a park shall not conduct nor allow any other person to conduct any motor vehicle sales or repair business or any unit sales or renovation or any other business on or from a mobile home park regulated under this ordinance.
- (7) Miscellaneous Provisions
 - (a) Use Of Setback Zones. No occupied or unoccupied mobile home, manufactured home, park unit, or recreational vehicle, shall be located between the established setback lines for the zoning district in which such

structure is located and an adjoining street, highway, lotline, stream or lake.

- (b) Skirting. Skirting, specifically designed for units or other material to enclose the area between the ground and the bottom of the unit, is to be completed within two weeks after parking.
- (c) Recreation Area. Each park shall contain a relatively level, well-drained recreation area. A minimum of one-half acre of area for such use shall be provided for each 50 sites. The minimum area in any park shall be one-half acre.
- (d) Emergency Plan. A fire and all hazard plan must be developed and approved by the local Fire Chief and County Emergency Government Director.
- (e) Fires. Open fires on the premises, except charcoal fires used for cooking, are prohibited. Burning barrels are prohibited.

16.05 Park utilities and services.

(1) Water Supply.

- (a) Municipal Supply. When a municipal water supply is available to the park, connection and use are required.
- (b) Private Wells. A private owned well is permitted as a source of water when a municipal water facility is not available to the premises. The well shall be located on the premises and shall be constructed and the pump installed in accordance with ch. NR 111 and 112, rules governing well drilling and pump installation. Whenever safe water cannot be obtained consistently from a well constructed in apparent compliance with ch. NR 112, as evidenced by unsafe laboratory report, the well shall be reconstructed or a new well constructed in accordance with the requirements of the Department of Natural Resources. However, if the reconstruction or new construction is determined to be impractical or is found to be ineffective, the use of the well shall be discontinued. The water supply shall be sampled at least quarterly for microbial contamination. Chemical samples shall be analyzed according to Chapter 109 of Wisconsin Administrative Code. Water sample results must be supplied to the Department.
- (c) Water Connection. A separate valved water service shall extend to each site.

(2) Sewage Disposal.

- (a) Municipal System. When public sewage facilities are available to the park, connection and use are required.
 - (b) Private System. Private sewage disposal systems as defined in s. 145.01(12), Stats., are permitted when a public sewer facility is not available to the premises. The system shall be located on the premises and shall be designed, constructed and operated in accordance with s 144.245, Stats., and chs. ILHR 82 and 83. Plans and installation details covering the design and construction, alteration or extension of private sewage disposal systems shall be approved by the Department of Industry, Labor, and Human Relations and the Department. Prior to construction, sanitary permits are required for any work done to a private sewage system. Sufficient area of suitable soils for the initial soil absorption system and one replacement system, of adequate size to serve the ultimate number of spaces to be provided, shall be available in the park.
- (3) Plumbing. All plumbing shall meet the requirements contained in Ch. ILHR 82-ILHR 84 and ch. HSS 177, Wisconsin Administrative Code.
- (4) Solid Waste.
- (a) Garbage. All garbage not disposed of through a garbage disposal unit connected with the sewage system shall be kept in separate, leak-proof, non-absorbent containers equipped with tight-fitting covers unless otherwise protected from flies, insects, and animals, and the contents shall be disposed of as often as necessary to prevent smells, decomposition or overflow. Garbage or rubbish pickup and disposal must be provided by the management. The management must also provide an enclosed structure where recyclable materials may be deposited. The management is responsible for the operation and maintenance of the recycling facility. The recycling facility meet the requirements of all state and county ordinances.
 - (b) Cleanliness. Garbage cans should be washed every time they are emptied unless provided with a single-service sanitary, removable waterproof liner.
 - (c) Certain Containers Prohibited. The use of wooden or paper containers for garbage is prohibited.
 - (d) Rubbish. Fly tight containers with covers shall be provided for non-recyclable rubbish. The contents shall be disposed of as often as necessary to prevent overflow. If local regulations require separation of garbage and rubbish, such requirements shall be followed.

CHAPTER 17

ADULT BOOK STORE OR ADULT CABARET

17.01 Findings and purpose. The County Board finds that, due to their nature, the existence of adult bookstores and adult cabarets in the county has serious objectionable operational characteristics, such as an effect upon property values, local commerce and crime. Due to the deleterious combined effect on adjacent areas when such uses are concentrated, they should not be permitted to be located in close proximity to each other. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding area. Such regulations are contained in these standards. These standards are designed to protect the county's retail trade, maintain property values, prevent crime, and, in general, protect and preserve the quality of the county's neighborhoods, commercial districts and the quality of rural and urban life.

17.02 Standards. An adult bookstore or adult cabaret is a conditional use in the commercial district, provided that:

- (1) Such use shall not be located within 1,000 feet of any residential district as designated within this ordinance with a RR, R-8 or R-20 designation.
- (2) Such use shall not be located within 1,000 feet of a public or private school.
- (3) Such use shall not be located within 1,000 feet of another adult bookstore or adult cabaret.
- (4) The distances provided in this subsection shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the lot upon which the proposed use is to be located, to the nearest point of the zoning district boundary line or the lot from which the proposed use is to be separated.
- (5) Violation of these provisions is declared to be a public nuisance per se.
- (6) Nothing in this chapter is intended to authorize, legalize or permit the establishment, operation or maintenance of any business, building or use which violates any county ordinance or statute of the State of Wisconsin regarding public nuisances, sexual conduct, lewdness or obscene or harmful matter or the exhibition or public display thereof.

CHAPTER 18

DEFINITIONS

18.01 Word usage. In the interpretation of this Ordinance, the provisions and rules of this chapter shall be observed and applied, except when the context clearly requires otherwise:

- (1) Words used or defined in one tense or form shall include other tenses and derivative forms.
- (2) Words in the singular number shall include the plural number, and words in the plural number shall include the singular number.
- (3) The masculine gender shall include the feminine, and the feminine gender shall include the masculine.
- (4) The word “shall” is mandatory.
- (5) The word “may” is permissive.

18.02 Definitions. When used in this Ordinance, the following terms shall have the meanings herein assigned to them. Words used in this Ordinance, but not defined therein, shall carry the meanings as defined in Webster’s Unabridged Third International Dictionary, or its successor volumes.

Abandoned Sign: Any sign which no longer directs, advertises or identifies a legal business establishment, product or activity which has been discontinued for a period of (6) months.

Accessory Dwelling Unit: A dwelling unit on the same parcel as a permitted commercial or industrial business that is incidental and subordinate to the principal use.

Accessory Use: See Use, Accessory.

Accessory Building: See Building, Accessory.

Accessory Structure: See Structure, Accessory.

Adult Book Store: An establishment having as a predominant portion of its stock in trade, books, magazines and other periodicals, or video cassettes, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to “Specified Sexual Activities” or “Specified Anatomical Areas”(as defined herein).

Adult Cabaret: A nightclub, bar, theater, restaurant or similar establishment which frequently features live performances by topless or bottomless dancers, go-go dancers,

exotic dancers, strippers or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas or which regularly feature films, motion pictures, video cassettes, slides or other photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons. An adult cabaret does not include theaters, performing arts centers, civic centers and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis and in which the predominant business or attraction is not the offering to customers of entertainment which is intended to provide sexual stimulation or sexual gratification to such customers and where the establishment is not distinguished by an emphasis on, or the advertising or promotion of employees engaging in nude erotic dancing.

Agriculture, General: Any agricultural use, including aqua-culture; animal husbandry; dairying; floriculture; forage crop production; forest crop production; grain production; grazing; horticulture; orchards; specialty crop production, such as maple syrup, mint, and willow; viticulture; and truck farming.

Airport: The use of any area of land or water which is used, or intended for use by four or more aircraft, for the landing and take-off of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon.

Airstrip: The use of any area of land or water which is used, or intended for use by three or fewer aircraft based at such airstrip, for the landing and take-off of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon.

Assembly: A company or association of natural persons gathered together at any location at a single time for any purpose, including but not limited to festivals, concerts or other activities which are regulated under ordinances of the County adopted pursuant to its authority under 59.54(6), Wis. Stats.

Awning and Canopy Signs: A sign imposed or painted upon or suspended beneath any roof-like structure which provides either permanent or temporary shelter for adjacent walkways or entrances to a building or property. For the purposes of this ordinance, such signs shall be regulated as “wall signs”.

Bed and Breakfast Establishments: Any place of lodging that provides 4 or fewer rooms for rent to transient guests, is the owner’s personal dwelling unit, is occupied by the owner at the time of rental, and in which the only meal served to guests is breakfast.

Billboard: A sign either free-standing or attached to a structure that exceeds 200 sq. ft. in area.

Boardinghouse: A place in which lodging, with or without meals, is offered for compensation to non-transient guests, that provides 4 or less rooms for rent, is the owner's personal dwelling unit, and is occupied by the owner at the time of rental.

Building: An enclosed structure built, maintained, or intended to be used for the protection, shelter, or enclosure of persons, animals, or property and which is affixed to the ground.

Building, Accessory: A building, not attached to a principal building by means of a common wall, common roof, or an above ground, roofed passageway, which is:

1. Subordinate to and serves a principal structure or a principal use.
2. Located on the same lot as the principal structure or use served.
3. Customarily incidental to the principal structure or use.

Building, Principal: A building which houses a principal use of a lot, including any functional appurtenances, such as decks, stairways, and balconies, which are attached to, or located within 3 feet of, said building.

Building Site: A lot on which buildings or structures that are permitted in the applicable zoning district may be placed.

Building Zone: The area of a lot between the required highway setback line (or front yard line) and rear yard line (or navigable water setback line).

Caliper: The diameter of a tree measured at a point 6 inches above the ground.

Camp Site: A segment of a campground which is designated for camping by a camping party.

Campground: Any parcel or tract of land owned by a person, the state or a local government unit which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 6 or more camping units, or by one to 5 camping units if the parcel or tract of land is represented as a campground.

Camping Unit: Any single temporary shelter, except sleeping bags, bed rolls, and hammocks, used for camping by a camping party.

Camping Party: Any individual or camping family or a group consisting of not more than 6 persons who are 7 years of age or older provided that such individual, family, or group is engaging in camping.

Camping: The placement of a temporary shelter used as, or designed to be used for sleeping purposes. Examples of shelters used for camping include tents, trailers, motor homes, recreational vehicles, tarpaulins, bed rolls, and sleeping bags.

Cemetery: Land used for the burial of dead humans, and dedicated for cemetery purposes, including columbaria, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundary of such cemetery.

Change of Use: Conversion of a principal use of a lot from one use category, as listed in s. 2.05(1), to another use category.

Clean fill: Clean soil, brick, building stone, concrete, reinforced concrete, and unpainted or untreated wood.

Clean fill site: A site used only to dispose of clean fill.

Commercial Riding Stable: See Riding Stable, Commercial.

Communication Towers, Antennas, and Transmitters: Any facilities or equipment used, or designed to be used, for receiving or sending communication signals.

Community Living Arrangements: A facility defined as such in s.46.03 (22), Wis. Stats.

Conditional Use Permit: A permit, issued by the Zoning Committee, stating that a use permitted as a conditional use may be established, expanded, or enlarged subject to any conditions placed on the authorization and the provision of this Ordinance.

Conditional Use: See Use Permitted as a Conditional Use.

Construction Sign: A sign erected and maintained on premises during construction to identify a construction project for which a building or grading permit has been issued.

Construction Site: The location of any construction that requires the issuance of a land use permit.

Contractors Establishment: See Trade or Contractors Establishment.

Deck: An unenclosed, unroofed exterior platform structure, with or without railings, which is elevated above pre-construction grade, is typically of wood construction, either attached to a building or freestanding.

Developments: Any change to improved or unimproved real estate including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or improvements to buildings, structures or accessory structures and the placement of buildings or structures.

Dilapidated: A state of disrepair or decay.

Driveway: A means of access to or from a property, site, or use; or a means of circulation within a parking area.

Duplex: Two attached dwelling units on a single lot regardless of the form of ownership of the units.

Dwelling Unit Sign or Farm Identification Sign: A sign identifying a dwelling unit or farm by name not by product or service offered.

Dwelling Unit, Single Family: A free-standing building which provides or is intended to provide living quarters exclusively for one family, except dwelling units that meet the definition of manufactured home.

Dwelling Unit: A building or portion thereof which provides or is intended to provide living quarters. This definition includes tiny houses.

Effective Date of This Ordinance: The date that this Ordinance takes effect on a given parcel of land as provided in s. 1.06 or the date that an amendment to this Ordinance becomes effective.

Enclosed Structure: A structure consisting of a solid roof, a permanent foundation, a floor, and solid walls extending from the floor to the roof. Solid doors, windows, or other glazing are allowed in the wall segments. Open breezeways or screen walls do not qualify as enclosed structures.

Family, Camping: A parent or parents with their dependent children and not more than 2 guests. This definition to be used for camping related purposes only.

Family: A person or group of persons living together as a single housekeeping unit.

Family Day Care Home: A dwelling unit where supervision and care and/or instruction for not more than 8 children under the age of 7 is provided for periods of less than 24 hours per day, and which is licensed by the Wisconsin Department of Health and Social Services.

Farm /Home Based Business: A business, profession, occupation, or trade for gain or support which is conducted on the same lot as farmstead.

Farm Market: A use or structure(s) which principally involves the retail sale of farm and garden products, regardless of whether such products were produced on the premises.

Fence: A barrier intended to prevent escape or intrusion, or to mark a boundary. A fence does not include a railing serving a deck, porch, balcony, or similar items.

Floodplain: That land which has been or may be hereafter covered by flood water during the regional flood. The floodplain includes the floodway and the flood fringe, and may include other designated floodplain areas for regulatory purposes.

Floor Area: The sum of the gross horizontal areas of the several floors of the building, measured from the outer lines of the exterior walls of the building, except that the floor area of the dwelling does not include space not useable for living quarters, such as attics, unfinished basement rooms, garages, breezeways, and unenclosed porches or terraces. (See also Primary Floor Area).

Footprint, Building: A single horizontal plane bounded by the exterior walls of a building.

Free-standing Sign: A sign permanently attached to the ground which is wholly independent of any building or other structure.

Garage: An accessory structure (except for public highway garages) primarily intended for and used for the enclosed storage or shelter of motor vehicles.

General Agriculture: See Agriculture, General.

Grade Elevation: The average elevation around the base of a building or a structure where such building or structure meets the surface of the ground.

Highway: All public ways and thoroughfares and all bridges upon the same, including town, county, state and federal highways and all other streets and roads.

Historic Building: A building which is one of the following: (1) listed on, or nominated by the state historical society for listing on, the National Register for Historic Places in Wisconsin; (2) included in a district which is listed on, or nominated by the state historical society for listing on, the National Register for Historic Places in Wisconsin, or which has been determined by the state historical society to contribute to the historic significance of the district; (3) listed on a certified municipal register of historic property; or (4) included in a district which is listed on a certified municipal register of historic property, and which has been determined by the municipality to contribute to the historic significance of the district.

Home Business: A business conducted on the same lot as, and in conjunction with and in conjunction with the use of a residence but not including a home occupation, as defined herein.

Home Occupation: A business, profession, occupation, or trade which is conducted for gain or support, located entirely within a principal dwelling unit, operated by at least one person residing in the dwelling unit, and is accessory, incidental and secondary to the use

of the building as a dwelling unit and does not change the essential residential character or appearance of the dwelling unit.

Indoor Maintenance: Businesses which offer maintenance, including repair of goods and equipment. Examples of such uses include automobile body shops, small engine repair shops, boat repair and service, and electronics maintenance and repair.

Industry, Heavy: Assembly and manufacturing activities which are not included in the definition of Light Industry.

Industry, Light: The assembly or manufacturing of goods from component parts in which all such operations are conducted in buildings, and which shall not include basic industrial or heavy industrial processes such as metal foundries, metal plating, thermoforming of plastics, blending or formulation of fuels or other hazardous substances, extensive painting or coating of products which would require a spray booth, water wall, drying oven or apparatus, or any process or activity which involves hazardous materials, produces hazardous wastes, produces excessive noise, creates air or water emissions requiring pretreatment, special treatment, or pollution control devices, produces odors detectable in the ambient outdoor air, or which causes any other condition or nuisance which impairs the full use of neighboring properties.

Institutional Recreation Camp: An area containing one or more permanent buildings used periodically for the accommodation of members of associations or groups for recreational purposes.

Kennel: Any establishment or dwelling unit wherein or whereon 5 or more dogs over the age of 5 months are kept for breeding, sale, sporting, private purposes, or where boarding care is provided for compensation.

Land Use Permit: A permit, issued by the Zoning Administrator, stating that a use or a structure, except a sign or use permitted as a conditional use, may be established, expanded, or enlarged subject to any conditions placed on the permit and the provisions of this Ordinance.

Livestock: Any horse, bovine, sheep, goat, pig, domestic rabbit, or domestic fowl, including game fowl raised in captivity.

Living Quarters: A building or a portion of a building which provides, as a minimum, an area equipped or furnished for sleeping purposes. Living quarters also include those finished portions of a building in which normal residential activities occur.

Lodging: A use which provides commercial transient lodging in individual rooms, suites of rooms, or units. Examples of such uses include motels, hotels, inns, cottages, cabins, and resorts.

Lodging Facility: A structure which provides lodging. Examples of such structures include motels, hotels, inns, cottages, cabins, and resorts.

Lot: A parcel of land, not divided by a public right-of-way and sufficient in size to meet the lot width and lot area requirements of this Ordinance, which parcel is legally created and is occupied or designed to provide space for one principal structure and approved use, including all of the open space requirements under this Ordinance. Subject to the requirements as to consolidation of adjoining lots under common ownership as set forth in this ordinance, a lot may include all contiguous property under single ownership, consisting of multiple deeds or other instruments of legal description.

Lot Line, Side: Any lot line other than a front or rear lot line.

Lot of Record: Any lot, the description of which is properly recorded with the Trempealeau County Register of Deeds, which at the time of its recordation complied with all applicable laws, ordinances, and regulations.

Lot Width: The horizontal distance of a line which connects two side lot lines, runs through the building zone of the lot, and is perpendicular to the line bisecting the angle formed by the side lot lines. For lots with parallel side lot lines, the lot width is the perpendicular distance between the side lot lines.

Lot Line, Rear: In the case of rectangular or most trapezoidal shaped lots, that lot line which is generally parallel to and most distant from the front lot line of the lot. In the case of an irregular or triangular lot, a line 20 feet in length, entirely within the lot, parallel to, and at the maximum possible distance from, the front lot line.

Lot Line, Front: The lot line nearest to the centerline of the public highway from which the lot takes access.

Lot Line: A line bounding a lot which divides one lot from another lot or from a street or highway.

Lot Area: The area of a horizontal plane bounded by the front, side, and rear lot lines of a lot, but not including the area of any land below the ordinary high water mark of navigable waters nor any land in a public right of way or private access easement.

Manufactured Home Park: Any plot or plots of land designed, maintained, intended or used for the purpose of supplying a location or accommodations for more than two manufactured homes on a year-round basis and shall include all buildings used or intended for use as part of the equipment thereof, whether or not a charge is made for the use of the manufactured home park and its facilities. Manufactured home parks shall not include automobile or manufactured home sale lots on which unoccupied manufactured homes are parked for the purposes of inspection and sale.

Manufactured Home: Means a structure certified and labelled as a manufactured home as defined in Wisconsin Statutes Section 101.91(2), and manufactured in compliance with the Federal Manufactured Home Construction and Safety Standards, 42 USC 5401 to 5425, which is designed to be used as a dwelling, with or without a permanent foundation, when connected to utilities.

Structures which are delivered to the site in halves or other modular arrangements (consisting of complete wall sections or large units fabricated off-premise by the manufacturer of the basic unit and designed and intended to be attached to the basic unit) and which when joined together exceed 18 feet in width throughout, meet minimum floor area requirements of this Ordinance, have a length to width ratio of not more than 2.5 to 1 (with length measured along the center of the longest roof axis and width measured perpendicular to the above at the completed unit's most narrow span), and which are placed upon a permanent foundation are considered single family dwelling units.

Mini-Storage: Indoor storage of customer's items within partitioned buildings with individual access to each partitioned area.

Mobile Home: Means a vehicle manufactured or assembled before June 15, 1976, designed to be towed as a single unit or in sections upon a highway by a motor vehicle and equipped and used, or intended to be used, primarily for human habitation, with walls of rigid non collapsible construction, and originally designed and built without self contained sanitary facilities. Mobile home includes the mobile home structure, its plumbing, heating, air conditioning and electrical systems, and all appliances and all other equipment attached to the unit. Mobile home also means any unit which lacks a title, serial number, manufacturer or other information which would clearly identify when it was constructed. All such units shall be presumed to be manufactured prior to June 15, 1976 unless proven otherwise.

Model Home: A single family dwelling unit which is used as a model for inspection by prospective home buyers and is unoccupied as a dwelling unit, but is intended for eventual use as a single family dwelling unit and which may or may not contain a home sales office.

Multiple Family Dwelling: A building containing three or more dwelling units.

Nonconforming Use: Any use of structures, land, or water which was lawfully established at the time of the effective date of this Ordinance or subsequent amendments thereto, which does not fully comply with the use requirements imposed by this Ordinance.

Nonconforming Structure: Any building or structure, other than a sign, legally established prior to the effective date of this Ordinance or subsequent amendments thereto, which does not fully comply with the requirements imposed by the individual sections of this Ordinance that pertain to the size, height, location, setback, and similar characteristics of structures.

Nonconforming Lot: A lot which, in its most recent configuration, does not contain sufficient area and/or width to meet the criteria of Section 3.02 (2) or Section 3.03 (3).

Nonconforming Sign: Any sign which at the time it was erected complied with all laws then applicable to it, but which does not conform with the requirements of subsequent amendments to such applicable laws.

Nonmetallic Mining/Nonmetallic Mining Operation: Operations or activities for the extraction from the earth for sale or use by the operator of mineral aggregates such as stone, sand, gravel and nonmetallic minerals such as asbestos, beryl, clay, feldspar, peat, talc; and topsoil-related operations or activities such as excavation, grading or dredging if the purpose of those operations or activities is the extraction of mineral aggregates and nonmetallic minerals; and related processes such as crushing, screening, scalping, dewatering and blending. Nonmetallic mining or nonmetallic mining operation does not include or allow the following activities or uses by way of illustration which include, but are not limited to: manufacture of concrete building blocks or other similar products, asphalt or hot blacktop mixing and production of ready mix concrete.

Nonmetallic mining does not include the following activities:

- (a) Excavations or grading by a person solely for domestic use at his or her dwelling unit.
- (b) Excavations or grading conducted for highway construction purposes within the highway right-of-way.
- (c) Grading conducted for farming, preparing a construction site or restoring land following a flood or natural disaster.
- (d) Excavations for the foundation of structures provided that such excavation does not exceed a volume of material 1.5 times the volume of the polyhedron bounded by the natural grade, the bottom of the footings, and the exterior of the foundation walls.
- (e) Minor land disturbances such as installation of utilities, walks and driveways, sanitary waste disposal systems, or fuel storage tanks.
- (f) Any mining operation, the reclamation of which is required in a permit obtained under ss. 293.01 to 293.93, Wis. Stats.
- (g) Any activities conducted at a soil or hazardous waste disposal site required to prepare, operate or close a solid waste disposal facility under ss. 289.05 to 289.33 or a hazardous waste disposal facility under ss. 291.001 to 291.97, Wis. Stats., provided, however, that section applies to activities related to solid or hazardous waste disposal which are conducted at a nonmetallic mining site separate from the solid or hazardous waste disposal facility such as activities to obtain nonmetallic minerals to be used for lining, capping, covering or constructing berms, dikes or highways.

- (h) Any nonmetallic mining site or portion of a site which is subject to permit and reclamation requirements of the Department of Natural Resources under ss. 30.19, 30.195 and 30.20, Wis. Stats.

Occupancy Unit: A room, or interconnected rooms, consisting of living quarters physically separated from any other unit in the same building. The unit may include facilities for cooking, eating, and other facilities convenient to human living.

Offices: Exclusively indoor uses for handling of information or administrative services. Such uses do not typically provide services directly to customers on a walk-in or on-appointment basis.

Off-premise Sign: A sign other than an on-premise sign. Off-premise signs can include billboards and other advertising signs that direct attention to a business, commodity or service conducted, sold or offered at a location other than the premises on which the sign is located.

On-premise Sign: A sign relating in its subject matter to the premises on which it is located.

Opaque: Impenetrable to view, or so obscuring to view that features, buildings, structures, and uses become visually indistinguishable.

Open Space: Area on a lot that is open to the sky, contains no structures, parking, driveways, or other impervious surfaces, and contains no nonmetallic mining uses. (See also Preserved Open Space.)

Open Fence: A fence whose entire length is not greater than 50% opaque and whose individual elements or sections are also not greater than 50% opaque.

Outdoor Recreation, Private: Land uses which offer recreation activities primarily outdoors, including such uses as private parks, sportsman's clubs, campgrounds, golf courses, and ski hills, and which are operated for members or on a commercial basis for members of the public.

Outdoor Recreation, Public: Land uses operated by governmental units which offer recreation activities primarily outdoors.

Outdoor Storage: The keeping within an unroofed and un-walled area of any goods, material merchandise or vehicles in the same place for more than 24 hours.

Permanent Sign: A sign that is erected or displayed for more than 14 days.

Planned Residential Development: An area of land, controlled by a developer, to be developed as a single entity for more than one dwelling unit, the plan for which does not necessarily comply with the various dimensional and locational requirements for the zoning districts in which it is located.

Political Sign: A sign identifying and/or urging voter support for a particular election issue, political party or candidate for public office.

Preserved Open Space: Open space which has been permanently preserved in conjunction with a planned residential development or manufactured home park.

Primary Floor Area: The floor area of a building for purposes of determining required parking ratios for certain uses, such area to include only that portion of the total floor area devoted to customer service, sales and office space and not to include warehouses, utility, hallways and other accessory space, except as they generate parking demand.

Principal Use: See Use, Principal.

Principal Structure: See Structure, Principal.

Principal Building: See Building, Principal.

Private Riding Stable: See Riding Stable, Private.

Public Highway Frontage: The length of a lot line abutting the right-of-way line of a public highway, as measured at right angles to the side lot lines.

Public Sports Field/Complex: A sports field, playing surface, or sports facility for which the purpose is to provide sports competition and/or practice and has any of the following: scoreboard, bleachers, lighting specifically for the sports field and surrounding property.

Real estate Sign: A sign advertising the sale, rent or lease of the property on which it is located.

Rear Yard: See Yard, Rear.

Rear Lot Line: See Lot Line, Rear.

Recreation Camp: See Institutional Recreation Camp.

Recreational Vehicle: Means a vehicle or vehicular attachment designed for human temporary living quarters for one or more persons, such as a pick-up camper, travel trailer, tent trailer, motor home and park model. This definition shall also include non-habitable recreational watercraft, towed trailers, etc.

Residential Density: The ratio of dwelling units to acres for a particular tract of land.

Residential Use: Any listed under “residential uses” in s. 2.05 (1).

Restaurant: An establishment where food and drink are prepared to individual order, ordered and served at the table, and consumed primarily within the principal building.

Riding Stable, Private: Any establishment where 6 or fewer adult horses are kept for riding or private recreation.

Riding Stable, Commercial: Any establishment where 7 or more adult horses are kept for riding or recreation, or where any number of horses are stabled for compensation, sale, or show.

Roadside Stand: A use or structure involving only the display and sale of agriculture products which are produced exclusively on the premises.

Roof Sign: Any sign or graphic erected or maintained on a building, any portion of which extends above the lowest horizontal line of any roof.

Salvage Yard: Any land or structure where waste or scrap materials including, but not limited to, scrap iron and other metals, paper, rags, rubber tires, glass, appliances and 6 or more inoperable vehicles, are either bought, sold, stored, exchanged, baled, packed, disassembled, or hauled for compensation.

Sawmill: A plant where timber is processed and/or sold for retail or wholesale purposes.

Seasonal Campsites: Campsites located in a permitted campground or trailer park that remain occupied by single party or unit for more than two (2) months in a calendar year.

Setback: The minimum horizontal distance from the centerline of a highway, or from the edge of the right-of-way of a highway, or from the ordinary high water mark to a structure or use.

Shrubbery: Woody vegetation which is less than a height of 15 feet and is generally incapable of attaining such height.

Side Yard: See Yard, Side.

Sign: Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify a person or entity, or to communicate information of any kind to the public and which is intended to be visible from any highway or from navigable water.

Sign Face: That portion of the surface of a sign structure where words, letters, figures, symbols, logos, fixtures, colors, or other design elements are or may be located in order to convey the message, idea, or intent for which the sign has been erected or placed. The sign face may be composed of two or more modules on the same surface that are separated or surrounded by portions of a sign structure not intended to contain any advertising message or idea and are purely structural or decorative in nature.

Site Plan: A graphic representation of a parcel of land and all of the structures and features, or proposed structures and features, contained thereon.

Slope: The relationship of the change in vertical distance to the change in horizontal distance, expressed as a percentage.

Sludge: Means liquid or solid material removed from septic tanks, cesspools, portable toilets seepage pits or grease removed from grease traps. This definition shall also include by products or waste from solid or liquid waste facilities.

Solid or Liquid Waste Facility: A facility or land for solid and liquid waste treatment, solid and liquid waste storage, or solid and liquid waste disposal, and includes commercial, industrial, municipal, state and federal establishments or operations such as, without limitation because of enumeration, sanitary landfills, dumps, incinerators, land disposal sites, transfer stations, storage facilities, collection and transportation services and processing, treatment and recovery facilities. Solid or liquid waste facility does not include a salvage yard.

Specified Anatomical Areas: a) less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; b) human male genitals in a discernible turgid state even if completely and opaquely covered.

Specified Sexual Activities: a) Human genitals in a state of sexual stimulation or arousal; or b) acts of human masturbation, sexual intercourse or sodomy; or c) fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

Structural Alterations: Any change in the supporting members of the exterior portions of a building or structure, such as foundations, load-bearing wall columns, sills, and rafters, or any change in the dimensions or configuration of the roof or exterior walls.

Structural Repairs: Any repairs of the supporting members of the exterior portions of a building or structure, such as foundations, load-bearing wall columns, sills, and rafters.

Structure: Anything constructed, erected, or manufactured, the use of which requires a more or less permanent location on or in the ground.

Structure, Accessory: A building or other structure which is customary, incidental, and subordinate to a permitted principal use of a lot and located on the same lot as the principal use, and does not meet the definition of a principal structure.

Structure, Permanent: A structure placed on or in the ground or attached to another structure in a fixed position, and intended to remain in place for a period of more than 9 months.

Structure, Principal: A building or other structure which houses a principal use of a lot, including any functional appurtenances, such as decks, stairways, and balconies, which are attached to, or located within 3 feet of, said building or structure.

Structure, Temporary: A structure without any foundation or footing and which is removed when the designated time period, activity or use for which the temporary structure was erected has ceased.

Subdivision: All forms of land division under Ch. 236, Wis. Stats. or County Ordinances including plats and certified survey maps and deeds, land contracts and other means of legally creating a land division.

Temporary Sign: A nonpermanent sign that is erected or displayed for 14 days or less.

Topsoil: Soil material (normally the A horizon and upper part of the B horizon of a soil profile) which is acceptable for re-spreading on the surface of re-graded areas to provide a medium which sustains a dense plant growth capable of preventing wind and water erosion of the topsoil and other materials beneath.

Tourist Rooming House: A tourist rooming house is defined as all lodging places and tourist cabins and cottages, other than hotels and motels, in which sleeping accommodations are offered for pay for tourists or transients. It does not include private boarding or rooming houses not accommodating tourists or transients, or bed and breakfast establishments. In general tourist rooming houses are vacation homes, cabins, and cottages that are rented out to tourists and transients for a short period of time.

Trade or Contractors Establishment: Uses such as plumbers, heating and air conditioning contractors, excavators, carpenters, painting contractors, wastewater treatment system contractors, electricians, well drillers, and similar uses in which primary work takes place off premise.

Trade or Contractors Yard: Any site where materials from a trade or contractors establishment are stored.

Transient: A person who travels from place to place away from his or her permanent address for vacation, pleasure, recreation, culture, or business.

Tree: Woody vegetation that is, or is capable of attaining, a height of at least 15 feet.

Unincorporated Area: All lands and waters located within Trempealeau County which are located outside the municipal boundaries of a village or city.

Use, Accessory: A use subordinate to and customarily incidental to a permitted principal use of a lot and located on the same lot as the principal use.

Use, Principal: The basic use of a lot or structure, or one of the basic uses of a lot or structure where more than one basic use exists on a lot. Principal uses are those listed as such in s. 2.05 (1).

Use Permitted As A Conditional Use: A use whose nature, character, or circumstance is so unique or so dependent upon specific conditions that predetermination of permissibility by right is not practical, but which may be permitted on a case-by-case basis subject to the conditional use permit procedure.

Use, Temporary: A use which is conducted for not more than 7 consecutive days nor more than 10 days in any one year period.

Use: The purpose or activity for which a parcel of land, or structure(s) thereon, is designed, arranged, intended, occupied, or maintained.

Utility Facilities: Any structure or equipment, except for communication towers, used or designed for the production, transmission, delivery, or furnishing of heat, light, water, power, sewer services, or telecommunications either directly or indirectly to or for the public.

Variance: An authorization, granted by the Board of Adjustment, to depart from the literal requirements of this Ordinance.

Vision Clearance Triangle: At each intersection between public highways or between highways and alleys or between alleys there shall be a clear zone, free of visual obstructions to the line of sight of travelers on those highways or alleys.

Walkway: An unenclosed, unroofed exterior platform structure, with or without railings, not exceeding 48 inches wide.

Wall sign: A sign fastened, placed or painted upon and parallel to the exterior wall or door of a building, whether front, rear or side of the structure. For the purposes of this ordinance, awning and canopy signs shall be regulated as wall signs.

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

Woodland: Land covered with trees, not including orchard or nursery trees.

Yard, Front: A yard extending along an entire front lot line from the front lot line to the depth or width specified in the yard requirements for the applicable district.

Yard, Rear: A yard extending along an entire rear lot line from the rear lot line to the depth or width as specified in the yard requirements for the applicable district.

Yard, Side: A yard extending along an entire side lot line from the side lot line to the depth or width specified in the yard requirements for the applicable district.

Yard: A required area on a lot, unoccupied by buildings and open to the sky, extending along a lot line to a specified depth or width.

Zoning Administrator: An authorized representative of the Zoning Committee appointed by the County of Trempealeau for purpose of carrying out the terms of this Ordinance.

Zoning Committee or Committee: The committee designated by the Trempealeau County Board of Supervisors to fulfill the responsibilities as stated in this Ordinance. This definition applies to all chapters of this Ordinance.

Zoning Map: The series of maps showing the location and boundaries of the zoning districts established by this Ordinance.

CHAPTER 19

Erosion Control and Storm Water Management Ordinance

19.01 Authority for Ordinance. This ordinance is adopted by the County Board under the authority granted by 59.69, Section 59.693, 92.07(15), Chapters 101 and 236 Wisconsin Statutes.

19.02 General Administration. The Department of Land Management (“DLM”) is designated to administer and enforce this ordinance.

19.03 Findings of Fact. The Trempealeau County Board finds that uncontrolled storm water runoff and construction site erosion from land development and land disturbing activity can have significant adverse impacts upon local water resources and the health, safety and general welfare of the community, and diminish the public enjoyment and use of natural resources. Specifically, uncontrolled soil erosion and storm water runoff can:

- (1) Degrade physical stream habitat by increasing stream bank erosion, increasing stream bed scour, diminishing groundwater recharge, diminishing stream base flows and increasing stream temperatures;
- (2) Diminish the capacity of lakes and streams to support fish, aquatic life, recreational and water supply uses by increasing pollutant loadings of sediment, suspended solids, nutrients, heavy metals, bacteria, pathogens and other urban pollutants;
- (3) Alter wetland communities by changing wetland hydrology and increasing pollutant loads;
- (4) Reduce the quality of groundwater by increasing pollutant loading;
- (5) Threaten public health, safety, property, and general welfare by increasing runoff volumes and peak flood flows and overburdening storm sewers, drainage ways and other storm drainage systems;
- (6) Undermine floodplain management efforts by increasing the incidence and levels of flooding; and
- (7) Generate airborne particulate concentrations that are health threatening or may cause other damage to property or the environment.

19.04 Purpose and Intent

- (1) **Purpose.** The general purpose of this ordinance is to establish regulatory requirements for land development and land disturbing activities aimed to minimize the threats to public health, safety, welfare, and the natural resources of Trempealeau County from construction site erosion and post-construction storm water runoff. Specific purposes are to:
 - (a) Further the maintenance of safe and healthful conditions.
 - (b) Prevent and control the adverse effects of storm water; prevent and control soil erosion; prevent and control water pollution; protect spawning grounds, fish and aquatic life; establish erosion control and storm water standards for building sites, placement of structures and land uses; and preserve ground cover and scenic beauty.

- (c) Control exceeding the safe capacity of existing drainage facilities and receiving water bodies; prevent undue channel erosion; control increases in the scouring and transportation of particulate matter; and prevent conditions that endanger property.
- (2) **Intent.** Through a single erosion control and storm water permit process; this ordinance is intended to meet the current construction site erosion control and post-construction storm water management regulatory requirements of Subchapter III of NR 151 and NR 216 Wis. Admin. Code on the effective date of this ordinance. Nothing in this ordinance prevents the Wisconsin Department of Natural Resources from adopting or enforcing more stringent storm water management requirements in future revisions of Wis. Admin. Code.

Provisions have also been incorporated to coordinate the storm water permit requirements of this ordinance with other county and town zoning and land division regulations.

19.05 Jurisdiction

- (1) **Jurisdictional Boundaries.** This ordinance applies to all unincorporated lands within the jurisdictional boundaries of Trempealeau County, unless a town board:
 - (a) Adopts an ordinance that complies with the minimum standards established by the Wisconsin Department of Natural Resources and is at least as restrictive as this ordinance, as determined by the DLM; and
 - (b) Provides reasonable notice to the DLM of the effective date of the town ordinance and the enforcement contact(s), if not the DLM.
- (2) **Newly Annexed Areas.** If any area within the jurisdiction described in 19.05(1)(a) above is annexed by a city or village after January 20, 2003 the provisions of this ordinance apply and shall be enforced after annexation by the annexing city or village unless any of the following occurs:
 - (a) The city or village enacts, administers and enforces an ordinance for the annexed area that complies with the minimum standards established by the Wisconsin Department of Natural Resources and is at least as restrictive as this ordinance, as determined by the DLM; or
 - (b) After annexation, the city or village requests that this ordinance, as it applies to the annexed area, continues to be in effect and enforced by the DLM and the DLM agrees to enforce the ordinance.

19.06 Applicability and Exemptions

- (1) **Construction Site Erosion Control.** Unless otherwise exempted under sub. (4) below, an erosion control and storm water permit under sec. 19.07 shall be required and all erosion control and other provisions of this ordinance shall apply to all proposed land disturbing activity that meets any of the following:
 - (a) Disturbs a total land surface area of 4,000 square feet or more; or
 - (b) Involves excavation or filling, or a combination of excavation and filling, in excess of 400 cubic yards of material; or

- (c) Involves the laying, repairing, replacing, or enlarging of an underground utility, pipe or other facility, or the disturbance of road ditch, grass swale or other open channel for a distance of 300 feet or more; or
 - (d) Is a land disturbing activity, regardless of size, that the DLM determines is likely to cause an adverse impact to an environmentally sensitive area or other property, or may violate any other erosion control standard set forth in this ordinance.
- (2) **Storm Water Management.** Unless otherwise exempted in this ordinance, an erosion control and storm water permit under sec. 19.07 shall be required and all storm water management and other provisions of this ordinance shall apply to all proposed land development activity that meet any of the following:
- (a) Is a subdivision plat; or
 - (b) Is a certified survey map or any other land development activity that may ultimately result in the addition of 0.75 acres or greater of impervious surfaces, including smaller individual sites that are part of a common plan of development that may be constructed at different times; or
 - (c) Involves the construction of any new public or private road; or
 - (d) Is a land development activity, regardless of size, that the DLM determines is likely to cause an adverse impact to an environmentally sensitive area or other property. For purposes of this section, adverse impacts shall include causing chronic wetness on other property due to reoccurring discharges of storm water, or violating any other storm water management standard set forth in this ordinance.
- (3) **Public Roads and Road Right Of Way.** Any land disturbing activity of any kind that adversely effects any public roadway or any public road right of way shall not be allowed. Under s 88.87 (3A) the Highway Department staff and Land management staff will review sites of this nature on a case by case and report back to the Highway Committee and the Environment and Land Use Committees the findings and resolution to eliminate the obstruction of the ROW and or public Road.
- (4) **Applicability Exemptions.**
- (a) Exempt From All Requirements. (Except 19.06 (3) The following activities shall be exempt from all of the requirements of this ordinance:
 - 1. Land disturbing activities directly involved in the planting, growing and harvesting of any plant grown for human or livestock consumption and pasturing or yarding of livestock, including sod farms and tree nurseries.
 - 2. Best Management Practices installed for the purpose of controlling erosion and reducing non-point source pollution.
 - (b) Exempt From Erosion Control Requirements Only. The following land disturbing activities shall be exempt from the erosion control provisions of sub. (1) above:
 - 1. Construction Aggregate Nonmetallic mining activities, as defined in Chapter 13.05(10)(b) of the County Comprehensive Zoning Ordinance, that are

covered under a nonmetallic mining reclamation permit under NR 135 Wis. Admin. Code.

2. Placement of underground pipe or other utility that is plowed or bored into the ground outside areas of channelized runoff.
- (c) Other Exemptions. The DLM may exempt a site or a portion of a site from meeting certain technical requirements of this ordinance in accordance with sec. 19.10 (5).

19.07 Erosion Control and Storm Water Permit Process, Land Divisions and Zoning

- (1) **Permit Required.** An erosion control and storm water permit under sub. (3) shall be obtained before any person commences a land disturbing or land development activity, pursuant to the applicability and exemption provisions of Sec. 19.06. Based upon the scope of the project, a preliminary review letter under sub. (2) below and certification of compliance under sub. (4) below may also be required as part of the permit process.
- (2) **Preliminary Storm Water Review Letter.**
 - (a) Purpose and Intent. A preliminary storm water review letter is prepared by the DLM to ensure that early site-planning for any new development accounts for compliance with this ordinance. Preliminary storm water planning will help resolve spatial and soils issues early in the site-planning phase, preventing a conflict with other permit requirements or the recording of land divisions. This will also assist the applicant in obtaining other permits or zoning approvals prior to finalizing detailed construction plans. An erosion control and storm water permit is required prior to the start of any proposed land disturbing or land development activity.
 - (b) Applicability and Requirements.
 1. A preliminary storm water review letter from the DLM is required prior to the approval of a preliminary plat and shall also be required prior to approval of a certified survey map, site plan, conditional use permit, zoning permit or zoning amendment for any proposed land disturbing or land development activity that meets one or more of the following:
 - a. Disturbs a total land surface area of 1 acre or more;
 - b. Involves the construction of a new public or private road of any length;
 - c. Ultimately results in the addition of 0.75 acres or greater of impervious surfaces, including smaller individual sites that are part of a common plan of development; or
 - d. Other land disturbing or land development activities, as determined by the DLM.
 2. All project approvals described in sub. 1. above shall be subject to the recommendations, requirements or objections contained in a preliminary

review letter from the DLM, which may include requiring certification of compliance under sub. (4) below.

3. For preliminary plats, a county interdepartmental review meeting shall not be scheduled prior to 10 working days after the application submittal date for a preliminary review letter in accordance with sub. (6)(a) below.

(c) Preliminary Review Letter Application.

1. To request a preliminary review letter, the applicant shall submit a complete application to the DLM, which shall include all of the following:
 - a. A completed and signed application on a form provided by the DLM for that purpose;
 - b. The application fee;
 - c. A site plan map in accordance with sec. 19.10 (3), which may be in a preliminary stage as prepared for zoning amendments and certified survey maps;
 - d. A preliminary erosion control plan in accordance with sec. 19.09(4);
 - e. A preliminary storm water management plan in accordance with sec. 19.10 (6) for those sites that propose to add a new road or add 0.75 acres or greater of impervious surfaces, including smaller individual sites that are part of a common plan of development; and
 - f. A preliminary maintenance agreement for all storm water BMP's proposed for the site.
2. The DLM may waive the requirement for a preliminary erosion control or preliminary storm water management plan if the DLM determines that it is not necessary to ensure compliance with this ordinance based on the site map submitted. However, all items required for an erosion control and storm water permit shall apply.
3. Review procedures for a preliminary review letter application shall be in accordance with sub. (6)(a) below.

(3) Erosion Control and Storm Water Permit Application.

- (a) To request an erosion control and storm water permit under this ordinance, the applicant shall submit a complete application, which shall include all of the following:
 1. A completed and signed application on a form provided by the DLM for that purpose;
 2. The applicable fee(s);
 3. A site plan map in accordance with sec. 19.10 (3);
 4. A final erosion control plan in accordance with sec. 19.09(5);
 5. A final storm water management plan in accordance with sec. 19.10(7);

6. A maintenance agreement in accordance with sec. 19.12; and
7. A financial assurance, in accordance with sec. 19.08 (3).

(4) Certification of Compliance for Final Plat or Certified Survey Map.

- (a) Applicability. The DLM shall certify compliance with this section prior to the approval of any final plat, and prior to the recording of any certified survey map with the Trempealeau County Register of Deeds that meets one of the following:
 1. The site plan may ultimately result in the addition of .75 acres or greater of impervious surfaces, including smaller individual sites that are part of a common plan of development;
 2. Includes the construction of any new public or private road; or
 3. Other land development activities as determined by the DLM under sub. (2)(b) above.
- (b) Review Items. To obtain certification of compliance, the applicant shall submit a final plat or CSM to the DLM for review. The DLM shall review submittals for compliance with all of the following items based on preliminary or final site plans and storm water management plans:
 1. Location and size of drainage easements and other areas set aside for storm water management, and the associated language describing use restrictions;
 2. Setback requirements from wells, structures, steep slopes, road right-of-ways and other items related to the location of storm water management facilities;
 3. Location of access drives and associated easements and use restrictions to ensure adequate access to storm water management facilities for future maintenance;
 4. Utility easements as they may affect the grading and erosion control plans;
 5. The final maintenance agreement in accordance with sec. 19.12 for all storm water BMP's; and
 6. Other items that the DLM determines are necessary to achieve compliance with this ordinance.
- (c) Review Process. Review procedures for certification of compliance for final plat or CSM shall be as described in sub. (6)(a) below.

(5) Fees. Application and review fees under this ordinance shall be in accordance with the following:

- (a) All fees shall be established by the DLM and approved by the Environmental and Land Use Committee.
- (b) A fee schedule shall be available for review and public distribution.

(6) Application Review Processes.

- (a) Preliminary Storm Water Review Letter and Certification of Compliance. Upon submittal of a complete application or a final plat or CSM, the applicant is authorizing the DLM to enter upon the subject site to obtain information needed to administer this ordinance and the following procedures shall apply:
1. The DLM shall have 10 working days from the date the DLM receives the application to issue a review letter to the applicable review authorities and the applicant based on the requirements of this ordinance.
 2. If within the 10 working days, the DLM determines that the application is not complete or requests additional information from the applicant or another source (such as another regulatory agency), the DLM shall have 10 working days from the date additional information is received to issue a review letter. The DLM shall inform the applicant and the applicable review authorities when additional information is requested from another source.
 3. If the DLM does not notify the applicant of missing information or issue a review letter within the 10 working days, the applicant may continue pursuing other applicable approvals or deed recording without the preliminary storm water review letter or certification of compliance.
 4. If within the 10 working days, the DLM notifies the applicable review authorities that the application is not complete, information has been requested from another source, or recommended changes or objections to the application need to be addressed before other approvals can proceed, then the applicable review authorities may:
 - a. At the request of the applicant, grant an extension to the review period, if needed, to allow more time for the DLM review process to be completed or to address DLM recommendations, requirements or objections to the application; or
 - b. Disapprove the application, plat or CSM.
- (b) Erosion Control and Storm Water Permit Under 1 acre Land Disturbance and Applicability Exemptions. Upon submittal of a complete permit application under sub. (3) above or applicability exemption application under sec. 19.06(3), the applicant is authorizing the DLM to enter upon the subject site to obtain information needed to administer this ordinance and the following procedures shall apply:
1. Within 10 working days from the date the DLM receives the application, the DLM shall inform the applicant whether the application materials are approved or disapproved based on the requirements of this ordinance.
 2. If all requirements of this ordinance have been met through the application, the DLM shall approve the application and issue a permit or exemption. If all requirements of this ordinance have not been met, the DLM shall state in writing the reasons for disapproval.
 3. If within the 10 working days, the DLM determines that the application is not complete or requests additional information from the applicant or another

source (such as another regulatory agency), the DLM shall have 10 working days from the date the additional information is received to review and act on the application. The DLM shall inform the applicant when additional information is requested from another source.

4. Failure of the DLM to inform the applicant of missing information or of a decision within 10 working days shall be deemed to mean approval of the application and the applicant may proceed as if a permit had been issued.

(c) Erosion Control and Storm Water Permit 1 Acre and Over Land Disturbance and Technical Exemptions. Upon submittal of a complete application under sub. (3) above or a technical exemption application under sec. 19.10 (5), the applicant is authorizing the DLM to enter upon the subject site to obtain information needed to administer this ordinance and the following procedures shall apply:

1. Within 20 working days from the date the DLM receives the application, the DLM shall inform the applicant whether the application materials are approved or disapproved based on the requirements of this ordinance.
2. If all requirements of this ordinance have been met through the application, the DLM shall approve the application and issue a permit. If all requirements of this ordinance have not been met, the DLM shall state in writing the reasons for disapproval.
3. If within the 20 working days, the DLM determines that the application is not complete or requests additional information from the applicant or another source (such as another regulatory agency), the DLM shall have 20 working days from the date the additional information is received to review and act on the application. The DLM shall inform the applicant when additional information is requested.
4. Failure of the DLM to inform the applicant of missing information or of a decision within the 20 working days shall be deemed to mean approval of the application and the applicant may proceed as if a permit had been issued.

19.08 Erosion Control and Storm Water Permit Requirements.

(1) **General Permit Requirements.** Erosion Control and Storm water permits shall be subject to all of the requirements of this section. Violation of any permit requirement shall cause the permit holder and any other responsible party to be subject to enforcement action under sec. 19.14. Upon issuance of a permit, the permit holder and any other responsible party shall be deemed to have accepted these requirements. General requirements include all of the following:

- (a) Other Permits. Compliance with an erosion control and storm water permit does not relieve the permit holder or other responsible party of the responsibility to comply with other applicable federal, state, and local laws and regulations. The DLM may require the applicant to obtain other permits or plan approvals prior to issuing an erosion control and storm water permit.

- (b) Approved Plans. All best management practices shall be installed and maintained in accordance with approved plans and construction schedules. A copy of the approved plans shall be kept at the construction site at all times during normal business hours.
- (c) Plan Modifications. The DLM shall be notified of any significant modifications proposed to be made to the approved plans. The DLM may require proposed changes to be submitted for review prior to incorporation into the approved plans or implementation. Any modifications made during plan implementation without prior approval are subject to enforcement action.
- (d) Notification. The DLM shall be notified at least 2 working days before commencing any work in conjunction with approved plans. The DLM shall also be notified within 1 working day of completing construction of storm water BMP. The DLM may require additional notification according to a schedule established by the DLM so that practice installations can be inspected during construction.
- (e) DLM Access. The DLM or its designee shall be permitted access to the site for the purpose of inspecting the property for compliance with the approved plans and other permit requirements.
- (f) Inspection Log. The permit holder shall provide a qualified professional to conduct inspections and maintain an inspection log for the site. All best management practices shall be inspected within 24 hours after each rain event of 0.5 inch or more that results in runoff, or at least once each week. The permit holder shall maintain a copy of the inspection log at the construction site.
- (g) BMP Maintenance. The permit holder shall maintain and repair all best management practices within 24 hours of inspection, or upon notification by the DLM, unless the DLM approves a longer period due to weather conditions. All BMP maintenance shall be in accordance with approved plans and applicable technical standards until the site is stabilized and a permit termination letter is issued.
- (h) Other Repairs. The permit holder shall be responsible for any damage to adjoining properties, municipal facilities or drainage ways caused by erosion, siltation, runoff, or equipment tracking. The DLM may order immediate repairs or clean-up within road right-of-ways or other public lands if the DLM determines that such damage is caused by activities regulated by a permit under this ordinance. With the approval of the landowner, the DLM may also order repairs or clean-up on other affected property.
- (i) Emergency Work. The permit holder authorizes the DLM, in accordance with the enforcement procedures under sec. 19.14, to perform any work or operations necessary to bring erosion control or storm water management practices into conformance with the approved plans and consents to charging such costs against the financial assurance pursuant to sub. (3) below.
- (j) Permit Display. The permit holder shall display the permit in a manner that can be seen from the nearest public road and shall protect it from damage from weather and construction activities until permit termination.

- (k) Project Engineer. The permit holder shall provide an engineer licensed in the state of Wisconsin to be responsible for achieving compliance with approved Storm Water Management construction plans, including the implementation of the approved inspection plan and verification of construction as required by the DLM.
 - (l) Other Requirements. The DLM may include other permit requirements that the DLM determines are necessary to ensure compliance with this ordinance.
- (2) Erosion Control and Storm Water Permit Issuance, Duration, Amendments, Transfer and Termination.**
- (a) Permit issuance. The DLM shall issue a permit to the applicant after verifying that all applicable conditions of this ordinance and possibly other related permits have been met, including the submittal of contact information for all responsible parties and the submittal of the financial assurance. The DLM may delay issuance of the permit if the DLM determines that the proposed construction timelines and best management practices will not comply with the erosion control plan requirements under sec. 19.09 or the purposes of the ordinance under sec. 19.04, including proposed late season new road construction with grass swales.
 - (b) Permit duration. The DLM shall establish an expiration date of two years following the erosion control and storm water permit issuance date.
 - (c) Permit amendments. The DLM may amend any terms of a storm water permit, including extending the permit expiration date, if the DLM determines it is necessary to ensure compliance with this ordinance. The applicant shall request an amendment to an erosion control and storm water permit at least 2 weeks before permit expiration and shall pay the corresponding fee if applicable. The DLM may require additional erosion control or storm water management measures as a condition of granting a permit amendment.
 - (d) Permit transfer. The DLM may transfer an erosion control and storm water permit issued under this ordinance to a new applicant upon a written request from the DLM. The permit transfer shall not take effect until the DLM verifies in writing that the new applicant has satisfied all conditions of this ordinance, including an updated list of responsible parties and the submittal of a new financial assurance.
 - (e) Permit termination. The DLM shall issue a permit termination letter to the permit holder upon releasing the financial assurance, which shall serve as documentation that all conditions of this ordinance have been satisfied and the permit has been terminated.
- (3) Financial Assurance.**
- (a) Purpose. The DLM may require the applicant to submit a financial assurance to ensure compliance with the approved erosion control and storm water management plans and permit requirements.
 - (b) Type and Authority. The DLM shall determine the acceptable type and form of financial assurance, which may include cash, a bond, an escrow account or irrevocable letter of credit. The DLM shall, upon written notice to the permit holder,

be authorized to use the funds to complete activities required in the approved plans or this ordinance if the permit holder or other responsible party defaults or does not properly implement the requirements.

- (c) Amount. The amount of the financial assurance shall be determined by the DLM and shall not exceed the estimated cost of completing the approved erosion control and storm water management plans.
 - (d) Exemption. Publicly funded land disturbing or land development activities shall be exempt from providing a financial assurance.
 - (e) Security. The DLM shall provide the permit holder or other responsible party a written statement outlining the purpose of the financial assurance, the applicable amount and type received and all of the conditions for release.
 - (f) Conditions for Release. The DLM shall release the financial assurance, and issue a termination letter, only after determining full compliance with the permit and this ordinance, including the following:
 - 1. Completing a satisfactory final inspection pursuant to sub (4) below;
 - 2. Receiving a copy of the recorded maintenance agreement pursuant to sec. 19.12 of this ordinance.
 - (g) Partial Releases. The permit holder may apply for a partial release of the financial assurance based on the completion or partial completion of various construction components or satisfaction of individual requirements noted above.
 - (h) Amounts Withheld. The DLM shall withhold from the financial assurance amount released to the permit holder any costs incurred by the DLM to complete installation or maintenance of best management practices through enforcement action or prior to the transfer of maintenance responsibilities through an approved maintenance agreement, or other unpaid fees or costs incurred by the DLM associated with the enforcement of this ordinance.
- (4) **Final Inspection**. After completion of construction, the DLM shall conduct a final inspection of all permitted sites to determine compliance with the approved plans and other applicable ordinance requirements, including ensuring the site is stabilized. If, upon inspection, the DLM determines that any of the applicable requirements have not been met, the DLM shall notify the permit holder what changes would be necessary to meet the requirements. At the request of the permit holder, the DLM shall provide a notification of noncompliance or a report of final inspection in written or electronic form.

19.09 Erosion Control Plan Requirements.

- (1) **General Erosion Control Plan Requirements and Performance Standards**. An erosion control plan shall describe how the permit holder and other responsible party will minimize, to the maximum extent practicable, soil erosion and the transport of sediment from land disturbing activities to waters of the state or other property. To meet this requirement, the following performance standards shall apply:
 - (a) All erosion control plans and associated BMPs shall comply with the planning, design, implementation and maintenance requirements of this ordinance.
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- (b) All erosion control plans shall by design, achieve to the maximum extent practicable, a reduction of 80% of the sediment load carried in runoff, on an average annual basis, as compared with no sediment or erosion controls, until the site is stabilized.
 - (c) Erosion and sediment control BMPs may be used alone or in combination to meet the 80% sediment reduction goal. Plans that comply with the guiding principles described in sub. (2) below and the specific erosion control plan requirements described in sub. (3) below shall be determined by the DLM as meeting the 80% sediment reduction goal.
- (2) **Guiding Principles for Erosion Control.** To satisfy the requirements of this section, an erosion control plan shall, to the maximum extent practicable, adhere to the following guiding principles:
- (a) Propose grading that best fits the terrain of the site, avoiding steep slopes, wetlands, floodplains and environmental corridors;
 - (b) Minimize, through project phasing and construction sequencing, the time the disturbed soil surface is exposed to erosive forces.
 - (c) Minimize soil compaction, the loss of trees and other natural vegetation and the size of the disturbed area at any one time;
 - (d) Locate erosion control BMPs upstream from where runoff leaves the site or enters waters of the state and outside of wetlands, floodplains, environmental corridors or isolated natural areas.
 - (e) Emphasize the use of BMPs that prevent soil detachment and transport over those aimed to reduce soil deposition (sedimentation) or repair erosion damage.
- (3) **Specific Erosion Control Plan Requirements.** The following applicable minimum requirements shall be addressed in erosion control plans to the maximum extent practicable. The DLM may establish more stringent erosion and sediment control requirements than the minimums set forth in this section if the DLM determines that an added level of protection is needed to protect an environmentally sensitive area or other property.
- (a) Access Drives and Tracking. Provide access drive(s) for construction vehicles that minimize tracking of soil off site using BMPs such as stone tracking pads, tire washing or grates. Minimize runoff and sediment from adjacent areas from flowing down or eroding the access drive.
 - (b) Diversion of Upslope Runoff. Divert excess runoff from upslope land, rooftops or other surfaces, if practicable, using BMPs such as earthen diversion berms, silt fence and downspout extenders. Prevent erosion of the flow path and the outlet.
 - (c) Inlet Protection. Protect inlets to storm drains, culverts and other storm water conveyance systems from siltation until the site is stabilized.
 - (d) Soil Stockpiles. Locate soil stockpiles away from channelized flow and no closer than 25 feet from roads, ditches, lakes, streams, ponds, wetlands or environmental corridors, unless otherwise approved by the DLM. Control sediment from soil stockpiles. Any soil stockpile that remains for more than 30 days shall be stabilized.

- (e) Cut and Fill Slopes. Minimize the length and steepness of proposed cut and fill slopes and stabilize them as soon as practicable.
 - (f) Channel Flow. Trap sediment in channelized flow before discharge from the site using BMPS such as sediment traps and sediment basins
 - (g) Outlet Protection. Protect outlets from erosion during site dewatering and storm water conveyance, including velocity dissipation at pipe outfalls or open channels entering or leaving a storm water management facility.
 - (h) Overland Flow. Trap sediment in overland flow before discharge from the site using BMPs such as silt fence and vegetative filter strips.
 - (i) Site Dewatering. Treat pumped water to remove sediment prior to discharge from the site, using BMPs such as sediment basins and portable sediment tanks.
 - (j) Dust Control. Prevent excessive dust from leaving the construction site through construction phasing and timely stabilization or the use of BMPs such as site watering and mulch – especially with very dry or fine sandy soils.
 - (k) Topsoil Application. Save existing topsoil and reapply a minimum of 4 inches to all disturbed areas for final stabilization, unless otherwise approved by the DLM, such as for temporary seeding or storm water infiltration BMPs. If adequate topsoil does not exist on the site to meet this requirement, it shall be imported or a topsoil substitute such as compost may be used, upon approval by the DLM.
 - (l) Waste Material. Recycle or properly dispose all waste and unused building materials in a timely manner. Control runoff from waste materials until they are removed or reused.
 - (m) Sediment Cleanup. By the end of each workday, clean up all off-site sediment deposits or tracked soil that originated from the permitted site. Flushing shall not be allowed unless runoff is treated before discharge from the site.
 - (n) Final Site Stabilization. All previous cropland areas where land disturbing activities will not be occurring under the proposed grading plans shall be stabilized within 30 days of permit issuance. Stabilize all other disturbed areas within 7 days of final grading and topsoil application. Large sites shall be treated in stages as final grading is completed in each stage.
 - (o) Temporary Site Stabilization. Any disturbed site that remains inactive for greater than 7 days shall be stabilized with temporary stabilization measures such as soil treatment, temporary seeding or mulching. For purposes of this subsection, “inactive” means that no site grading, landscaping or utility work is occurring on the site and that precipitation events are not limiting these activities. Frozen soils do not exclude the site from this requirement.
 - (p) Removal of Practices. Remove all temporary BMPs such as silt fences, ditch checks and sediment traps as soon as all disturbed areas have been stabilized.
- (4) **Preliminary Erosion Control Plan Contents.** Preliminary erosion and sediment control plans shall contain the following items:

- (a) A site map in accordance with sec. 19.10 (3) below;
 - (b) A brief narrative describing the proposed land disturbing activity, construction timeline and sequencing, and a general review of the major erosion and sediment control BMPs proposed to be used to minimize off-site impacts during the construction phase and to stabilize the site following construction.
- (5) **Final Erosion Control Plan Contents.** The following shall be the minimum requirements for items to be included in a final erosion and sediment control plan:
- (a) Sites Less than One Acre of Total Land Disturbance.
 - 1. A narrative describing the proposed land disturbing activity, construction timeline and sequencing, temporary BMPs to be used to minimize off-site impacts during the construction phase, and proposed methods to stabilize the site following construction in accordance with the requirements of this ordinance;
 - 2. A survey map or scaled site plan drawing of sufficient clarity showing a north arrow, the location of proposed land disturbance, direction of flow for runoff entering and leaving the disturbed area, upslope drainage area (if known), proposed BMPs, existing and proposed slopes, ground cover, buildings, roads, access drives, property boundaries, drainage ways, water bodies, trees, culverts, utilities and other structures within 50 feet of the proposed land disturbance;
 - 3. The name, address and daytime phone number of the person(s) charged with installing and maintaining all best management practices;
 - 4. For underground utility installations, the plans must delineate where utilities will be installed, show the location of the open cut and the topography in the area, and list the total lineal feet to be installed and the lineal feet that will be done by open cut; and
 - 5. Other information determined to be necessary by the DLM to ensure compliance with the requirements of this chapter.
 - (b) Sites One Acre or Greater in Total Land Disturbance.
 - 1. A site map in accordance with sec. 19.10 (3) below;
 - 2. A map at a scale of 1 inch equals no more than 100 feet (unless otherwise noted), delineating and labeling the following applicable items:
 - a. North arrow, graphic scale, draft date, name and contact information for project engineer or planner and designation of source documents for all map features.
 - b. Proposed site topography at contour intervals not to exceed two feet, proposed percent slope for all open channels and side slopes and all proposed runoff discharge points from the site;
 - c. Proposed building envelopes and other land area to be disturbed and size in acres;

- d. All woodland areas, those proposed to be lost or transplanted during construction and acres or numbers of each. For woodlands proposed to be lost, show individual trees larger than eight (8) inches in diameter that are located within twenty (20) feet of proposed grading boundaries;
 - e. Temporary access drive and specified surface material and minimum depth;
 - f. Temporary flow diversion devices for upslope or roof runoff until site is stabilized;
 - g. Temporary sediment trapping devices for site perimeter and inlets to culverts and storm drains;
 - h. Temporary settling basin or other BMP to be used for site dewatering during utility or other subsurface work;
 - i. Temporary soil stockpile sites indicating setbacks from nearby water resources or environmental corridors and the proposed erosion protection methods;
 - j. Detailed drawings and cross-sections for any sediment traps, basins or other major cut or fill areas requested by the DLM, showing side slopes and elevations;
 - k. Final stabilization measures for open channels and erosion protection for pipe and channel inlets, outlets and emergency spillways;
 - l. Location of proposed utilities, including: standard cross-section for buried utilities, associated easements, labeling the type of utility and notes on erosion control and restoration plans;
 - m. Final site stabilization instructions for all other disturbed areas, showing areas to be stabilized in acres, depth of applied topsoil, seed types, rates and methodology, fertilizer, sod or erosion matting specifications, maintenance requirements until plants are well established, and other BMPs used to stabilize the site;
 - n. Detailed construction notes clearly explaining all necessary procedures to be followed to properly implement the plan, including estimated starting date of grading, timing and sequence of construction or demolition, any construction stages or phases, utility installation, dewatering plans, refuse disposal, inspection requirements, and the installation, use, and maintenance of best management practices proposed in the plan;
 - o. Location of soil evaluations with surface elevations, estimated seasonal water table depths and soil textures down to planned excavation depths.
 - p. Other items specified by the DLM as necessary to ensure compliance with this ordinance.
3. Supporting information for the plan reviewer only:

- a. A narrative summary of the erosion control plan, briefly explaining the overall plan and, any unique information that led to the selection of BMPs and how the plan meets the guiding principles.
- b. Summary of design data for any structural BMP such as sediment basins or sediment traps.
- c. Open channel design and stabilization data to support the selected BMPs for stabilization;
- d. Estimated time soil stockpiles will exist to support the selected BMPs for erosion control;
- e. Documentation that proposed utility locations and installation scheduling has been coordinated with the affected utility companies.
- f. Documentation of any other calculations used to demonstrate compliance with the performance standards in this section.

19.10 Storm Water Management Plan Requirements.

(1) General Storm Water Management Plan Requirements.

- (a) Plan. A storm water management plan shall describe how the permit holder and other responsible party will meet the storm water management requirements of this section and other related requirements in this ordinance. All storm water management plans and associated BMPs shall comply with the planning, design, implementation and maintenance requirements described in this ordinance.

(2) Guiding Principles for Storm Water Management. To satisfy the requirements of this section, a storm water management plan shall, to the maximum extent practicable, adhere to the following guiding principles:

- (a) Preserve natural watershed boundaries and drainage patterns;
- (b) Reserve adequately sized areas for storm water infiltration, detention and treatment early in the site planning process;
- (c) Locate storm water BMPs prior to runoff leaving the site or entering waters of the state, and outside of wetlands, floodplains, primary or secondary environmental corridors or isolated natural areas;
- (d) Minimize soil compaction and maintain pre-development groundwater recharge areas;
- (e) Minimize impervious surfaces and have them drain to vegetated areas for pollutant filtering and infiltration;
- (f) Emphasize vegetated swales, warm season and wetland plantings, and low flow velocities for storm water conveyance, treatment and infiltration, especially for transportation related projects;
- (g) Allow for different storm water management strategies for cleaner runoff (i.e. roofs) versus more polluted runoff (i.e. heavily used streets and parking lots);

- (h) Provide for emergency overflow in all storm water BMP designs;
 - (i) Distribute storm water bioretention and infiltration BMPs throughout the site plan for large land developments;
- (3) **Site Plan Map Requirements.** A site plan map and supporting data of site conditions at a scale of 1 inch equals no more than 100 feet (unless otherwise noted) shall delineate or display all the following applicable items:
- (a) Development title, graphic scale and north arrow;
 - (b) Property location description by public land survey system (1/4 section, section, township, range, county);
 - (c) Location map (smaller scale) showing the site location within a public land survey section or subdivision, oriented the same as par. 4 below;
 - (d) Ownership boundaries, bearings, lengths and other survey references that will accurately identify the sites location, in accordance with s. 236 Wisconsin Statutes and county mapping standards for all land divisions;
 - (e) Lot numbers and dimensions, including outlots for all land divisions;
 - (f) Name and complete contact information for the applicant, landowner, developer and project engineer;
 - (g) Surveyor's certificate, signed, dated and sealed for all land divisions;
 - (h) Sheet numbers and revision dates on every page;
 - (i) Existing site topography at a contour interval not to exceed 2 feet, including spot elevations for physical features such as culvert (invert elevations), retaining walls, road and ditch centerlines and topographic high and low points;
 - (j) Location and name, if applicable, of all lakes, streams, channels, ditches, and other water bodies or areas of channelized flow on or adjacent to the site;
 - (k) Location and name, if applicable, of all wetlands and identification of source of delineation. For final land divisions, these boundaries shall be field verified;
 - (l) Boundaries of shoreland zones and the ordinary high water mark (OHWM) for any navigable water body as defined by the Trempealeau County Shoreland and Floodland Protection ordinance. For final land divisions, the OHWM boundaries shall be field verified;
 - (m) Boundaries and elevation of the 100-year floodplains, flood fringes and floodways, as defined by the Trempealeau County Shoreland and Floodland Protection ordinance. For final land divisions, these boundaries and elevations shall be field verified;
 - (n) Boundaries and soil symbol for each soil mapping unit and the identification of all hydric soils as defined by the USDA-Natural Resources Conservation Service;
 - (o) Locations of all available soil borings or soil profile evaluations with unique references to supplemental data report forms;

- (p) Location and descriptive notes for existing and proposed structures within 50 feet of the property boundaries and their proposed use, including, but not limited to buildings and foundations, roads, parking areas, fence lines, access lanes, culverts (include size and type), above ground utilities and retaining walls;
- (q) Location and descriptive notes for other known existing site features including, but not limited to rock outcrops or other karst features, tile drains, buried utilities, dumps, landfills, manure or other waste storage facilities;
- (r) Location and descriptive notes for any existing or proposed easements, right-of-ways, vision corners or other known site restrictions. Road right-of ways and building setbacks shall be in compliance with all applicable administrative codes, adopted plans and ordinances;
- (s) Location and descriptive notes for existing and proposed public dedications of parcels or right-of-ways;
- (t) Location and descriptive notes for preplanned building or waste disposal sites, when limited by site features;
- (u) Location and documentation of any existing well and delineation of any applicable regulatory setbacks, in accordance with ch. NR 811 and 812 Wis. Admin. Code;
- (v) Other site information that the DLM determines is necessary to administer this ordinance.

(4) Specific Storm Water Management Plan Requirements and Performance Standards.

All storm water management plans and associated BMPs shall meet the following minimum requirements to the maximum extent practicable. It is highly recommended that the applicant meet with the DLM prior to preparing a storm water management plan to determine the applicability of these requirements early in the site planning process.

- (a) Peak Discharge. Minimum requirement. To minimize downstream bank erosion and the failure of downstream conveyance systems, the calculated post-development peak storm water discharge rate shall not exceed the calculated pre-development discharge rates for the 2-year, 10-year, and 100-year, 24-hour design storms.
- (b) Total Suspended Solids. By design, each storm water management plan shall meet the following post-development total suspended solids reduction targets, based on average annual rainfalls, as compared to no runoff management controls:
 - 1. For new land development, 80% reduction in total suspended solids load;
 - 2. For redevelopment, 40% reduction of total suspended solids load;
- (c) Infiltration. BMPs shall be designed, installed, and maintained to infiltrate runoff in accordance with the following requirements, except as provided in subs. 5. through 8. below.
 - 1. Residential. For residential developments one of the following shall be met:
 - a. Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 90% of the pre-development infiltration volume, based on an average annual rainfall. However, when

- designing appropriate infiltration systems to meet this requirement, no more than 1% of the project site is required as an effective infiltration area.
- b. Infiltrate 25% of the post-development runoff volume from the 2-year, 24-hour design storm with a type II distribution. Separate runoff curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes, not composite curve numbers, as prescribed in sec. 19.11. However, when designing appropriate infiltration systems to meet this requirement, no more than 1% of the project site is required as an effective infiltration area.
2. Nonresidential. For non-residential development, including commercial, industrial and institutional development, one of the following shall be met:
 - a. Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60% of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2% of the project site is required as an effective infiltration area.
 - b. Infiltrate 10% of the post-development runoff volume from the 2-year, 24-hour design storm. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes, not composite curve numbers, as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than 2% of the project site is required as an effective infiltration area.
 3. Modeling. Refer to sec. 19.11(1) for details on calculating runoff volumes and pre-development conditions.
 4. Pretreatment. Pretreatment shall be required before infiltrating parking lot and road runoff from commercial, industrial and institutional areas. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality. Pretreatment options may include, but are not limited to, oil/grease separators, sedimentation or bioretention basins, filtration swales or filter strips.
 5. Infiltration Exclusions. Infiltration of runoff shall not be credited toward meeting the requirements of this subsection for the following:
 - a. Runoff from outdoor material storage and loading docks for tier 1 and tier 2 industrial facilities, as identified in NR 216(2) Wis. Admin. Code.
 - b. Runoff from fueling and vehicle maintenance areas, not including rooftops and canopies.

- c. Infiltration of runoff within 1000 feet up gradient or within 100 feet down gradient of karst features.
 - d. Infiltration of runoff from any area except rooftops with less than 3 feet separation distance from the top of the filtering layer to the elevation of seasonal high groundwater or the top of bedrock.
 - e. Infiltration of runoff from industrial, commercial and institutional parking lots and roads and residential arterial roads with less than 5 feet separation distance from top of the filtering layer to the elevation of seasonal high groundwater or the top of bedrock.
 - f. Areas within 400 feet of a community water system well as specified in s. NR 811.16(4), Wis. Adm. Code, or within 100 feet of a private well as specified in s. NR 812.08(4), Wis. Adm. Code, for runoff infiltrated from commercial, industrial and institutional land uses or regional devices for residential development, not including rooftop runoff.
6. Infiltration Exemptions. The infiltration requirements of this subsection do not apply to frozen soil conditions and may be exempted if soils have a measured infiltration rate of less than 0.6 inches per hour and the DLM determines it would be impracticable to modify existing soil conditions.
 7. Alternate runoff uses. Where storage and reuse of runoff are employed, such as to support green roofs, landscape watering, toilet flushing, laundry or irrigation, such alternate uses shall be given equal credit toward the infiltration volume required by this section.
 8. Groundwater protection.
 - a. Infiltration systems designed in accordance with this subsection shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventive action limit at a point of standards application in accordance with Chapter NR 140 Wis. Adm. Code. However, if site-specific information indicates that compliance with a preventive action limit is not achievable, the infiltration BMP may not be installed or shall be modified to prevent infiltration to the maximum extent practicable.
 - b. The discharge from BMPs shall remain below the enforcement standard at the point of standards application.
 - c. No storm water BMP shall be installed that meets the definition of an injection well under Chapter NR 812 Wis. Admin. Code.
 - d. All storm water BMPs shall comply with the provisions of any applicable wellhead protection plan for a community water supply under Chapter NR 811 Wis. Admin. Code.
- (d) Protective Areas.
1. Definitions. "Protective area" means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary

of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface. However, in this section, “protective area” does not include any area of land adjacent to any stream enclosed within a pipe or culvert, such that runoff cannot enter the enclosure at this location.

- a. For outstanding resource waters and exceptional resource waters and for wetlands in areas of special natural resource interest as specified in Chapter NR 103 Wis. Admin. Code, 75 feet.
 - b. For perennial and intermittent streams identified on the Trempealeau County GIS system, 50 feet. If there is a discrepancy between the Trempealeau County GIS system and the applicable United States Geological Survey 7.5-minute series topographic map, the more stringent stream identification shall apply.
 - c. For lakes, 50 feet.
 - d. For highly susceptible wetlands, as determined by the DLM, 50 feet. Highly susceptible wetlands include the following types: fens, sedge meadows, bogs, low prairies, conifer swamps, shrub swamps, other forested wetlands, fresh wet meadows, shallow marshes, deep marshes and seasonally flooded basins. Wetland boundary delineations shall be made in accordance with Chapter NR 103 Wis. Admin. Code. This paragraph does not apply to wetlands that have been completely filled in accordance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in accordance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed.
 - e. For less susceptible wetlands, 10 percent of the average wetland width, but no less than 10 feet nor more than 30 feet. Less susceptible wetlands include degraded wetlands dominated by invasive species such as reed canary grass.
 - f. For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.
2. Requirements. The following requirements shall be met for all land development activity located within a protective area:
- a. Impervious surfaces shall be kept out of the protective area, except for boathouses and walkways authorized under shoreland and floodland zoning. The erosion control plan shall contain a written site-specific explanation for any parts of the protective area that are disturbed during construction.
 - b. Where land disturbing activity occurs within a protective area, and where no impervious surface is present, adequate sod or self-sustaining vegetative cover of 70% or greater shall be established and maintained. The adequate sod or self-sustaining vegetative cover shall be sufficient to

provide for bank stability, maintenance of fish habitat and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Non-vegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion, such as on steep slopes or where high velocity flows occur.

- c. Best management practices such as filter strips, swales, or wet detention basins, which are designed to control pollutants from non-point sources may be located in the protective area, but shall not encroach into wetlands, floodplains or primary or secondary environmental corridors.
- (e) Fueling and Vehicle Maintenance Areas. Fueling and vehicle maintenance areas shall have BMPs designed, installed and maintained to reduce petroleum within runoff, such that the runoff that enters waters of the state contains no visible petroleum sheen.
- (f) Site Drainage. Measures shall be implemented to ensure proper site drainage, prevent property damage and protect public health and safety, including the following minimum requirements:
 - 1. Drainage easement. Perpetual drainage easements or other deed restrictions shall be recorded on the property to preserve major storm water flow paths and permanent storm water BMP locations. Covenants in these areas shall not allow buildings or other structures and shall prevent any grading, filling or other activities that interrupt or obstruct flows in any way. Covenants shall also specify maintenance responsibilities and authorities in accordance with sec. 19.12.
 - 2. Site grading. Site grading shall ensure positive flows away from all buildings, roads, driveways and septic systems, be coordinated with the general storm water drainage patterns for the area, and minimize adverse impacts on adjacent properties.
 - 3. Street drainage. All street drainage shall be designed to prevent concentrated flows from crossing the traffic lanes to the maximum extent practicable. Design flow depths at the road centerline for on-street drainage, shall not exceed six (6) inches during the peak flows generated by the 100-year, 24 hour design storm, using planned land use conditions for the entire contributing watershed area.
 - 4. Bridges and cross-culverts. All new or modified bridges and cross-culverts shall comply with applicable design standards and regulations, facilitate fish passage and prevent increased flooding or channel erosion upstream or downstream from the structure. Design flow depths at the road centerline for all crossings shall not exceed six (6) inches during the peak flows generated by the 100-year, 24-hour design storm, using planned land use conditions for the entire contributing watershed area. All predevelopment runoff storage areas within the flow path upstream of bridges and cross-culverts shall be preserved and designated as drainage easements, unless compensatory storage is provided and accounted for in modeling. As-built documentation

shall be submitted in accordance with sec.19.08 for all new or modified structures that are located within a mapped floodplain or that the DLM determines to be necessary to maintain floodplain modeling for the applicable watershed.

5. Subsurface drainage. Basement floor surfaces shall be built one (1) foot above the seasonal high water table elevation, as documented in the submitted soil evaluations, and shall avoid hydric soils as much as possible. The DLM shall be notified of any drain tiles that are uncovered during construction, which the DLM may require to be restored or connected to other drainage systems. No discharge of groundwater from tile lines, sump pumps or other means shall be allowed onto another persons land or any public space without the written approval of the owner or unit of government.
 6. Open channels. All open channel drainage systems shall at a minimum be designed to carry the peak flows from a 10-year, 24-hour design storm using planned land use for the entire contributing watershed area. Side slopes shall be no steeper than 3h:1v unless otherwise approved by the DLM for unique site conditions. Open channels that carry runoff from more than 130 acres shall at a minimum be designed to carry the peak flows from a 25-year, 24-hour design storm.
 7. Storm sewers. All storm sewers shall be designed in accordance with applicable community technical standards and specifications.
 8. Structure protection and safety. Flows generated by the 100-year, 24-hour design storm under planned land use conditions may exceed the design capacity of conveyance systems, but shall not come in contact with any buildings. For buildings designed for human occupation on a regular basis, the following additional requirements shall apply:
 - a. The lowest elevation of the structure that is exposed to the ground surface shall be a minimum of two (2) feet above the maximum water elevation produced by the 100-year, 24 hour design storm, including flows through any storm water BMP that may temporarily or permanently store water at a depth of greater than one (1) foot; and
 - b. The structure shall be setback at least 50 feet from any storm water BMP that may temporarily or permanently store water at a depth of greater than one (1) foot. Setback distance shall be measured from the closest edge of water at the elevation produced by the 100-year, 24-hour design storm.
- (g) Additional Requirements. The DLM may establish more stringent requirements than the minimums set forth in this section, such as addressing thermal impacts of storm water or chronic wetness conditions, if the DLM determines that an added level of protection is needed to protect:
1. A class 1 trout stream
 2. An outstanding water resource or exceptional water resource, as listed below:

- a. Abraham Coulee Creek from headwaters to Abraham Road bridge
 - b. Bear Creek
 - c. Buffalo River (from HWY 53 to Strum Pond)
 - d. Creek 11-4 T20N R7W
 - e. Creek 11-7 T20N R7W
 - f. Creek 13-15 T24N R7W
 - g. Creek 13-3a T20N R7W
 - h. Creek 13-3b T20N R7W
 - i. Creek 13-1 T20N R7W
 - j. Creek 14-13 T24N R7W
 - k. Creek 15-13 T20N R8W
 - l. Creek 15-4 T20N R7W
 - m. Creek 2-12 T19N R7W
 - n. Creek 24-4 T24N R7W
 - o. Creek 25-13 T22N R6W
 - p. Creek 34-15 T20N R7W
 - q. Creek 34-2 T20N R8W
 - r. Creek 5-6 T19N R8W
 - s. Creek 7-4 T20N R7W
 - t. Creek 8-14 T20N R7W
 - u. Creek 8-9 T20N R7W
 - v. Dutch Creek
 - w. Joe Coulee Creek
 - x. Johnson Valley Creek
 - y. Vosse Coulee Creek
 - z. Washington Coulee Creek
3. An environmentally sensitive area;
 4. A downstream property;
 5. Public health or safety.

(5) Technical Exemptions.

- (a) Exemption Criteria. Following the provisions of this subsection, the DLM may exempt a site or a portion of a site from meeting certain technical requirements of this section if the DLM determines that one or more of the following applies:
 1. Off-Site BMP(s). The requirement has been satisfied through the use of off-site BMP(s). Off-site BMPs could be installed beyond the boundaries of the property covered by the application as part of a regional storm water management plan or through other legal arrangements. However, to be

eligible for this exemption, the off-site BMP(s) must treat runoff from the site covered by the application;

2. Internally Drained Sites. The site is internally drained and will not discharge runoff from the site after development occurs; or
3. Site Conditions. It is impracticable to meet the requirement due to site conditions such as slopes, soils, proximity to structures or desirable trees, limited site dimensions, surrounding land uses, the potential for groundwater contamination, public health or safety problems, or other factors beyond the control of the applicant. No site shall be entitled to an exemption under this paragraph due solely to the size of the proposed land development activity in relation to the parcel size. However, the DLM shall provide special consideration in granting exemptions under this paragraph for the following sites:
 - a. Redevelopment sites.
 - b. In-fill development areas less than 5 acres.
 - c. Highway projects where limited public right-of-way land is available for the installation of storm water BMPs.
 - d. Land developments with less than 10% of the site planned to be impervious surfaces and the total cumulative area of all impervious areas is less than 1 acre using the final build-out condition.

(b) Application for Exemption. An exemption under sub. (a) above may only be granted by the DLM upon the applicant submitting the following items to the DLM, which shall constitute a completed application:

1. A written request describing the provisions of this subsection for which an exception is being requested and an explanation of why;
2. A site plan, including the delineation of the area and size (in acres) to which the exemption would apply and any other storm water BMPs required to meet this ordinance;
3. The necessary technical documentation to demonstrate that the site meets one or more of the criteria for which an exemption is being applied;
4. For off-site BMP(s):
 - a. Documentation that the necessary BMP(s) have been properly installed, including as-built plans, construction certification and design summaries in accordance with sec. 19.08(4);
 - b. A copy of the recorded maintenance agreement in accordance with sec. 19.12, and any other easements or legal arrangement that may be involved to ensure the long-term maintenance of the off-site BMP(s).
5. Other materials that the DLM determines to be necessary to make a determination under this subsection or to comply with this ordinance.

- (c) Review Procedure. The DLM shall review all exemption application materials, determine compliance with this section and notify the applicant of a decision within 20 working days of the submittal date, in accordance with the procedures under sec. 19.07 in consideration of all exemption requests, the DLM shall ensure that the applicant meets the requirements of this section to the maximum extent practicable.
 - (d) Exemption Fee. The DLM shall publish a fee schedule for this purpose, to be updated as needed to reflect current BMP costs.
 - (e) Appeal. If the applicant does not agree with any determination of the DLM under this subsection, the applicant may appeal the decision pursuant to the procedures in sec. 19.14(3).
- (6) **Preliminary Storm Water Management Plan Requirements.** Preliminary storm water management plans shall contain the following applicable items:
- (a) Drafting date and contact information for the project engineer with all other mapping elements and scale consistent with the site plan map;
 - (b) Delineation of existing and proposed major flow paths within the site and draining into the site from adjacent properties;
 - (c) Location, type and preliminary design of proposed storm water BMPs needed to comply with this ordinance;
 - (d) Location and type of major storm water conveyance systems proposed for the site;
 - (e) Existing and proposed storm water discharge points;
 - (f) Location and preliminary dimensions of proposed drainage easements;
 - (g) Location of soil borings and soil profile evaluations with surface elevations;
 - (h) Preliminary location of access lanes for maintenance of storm water BMPs;
 - (i) Support documentation for the plan reviewer, including:
 - 1. A preliminary plan narrative describing site drainage, ultimate receiving water body for off-site discharges, major site restrictions, and how the preliminary storm water management plan will meet the requirements of this ordinance;
 - 2. Summary of watershed, subwatershed and land use data in acres and the preliminary results of any hydrology calculations;
 - 3. Soil profile evaluation data in accordance with BMP technical standards;
 - 4. Proposed ownership and maintenance responsibilities for all proposed storm water BMPs.
- (7) **Final Storm Water Management Plan Requirements.** Final storm water management plans shall contain the following applicable items:
- (a) Drafting date and contact information for the project engineer, with all other mapping

- elements and scale consistent with the site plan map;
- (b) Location of existing and proposed storm water discharge points;
 - (c) Delineation and labeling of all proposed impervious areas and accompanying area computations;
 - (d) Final design drawings of all proposed storm water BMPs with unique references to support documentation, prepared in accordance with minimum DLM standards and of sufficient clarity for those responsible for site grading, including:
 - 1. Plan views showing the location of proposed BMPs in combination with the site plan map at a scale of 1 inch equals no more than 100 feet;
 - 2. Additional detail plan view drawings at a scale of 1 inch equals no more than 40 lineal feet, showing proposed 2 foot contours and all critical design features and elevations;
 - 3. Detailed cross-sections and profiles of each BMP showing all critical design features, side slopes, structures, soil profiles and applicable elevations, including seasonal high water table;
 - 4. Detailed drawings or material specifications for inlets or outlets.
 - (e) Type, size, location and cross-sections of all pipes, open channels, grade stabilization structures and other proposed storm water conveyance systems, with unique references to support documentation;
 - (f) Location and dimensions of proposed drainage easements;
 - (g) Location, dimensions and surfacing material or soils data of proposed access lanes and delineation of easements needed to allow future maintenance of all storm water BMPs. The minimum width of any access easement shall be 15 feet;
 - (h) Location of soil borings and soil profile evaluations with surface elevations and unique references to supplemental data sheets, as needed to determine feasibility of any proposed storm water BMP and to comply with applicable technical standards;
 - (i) Detailed construction notes explaining all necessary procedures to be followed to properly implement the plan, including planting and landscaping specifications, timing and sequencing of construction and any temporary measures needed to protect BMPs during the construction phase;
 - (j) A detailed construction inspection plan, outlining the critical elements in the plan that need to be surveyed or inspected by a representative of the project engineer or the DLM, and the timing and notification requirements involved.
 - (k) A final storm water BMP maintenance agreement in accordance with sec. 19.12;
 - (l) Support documentation summarized in accordance with DLM standards, including but not limited to:
 - 1. A narrative summary of the storm water management plan, briefly explaining any unique information that led to the selection of BMPs, how the proposed plan meets the guiding principles and the specific storm water planning

requirements.

2. Maps of existing and proposed watersheds, subwatersheds, flow paths, soil types, hydrologic soil groups, land uses/cover type and accompanying runoff curve numbers within the site and draining into the site from adjacent properties, and a description of the ultimate receiving water body(s) for off-site discharges;
 3. Pre-development and post-development hydrology and pollutant loading (if applicable) data for each watershed, such as peak flows and runoff volumes, as needed to meet the requirements of this ordinance. Impervious surface maps and calculations of runoff volumes and effective infiltration areas.
 4. Hydraulic and hydrologic data summaries for all existing and proposed pipes, open channels, grade stabilization structures and other storm water conveyance systems, and the necessary documentation to demonstrate compliance with the site drainage requirements.
 5. BMP design data for each proposed BMP, showing how it complies with applicable technical standards and the requirements of this ordinance;
 6. Soil evaluation reports, with matching references to map features showing their location and elevations;
 7. A signed cover sheet indicating that all plans and supporting documentation have been reviewed and approved by the designer and certifying that they have read the requirements of this ordinance and that, to the best of their knowledge, the submitted plans comply with the requirements.
 8. Cost estimates for the installation of proposed storm water BMPs, which shall serve as a basis for the financial assurance. The applicant may use average costs for BMP installations in the county rather than specific estimates, upon approval by the DLM.
 9. For sites where changes are proposed in storm water flow paths, or where proposed storm water discharges may otherwise have a significant negative impact on downstream property owner(s), the DLM may require the applicant to submit written authorization or complete other legal arrangements with the affected property owner(s); and
- (m) Other items deemed necessary by the DLM to ensure compliance with the requirements of this ordinance.

19.11 Technical Standards and Specifications.

(1) Hydrologic and Hydraulic Computations.

- (a) Models. All computations of runoff volumes and peak flow rates used in the development of erosion control and storm water management plans in accordance with this ordinance shall be based on United States Department of Agriculture - Natural Resources Conservation Service (NRCS) methodology. Models such as SLAMM, P8 or other DLM approved models may be used to evaluate the efficiency of the design in reducing total suspended solids to meet this ordinance. Models such

as RECARGA or other DLM approved models may be used to evaluate the efficiency of the design in meeting the infiltration requirements of this ordinance.

- (b) Rainfall depths. To determine compliance with this ordinance, the following design storm rainfall depths shall be used, which are derived from NRCS publications and extrapolated for Trempealeau County:

Design Storm	1-year 24-hour	2-year 24-hour	10-year 24-hour	100-year 24-hour
Rainfall Depth	2.5 inches	2.9 inches	4.3 inches	6.1 inches

- (c) Runoff curve numbers. All computations of pre-development conditions as specified in this ordinance shall use those NRCS runoff curve numbers assigned for a "good" hydrologic condition for each land cover type. For lands where the pre-development land use was cropland, the following NRCS curve number values shall be used as maximums:

Soil Hydrologic Group	A	B	C	D
NRCS Runoff Curve Number	56	70	79	83

- (d) Average annual rainfalls. All modeling involving average annual rainfall or runoff volumes shall use rainfall data from the Minneapolis area between March 13 through November 4, 1959 as the typical annual rainfall pattern for Trempealeau County.
- (e) Rainfall distribution. All peak flow calculations shall use Type II rainfall distribution patterns, as defined in NRCS methodologies.
- (f) Other methods. All velocity and peak flow computations for open channels and storm sewer pipe flows shall be based on Manning’s Formula. Flow routing, culvert design, weir and orifice flow and other related hydraulic computations used to design storm water management facilities shall be based on standard applicable engineering formulas. Any design data or methodology proposed to be used for hydrologic or hydraulic computations other than those prescribed in this ordinance shall be approved by the DLM. Revisions or updates to the rainfall depths and distribution prescribed above may be allowed upon approval by the applicable regulatory agencies, the Storm Water Advisory Committee and the DLM.

(2) Best Management Practice (BMP) Design Standards.

- (a) The design, installation and maintenance of all BMPs used to meet the requirements of this ordinance shall comply with the technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources under subchapter V of ch. NR 151, Wis. Adm. Code.

- (b) Where BMP standards have not been identified or developed under sub. 1 above, the DLM may approve the use of other available standards, such as those from other states or the USDA-Natural Resources Conservation Service.
- (3) **Technical Guidelines.** The DLM may adopt technical guidelines to facilitate the consistent administration of certain provisions of this ordinance. The DLM shall seek the expertise and input from the Storm Water Advisory Committee and other agencies in the development and maintenance of technical guidelines under this subsection.
- (4) **Construction Specifications.** The construction or installation of all BMPs and BMP components shall comply with all applicable manufacturers and industry standards and specifications, including but not limited to those published by ASTM and the USDA - Natural Resources Conservation Service (NRCS).
- (5) **Soil Evaluations.** All soil profile evaluations and forms submitted for review by the DLM under the provisions of this ordinance shall be completed in accordance with Chapter COM 85 Wis. Admin. Code. Where there are no specific standards for the number, location or depth of soil profile evaluations for a proposed BMP, the DLM shall determine the minimum requirements based on the design of the BMP and the likely variability of the on-site soils.
- (6) **Future Revisions or Updates.** The technical references in this section are made a part of this ordinance and shall be updated periodically in order to keep current with field experiences, research, technological advances and the development of related technical standards by other agencies and units of government. Any future revisions of the documents incorporated herein are also made part of this ordinance unless otherwise acted upon by the DLM.

19.12 Maintenance of Storm Water BMPs.

- (1) **Maintenance Agreement Required.** A maintenance agreement shall be required for all permanent storm water BMPs installed to comply with the requirements of this ordinance. The maintenance agreement shall be independent of all other restrictions or covenants and shall comply with all provisions of this section.
- (2) **Agreement Provisions.** The maintenance agreement shall, at a minimum, contain the following information and provisions:
 - (a) **Ownership.** Identification of the owner(s) of the land parcel(s) where the storm water BMP(s) is located. Ownership shall be the same as those assigned maintenance responsibilities. For subdivisions, all storm water BMPs that collect runoff from more than one lot shall be located on outlots. For all privately owned outlots, ownership shall be by proportional undividable interest for all properties that are within the control of the applicant and drain to the BMP. However, the applicant may combine ownership of more than one BMP within the site;
 - (b) **Location.** A legal description and survey map of the storm water BMP location(s), showing associated drainage or access easements required to maintain the BMP;

- (c) Design. Detailed drawings of each storm water BMP and a general description of its purpose and design, including but not limited to BMP dimensions and elevations, inlet and outlet designs and elevations and the drainage area served by the BMP. If possible, use as-built survey information.
- (d) Maintenance plan. A description of all long term maintenance activities that will likely be required for each BMP included in the agreement, and an estimated time interval between each activity;
- (e) Access. Authorization for vehicle access, including a minimum 15-foot wide access easement dedicated to the local municipality and connecting to a public road right-of-way, to allow for future BMP maintenance work. The access easement shall be of adequate soil conditions or surfacing to withstand loads produced by standard construction equipment, and shall not include any area where channelized flow of runoff occurs or where storm water may pond to a depth greater than six (6) inches during a 100-year, 24-hour design storm.
- (f) Maintenance responsibility. Identification of the person(s), organization, municipality or other entity responsible for long-term maintenance of the storm water BMP. The assignment of maintenance responsibilities for privately owned storm water BMP shall, at a minimum, include all properties that are within the control of the applicant and drain to the BMP. However, the applicant may combine the maintenance responsibilities of more than one BMP within the site;
- (g) Inspections. Authorizations for access to the property by representatives of the local municipality or their designee and Trempealeau County to conduct inspections of the BMP, monitor its performance and maintenance, and notify the designated entity when maintenance or repair activities are necessary.
- (h) Municipal maintenance. Authorization for the local municipality or their designee to carry out any maintenance activities and associated inspections if the entity does not perform the required activity within the specified time period in the notification or if the local municipality does not accept the work conducted by the designated entity;
- (i) Special assessment. A statement that the applicable local unit of government may exercise their statutory authority to levy and collect a special assessment or charge pursuant to sub ch. VII of ch. 66 Wisconsin Statutes, or s. 60.0627, Wisconsin Statutes for towns, for any services carried out relating to sub. (g) or (h) above;
- (j) Binding agreement. A statement confirming that the entire agreement shall remain binding on all subsequent owners of the property upon which the storm water BMP is located and that the restrictions shall run with the land and on any other property which is subject to maintenance responsibility in the agreement.
- (k) Other. Other information as determined to be necessary by the DLM to ensure compliance with this ordinance.

(3) Agreement Approval and Recording.

- (a) Approval. The DLM shall review and approve the maintenance agreements proposed under this ordinance and ensure compliance with all provisions of this

section. If the agreement does not comply, the DLM shall notify the applicant what changes are needed in order to comply.

- (b) **Recording.** Upon certification of compliance by the DLM, an abridged maintenance agreement shall be recorded at the Trempealeau County Register of Deeds referencing any plat, certified survey or other ownership transfer device pertaining to land which contains the subject storm water BMP or is subject to maintenance responsibility in the approved agreement. For new land divisions, the recording of the maintenance agreement shall occur simultaneously with the recording of the land division. However, no storm water BMP maintenance agreement shall be recorded prior to DLM approval.
 - (c) **Copy.** The permit holder shall provide a copy of the recorded agreement, including evidence of the actual recording(s), to the DLM as a condition of release of the financial assurance.
- (4) **Maintenance Responsibilities Prior to a Maintenance Agreement.** The permit holder and other responsible party shall be responsible for the maintenance of all storm water BMPs prior to permit termination under sec. 19.08(2).

19.13 Illicit Discharges.

(1) **Prohibitions.**

- (a) **Discharges.** Except for storm water and other discharges specifically exempted under sub. (2) below, no discharge, spilling or dumping of substances or materials shall be allowed into receiving water bodies or onto driveways, sidewalks, parking lots or other areas that drain into the storm drainage system.
 - (b) **Connections.** The construction, use, maintenance or continued existence of illicit connections to the storm drainage system is prohibited. This prohibition expressly includes, without limitation, illicit connections made prior to the adoption of this ordinance, regardless of whether the connection was permissible under law or practice applicable or prevailing at the time of connection.
- (2) **Exemptions.** The following activities are exempt from the provisions of this section unless found to have an adverse impact on the storm water:
- (a) Discharges authorized by a permit issued by the Wisconsin Department of Natural Resources.
 - (b) Discharges resulting from fire fighting activities.
 - (c) Discharges from uncontaminated ground water, potable water source, roof drains, foundation drain and sump pump, air conditioning condensation, springs, lawn watering, individual residential car washing, water main and hydrant flushing and swimming pools if the water has been dechlorinated.
- (3) **Notice of Violation.** Whenever the DLM finds a violation of this section, the DLM may order compliance by written notice of violation to the responsible party. Such notice may require without limitation:

- (a) The elimination of illicit connections or discharges;
- (b) That violating discharges, practices, or operations shall cease and desist;
- (c) The abatement or remediation of storm water pollution or contaminated hazards and the restoration of any affected property;
- (d) Any responsible party that fails to comply with a notice of violation under this section, shall be subject to further enforcement action under the provisions of sec. 19.14 below.

19.14 Enforcement.

- (1) **Prohibited Practices.** Not complying with any requirement of this ordinance shall be deemed a violation, and shall subject the responsible party to enforcement action under this section. Prohibited practices shall include but not limited to the following:
 - (a) Commencing any land disturbing or land development activity prior to:
 - 1. Obtaining an erosion control and storm water permit;
 - 2. Notifying the DLM a minimum of 2 working days prior to land disturbance;
or
 - 3. Installing those BMPs identified in the approved plans.
 - (b) Failing to apply for a DLM preliminary storm water review letter in accordance with subsection 19.07(2) of this ordinance.
 - (c) Failing to obtain DLM certification of compliance for a final plat or certified survey map in accordance with subsection 19.07(4) of this ordinance.
 - (d) Failing to comply with all permit conditions, erosion control or storm water management requirements and approved plans in accordance this ordinance.
 - (e) Failing to maintain BMPs until permit termination.
 - (f) Failing to comply with any requirements in a notice of violation.
- (2) **Violations.** The DLM shall notify the permit holder of any violation in writing, and copy any other known responsible party involved in the violation. The DLM is authorized to use the following methods of enforcement in any combination thereof against any applicant or responsible party that is found to be in violation of any provision of this ordinance:
 - (a) Forfeiture. Any violator shall be subject to a forfeiture of not less than \$100 or more than \$1000 plus the cost of prosecution for each violation. Each day that a violation exists shall constitute a separate offense.
 - (b) Stop Work Order. Any violator is subject to an order to stop all work except that which is needed as a corrective action to bring the site into compliance.
 - (c) Permit Revocation. The DLM may revoke a permit issued under this ordinance. Upon loss of the permit, all construction shall cease and the site shall be stabilized, with any costs incurred by the County to be charged against the financial assurance.

- (d) Emergency Action. The DLM or its agents may enter upon the property and take any necessary emergency action if the DLM determines that the site in violation is an immediate threat to public health, safety, welfare, the environment or downstream property, or if the permit holder or other violator refuses to take the corrective action as ordered by the DLM. Any cost incurred by the DLM as a result of this action shall be billed to the permit holder or other responsible party or subtracted from the financial assurance. The DLM shall provide reasonable notice to the permit holder and other responsible party after exercising this authority.
- (e) Citation. The County elects to also use the citation method of enforcement under Section 66.0113 of the Wisconsin Statutes for violations of this ordinance, including those for which a statutory counterpart exists. The procedures contained in Section 66.0113(3) of the Wisconsin Statutes, relating to the options of an alleged violator and default are adopted and incorporated herein by reference.

(3) Appeals.

- (a) Authority. The Board of Adjustment shall act as the review and appeal authority for any order, requirement, decision or determination by the DLM under this ordinance.
- (b) Procedure. The rules, procedures, duties and powers of the Board of Adjustment shall be as provided in the County Comprehensive Zoning Ordinance and the provisions of §59.694, Wisconsin Statutes shall apply to any review or appeal under this ordinance.
- (c) Variances. Upon appeal, the Board of Adjustment may authorize variances from the provisions of this ordinance which are not contrary to the public interest or the purposes of this ordinance, and where owing to special conditions beyond the control of the applicant, a literal enforcement of this ordinance will result in unnecessary hardship.
- (d) Who May Appeal. Appeals to the Board of Adjustment may be taken by any aggrieved person or by an officer, department, board, or bureau of the County affected by any decision of the DLM.

19.15 Validity.

- (1) **Repeal of conflicting Ordinances.** This ordinance repeals all provisions of an ordinance previously enacted under s. 59.693 relating to construction site erosion control and storm water management regulations. Wherever there may be a conflict with other county ordinances relating to erosion control, storm water management or site drainage, the more restrictive provision shall apply, as determined by the DLM.
- (2) **Declaration of severability.** The several sections, subsections and paragraphs of this Ordinance are hereby declared to be severable. If any section, subsection, or paragraph or subparagraph of this Ordinance shall be declared by a decision of a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the other provisions of the Ordinance, or of the section of which the invalid portion or paragraph may be a part.

- (3) **Effective date.** Following passage and publication by the county board, this Ordinance shall be in full force and effect in all areas described in sec. 19.05.
- (4) **Adoption.** Passed and approved by the Board of Supervisors of Trempealeau County, Wisconsin, this 20th day of September, 2010.

19.16 Definitions.

- (1) **“Applicant”** means any person or entity holding fee title to the property or their representative. The applicant shall become the “permit holder” once a permit is issued. The applicant shall sign the initial permit application, after which the applicant may provide the DLM written authorization for others to serve as the applicant’s representative.
- (2) **“Best management practice” (or “BMP”)** means structural and non-structural measures, practices, techniques or devices employed to avoid or minimize sediment or other pollutants carried in runoff.
- (3) **“Common plan of development”** means all lands included within the boundary of a certified survey map or subdivision plat created for the purpose of development or sale of property where integrated, multiple, separate and distinct land developing activity may take place at different times by future owners.
- (4) **“Design storm”** means a hypothetical depth of rainfall that would occur for the stated return frequency (i.e. once every 2 years or 10 years), duration (i.e 24-hours) and timing of distribution (i.e. type II). All values are based on the historical rainfall records for the area.
- (5) **“Dewatering”** means the removal of trapped water from a construction site to allow land development or utility installation activities to occur.
- (6) **“DLM”** means the Department of Land Management of Trempealeau County.
- (7) **“Erosion”** means the process of detachment, transport and deposition of soil, sediment or rock fragments by action of water, wind, ice or gravity.
- (8) **“Effective infiltration area”** means the area of the infiltration system that is used exclusively to infiltrate runoff and does not include the area used for site access, berms or pretreatment.
- (9) **“Environmentally sensitive area”** means any area that, due to the natural resources present or the lack of filtering capacity, is more susceptible to the adverse impacts of sediment and other pollutants associated with erosion and runoff.
- (10) **“Erosion Control and Storm water permit”** means a written authorization made by the DLM to the applicant to conduct land disturbing or land development activities in accordance with the requirements of this ordinance. An erosion control and storm water permit regulates both construction site erosion and post-construction storm water runoff from a site.
- (11) **“Filtering layer”** means soil that has at least a 3-foot deep layer with at least 20% that passes through a #200 sieve (fines); or at least a 5-foot deep layer with at least 10% that passes through a #200 sieve (fines); or another medium exists with an equivalent level of protection, as determined by the DLM.

- (12) **“Final plat”** means a map of a proposed condominium or subdivision to be recorded with the Trempealeau County Register of Deeds pursuant Wisconsin Statutes.
- (13) **“Groundwater recharge areas”** means where, prior to any land disturbing or land development activity, precipitation or runoff could only leave the area by infiltrating the ground, thereby recharging the groundwater.
- (14) **“Illicit connection”** means any drain or conveyance, whether on the surface or subsurface, which allows an illegal non-storm water discharge to enter the storm drain system, including but not limited to: sewage, process wastewater and wash water, any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been allowed, permitted, or approved by a government agency, prior to the adoption of this ordinance.
- (15) **“Impervious surface”** means an area that releases all or a large portion of the precipitation that falls on it, except for frozen soil. Conventional rooftops and asphalt or concrete sidewalks, driveways, parking lots and streets are typical examples of impervious surfaces. For purposes of this ordinance, typical gravel driveways and other examples listed shall be considered impervious unless specifically designed to encourage infiltration or storage of runoff.
- (16) **“Impracticable”** means that complying with a specific requirement would cause undue economic hardship and that special conditions exist that are beyond the control of the applicant and would prevent compliance.
- (17) **“In-fill development”** means land development that occurs where there was no previous land development and is surrounded by other existing land development;
- (18) **“Infiltration”** means the entry of precipitation or runoff into or through the soil.
- (19) **“Infiltration system(s)”** means a device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.
- (20) **“Land development activity” or “land development”** means any construction related activity that may ultimately result in the addition of impervious surfaces, such as the construction of buildings, roads, parking lots and other structures.
- (21) **“Land disturbing activity” (or “disturbance”)** means any man-made alteration of the land surface that may result in a change in the topography or existing vegetative or non-vegetative soil cover, or may expose soil and lead to an increase in soil erosion and movement of sediment. Land disturbing activity includes clearing and grubbing for future land development, excavating, filling, grading, building construction or demolition, and pit trench dewatering.
- (22) **“Manning’s Formula”** is an empirical formula for open channel flow, or free-surface flow driven by gravity.
- (23) **“Maximum Extent Practicable” or “MEP”** means an acceptable level of implementing best management practices to achieve a performance standard specified in this ordinance, as

determined by the DLM. In determining MEP, the DLM shall take into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions.

- (24) **“Navigable”** has the meaning given in the Trempealeau County Shoreland Ordinance.
- (25) **“Off-site BMP”** means best management practice(s) that are located outside of the boundaries of the site covered by a permit application. Off-site BMPs are usually installed as part of a regional storm water management plan approved by a local government.
- (26) **“Ordinary high water mark (OHWM)”** has the meaning given in s. NR115 Wis. Admin. Code.
- (27) **“Planned land use”** means the land use designated in the latest version of the Trempealeau County Comprehensive Land Use Plan.
- (28) **“Plat”** means a map of a proposed condominium or subdivision.
- (29) **“Pollutant”**, as per s. 283.01(13) Wisconsin Statutes, means any dredged spoil, solid waste, incinerator residue, sewage, garbage, refuse, oil, sewage sludge, munitions, chemical wastes, biological materials, radioactive substance, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.
- (30) **“Pollution”**, as per s. 283.01(10) Wisconsin Statutes, means man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of water.
- (31) **“Preliminary plat”** means a map showing the salient features of a proposed condominium or subdivision submitted to an approving authority for purposes of preliminary consideration.
- (32) **“Preventive action limit”** has the meaning given in s. NR 140.05(17), Wis. Admin. Code.
- (33) **“Publicly funded”** means a land development, such as a public road or municipal building that is being funded solely by a unit of government. It does not include new roads or other structures built with private funds, or a combination of public and private funds, and subsequently dedicated to a unit of government.
- (34) **“Redevelopment”** means land development that replaces previous land development of similar impervious conditions.
- (35) **“Regional storm water management plan”** means a planning document, adopted by a local unit of government that coordinates storm water management activities for an entire drainage area or watershed including future land development activities within the watershed. The plan may prescribe the use of BMPs for individual development sites and for selected points within the watershed to meet the goals and objectives of the plan.
- (36) **“Regulatory agency”** means a public agency that the DLM recognizes as having the legal authority to review and approve erosion control and storm water management plans and enforce their implementation, with requirements at least as restrictive as this ordinance.

- (37) **“Responsible party”** means any person or entity holding fee title to the property or acting as the owners representative, including any person, firm, corporation or other entity performing services, contracted, subcontracted or obligated by other agreement to design, implement, inspect, verify or maintain the BMPs and other approved elements of erosion control and storm water plans and permits under this ordinance.
- (38) **“Road”** as used in sec. 19.06 of this ordinance, means any access drive that serves more than two (2) residences or businesses.
- (39) **“Runoff”** means water from rain, snow or ice melt, or dewatering that moves over the land surface via sheet or channelized flow.
- (40) **“Runoff Curve Number”** is an empirical parameter used in hydrology for predicting direct runoff or infiltration from rainfall excess.
- (41) **“Shoreland”** has the meaning given in the Trempealeau County Shoreland Ordinance.
- (42) **“Site”** means the entire area included in the legal description of which the land disturbing or land development activity will occur.
- (43) **“Stabilized”** means that all land disturbing activities are completed and that a uniform, perennial vegetative cover has been established on at least 70% of the soil surface or other surfacing material is in place and the risk of further soil erosion is minimal, as determined by the DLM.
- (44) **“Storm drainage system”** means a publicly-owned facility by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.
- (45) **“Storm water”** has the same meaning as the term “runoff”.
- (46) **“Storm Water Advisory Committee”** means a committee created and chaired by the DLM for the purpose of advising the DLM and the County Board on matters relating to the administration of this ordinance. At a minimum, the committee shall also contain representatives of the Environmental and Land Use Committee, the Wisconsin Department of Natural Resources, the Mississippi River Regional Planning Commission, local municipal officials and representatives from the land development community. All committee meetings shall be posted in accordance with the Wisconsin Open Meetings Law.
- (47) **“Storm water BMP”** means any best management practice that is designed to collect or manage the quantity or quality of storm water runoff for an indefinite time period. This term is a subset of the term “best management practice” and distinct in that they require long-term maintenance. Some examples include, but are not limited to: wet or dry detention basin, infiltration trench or basin, bio-retention basin, stilling basin, green roof, filter strip, artificial wetland, or any combination of these or other permanent storm water management practices, as determined by the DLM.
- (48) **“Subdivision”** means a division of a lot, parcel or tract of land by the owner thereof or the owner’s agent for the purpose of sale or of building development that meets the subdivision

definition criteria under s. 236.03(12) Wisconsin Statutes or a more restrictive definition adopted by a local unit of government.

- (49) **“Technical standard”** means a document that specifies design, predicted performance and operation and maintenance requirements for a material, device or method.
- (50) **“Utility”** means a wire, pipe, tube or other conduit designed to distribute or collect a product or service, including but not limited to electricity, natural gas, oil, telecommunications, drinking water, storm water, sewage, or any combination of these items.
- (51) **“Warm season and wetland plantings”** means seed or plant stock that is native to a prairie or wetland setting. These types of plantings usually take a couple of years to get established and require diligent removal of invasive species during this time. Upon maturity, warm season plants generally have a deep root system, which enhances infiltration.
- (52) **“Waters of the state”** has the meaning given in s. 281.01 (18), Wisconsin Statutes
- (53) **“Wetlands”** means an area where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions
- (54) **“Woodland”** means an area where a grouping of 10 or more trees exist that have trunk diameters of at least 4 inches at four feet above the ground surface. The boundaries of a woodland shall be defined by the canopy, commonly referred to as the “drip line”.
- (55) **“Working day”** means any day the office of the DLM is routinely and customarily open for business, and does not include Saturday, Sunday and any official county holidays.

CHAPTER 20

NON-METALLIC MINING RECLAMATION

- 20.1 Title.** Nonmetallic mining reclamation ordinance for the County of Trempealeau.
- 20.2 Purpose.** The purpose of this chapter is to establish a local program to ensure the effective reclamation of nonmetallic mining sites on which nonmetallic mining takes place in Trempealeau County after the effective date of this chapter, in compliance with Chapter NR 135, Wisconsin Administrative Code and Subchapter I of Chapter 295, Wisconsin Statutes.
- 20.3 Statutory Authority.** This chapter is adopted under authority of Section 295.13(1), Wisconsin Statutes, Section NR 135.32, Wisconsin Administrative Code, and Section 59.51, Wisconsin Statutes.
- 20.4 Restrictions Adopted Under Other Authority.** The purpose of this chapter is to adopt and implement the uniform statewide standards for nonmetallic mining reclamation required by Section 295.12(1)(a), Stats. and contained in Chapter NR 135, Wisconsin Administrative Code. It is not intended that this chapter repeal, abrogate, annul, impair or interfere with any existing rules, regulation, ordinances or permits not concerning nonmetallic mining reclamation previously adopted pursuant to other Wisconsin law.
- 20.5 Interpretation.** In their interpretation and application, the provisions of this chapter shall be held to be the applicable requirements for nonmetallic mining reclamation and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes outside the reclamation requirements for nonmetallic mining sites required by subchapter I of Chapter 295, Wisconsin Statutes and Chapter NR 135, Wisconsin Administrative Code. Where any terms or requirements of this chapter may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this chapter is required by Wisconsin Statutes, or by a standard in Chapter NR 135, Wisconsin Administrative Code, and where the provision is unclear, the provision shall be interpreted to be consistent with the Wisconsin Statutes and the provisions of Chapter NR 135, Wisconsin Administrative Code.
- 20.6 Severability.** Should any portion of this chapter be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected.
- 20.7 Applicability.**
- (1) Overall Applicability. The requirements of this chapter apply to all operators of nonmetallic mining sites within Trempealeau County and as provided in Sections NR135.02 (1) and (2), Wisconsin Administrative Code except where exempted in sub. 20.7(2) and for nonmetallic mining sites located in a city, village or town within Trempealeau County that has adopted an ordinance pursuant to Section 295.14, Wisconsin Statutes, and Section NR 135.32(2), Wisconsin Administrative Code

(2) Exemptions. This chapter does not apply to exempt activities listed in Section NR 135.02(3), Wisconsin Administrative Code.

20.8 Administration. The provisions of this chapter shall be administered by the Standing Committee of the County Board of Supervisors so assigned this responsibility by the Trempealeau County Board of Supervisors.

20.9 Effective Date. The provisions of this chapter shall take effect upon publication.

20.10 Definitions. All definitions for the purposes of this chapter are contained in Section NR135.03, Wisconsin Administrative Code.

20.11 Standards. All nonmetallic mining sites subject to this chapter shall be reclaimed in conformance with the general performance standards contained in Subchapter II of Chapter NR 135, Wisconsin Administrative Code.

(1) GENERAL STANDARDS.

(a) REFUSE AND OTHER SOLID WASTES. Nonmetallic mining refuse shall be reused in accordance with a reclamation plan. Other solid wastes shall be disposed of in accordance with applicable rules of the Wisconsin Department of Natural Resources adopted pursuant to chs. 289 and 291, Stats.

(b) AREA DISTURBED AND CONTEMPORANEOUS RECLAMATION. Nonmetallic mining reclamation shall be conducted, to the extent practicable, to minimize the area disturbed by nonmetallic mining and to provide for nonmetallic mining reclamation of portions of the nonmetallic mining site while nonmetallic mining continues on other portions of the nonmetallic mining site.

(c) PUBLIC HEALTH, SAFETY AND WELFARE. All nonmetallic mining sites shall be reclaimed in a manner so as to comply with federal, state and local regulations governing public health, safety and welfare.

(d) HABITAT RESTORATION. When the land use required by the reclamation plan approved pursuant to this chapter requires plant, fish or wildlife habitat, it shall be restored, to the extent practicable, to a condition at least as suitable as that which existed before the lands were affected by nonmetallic mining operations.

(e) COMPLIANCE WITH ENVIRONMENTAL REGULATIONS. Reclamation of nonmetallic mining sites shall comply with any other applicable federal, state and local laws including those related to environmental protection, zoning and land use control.

(f) SURFACE WATER AND WETLANDS PROTECTION. Nonmetallic mining reclamation shall be conducted and completed in a manner that assures compliance with the Wisconsin Department of Natural Resources' water quality standards for surface waters and wetlands contained in Chapters NR 102 to NR 105, Wisconsin Administrative Code. Before disturbing the surface of a nonmetallic mining site and removing topsoil, all necessary measures for diversion and drainage of runoff from the site

to prevent pollution of waters of the state shall be installed in accordance with the reclamation plans approved pursuant to this chapter. Diverted or channelized runoff resulting from reclamation may not adversely affect neighboring properties.

(2) **GROUNDWATER PROTECTION.**

(a) **GROUNDWATER QUANTITY.** A nonmetallic mining site shall be reclaimed in a manner that does not cause a permanent lowering of the water table that results in adverse effects on surface waters or a significant reduction in the quantity of groundwater reasonably available for future users of groundwater.

(b) **GROUNDWATER QUALITY.** Nonmetallic mining reclamation shall be conducted in a manner which does not cause groundwater quality standards in Chapter NR 140, Wisconsin Administrative Code to be exceeded at a point of standards application defined in that chapter.

20.12 Nonmetallic Mining Reclamation Permit Application Required. No person may engage in nonmetallic mining involving one acre or greater or in nonmetallic mining reclamation without possessing a nonmetallic mining reclamation permit issued pursuant to the applicable reclamation ordinance unless the activity is specifically exempted in subs. 20.7(1), 20.7(2) or NR135.03 (16) (b), Wisconsin Administrative Code.

(1) **Required Submittal.** The operator of all nonmetallic mining sites of one acre or greater shall apply for a reclamation permit from Trempealeau County. All applications for reclamation permits under this section shall be accompanied by information required by section NR 135.18 (1), Wisconsin Administrative Code.

(2) **Reclamation Permit Application Contents.** The operator of any nonmetallic mine site shall submit an application that meets the requirements of Sections NR135.18 (2), Wisconsin Administrative Code and the submittals required under sub. 20.12(1) to the County prior to beginning operations.

20.13 Reclamation Plan.

(1) **Reclamation Plan Requirements.** All operators of nonmetallic mining sites subject to this chapter shall prepare and submit a reclamation plan that meets the requirements of Section NR 135.19, Wisconsin Administrative Code.

(2) **Existing Plans and Approvals.** To avoid duplication of effort, the reclamation plan required by sub. 20.13(1) may, by reference, incorporate existing plans or materials that meet the requirements of this chapter.

(3) **Approval of Reclamation Plan.** Trempealeau County shall approve, conditionally approve or deny the reclamation plan submitted under this section in writing in accordance with sub. 20.16(2). Conditional approvals of reclamation plans shall be made according to sub. 20.16(5) and denials of reclamation plans shall be made pursuant to sub. 20.17. The operator shall keep a copy of the reclamation plan required by this Section, once approved by Trempealeau County under this

Chapter at the mine site or, if not practicable, at the operator's nearest place of business.

20.14 Financial Assurance.

- (1) Financial Assurance Requirements. All operators of nonmetallic mining sites in Trempealeau County that are subject to this Chapter shall prepare and submit a proof of financial assurance of successful reclamation that meets the requirements of Section NR 135.40, Wisconsin Administrative Code.
- (2) Private Nonmetallic Mines. The operator of any nonmetallic mining site that applies for a reclamation permit in conformance with sub. 20.12 shall submit the proof of financial assurance required by sub. 20.14(1) as specified in the reclamation permit issued to it under this chapter.
- (3) Public Nonmetallic Mining. The financial assurance requirements of this section do not apply to nonmetallic mining conducted by the State of Wisconsin, a state agency, board, commission or department, or a municipality.

20.15 Public Notice and Right of Hearing.

- (1) Reclamation Plan Hearing. Trempealeau County shall, provide public notice and the opportunity for a public informational hearing as set forth in Sections NR 135.20(1) and (2), Wisconsin Administrative Code for any nonmetallic mining site for which a complete reclamation permit application that satisfies sub. 20.12. is received.
- (2) Local Transportation-Related Mines. No public notice or informational hearing is required for a nonmetallic mining reclamation permit issued to a local transportation-related mine pursuant to sub. 20.16(3).

20.16 Issuance of a Nonmetallic Mining Reclamation Permit.

- (1) Permit Required. No person may engage in nonmetallic mining involving one acre or greater or nonmetallic mining reclamation in Trempealeau County without obtaining a reclamation permit issued under this section, except for nonmetallic mining sites that are exempt from this chapter as provided in sub. 20.7(2).
- (2) Permit Issuance. Applications for reclamation permits for nonmetallic mining sites that satisfy sub. 20.12. shall be issued a reclamation permit or otherwise acted on as provided in Section NR 135.21(2), Wisconsin Administrative Code. The permit shall require compliance with a reclamation plan submitted by the applicant that conforms to sub. 20.13(1) and provision by the applicant of financial assurance that conforms to sub. 20.14. payable to Trempealeau County prior to beginning mining.
- (3) Automatic Permit for Local Transportation-Related Mines. Trempealeau County shall issue an automatic permit under this subsection for any borrow site operated to provide material for a locally-administered transportation project that meets the criteria in Section NR 135.23(1)(a), Wisconsin Administrative Code. This automatic permit shall be issued according to the provisions of Sections NR 135.23(1)(a) through (j), Wisconsin Administrative Code.

- (4) Expedited Review. Any operator of a nonmetallic mining site may obtain an expedited review of a reclamation permit application by paying the expedited review fee specified in sub. 20.26(4). The expedited review shall be carried out according to the provisions of Section NR 135.23(2), Wisconsin Administrative Code. Such expedited review shall not waive, shorten or otherwise affect the public notice and right of hearing pursuant to sub. 20.15.
- (5) Permit Conditions. Permits issued under this section may include conditions as provided in Section NR 135.21(2), Wisconsin Administrative Code. One required condition shall be that new mines shall obtain financial assurance prior to beginning mining pursuant to Section NR 135.40, Wisconsin Administrative Code.

20.17 Permit Denial. An application for a nonmetallic mining reclamation permit shall be denied if any of the factors specified in Section NR 135.22, Wisconsin Administrative Code exist.

20.18 Alternative Requirements.

- (1) Scope of Alternative Requirements Approvable. An operator of a nonmetallic mining site may submit to the County a written request for County consideration of an alternative requirement to any reclamation standard established in sub. 20.11. Such a request may be made only on the basis of the criteria set forth in Section NR 135.26(1), Wisconsin Administrative Code.
- (2) Procedures. The operator of a nonmetallic mining site requesting an alternate requirement in sub. 20.18(1) shall demonstrate all the criteria in Section NR 135.26(1), Wisconsin Administrative Code. This shall be submitted in writing to the Zoning Administrator. The Zoning-Administrator shall evaluate and act upon the request. The request may be granted, granted with conditions, or the request may be denied pursuant to factors specified in Section NR 135.22, Wisconsin Administrative Code. Decisions of the Zoning Administrator, as rendered under this section, may be appealed to the County Committee established under S.59 and acting under the authority of 59.69
- (3) Transmittal of Decision on Request for Alternative Requirement. The decision on a request for alternate reclamation requirements shall be in writing to the applicant and shall include documentation of why the alternate requirement was or was not approved.
- (4) Notice to Wisconsin Department of Natural Resources. Trempealeau County shall provide notice to the Wisconsin Department of Natural Resources as provided in Section NR 135.26(3)(a), Wisconsin Administrative Code.

20.19 Permit Duration. A nonmetallic mining reclamation permit issued under this chapter shall last through operation and final reclamation of the nonmetallic mining site, unless suspended or revoked pursuant to sub. 20.32(2), or as limited under Section NR 135.27, Wisconsin Administrative Code where the mine operator is not the landowner

20.20 Permit Transfer. A nonmetallic mining reclamation permit issued under this chapter shall be transferred to a new owner or operator upon satisfaction of the conditions in Section NR 135.28, Wisconsin Administrative Code.

20.21 Previously Permitted Sites. For any nonmetallic mining site which had a reclamation permit previously issued by another regulatory authority pursuant to Chapter NR 135, Wisconsin Administrative Code that becomes subject to reclamation permitting authority of Trempealeau County the terms and conditions of the previously-issued municipal reclamation permit shall remain in force until modified by Trempealeau County pursuant to sub. 20.23(1).

20.22 Review. Any permitting decision or action made by Trempealeau County under this chapter may be reviewed as set forth in Section NR 135.30, Wisconsin Administrative Code.

20.23 Permit Modification.

(1) By Trempealeau County. A nonmetallic mining reclamation permit issued under this chapter may be modified by Trempealeau County if it finds that, due to changing conditions, the nonmetallic mining site is no longer in compliance with this Chapter. Such modification shall be by an order modifying the permit in accordance with sub. 20.32. and as provided in Section NR 135.24(1), Wisconsin Administrative Code.

(2) At the Operator's Option. If the operator of any nonmetallic mine that holds a reclamation permit issued under this chapter desires to modify such permit or reclamation plan approved under this chapter, such modification may be requested by submitting a written application for such modification to Trempealeau County. The application for permit or plan modification shall be acted on using the standards and procedures of this chapter.

(3) Required by the Operator. The operator of any nonmetallic mine that holds a reclamation permit issued under this chapter shall request a modification of such permit if required under the circumstances set out in Section NR135.27, Wisconsin Administrative Code. Such application for permit modification shall be acted on using the standards and procedures of this chapter.

(4) All actions by Trempealeau County on permit modifications requested or initiated under this section are subject to review under sub. 20.22.

20.24 Permit Suspension and Revocation

(1) Grounds. Trempealeau County may suspend or revoke a nonmetallic mining reclamation permit issued pursuant to this chapter if it finds any of the grounds listed in Section NR 135.25(1), Wisconsin Administrative Code.

(2) Procedures. If Trempealeau County finds grounds for suspending or revoking a nonmetallic mining reclamation permit set forth in sub. 20.24(1), it may issue a special order suspending or revoking such permit as set forth in sub. 20.32(2).

(3) Consequences. The consequences of a reclamation permit suspension or revocation order under sub. 20.24(2) shall be as set forth in Sections NR 135.25(2) and (3), Wisconsin Administrative Code.

20.25 Annual Operator Reporting.

- (1) Contents and Deadline. Annual reports shall be submitted by the operators of nonmetallic mining sites that satisfy the requirements of Section 135.36, Wisconsin Administrative Code. These reports shall be for reclamation during a calendar year, and submitted in writing within 60 days of the end of each calendar year to Trempealeau County. Annual reports shall be submitted until reclamation at each nonmetallic mining site is certified as complete under sub. 20.29.
- (2) Inspection in Lieu of Report. Trempealeau County may, at its discretion, obtain the information required in sub. 20.25(1) by written documentation of an inspection it completes during a calendar year, as set forth in Section NR 135.36(4), Wisconsin Administrative Code.
- (3) Retention of Annual Reports. Annual reports submitted under this Section or inspection records that replace them shall be retained by Trempealeau County for at least 10 years after the calendar year to which they apply. These records, or complete and accurate copies of them, shall be made available to the Wisconsin Department of Natural Resources upon written request or during its inspection or audit activities carried out pursuant to Chapter NR 135, Wisconsin Administrative Code.

20.26 Plan Review Fees.

- (1) Amount and Applicability. A person who intends to operate a nonmetallic mining site for which a permit application has been submitted under sub. 20.12. shall submit a non-refundable plan review fee based upon a plan review fee schedule approved by the Trempealeau County Board of Supervisors. No Plan review fee may be assessed under this Section for any Local Transportation –Related Mine issued an automatic permit under sub. 20.16(3). A separate plan review fee shall be paid under this section for any modification to an existing reclamation plan submitted pursuant to sub. 20.23.
- (2) Plan Review Fee. The plan review fee shall be established to equal as closely as possible the County’s cost of administering the permitting and plan review processes established in sections 20.12 – 20.18 of this ordinance.
- (3) Annual Fee Review. The plan review fee shall be reviewed annually by the County and shall be adjusted to account for changes in the cost of public administration.
- (4) Expedited Plan Review Fee. A person who intends to operate a nonmetallic mining site for which a permit application has been submitted under sub. 20.12 may obtain expedited reclamation plan review by paying a double fee. This expedited plan review process shall be completed within 30 days instead of the normal 60 days.
- (5) Relation to Annual Fee. Any reclamation plan review fee or expedited reclamation plan review fee collected under this section shall be added to and collected as part of the first annual fee collected under sub. 20.27.

20.27 Annual Fees.

- (1) Areas Subject to Fees, Procedures, Deadline and Amount. Operators of all nonmetallic mining sites subject to reclamation permits issued under this chapter shall submit an annual fee to Trempealeau County. Fees paid under this section shall include both a share for the Wisconsin Department of Natural Resources under sub. 20.27(2) and a share for Trempealeau County under sub. 20.27(3) that equals as closely as possible the costs of examination and approval on nonmetallic mining reclamation plans and the inspection of nonmetallic mining reclamation sites. These fees shall be calculated based on amount of unreclaimed acres of each site, as defined in Section NR 135.39(1)(a), Wisconsin Administrative Code and according to its provisions. Such fees apply to a calendar year or any part of a year in which nonmetallic mining takes place, until final reclamation is certified as complete under sub. 20.29. Fees shall be paid no later than January 31 for the previous year.
- (2) Wisconsin Department of Natural Resources Share of Fee. Fees paid under this section shall, except where provided in sub. 20.27(3), include a share for the Wisconsin Department of Natural Resources equal to the amount specified in the permit fee schedule. For sites on which no nonmetallic mining has taken place during a calendar year, fees to be paid under this section for the following year shall be the amount specified in the permit fee schedule. Trempealeau County shall forward fees collected under this subsection to the Wisconsin Department of Natural Resources by March 31.
- (3) Trempealeau County's Share of Fee.
 - (a) Fees paid under this section shall also include an annual fee due to Trempealeau County which shall be the amount specified in the permit fee schedule.
 - (b) The annual fee collected by Trempealeau County under this subsection for local transportation-related mines issued permits under sub. 20.16(3) may not exceed the amounts set forth in Table 2 of Section NR 135.39 and shall include both a share for the Wisconsin Department of Natural Resources and Trempealeau County.
- (4) Reduced Fee for Inactive Construction Aggregate Mines. Any Construction Aggregate site, as defined in Chapter 13.05(10)(b) of the County Comprehensive Zoning Ordinance, on which no nonmetallic mining activity has taken place in a calendar year, and where no activity is planned for the following calendar year, shall be assessed at a reduced fee as specified in the permit fee schedule.
- (5) Documentation of Trempealeau County's Share of Fee. If the annual fee in sub. 20.27(3) is greater than that established in Section NR135.39(4)(c), Wisconsin Administrative Code, Trempealeau County shall document in writing its estimated program costs and the need for its annual fees established in sub. 20.27(3). This documentation shall be available for public inspection.

20.28 Regulatory Reporting and Documentation.

- (1) Reporting. Trempealeau County shall send an annual report to the Wisconsin Department of Natural Resources including the information required by Section NR 135.37, Wisconsin Administrative Code by May 31st of each calendar year.
- (2) Documentation. Trempealeau County shall, to the best of its ability, maintain the information set forth in Section NR 135.47(3), Wisconsin Administrative Code, and make it available to the Wisconsin Department of Natural Resources for that agency's audit of Trempealeau County's reclamation program pursuant to Section NR 135.47, Wisconsin Administrative Code.

20.29 Completed Reclamation - Reporting, Certification and Effect

- (1) Reporting. The operator of a nonmetallic mining site may provide written certification to the County of completion of reclamation for a portion or all of the nonmetallic mining site pursuant to a reclamation plan prepared and approved pursuant to this chapter and Chapter NR 135, Wisconsin Administrative Code.
- (2) Reporting of Interim Reclamation. The operator of a nonmetallic mining site may report completion of interim reclamation as specified in the reclamation plan for the site prepared and approved pursuant to this chapter and Chapter NR 135, Wisconsin Administrative Code. Reporting of interim reclamation shall be done according to the procedures in sub. 20.29(1).
- (3) Certification of Completed Reclamation. Trempealeau County shall inspect a nonmetallic mining site for which reporting of reclamation or interim reclamation has been submitted pursuant to this subsection within 60 days of receipt, and make a determination in writing in accordance with Section NR 135.40(7)(c), Wisconsin Administrative Code. If it is determined that interim or final reclamation is complete, including revegetation as specified in a reclamation plan that conforms with sub. 20.13, Trempealeau County shall issue the mine operator a written certificate of completion.
- (4) Effect of Completed Reclamation. If reclamation is certified by Trempealeau County as complete under sub. 20.29(3) for part or all of a nonmetallic mining site, then:
 - (a) No fee shall be assessed under sub. 20.27 for the area so certified.
 - (b) The financial assurance required by sub. 20.14 shall be released or appropriately reduced in the case of completion of reclamation for a portion of the mining site.
 - (c) For sites which are reported as interim reclaimed under sub. 20.29(2) and so certified under sub. 20.29(3), financial assurance for reclaiming the certified area may be reduced upon inspection of the site by Trempealeau County to assure compliance with the approved reclamation plan.
- (5) Effect of Inaction Following Report of Completed Reclamation. If no written response as required by sub. 20.29(3) for an area of the mine site reported as reclaimed or interim reclaimed is given within 60 days of receiving such request,

any annual fee paid to Trempealeau County for it under sub. 20.27 shall be refunded.

20.30 Permit Termination. When all final reclamation required by a reclamation plan conforming to sub. 20.13 and required by this chapter is certified as complete pursuant to sub. 20.29(3), Trempealeau County shall issue a written statement to the operator of the nonmetallic mining site, thereby terminating the reclamation permit.

20.31 Right of Entry and Inspection. For the purpose of ascertaining compliance with the provisions of Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, or this chapter, any authorized officer, agent, employee or representative of Trempealeau County may inspect any nonmetallic mining site subject to this chapter as provided in Section 295.17(1), Wisconsin Statutes and Section NR 135.42, Wisconsin Administrative Code.

20.32 Orders and Citations.

- (1) **Enforcement Orders.** Trempealeau County may issue orders as set forth in Section 295.19(1)(a), Stats., to enforce Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, this chapter, a permit issued pursuant to this chapter or a reclamation plan required by sub. 20.13 and a permit issued under this chapter. A violation of this chapter, an order or permit issued pursuant to this chapter or a reclamation plan required by sub. 20.13 and a permit issued under this chapter shall be considered a violation of Subchapter I of Chapter 295, Wisconsin Statutes and Chapter NR 135, Wisconsin Administrative Code.
- (2) **Special Orders.** Trempealeau County may issue a special order as set forth in Sections 295.19(1)(b) and (c), Wisconsin Statutes suspending or revoking a nonmetallic mining reclamation permit pursuant to sub. 20.24, or directing an operator to immediately cease an activity regulated under Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code or this chapter until the necessary plan approval is obtained.
- (3) **Review of Orders.** An order issued under sub. 20.32(1) or sub. 20.32(2) may be reviewed as provided in Section NR 135.43(2), Wisconsin Administrative Code.
- (4) **Citations.** Trempealeau County may issue a citation in accordance with the Trempealeau County Citation Ordinance and collect forfeitures to enforce Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, this chapter, a permit issued pursuant to this chapter or a reclamation plan required by sub. 20.13 and a permit issued under this chapter. The issuance of a citation under this subsection shall not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this subsection.
- (5) **Enforcement.** Trempealeau County may submit any order issued under sub. 20.32 to abate violations of this chapter to a district attorney, corporation counsel, municipal attorney or the attorney general for enforcement. The district attorney,

corporation counsel, municipal attorney or the attorney general may enforce those orders.

20.33 Penalties. Any violation of Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, this chapter, a permit issued pursuant to this chapter or a reclamation plan required by sub. 20.13 and a permit issued under this chapter may result in forfeitures as provided in Section 295.19(3), Wisconsin Statutes, as follows:

- (1) Any person who violates Chapter NR 135, Wisconsin Administrative Code or an order issued under sub. 20.32 may be required to forfeit not less than \$25 nor more than \$1,000 for each violation. Each day of continued violation is a separate offense. While an order issued under sub. 20.32 is suspended, stayed or enjoined, this penalty does not accrue.
- (2) Except for the violations referred to in sub. 20.33(1), any person who violates subchapter I of Ch. 295, Stats., Chapter NR 135, Wisconsin Administrative Code, any reclamation plan approved pursuant to this chapter or an order issued pursuant to sub. 20.32 shall forfeit not less than \$10 nor more than \$5,000 for each violation. Each day of violation is a separate offense. While an order issued under sub. 20.32 is suspended, stayed or enjoined, this penalty does not accrue.

Chapter 21

21.01 Title: Wind Generator and Wind Generating Facility Ordinance for Trempealeau County

21.02 Purpose: This chapter of County ordinances provides a regulatory framework for the construction and operation of Wind Energy Facilities in Trempealeau County, subject to reasonable restrictions, which will preserve the public health and safety.

21.03 Definitions: As used in this Chapter, the following terms have the meanings indicated:

Affected Property: Property impacted by personal or Commercial Wind Turbine.

Applicant: The person or entity filing an application under this Ordinance.

Commercial Wind Turbine: A wind energy conversion system which converts wind energy into electricity through the use of a wind driven turbine generator when the total height exceeds 150 feet or the nameplate capacity exceeds 100 kilowatts. Such wind turbine includes the turbine, blade, tower, base and pad transformer, if any.

Committee: The Zoning and Planning Committee of the County Board or any successor committee established by the Board for the oversight and supervision of Trempealeau County Zoning.

County: Trempealeau County, Wisconsin.

DNR: Department of Natural Resources

DOT: Department of Transportation

FAA: Federal Aviation Administration.

Farmstead: A farmstead is a place of employment and includes all buildings and structures on a farm that are used primarily for agricultural purposes such as housing animals, or storing supplies, production, or machinery.

Hobbyist Wind Turbine: A wind energy conversion system which converts wind energy into electricity through the use of a wind driven turbine generator when the total height is less than 50 feet and a prop diameter of 12 feet or less.

Hub Height: The distance measured from ground level to the center of the turbine hub.

MET Tower: A meteorological tower used for the measurement of wind speed.

Owner/Operator: The person or entity responsible for the day-to-day operation and maintenance of a wind turbine or Wind Energy Facility.

Personal Wind Turbine: A wind energy conversion system which converts wind energy into electricity through the use of a wind driven turbine generator when the Total Height is 150 feet or less.

Total Height: The distance measured from ground level to the blade of a wind turbine extended at its highest point.

Shadow Flicker: The moving shadows or shaded areas which are cast by rotating turbine blades.

Wind Energy Facility: An electricity generating facility consisting of one or more Wind Turbines under common ownership or operating control, and includes substations, MET Towers, cables/wires and other buildings accessory to such facility, whose main purpose is to supply electricity to off-site customer(s).

Wind Energy Facility Siting Permit or Wind Turbine Permit: A construction and operating permit granted in accordance with the provisions of this Ordinance.

21.04 Regulatory Framework

(1) Zoning

- (a) Wind Energy Facilities and commercial wind turbines may only be constructed as Conditional Uses in areas that are zoned Exclusive Agriculture, Exclusive Agriculture – 2 and Primary Agriculture.
- (b) Personal Wind Turbines may be constructed as a conditional use in areas that are zoned Exclusive Agriculture, Exclusive Agriculture – 2, Primary Agriculture and Rural Residential. They are limited to one wind turbine per contiguous parcels under common ownership.
- (c) Hobbyist Wind Turbines may be constructed as a permitted use in areas that are zoned Exclusive Agriculture, Exclusive Agriculture – 2, Primary Agriculture and Rural Residential.

21.05 Applicability

- (1) The requirements of this Ordinance shall apply to all wind turbines for which a permit was not issued prior to the effective date of this Ordinance. Wind turbines for which a required permit has been properly issued, or for which a permit was not required, prior to the effective date of this Ordinance shall not be required to meet the requirements of this Ordinance. However, any such pre-existing wind turbine which does not provide energy for a continuous period of twelve (12) months shall meet the requirements of this Ordinance prior to recommencing production of energy. No modification or alteration to an existing wind turbine shall be allowed without full compliance with this Ordinance.

21.06 General Requirements for Wind Energy Facilities

- (1) Wind Turbines shall be painted a non-reflective, non-obtrusive color which shall be pre-approved through the conditional use process.
- (2) At Wind Energy Facility sites, the design of the buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the Wind Energy Facility to the natural setting and then existing environment.

- (3) Wind Energy Facilities shall not be artificially lighted, except to the extent required by the FAA or other applicable authority.
- (4) Wind Turbines shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the Wind Energy Facility. Any such identification shall not appear on the blades or other moving parts or exceed six square feet per Wind Turbine.
- (5) Electrical controls and control wiring and power-lines shall be wireless or not above ground except where wind farm collector wiring is brought together for connection to the transmission or distribution network, adjacent to that network.
- (6) Routes of public travel to be used during the construction phase shall be documented by the Owner/Operator, and reviewed and approved by the Trempealeau County Highway Department, Town Chairman and Trempealeau County Zoning prior to construction. At the Committee's request a qualified independent third party, agreed to by the applicable entity(s), and paid for by the applicant, shall be hired to pre-inspect the roadways to be used during construction and an appropriate bond amount set. The public travel route will be re-inspected 30 days after project completion; any and all repairs will be completed within 90 days of end of construction project paid by the developer. The bond can be used by Trempealeau County for any degradation or damage caused by heavy machinery associated with the construction and demolition phases of a Wind Energy Facility.
- (7) An appropriate continuous renewal bond amount will be set for each Wind Turbine for decommissioning should the Owner/Operator fail to comply with the Ordinance requirements or the Wind Turbine does not operate for a period of twelve (12) consecutive months.
- (8) A signed statement by the landowner acknowledging that the landowner is financially responsible if the owner/operator fails to reclaim the site as required and that any removal and reclamation costs incurred by the county will become a lien on the property and may be collected from the landowner in the same manner as property taxes.
- (9) Proof of continuous liability insurance in the minimum amount of five million dollars (\$5,000,000.00) per occurrence shall be submitted to Trempealeau County indicating coverage for potential damages or injury to landowners, occupants, or other third parties.
- (10) There shall be a timeline set prior to the construction phase of the project with a starting and ending date when the construction project will be completed.
- (11) Evidence of compliance with FAA, DNR, DOT, United States Fish and Wildlife Service requirements and Signal Interference and Microwave Frequency Interference requirements must be submitted by the Applicant to Trempealeau County.
- (12) A map shall be provided showing a proposed grid of any future Wind Energy Facilities being developed by the applicant to be located in Trempealeau County and surrounding counties.

- (13) A document for each Wind Turbine including an accompanying diagram or maps showing the shadow flicker projection for a calendar year, in relation to affected property, roads and residences shall be submitted with the permit application.
- (14) Access to a Facility and construction area shall be constructed and maintained following a detailed Erosion Control Plan in a manner designed to control erosion and provide maneuverability for service and emergency response vehicles.
- (15) If a Wind Turbine foundation is proposed in a bedrock area, a baseline of all wells and certified public drinking sources in a ½ mile radius shall be established and permanent remedies shall be the responsibility of the developer if contamination occurs.
- (16) If an area where Wind Turbines are planned is identified by the Fish and Wildlife Service to house a significant population of Bald or Golden Eagles a monopole tubular type tower shall be used instead of Lattice type towers.
- (17) Setbacks: The following setbacks and separation requirements shall apply to Commercial Wind Turbines.
 - (a) Public Roads: Each Wind Turbine shall be set back from the nearest public road and its right of way a distance no less than two (2) times its Total Height.
 - (b) Railroads: Each Wind Turbine shall be set back from all railroads and their right of way a distance of no less than two (2) times its Total Height.
 - (c) Wind Turbine spacing: Each Wind Turbine shall have a separation distance from other Wind Turbines equal to one and two-tenths (1.2) times the total height of the tallest Wind Turbine.
 - (d) Communication and electrical lines: Each Wind Turbine shall be set back from the nearest above-ground public electric power line or telephone line a distance no less than two (2) times its Total Height.
 - (e) Inhabited structures: Each Wind Turbine shall be set back from the nearest structure used as a residence, school, hospital, church, place of employment or public library, a distance no less than one (1) mile, unless mitigation has taken place and agreed by owner/operator and affected property owners involved and recorded in the Trempealeau County Register of Deeds office which describes the benefited and burdened properties and which advises all subsequent owners of the burdened property.
 - (f) Property lines: Each Wind Turbine shall be set back from the nearest property line a distance no less than one-half (½) mile, unless mitigation has taken place and agreed by owner/operator and affected property owners involved, and recorded in the Trempealeau County Register of Deeds office which describes the benefited and burdened properties and which advises all subsequent owners of the burdened property.

- (g) From any wetland, water body, environmental significant or scenic area, each Wind Turbine total height shall have a minimum setback of two (2) times its total height or one thousand (1,000) feet which ever is greater.
 - (h) From any historical, cultural and archeological resource area, each Wind Turbine shall have a minimum setback of two (2) times its Total Height or one thousand (1,000) feet which ever is greater.
 - (i) Any new proposed residences, schools, hospitals, churches, public libraries, or place of employment, shall apply for a conditional use permit if they are to be located in the required set back area stated in section 17 (e) Inhabited structures.
 - (j) Unless owned by the applicant, no parcel of real estate shall be subject to shadow flicker from a Wind Turbine unless mitigation has taken place and agreed by the owner/operator and affected property owners involved and recorded in the Trempealeau County Register of Deeds office which describes the benefited and burdened properties and which advises all subsequent owners of the burdened property that shadow flicker may exist at times on or at the burdened property.
 - (k) There shall be a two (2) mile Setback from any recognized U.S. Fish and Wildlife Refuge located in Trempealeau County.
- (18) Noise: Audible Sound (Audible Noise) emitted during the operation of any Wind Energy Facility or individual Wind Turbine (includes Commercial Wind Turbines, Personal Wind Turbines and Hobbyist Wind Turbines) is limited to the standards set forth in this provision. Testing procedures are provided in Appendix A of this Ordinance.
- a) Audible Noise due to Wind Energy Facility or Wind Turbine operations shall not exceed the lesser of five (5) decibels (dBA) increase over the existing background noise level (L_{90}) or exceed forty (40) decibels (dBA) for any period of time, when measured at any structure used as a residence, school, hospital, church, place of employment, or public library existing on the date of approval of any Wind Energy Facility Siting Permit or Wind Turbine permit. All measurements shall be taken using procedures meeting American National Standard Institute Standards including: ANSI S12.18-1994 (R 2004) American National Standard Procedures for Outdoor Measurement of Sound Pressure Level, and (ANSI) S12.9-Parts 1-5:
 - Part 1: American National Standard Quantities and Procedures for Description and Measurement of Environmental Sound
 - Part 2: Measurement of Long-Term, Wide-Area Sound
 - Part 3: Short-Term Measurements with an Observer Present
 - Part 4: Noise Assessment and Prediction of Long-Term Community Response
 - Part 5: Sound Level Descriptors for Determination of Compatible Land Use

Measurements must be taken with qualified acoustical testing instruments meeting ANSI Type 1 standards, and Class 1 filters. The windscreen recommended by the instrument's manufacturer must be used and measurements conducted only when wind speeds are ten (10) miles per hour (mph) or less. The microphone must be located at a height of one and two-tenths (1.2) to one and one-half (1.5) meters from the ground.

- b) In the event Audible Noise due to Wind Energy Facility or Wind Turbine operations contains a steady Pure Tone, including, but not limited to, a whine, screech, or hum, the standards for audible noise set forth in subparagraph (a) of this subsection shall be reduced by five (5) dBA. A Pure Tone is defined to exist when the one-third (1/3) octave band sound pressure level in the band, including the tone, exceeds the arithmetic average of the sound pressure levels on the two (2) contiguous one-third (1/3) octave bands by five (5) dBA for center frequencies of five hundred (500) Hz and above, and eight (8) dBA for center frequencies between one hundred sixty (160) Hz and four hundred (400) Hz, or by fifteen (15) dBA for center frequencies less than or equal to one hundred twenty-five (125) Hz.

- c) In the event the Audible Noise due to Wind Energy Facility or Wind Turbine operations contains Repetitive Impulsive Sounds, the permitted sound pressure level for Audible Noise in 19(a) shall be reduced by five (5) dBA.

- d) In the event the Audible Noise due to Wind Energy Facility or Wind Turbine operations contains both a Pure Tone and Repetitive Impulsive Sounds, the permitted sound pressure level for Audible Noise in 19(a) shall be reduced by seven (7) dBA.

- e) No low frequency sound or infrasound due to Wind Energy Facilities or Wind Turbine Operations shall be created which causes the sound pressure level at any existing residence, school, hospital, church, place of employment, or public library within a one (1) mile radius from any Wind Turbine to exceed the following limits:

TABLE 19.e.1

Band No.	1/3 Octave Band Center Frequency (HZ)	Limits for 1/3 Octave Bands	Limits for 1/1 Octave Bands
1	1.25 and below	65	
2	1.6	65	
3	2	65	70
4	2.5	65	
5	3.15	65	
6	4	65	70
7	5	65	
8	6.3	65	
9	8	65	70

10	10	65	
11	12.5	61	
12	16	61	65
13	20	61	
14	25	60	
15	31.5	58	63
16	40	58	
17	50	58	
18	63	55	61
19	80	53	
20	100	52	
21	125	50	55

- f) A Wind Energy Facility or Wind Turbine operation that emits sound or causes structural or human body vibration with strong low-frequency content where the time-average C-weighted sound level exceeds the A-weighted sound level by at least 20 dB when measured inside a structure and adversely affects the subjective habitability or use of any existing residence, school, hospital, church, place of employment, or public library or other sensitive noise receptor shall be deemed unsafe and shall be shut down immediately. Exceeding any of the limits in Table 19.e.1 shall also be evidence that the Wind Energy Facility or Wind Turbine operation is unsafe and shall be shut down immediately.
- g) Prior to approval, developers of a Commercial Wind Turbine operation or Commercial Wind Energy Facility shall submit a Pre-construction Background Noise Survey with measurements for each residence, school, hospital, church, place of employment, or public library within one (1) mile of the proposed development. The Background Noise Survey shall be conducted in accordance with the procedures provided in Appendix A of this Ordinance, showing background sound levels (L_{90}) and 1/1 or 1/3 octave band sound pressure levels (L_{90}) during the quietest periods of the day and night over a reasonable period of time (not less than 10 minutes of sampling). The Pre-construction Background Noise Survey shall be conducted at the Applicant's expense by an independent noise consultant contractor acceptable to the Trempealeau County Zoning Department.
- h) Prior to approval, developers of a Commercial Wind Energy Facility or Commercial Wind Turbine operation shall provide additional information regarding the make and model of the turbines, Sound Power Levels (L_w) for each octave band from the Blade Passage Frequency up through 10,000 Hz, and a Sound Impact Study with results reported on a contour map projection showing the predicted sound pressure levels in each of those octave bands for all areas up to one (1) mile from any Commercial Wind Turbine or Commercial Wind Energy Facility for the wind speed and direction that would result in the worst case Wind Energy Facility sound emissions. The Sound Impact Study may be made by a computer modeling, but shall include a description of the assumptions made in the model's construction and algorithms. If the model does not consider the effects of

wind direction, geography of the terrain, and the effects of reinforcement from coherent sounds or tones from the turbines, these shall be identified and other means shall be used to adjust the model's output to account for these factors. The Sound Impact Study results shall be displayed as a contour map of the predicted levels, but shall also include a data table showing the predicted levels at any existing residence, school, hospital, church, public library, or place of employment within the model's boundaries. The predicted values shall include dBA values and shall also include the non-weighted octave band levels in the data tables. The Sound Impact Study shall be conducted at the Applicant's expense by an independent noise consultant contractor acceptable to the Trempealeau County Zoning Department.

- i) Operators of a Commercial Wind Energy Facility or Commercial Wind Turbine operation shall submit a Post-construction Sound and Vibration Measurement Study conducted for each Commercial Wind Turbine or Commercial Wind Energy Facility according to the procedures provided in Appendix A of this Ordinance within twelve (12) months of the date that the project is fully operational to demonstrate compliance with the noise limitations in Section 19(a). The study shall be conducted at the wind energy facility owner/operator's expense by a noise consultant contractor acceptable to the Trempealeau County Zoning Department.
- j) The Committee may impose a noise setback that exceeds the other setbacks set out in this Ordinance or require waivers from affected property owners and persons in legal possession acceptable to the Committee if it deems that greater setbacks are necessary to protect the public health and safety, or if the proposed wind energy facility is anticipated to exceed the levels set forth in Section 19(a) at any existing residence, school, hospital, church, place of employment, or public library.
- k) Any noise level falling between two (2) whole decibels shall be deemed the higher of the two.
- l) If the noise levels resulting from the Commercial Wind Turbine or Commercial Wind Energy Facility exceed the criteria listed above, a waiver to said levels may be granted by the Committee provided that express written consent from all affected property owners and persons in legal possession has been obtained stating that they are aware of the noise limitations imposed by this Ordinance, and that consent is granted to allow noise levels to exceed the maximum limits otherwise allowed. If the applicant wishes the waiver to apply to succeeding owners of the property, either a permanent noise impact easement or easement for the life of the wind turbine shall be recorded in the Trempealeau County Register of Deeds' office which describes the benefited and burdened properties and which advises all subsequent owners of the burdened property that noise levels in excess of those permitted by this Ordinance may exist at the burdened property.

- m) A Noise Study may be conducted at the expense of a Commercial Wind Energy Facility or a Wind Turbine (Commercial, Personal or Hobbyist) Owner/Operator by an independent noise consultant contractor acceptable to the Trempealeau County Zoning Department if two (2) or more complaints are received and documented at a particular site. The study shall be conducted according to the procedures provided in Appendix A of this Ordinance for any sites where the complaints were documented. The Operator shall reimburse the County for the Noise Study expense within ten (10) days of billing. Failing to reimburse may be a basis for revoking a permit.
- (19) Minimum Ground Clearance: The blade tip of a Commercial Wind Turbine shall, at its lowest point, have ground clearance of no less than seventy-five (75) feet. The blade tip of a personal and hobbyist Wind Turbine shall, at its lowest point, have ground clearance of no less than fifteen (15) feet.
 - (20) Signal Interference and Microwave Frequency Interference: The owner/operator shall minimize any interference with electromagnetic communications, such as radio, telephone or television signals caused by any Wind Energy Facility or Turbine. (If the applicant is a public utility, s. PSC 113.0707 also applies).
 - (a) A one thousand (1,000) feet microwave communication corridor between turbines must be maintained if the turbine facility is located between transmission towers.
 - (b) Communication tower – Wind turbine setback shall be at least one (1) mile to prevent signal interference.
 - (c) Emergency communication towers will be located on a Geographical Information System (GIS) map so turbine facilities can be properly planned to avoid conflict with Trempealeau County Emergency Services.
- 21.07 Setbacks: The following setbacks and separation requirements shall apply to Hobbyist and Personal Wind Turbines.
- (a) Public Roads: Each Wind Turbine shall be set back from the nearest public road and its right of way a distance no less than two (2) times its Total Height.
 - (b) Railroads: Each Wind Turbine shall be set back from all railroads and their right of way a distance of no less than two (2) times its Total Height.
 - (c) Wind Turbine spacing: Each Wind Turbine shall have a separation distance from other Wind Turbines equal to one and two-tenths (1.2) times the total height of the tallest wind turbine.
 - (d) Communication and electrical lines: Each Wind Turbine shall be set back from the nearest above-ground public electric power line or telephone line a distance no less than two (2) times its Total Height.

- (e) Property lines: Each Wind Turbine shall be set back from the nearest property line a distance no less than three (3) times its Total Height, unless mitigation has taken place and agreed by owner/operator and affected property owners involved and recorded in the Trempealeau County Register of Deeds office which describes the benefited and burdened properties and which advises all subsequent owners of the burdened property.

21.08 Miscellaneous Safety Requirements for Commercial and Personal Wind Turbines

- (1) All wiring between Wind Turbines and the Wind Energy Facility substation shall be underground.

(a) All neutral grounding connectors from Commercial Wind Turbines shall be insulated from the earth and shall be sized to accommodate at least twice the peak load of the highest phase conductor, to absolutely prevent transient ground currents, in order to comply with the **National Electric Safety Code** and the **IEEE Standard 519-1992, approved by the American National Standards Institute**, as follows:

Grounding of both the electrical transmission lines and the supply lines to the internal electrical systems of the turbines themselves, shall comply with **Rule 92D, Current in Ground Conductors**: “Ground connector shall be so arranged that under normal circumstances, there will be no objectionable flow of current over the grounding conductor.”

Rule 215B: [It is not permissible] “to use the earth as a part of a supply circuit.”

Under no circumstances shall any Wind Turbine be connected directly to the grid; connection must be made through a substation or transformer properly grounded and filtered to keep harmonic distortion within recommended limits.

Bare, concentric neutrals are specifically prohibited in buried lines between turbines and in underground transmission lines to substations.

- (2) Wind Turbine towers shall not be climbable up to fifteen (15) feet above ground level.
- (3) All access doors to Wind Turbine towers and electrical equipment shall be lockable and locked when unattended.
- (4) Appropriate warning signage shall be placed on Wind Turbine towers, electrical equipment, and Wind Energy Facility entrances.

21.09 Fee Schedule

- (1) The permit application is required for a Hobbyist Wind Turbine. No fee or bond amount is required.

- (2) The Conditional Use Permit application fee for a Personal Wind Turbine shall be two hundred twenty-five dollars (\$225.00). No bond amount is required.
- (3) For a Wind Energy Facility the application fee is five hundred dollars (\$500.00) per turbine. The amount of the bond required will be based on the number of turbines and the estimated cost to remove the Wind Turbine, including to a point three (3) feet below grade.

21.10 Validity

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

Chapter 21 - Appendix A

Trempealeau County Measurement Protocol for Sound and Vibration Assessment of Proposed and Existing Wind Energy Conversion Systems

Introduction

The potential sound and vibration impact associated with the operation of wind powered electric generators, including Wind Energy Facilities and Wind Turbine operations, is a primary concern for citizens living near proposed Wind Energy Conversion Systems (“WECS”). This is especially true of projects located near homes, residential neighborhoods, schools, hospitals, churches, places of employment and public libraries. Determining the likely sound and vibration impacts is a highly technical undertaking and requires a serious effort in order to collect reliable and meaningful data for both the public and decision makers.

This protocol is based in part on criteria published in the Standard Guide for Selection of Environmental Noise Measurements and Criteria.¹ and the Public Service Commission of Wisconsin publication Measurement Protocol for Sound and Vibration Assessment of Proposed and Existing Electric Power Plants (February 2002).² The purpose is to first establish a consistent and scientifically sound procedure for estimating existing ambient (background) sound and vibration levels in a project area, and second to determine the likely impact that operation of a new wind energy conversion system project will have on the existing sound and vibration environment.

The characteristics of the proposed WECS project and the features of the surrounding environment will influence the design of the sound and vibration study. Site layout, types of wind energy conversion units (“WECU”) selected and the existence of the significant local sound and vibration sources and sensitive receptors shall be taken into consideration when designing a sound and vibration study. An independent, qualified consultant shall be required to conduct the sound and vibration study.

Note: Trempealeau County Zoning Department Administration shall be consulted prior to conducting any sound and vibration measurements. These guidelines may be modified (with express written approval of the County Zoning Department) to accommodate unique site characteristics. Consult with Zoning Department staff assigned to the project for guidance on study design before beginning any sound and vibration study. During consultation, good quality maps or diagrams of the site are necessary. Maps and diagrams shall show the proposed project area layout and boundaries⁵, and identify important landscape features as well as significant local sound and vibration sources and sensitive receptors including, but not limited to, a residence, school, hospital, church, place of employment, or public library.

Measurement of the Existing Sound and Vibration Environment

An assessment of the proposed WECS project area's existing sound and vibration environment is necessary to predict the likely impact resulting from a proposed project. The following guidelines shall be used in developing a reasonable estimate of an area's existing sound and vibration environment. All testing shall be performed by an independent acoustical testing engineer approved by the Trempealeau County Zoning Department. All measurements shall be conducted with industry certified testing equipment.⁴ All test results shall be reported to the Trempealeau County Zoning Department.

Sites with No Existing Wind Energy Conversion Units

Sound level measurements shall be taken as follows:

1. At all properties within the proposed WECS project boundaries⁵
2. At all properties within a one mile radius of the proposed WECS project boundaries⁵.
3. One test must be performed during each season of the year.
 - a. Spring (March 15 – May 15)
 - b. Summer (June 1 – September 1)
 - c. Fall (September 15- November 15)
 - d. Winter (December 1- March 1)
4. All measurement points (MPs) shall be located in consultation with the property owner(s) and such that no significant obstruction (building, trees, etc.) blocks sound and vibration from the site.
5. Duration of measurements shall be a minimum of ten continuous minutes for each criterion (See Item 9 below) at each location.
6. One set of measurements shall be taken during each of the following four periods:
 - a. Morning (6 - 8 a.m.)
 - b. Midday (12 noon – 2 p.m.)
 - c. Evening (6 – 8 p.m.)
 - d. Night (10 p.m. – 12 midnight)
7. Sound level measurements must be made on a weekday of a non-holiday week.
8. Measurements must be taken at 6 feet above the ground and at least 15 feet from any reflective surface³.
9. For each MP and for each measurement period, provide each of the following measurement criteria:
 - a. Unweighted octave-band analysis (16², 31.5, 63, 125, 250, 500, 1K, 2K, 4K, and 8K Hz)
 - b. L_{ave}, L₁₀, L₅₀, and L₉₀, in dBA
 - c. L_{ave}, L₁₀, L₅₀, and L₉₀, in dBC
 - d. A narrative description of any intermittent sounds registered during each measurement
 - e. Wind speed at time of measurement
 - f. Wind direction at time of measurement
 - g. Description of the weather conditions during the measurement

10. Provide a map and/or diagram clearly showing:
 - a. The layout of the project area, including topography, the project boundary lines⁵, and property lines
 - b. The locations of the MPs
 - c. The minimum and maximum distance between any MPs
 - d. The location of significant local sound and vibration sources
 - e. The distance between all MPs and significant local sound and vibration sources
 - f. The location of all sensitive receptors including but not limited to, a residence, school, hospital, church, place of employment, or public library.

Sites with Existing Wind Energy Conversion Units

Two complete sets of sound level measurements must be taken as defined below:

One set of measurements with the wind generator(s) off.

One set of measurements with the wind generator(s) running.

Sound level measurements shall be taken as follows:

1. At all properties within the proposed WECS project boundaries⁵
2. At all properties within a one mile radius of the proposed WECS project boundaries⁵.
3. One test must be performed during each season of the year.
 - a. Spring (March 15 – May 15)
 - b. Summer (June 1 – September 1)
 - c. Fall (September 15- November 15)
 - d. Winter (December 1- March 1)
4. All measurement points (MPs) shall be located in consultation with the property owner(s) and such that no significant obstruction (building, trees, etc.) blocks sound and vibration from the site.
5. Duration of measurements shall be a minimum of ten continuous minutes for each criterion (See Item 9 below) at each location.
6. One set of measurements shall be taken during each of the following four periods:
 - a. Morning (6 - 8 a.m.)
 - b. Midday (12 noon – 2 p.m.)
 - c. Evening (6 – 8 p.m.)
 - d. Night (10 p.m. – 12 midnight)
7. Sound level measurements must be made on a weekday of a non-holiday week.
8. Measurements must be taken at 6 feet above the ground and at least 15 feet from any reflective surface³.
9. For each MP and for each measurement period, provide each of the following measurement criteria:
 - a. Unweighted octave-band analysis (16², 31.5, 63, 125, 250, 500, 1K, 2K, 4K, and 8K Hz)
 - b. L_{ave}, L₁₀, L₅₀, and L₉₀, in dBA
 - c. L_{ave}, L₁₀, L₅₀, and L₉₀, in dBC
 - d. A narrative description of any intermittent sounds registered during each measurement

- e. Wind speed at time of measurement
 - f. Wind direction at time of measurement
 - g. Description of the weather conditions during the measurement
10. Provide a map and/or diagram clearly showing:
- a. The layout of the project area, including topography, the project boundary lines⁵, and property lines
 - b. The locations of the MPs
 - c. The minimum and maximum distance between any MPs
 - d. The location of significant local sound and vibration sources
 - e. The distance between all MPs and significant local sound and vibration sources
 - f. The location of all sensitive receptors including but not limited to, a residence, school, hospital, church, place of employment, or public library.

Sound Level Estimate for Proposed Wind Energy Conversion System

In order to estimate the sound and vibration impact of the proposed WECS project on the existing environment an estimate of the sound and vibration produced by the proposed WECU(s) must be provided.

1. The manufacturer's sound level characteristics for the proposed WECU(s) operating at full load. Include an unweighted octave-band (16⁴, 31.5, 63, 125, 250, 500, 1K, 2K, 4K, and 8K Hz) analysis for the WECU(s) at full operation for distances of 500, 1000, 1500, 2000, 2500 feet from the WECU(s).
2. Estimate the sound levels for the proposed WECU(s) in dBA and dBC at distances of 500, 1000, 1500, 2000, 2500 feet from the WECU(s). For projects with multiple WECU's, the combined sound level impact for all WECU's operating at full load must be estimated.
3. Provide a contour map of the expected sound level from the new WECU(s), using 5dBA increments created by the proposed WECU(s) extending out to a distance of at least 5,280 feet (one mile).
4. Determine the impact of the new sound and vibration source on the existing environment. For each MP used in the ambient study (note the sensitive receptor MPs):
 - a. Report expected changes to existing sound levels for L_{ave} , L_{10} , L_{50} , and L_{90} , in dBA
 - b. Report expected changes to existing sound levels for L_{ave} , L_{10} , L_{50} , and L_{90} , in dBC
 - c. Report all assumptions made in arriving at the estimate of impact and any conclusions reached regarding the potential effects on people living near the project area.
5. Include an estimate of the number of hours of operation expected from the proposed WECU(s) and under what conditions the WECU(s) would be expected to run.

Post-Construction Measurements

1. Within twelve months of the date when the project is fully operational, and within two weeks of the anniversary date of the Pre-construction ambient noise measurements, repeat the existing sound and vibration environment measurements taken before the project approval. Post-construction sound level measurements shall be taken both with all WECU running and generating power, and with all WECU off.
2. Report post-construction measurements to the Trempealeau County Zoning Department (available for public review) using the same format as used for the Pre-approval sound and vibration studies.

¹ Standard Guide for Selection of Environmental Noise Measurements and Criteria (Designation E 1686-96). July 1996. American Society for Testing and Measurements.

² Measurement Protocol for Sound and Vibration Assessment of Proposed and Existing Electric Power Plants. February 2002. Public Service Commission of Wisconsin.

³ Environmental Noise Guidelines: Wind Farms. (ISBN 1 876562 43 9). February 2003. Environment Protection Authority, Adelaide SA.

⁴ The Trempealeau County Zoning staff acknowledges that few sound level meters are capable of measurement of the 16 Hz center frequency octave band. However, because noise complaints from the public most likely involve low frequency noise associate with proposed WECS, we encourage applicants to pursue the collection of this important background noise data. If obtaining the 16 Hz data presents a problem contact Trempealeau County Zoning staff prior to collection of any field ambient measurement data.

⁵ Project Boundary: A continuous line encompassing all WECU's and related equipment associated with the WECS project.