

Town of Barton, WI
Thursday, February 2, 2023

Chapter 500. Zoning

[HISTORY: Adopted by the Town Board of the Town of Barton 7-10-1995. Amendments noted where applicable.]

GENERAL REFERENCES

Comprehensive Plan — See Ch. **224**.

Driveways and culverts — See Ch. **239**.

Erosion control and stormwater management — See Ch. **256**.

Impact fees — See Ch. **310**.

Land division — See Ch. **340**.

Mobile homes and mobile home parks — See Ch. **366**.

Signs — See Ch. **428**.

ATTACHMENTS

Attachment 1 - Table 1, Residential Development Standards 

Attachment 2 - Table 2, Nonresidential Development Standards 

Attachment 3 - Table 3, Worksheets 

Attachment 4 - Table 4, Permitted and Special Uses in Residential Districts 

Attachment 5 - Table 5, Permitted and Special Uses in Nonresidential Districts 

Attachment 6 - Table 6, Off-Street Parking and On-Site Queuing Requirements 

Attachment 7 - Table 7, Minimum Required Intensity Values of Peripheral Buffer Yards Between Zoning Districts 

Part 1. Introduction

Article I. General Provisions

§ 500-1. Statutory authority.

These regulations are adopted under the authority granted by §§ 60.62, 61.35, and 62.23(7), Wis. Stats., and amendments thereto.

§ 500-2. Title.

This chapter shall be known as, referred to or cited as the "Zoning Ordinance, Town of Barton, Wisconsin."

§ 500-3. Purpose.

The purpose of this chapter is to promote the health, safety, morals, prosperity, aesthetics, and general welfare of the Town of Barton, Washington County, Wisconsin.

§ 500-4. Intent.

It is the general intent of this chapter to regulate and restrict the use of all structures, lands, and waters so as to:

- A. Regulate and restrict lot coverage and the size and location of all structures so as to prevent overcrowding and to provide adequate sunlight, air, sanitation, and drainage;
- B. Regulate population density and distribution so as to avoid sprawl or undue concentration and to facilitate the provision of adequate public service and utilities;
- C. Regulate parking, loading, and access so as to lessen congestion on, and promote the safety and efficiency of, the streets and highways;
- D. Secure safety from fire, flooding, pollution, contamination, panic, and other dangers;
- E. Stabilize and protect existing and potential property values;
- F. Encourage compatibility between different land uses and protect the scale and character of existing development from the encroachment of incompatible development;
- G. Further the wise use, conservation, protection, and proper development of the Town's natural resources, including soils, topography and steep slopes, water, floodlands, shorelands, drainageways, wetlands and shoreland wetlands, woodland and forests, and wildlife resource features and attain a proper adjustment of land use and development to the supporting and sustaining natural resource base;
- H. Preserve and protect the beauty of the Town of Barton, Wisconsin, and environs;
- I. Further the orderly layout and appropriate use of land;
- J. Prevent and control erosion, sedimentation, and other pollution of the surface and subsurface waters;
- K. Further the maintenance of safe and healthful water conditions;
- L. Prevent flood damage to persons and property and to minimize expenditures for flood relief and flood-control projects;
- M. Provide for and protect a variety of suitable commercial and industrial sites;
- N. Protect the traffic-carrying capacity of existing and proposed arterial streets, highways, and collector streets;
- O. Facilitate adequate provision for housing, transportation, water supply, stormwater, wastewater, schools, parks, playgrounds, and other public facilities and services;
- P. Restrict building sites in areas covered by poor soils or in other areas poorly suited for development due to natural resource features or other characteristics;
- Q. Implement those municipal, county, watershed, or regional comprehensive or master plans or their components adopted by the Town and in general facilitate enforcement of those development standards as set forth in the adopted regional, county, and municipal comprehensive master plans, master plan, Comprehensive Plan, neighborhood plans, planning district plans, adopted plan components, this chapter, and Building Code of the Town of Barton, Wisconsin;
- R. Provide for the administration and enforcement of this chapter; and
- S. Provide penalties for the violation of this chapter.

§ 500-5. Abrogation and greater restrictions.

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

§ 500-6. Interpretation.

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

§ 500-7. Severability.

- A. Part, division, section, provision, or portion of this chapter. If any part, division, section, provision, or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.
- B. Application of this chapter to a particular structure, land, or water. If an application of this chapter 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.

§ 500-8. Warning and disclaimer of liability.

The Town of Barton does not guarantee, warrant, or represent that only those areas delineated as floodlands, wetlands or drainageways from tests and/or mapping required by this chapter will be subject to periodic inundation, nor does the Town of Barton guarantee, warrant, or represent that the soils shown to be suited or unsuited for a given land use from tests and/or mapping required by this chapter are the only suited or unsuited soils within the jurisdiction of this chapter, and thereby asserts that there is no liability on the part of the Town of Barton, Town Board, Plan Commission, its agencies or contractors, or employees for flooding problems, sanitation problems, or structural damages that may occur as a result of reliance upon, and conformance with, this chapter.

§ 500-9. Preexisting permits.

- A. When new chapter shall apply. All work, structures, and uses authorized by permits issued prior to the effective date of this chapter or any amendment thereto shall not be affected by this chapter. Except as provided in Subsections **B**, **C** and **D** below of this section, no zoning permit or special use permit shall be issued following the effective date of this chapter or any amendment thereto unless the work, structure, or use for which the zoning permit or special use permit is sought is made to fully comply with the applicable provisions of this chapter or any such amendment thereto.

[1]

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- B. Right to complete construction pursuant to approved plans and permits. Nothing in this chapter, or any amendment thereto, shall be deemed to require any change in the plans, construction, or designated use of any structure if a building permit (also see Subsection **C** of this section) and/or certificate of occupancy for such structure was lawfully and properly issued prior to the effective date of this chapter, or any such amendment thereto, and such building permit and/or certificate of occupancy had not by its own terms expired prior to such effective date of this chapter, and construction pursuant to such permit is commenced prior to the expiration date of such permit.

- C. Building permits. Where a building permit for a building or structure has been issued in accordance with law prior to the effective date of this chapter, and provided that construction is begun within 90 days of such effective date and the exterior of the building or structure is completed within six months of such effective date, said building or structure may be completed in accordance with the approved plans on the basis of which the building permit has been issued and, further, may, upon completion, be occupied under a certificate of occupancy by the use for which originally designated, subject thereafter to the provisions of Article **XIII** of this chapter.
- D. Right to occupy as nonconformity. Upon completion pursuant to Subsections **B** and **C** of this section, such building or structure may be occupied by, and a zoning permit and/or certificate of occupancy shall be issued for, the use designated on such zoning permit and/or certificate of occupancy, subject thereafter, to the extent applicable, to the provisions of Article **XIII** of this chapter relating to nonconformities.

§ 500-10. Pending applications.

- A. When chapter shall apply. This chapter, and any amendment thereto, shall apply to all applications pending and not finally decided on the effective date thereof to which it would apply if such applications were filed on or after such effective date; provided, however, that nothing in this chapter shall be deemed to require any change in any preliminary subdivision plat, final subdivision plat, certified survey map, or condominium plat that has been submitted prior to such effective date and which preliminary subdivision plat, final subdivision plat, certified survey map, or condominium plat application shall be processed in accordance with the standards and requirements that were in effect on the date such application was filed; and provided further that this chapter shall not apply to any zoning variance application that was on file with the Town of Barton and complete in all material respects prior to such effective date, and which zoning variance application shall be processed in accordance with the standards and requirements that were in effect on the date such application was filed.
- B. Zoning administration. Within 30 days after the effective date of this chapter, or any amendment thereto, the Zoning Administrator shall inform each applicant to which this chapter applies that said application is subject to the provisions of this chapter (except pending applications for preliminary subdivision plats, final subdivision plats, certified survey maps, or condominium plats), as amended, and will be processed in accordance therewith; that the applicant may within 30 days after the mailing of such notice refile, without additional fee, its application on the basis of this chapter, as amended; and that if the applicant does not refile, its application may be denied for noncompliance with the provisions of this chapter, as amended.
- C. Duty of applicant. Notwithstanding the provisions of Subsection **B** of this section, it shall be the responsibility of each applicant having an application pending on the effective date of this chapter (except pending applications for preliminary subdivision plats, final subdivision plats, certified survey maps, or condominium plats), or any amendment thereto, to modify such application in accordance with the terms and provisions of this chapter, as amended, and the failure to do so, whether or not the procedures of said section have been followed, may result in the denial of such application for failure to comply with this chapter, as amended. Any modification or refiling of an application pending on such effective date in order to comply with the provisions of this chapter, as amended, shall be permitted at any time prior to the final disposition of such application and shall be permitted without payment of any additional fee.
- D. Processing of pending applications. Upon the refiling of any pending application as herein provided, or upon notification from the applicant that it will not refile or modify its application, or upon the expiration of 60 days after the effective date of this chapter or any amendment thereto, whichever occurs first, such pending application shall be processed in accordance with the terms of this chapter, as amended; provided, however, that the application requirements, hearing requirements, and procedural requirements set forth in Part **7** of this chapter shall not apply to any such pending application, and each application shall be processed in accordance with the application, hearing, and procedural requirements that were in effect on the date that such application was filed.

Notwithstanding any other provision of this section, the Zoning Administrator shall have the authority to request additional data, information, or documentation for pending applications when, in the Zoning Administrator's judgment, such additional data, information, or documentation is necessary or appropriate to a full and proper consideration and disposition of such pending application.

§ 500-11. Repealer.

The Town of Barton Zoning Ordinance adopted on March 25, 1986, and subsequent amendments thereto, relating to the zoning of land is hereby repealed, and all other ordinances or parts of ordinances of the Town of Barton inconsistent or conflicting with this chapter, to the extent of the inconsistency only, are hereby repealed.

Part 2. Scope; General Requirements

Article II. Scope

§ 500-12. Purpose.

The purpose of this article is to define the scope of this chapter.

§ 500-13. Jurisdiction.

The jurisdiction of this chapter shall apply to all structures, lands, water, and air within the corporate limits of the Town of Barton.

§ 500-14. Compliance.

- A. General compliance. No structure, development, land, water, or air shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, substantially improved, extended, enlarged, converted, or structurally altered without a building or zoning permit and without full compliance with the provisions of this chapter and all other local, county, and state regulations. In addition, the following general provisions shall be complied with:
- (1) Wisconsin Department of Natural Resources. Rules of the Wisconsin Department of Natural Resources, as amended, setting water quality standards for preventing and abating pollution and for regulating development within floodland, wetland, and shoreland areas.^[1]
[1] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).
 - (2) Comprehensive plans or master plans. Comprehensive or master plans, plans prepared by state, regional, county, or municipal agencies duly adopted by the Plan Commission, or components of such plans, as amended.
 - (3) All other applicable Town and county ordinances.^[2]
[2] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).
 - (4) Wisconsin Administrative Code. All applicable rules contained in the Wisconsin Administrative Code, as amended, not listed in this section.
 - (5) United States Army Corps of Engineers and United States Environmental Protection Agency. Rules of the United States Army Corps of Engineers and United States Environmental Protection Agency, as amended.

- (6) Americans with Disabilities Act (ADA) Accessibility Guidelines. The requirements of the "Americans with Disabilities Act (ADA) Guidelines for Buildings and Facilities," as documented in the Federal Register, Vol. 56, No. 144, July 26, 1991, as amended.
- (7) Other applicable federal and state laws and regulations. All other applicable federal and state laws and regulations, as amended.

B. Zoning compliance. The following specific zoning provisions shall be complied with:

- (1) Changes in structures or use. Except as may otherwise be provided in Article **XIII**, Nonconforming Buildings, Structures and Uses, all buildings erected hereafter, all uses of land or buildings established hereafter, all structural alterations or relocation of existing buildings occurring hereafter, and all enlargements of or additions to existing uses occurring hereafter, shall be subject to all regulations which are applicable to the zoning districts in which such buildings, uses, or land shall be located.
- (2) Nonconforming buildings, structures, and uses. Any lawfully established building, structure, or use existing at the time of enactment of this chapter may be continued, even though such building, structure, or use does not conform to the provisions of the zoning district in which it is located. Whenever a zoning district is changed thereafter, the then-existing lawful use may be continued, subject to the provisions of Article **XIII** of this chapter.
- (3) Site suitability. No land shall be used or structure erected where the land is held unsuitable for such use or structure by the Plan Commission by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, erosion susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics, and general welfare of this community. The Plan Commission, in applying the provisions of this chapter, shall, in writing, recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if so desired. Thereafter, the Plan Commission may affirm, modify, or withdraw its determination of unsuitability.
 - (a) Lots abutting public streets with inadequate street right-of-way dedication or improvements. No building permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width and located on that side thereof from which the required dedication has not been secured.
 - (b) Must meet private water and on-site sewage disposal system requirements. In any district where a public water supply or public sewage service is not available, each lot or dwelling unit shall be capable of meeting the requirements of Chs. SPS 383 and 385, Wis. Adm. Code, and Chapter 25, titled "Sanitary Code," of the Washington County Code, and any other applicable agency regarding the construction of an on-site sewage disposal system. In addition:
 - [1] Soil boring and percolation tests shall be made by or under the direction and control of an architect, engineer, land surveyor, or sanitarian registered in Wisconsin, or master plumber or master plumber restricted licensed in Wisconsin to install private sewage disposal systems.
 - [a] The person supervising the tests shall certify as to the correctness of procedure and results.
 - [b] Blank forms supplied by the Washington County Planning and Parks Department Administrator shall be used for reporting results and providing certification.
 - [2] Sufficient borings shall be made to portray adequately the character of the soil, groundwater levels, and depths to bedrock.
 - [a] The borings shall be distributed as uniformly as possible, and their locations shall be shown on a site plan, as required under the provisions of Article **XX** of this chapter.

- [b] The number of such tests initially made shall not be less than one test per three acres or one test per lot, whichever is greater.^[3]
 - [3] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
 - [c] When borings show marked variation in soil, depth to water or depth to bedrock, at least one boring per acre of area shall be made.
 - [d] All borings shall extend to a depth of five feet, unless bedrock is at a lesser depth.
 - [e] Where deep absorption systems are proposed, bore holes shall extend three feet below the expected depth of the absorption system.
- (c) Lots abutting more restricted district boundaries. Lots abutting more restricted district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting district and shall provide for buffer yards as are required under Article **XVIII** of this chapter. The street yards in the less restrictive district shall be modified for a distance of not more than 60 feet from the district boundary line so as to equal the average of the street yards required in both districts.
- (d) Land or lot divisions. All land divisions shall conform to the provisions of this chapter.

Article III. General Requirements

§ 500-15. Use and bulk regulations.

- A. Use. No building, structure, or land shall hereafter be used or occupied, and no building or part thereof, or other structure, shall be erected, raised, moved, reconstructed, extended, enlarged, or altered except in conformity with the regulations specified for the district in which it is located.
- B. Bulk. All new buildings and structures shall conform to the building regulations established for the district in which each building is located, except that parapet walls, chimneys, cooling towers, elevator bulkheads, fire towers, stacks, and necessary mechanical appurtenances shall be permitted to exceed the maximum height provisions when erected in accordance with all other ordinances of the Town of Barton. (Also see Article **XII** of this chapter.)

§ 500-16. Lot coverage.

All new buildings, structures, and off-street parking and loading areas shall conform to the various lot coverage regulations set forth in this chapter.

- A. Maintenance of yards, courts, and other open spaces. The maintenance of yards, courts, and other open space and minimum lot area required under the provisions of this chapter for a building shall be a continuing obligation of the owner of such building or of the property on which it is located as long as the building is in existence. Furthermore, no legally required yards, courts, or other open space or minimum lot area allocated to any building shall, by virtue of change of ownership or for any other reason, be used to satisfy yard, court, other open space, or minimum lot area requirements of any other building.
- B. Division of zoning lots. No improved zoning lot shall be divided into two or more zoning lots unless all improved zoning lots resulting from each division conform with all the applicable bulk regulations of the zoning district in which the property is located. However, with respect to the resubdivision of improved zoning lots in R-9 and R-10 Residential Districts, side yard requirements shall not apply between attached buildings.

- C. Location of required open space. All yards, courts, and other open spaces allocated to a building or dwelling group shall be located on the same zoning lot as such building or dwelling group.
- D. Required yards for existing buildings. No yards, now or hereafter provided for an existing building, shall subsequently be reduced below, or further reduced below, if already less than, the minimum yard requirements of the district in which it is located. (Also see § 500-164 of this chapter regarding variances.)
- E. Permitted obstructions in required yards. The following are not considered to be obstructions when located in the required yards specified:
 - (1) In all yards. Handicapped ramps; open terraces not over four feet above the average level of the adjoining ground, but not including a permanently roofed-over terrace or porch; awnings and canopies; steps, four feet or less above grade, which are necessary for access to a permitted building or for access to a zoning lot from a street or alley; chimneys projecting 18 inches or less into the yard; recreational equipment; laundry-drying equipment; arbors and trellises; and flagpoles. Open fences having a height of six feet or less may be used to locate property lines within the required side or rear yards in the residential districts. Closed fences having a height of six feet or less shall be placed three feet from property lines within the required side or rear yards in the residential districts.
 - (2) In front yards. One-story bay windows projecting three feet or less into the front yard; overhanging eaves and gutters projecting three feet or less into the yard.
 - (3) In rear yards. Accessory garages, sheds, tool rooms, and similar buildings or structures for domestic or agricultural storage not less than five feet from a rear yard lot line; balconies; breezeways and open porches; one-story bay windows projecting three feet or less into the yard; overhanging eaves and gutters projecting three feet or less into the yard. In any residential district, no accessory building shall be constructed within 10 feet of a principal building on the same lot.
[Amended 11-1-1995 by Ord. No. 95-2]
 - (4) In side yards. No exceptions except as hereinbefore stated in Subsection **E(1)** of this section.

§ 500-17. Setback requirements.

Base setback lines are hereby established for all streets and highways in the Town of Barton as follows, unless otherwise specified by action of the Town Board:

- A. Setback from ultimate street and highway right-of-way line. On all streets or highways for which the ultimate width has been heretofore established by Washington County, the Town of Barton Comprehensive Plan (or component thereof), the Town Official Map, and/or subsequent amendments thereto to those documents, the base setback line shall be located at a distance from such established ultimate street and/or highway right-of-way line as prescribed by this chapter.
- B. Determination of average front yard setback in areas where greater than required front yard setback is provided. Where 40% or more of the frontage on one side of a street between two intersecting streets, or for a distance of 600 feet in each direction from the lot being considered, is developed with buildings that have a front yard greater in depth than herein required (with a variation of five feet or less), new buildings shall not be erected closer to the street than the average front yard so established by the existing buildings.
- C. Determination of average front yard setback in areas where less than required front yard setback is provided. Where 40% or more of the frontage on one side of a street between two intersecting streets, or for a distance of 600 feet in each direction from the lot being considered, is developed with buildings that have not observed a front yard as required herein, then:
 - (1) Where a building is to be erected within 100 feet of existing buildings on both sides, the minimum front yard shall be a line drawn between the closest front corners of the two existing

buildings.

- (2) Where a building is to be erected within 100 feet of an existing building on one side only, the minimum front yard shall be the average of the setback of the existing building and the setback required normally.
- D. Corner lot setbacks. Corner lot setback requirements on a side street shall meet the requirements set forth in this chapter. However, in no case shall a corner lot have a side setback on an abutting street of less than 75% of the required front yard setback on the frontage street.

§ 500-18. Access to public streets.

Except as otherwise provided herein, every lot less than 40,000 square feet in area shall front or abut for a distance of at least 40 feet on a dedicated public street. Every lot 40,000 square feet or greater in area shall front or abut for a distance of at least 66 feet on a dedicated public street, except all lots that abut a cul-de-sac shall abut no less than 45 feet. Access to public streets shall also meet all of those requirements set forth in Article **XVI** of this chapter and, where applicable, those requirements set forth under Chapter **340**, Land Division, of this Code and any other applicable Town of Barton ordinance.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

§ 500-19. Lot area and dimension.

- A. Contiguous parcels. When two or more parcels of land, each of which lacks adequate area and dimension to qualify for a permitted use under the requirements of the zoning district in which they are located, are contiguous and are held under one ownership, they shall be used as one zoning lot.
- B. Lots or parcels of land of record. Any single lot or parcel of land, held in one ownership, which is a lot of record and does not meet the requirements for minimum lot width and area, may be utilized for a permitted use, provided that yards, courts, or usable open spaces are not less than 75% of the minimum required dimensions or areas as required by this chapter.

§ 500-20. Principal buildings.

All principal buildings shall be located on a zoning lot, and only one principal building shall be located, erected, or moved onto a lot in the R-1, R-2, R-3, R-4, R-5, R-6, R-7, and R-8 Residential Zoning Districts. The Plan Commission may permit more than one principal building per lot other than in the above-stated zoning districts where more than one principal building is needed for the orderly development of the parcel. When additional structures are permitted, the Plan Commission may impose additional yard requirements, floor area ratio limitations, residential density requirements, land use intensity requirements, landscaping requirements or parking requirements or may require a minimum separation distance between principal buildings.

§ 500-21. Rezoning of public and semipublic areas.

An area indicated on the Town of Barton Official Zoning Map as a public park, public recreation area, public school site, cemetery, or other similar public or semipublic open space shall not be used for any other purpose than that designated. When the use of the specific area is discontinued, it shall be considered by the Town of Barton Plan Commission and Town Board for potential rezoning to a zoning district which is consistent with the land use district set forth for that area in the Town of Barton Comprehensive Plan.

§ 500-22. Hazard abatement.

The hazard abatement performance standards set forth in Article **XIV** of this chapter shall apply to all zoning districts.

§ 500-23. Existing special uses.

When a use is classified as a special use under this chapter and exists as either a permitted use or special use at the date of the adoption of this chapter, it shall be considered a legal use, without further action of the Town Board, the Zoning Administrator, or the Zoning Board of Appeals.

§ 500-24. Uses not specifically permitted.

When a use is not specifically listed as a permitted use, special use or accessory use, it shall be assumed that such a use is expressly prohibited, unless, by a written decision of the Plan Commission, it is determined that said use is similar to, and not a more measurably intense use than, the use listed.

§ 500-25. Unlawful acts.

It shall be unlawful to construct or use any structure, land, or water in violation of any of the provisions of this chapter. In case of any violation, the Town Board, the Plan Commission, the Town Attorney, the Zoning Administrator, or any property owner who would be specifically damaged by such violation may institute appropriate actions or proceedings to enjoin a violation of this chapter.

§ 500-26. Municipalities and state agencies regulated.

Unless specifically exempted by law, all cities, villages, towns, counties, and other municipal corporations are required to comply with this chapter and obtain all required permits. State agencies are required to comply as applicable.

Part 3. Zoning District Regulations

Article IV. Zoning Districts and Maps

§ 500-27. Establishment of districts.

[Amended 4-19-2011 by Ord. No. 11-001]

In order to carry out the purpose and provisions of this chapter, the Town of Barton is hereby divided into the following zoning districts:

Residential Districts:

- R-1 Rural Countryside Single-Family Residential District
- R-2 Countryside Single-Family Residential District
- R-3 Estate Single-Family Residential District
- R-4 Suburban Estate Single-Family Residential District
- R-5 Suburban Single-Family Residential District
- R-6 Transitional Urban to Suburban/Rural Residential District
- R-7 Urban Single-Family Residential District
- R-8 Hamlet and Waterfront Residential Neighborhood Conservation District

R-9 Medium-Density Urban Residential District

R-10 High-Density Urban Residential District

Business Districts:

NHB Neighborhood and Hamlet Business District

CB Community Business District

FB Freeway Interchange Business District

Industrial Districts:

LM Limited Manufacturing District

BP Business Park District

QE Quarrying and Extractive District

Public and Semipublic Districts:

I Institutional District

PR Park and Recreational District

Agricultural Districts:

EA Exclusive Agricultural Preservation District

AT Agricultural Transition District

GA General Agricultural District

HFA Hobby Farm Agricultural District

Special Districts:

PUD Planned Unit Development District

§ 500-28. Official Zoning Map.

The location and boundaries of the districts established by this chapter are set forth in the Official Zoning Map, dated July 10, 1995, and as amended, which is incorporated herein and hereby made a part of this chapter. The Official Zoning Map shall consist of a one inch equals 1,000 feet scale map of the Town of Barton, Wisconsin. This map, together with everything shown thereon, and all amendments thereto, shall be as much a part of this chapter as though fully set forth and described herein.^[1]

[1] *Editor's Note: The Official Zoning Map is on file at the office of the Town Clerk.*

§ 500-29. District boundaries.

When uncertainty exists with respect to boundaries of the various districts shown on the Zoning Map, the following rules shall apply:

A. General location of zoning district boundaries.

- (1) Zoning boundary determination. The zoning district boundaries are streets, alleys, railroads, lot lines, and streams, unless otherwise shown.
- (2) Zoning boundary determination for approximate boundaries. Where the designation of the Official Zoning Map indicates that various zoning districts are approximately bounded by a street, alley, railroad, lot line, or stream, such lot line or the center line of such street, alley, or railroad right-of-way, or center line of the main channel of such stream, shall be construed to be the zoning district boundary line.^[1]

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- (3) Split zoning of newly created lots not allowed. The split zoning of any newly created lot or parcel into more than one zoning district shall not be allowed.

- B. Zoning district boundary lines on unsubdivided property. In unsubdivided property, the location of the zoning district boundary lines shown on the Official Zoning Map shall be determined by the use of the scale on such map or shall be in accordance with the dimensions shown on the map measured at right angles from the center line of the street or highway, and the length of frontage shall be in accordance with dimensions shown on the map from section, quarter-section, or division lines, or center lines of streets, highways, or railroad rights-of-way, unless otherwise indicated.

§ 500-30. Streets, alleys, public ways, waterways and railroad rights-of-way.

All streets, alleys, public ways, waterways, and railroad rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting upon such alleys, streets, public ways, waterways, and railroad rights-of-way. Where the center line of a street, alley, public way, waterway, or railroad right-of-way serves as a district boundary, the zoning of such areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such center line.

§ 500-31. Zoning of detached land.

Any additions to the Town of Barton, resulting from disconnections from incorporated areas in Washington County, shall be automatically classified in the GA General Agricultural District until otherwise classified by amendment.

Article V. Residential Zoning Districts

§ 500-32. Purpose.

[Amended 3-3-2004 by Ord. No. 04-001]

This article sets forth detailed descriptions of the residential zoning districts and their respective dimensional and bulk regulations, requirements, and design standards. The various open space subdivision or open space condominium options indicated within some of the residential zoning districts are open space ratio, or OSR, driven. While the overall maximum gross density stays essentially the same within each residential zoning district for each option within a specific residential zoning district, as the minimum OSR increases, the maximum permitted net density increases. Under the conventional subdivision and other options presented for each residential zoning district, the site intensity and capacity calculations, as well as the natural resource protection standards and guidelines set forth in Articles **VIII** and **XV** of this chapter, shall be adhered to. The residential zoning districts are generally organized into a residential density hierarchy.

§ 500-33. R-1 Rural Countryside Single-Family Residential District.

- A. District intent. The R-1 District is intended to permit residential development at intensities that are consistent with the maintenance of a rural countryside character and lifestyle. It serves as a transitional district between the farmland areas and the countryside, estate, and suburban intensity areas of the Town. It is the most rural of the residential planned land use districts. It is intended to be served by on-site soil absorption sewage disposal systems (individual systems for conventional subdivisions and group systems for cluster/open space subdivisions or open space condominiums) and private wells.

[Amended 3-3-2004 by Ord. No. 04-001]

- B. District standards. The R-1 District is further intended to have the development standards as set forth in Table 1A at the end of this chapter. Those developments served by on-site sewage disposal systems must meet all requirements set forth under § 500-14 of this chapter.
- C. Permitted, accessory, and special uses. See § 500-66, Article X, § 500-72, and § 500-75 of this chapter.

§ 500-34. R-2 Countryside Single-Family Residential District.

- A. District intent. The R-2 District is intended to permit residential development at intensities that are consistent with the maintenance of a countryside character and lifestyle. It serves as a transitional district between the more rural areas, or rural countryside and farmland areas, and the more estate and suburban intensity areas of the Town. It is intended to be served by on-site soil absorption sewage disposal systems (individual systems for conventional subdivisions and group systems for cluster/open space subdivisions or open space condominiums) and private wells.
[Amended 3-3-2004 by Ord. No. 04-001]
- B. District standards. The R-2 District is further intended to have the development standards as set forth in Table 1B at the end of this chapter. Those developments served by on-site sewage disposal systems must meet all requirements set forth under § 500-14 of this chapter.
- C. Permitted, accessory, and special uses. See § 500-66, Article X, § 500-72, and § 500-75 of this chapter.

§ 500-35. R-3 Estate Single-Family Residential District.

- A. District intent. The R-3 District is intended to provide for estate-type housing on very large lots. It preserves and enhances the estate character of the district and surrounding areas and the attractiveness associated with such areas. The R-3 District may also be used as a transitional district located between residential districts of higher and lower intensity levels such as the R-2 and R-4 Districts. It is intended to be served by on-site soil absorption sewage disposal systems (individual systems for conventional subdivisions and group systems for cluster/open space subdivisions or open space condominiums) and private wells.
[Amended 3-3-2004 by Ord. No. 04-001]
- B. District standards. The R-3 District is further intended to have the development standards as set forth in Table 1C at the end of this chapter. Those developments served by on-site sewage disposal systems must meet all requirements set forth under § 500-14 of this chapter.
- C. Permitted, accessory, and special uses. See § 500-66, Article X, § 500-72, and § 500-75 of this chapter.

§ 500-36. R-4 Suburban Estate Single-Family Residential District.

- A. District intent. The R-4 District is intended to provide for suburban estate-type housing on large lots. It preserves and enhances the suburban estate character of the district and surrounding areas and the attractiveness associated with such areas. The R-4 District may also be used as a transitional district located between residential districts of higher and lower intensity levels such as the R-3 and R-5 Districts. It is intended to be served by on-site soil absorption sewage disposal systems (individual systems for conventional subdivisions and group systems for cluster/open space subdivisions or open space condominiums) and private wells.
[Amended 3-3-2004 by Ord. No. 04-001]
- B. District standards. The R-4 District is further intended to have the development standards as set forth in Table 1D at the end of this chapter. Those developments served by on-site sewage disposal systems must meet all requirements set forth under § 500-14 of this chapter.

- C. Permitted, accessory, and special uses. See § 500-66, Article X, § 500-72, and § 500-75 of this chapter.

§ 500-37. R-5 Suburban Single-Family Residential District.

- A. District intent. The R-5 District is intended to provide for a suburban residential development character in cluster/open space subdivisions or open space condominiums only. The R-5 District may also be used as a transitional district located between residential districts of higher and lower intensity levels such as the R-4 and R-6 Districts. It is intended to be served by on-site soil absorption sewage disposal systems (group systems) and private wells.
[Amended 3-3-2004 by Ord. No. 04-001]
- B. District standards. The R-5 District is further intended to have the development standards as set forth in Table 1E at the end of this chapter. Those developments served by on-site sewage disposal systems must meet all requirements set forth under § 500-14 of this chapter.
- C. Permitted, accessory, and special uses. See § 500-66, Article X, § 500-72, and § 500-75 of this chapter.

§ 500-38. R-6 Transitional Urban to Suburban/Rural Residential District.

- A. District intent. The R-6 District is intended to serve as a transitional residential district in cluster/open space subdivisions or open space condominiums only between areas of a lesser land use intensity and those of a higher land use intensity, such as between the urban areas of adjacent municipalities and the suburban and rural areas of the Town of Barton. It provides for the continuation of rural and suburban open space while, at the same time, allowing for the clustering and compact development of residential lots. The R-6 District may also be used as a transitional district between the less dense R-5 District and other higher density residential districts. It is intended to be served by on-site soil absorption sewage disposal systems (group systems) and private wells.
[Amended 3-3-2004 by Ord. No. 04-001]
- B. District standards. The R-6 District is further intended to have the development standards as set forth in Table 1F at the end of this chapter. Those developments served by on-site sewage disposal systems must meet all requirements set forth under § 500-14 of this chapter.
- C. Permitted, accessory, and special uses. See § 500-66, Article X, § 500-72, and § 500-75 of this chapter.

§ 500-39. R-7 Urban Single-Family Residential District.

- A. District intent. The R-7 District is the most dense of the single-family residential district types. It is intended to provide for the continuation of higher density, urban-type, single-family dwelling lots in areas of the Town of Barton. This district may also serve as a transitional district between areas of a lesser land use intensity and those of a higher land use intensity, such as between the urban areas of adjacent municipalities and the suburban and rural areas of the Town of Barton. It permits urban-type, single-family residential development in a manner consistent with the provision of a high-quality urban community character. Areas of open space may also be provided in this district in the amounts prescribed to maintain this character through the various cluster/open space subdivision or open space condominium options. The R-7 District may be used as a transitional district between the less dense residential districts and other higher density residential districts. This district may be served by either public sanitary sewer facilities (in either conventional or cluster/open space subdivisions or open space condominiums) or by on-site soil absorption sewage disposal systems

(group systems for cluster/open space subdivisions not served by public sanitary sewer) and private wells.

[Amended 3-3-2004 by Ord. No. 04-001]

- B. District standards. The R-7 District is further intended to have the development standards as set forth in Tables 1G and 1H at the end of this chapter. Those developments served by on-site sewage disposal systems must meet all requirements set forth under § 500-14 of this chapter.
- C. Permitted, accessory, and special uses. See § 500-66, Article X, § 500-72, and § 500-75 of this chapter.

§ 500-40. R-8 Hamlet and Waterfront Residential Neighborhood Conservation District.

- A. District intent. The R-8 District is intended to be used exclusively in existing residential subdivisions (minor and major including certified survey maps) located in the existing hamlets of the Town of Barton, such as Young America, as well as in the various waterfront areas of the Town. The R-8 District is not intended to be expanded into areas not already subdivided. The R-8 District is designed to minimize nonconforming and substandard lot sizes, as such lots would become if placed under more rural- or suburban-oriented land use (and ultimately zoning) classifications. The number of existing substandard lots is to be limited through the combination of abutting substandard lots into a single lot under the same ownership. This district also provides for the minor infilling of vacant or redevelopment areas consistent with this district and the established character of the neighborhood as defined by earlier approved subdivisions and certified survey maps. The district may be served by either public sanitary sewer facilities or by on-site soil absorption sewage disposal systems and private wells.
- B. District standards. The R-8 District is further intended to have the development standards as set forth in Table 1I at the end of this chapter. Those developments served by on-site sewage disposal systems must meet all requirements set forth under § 500-14 of this chapter.
- C. Permitted, accessory, and special uses. See § 500-66, Article X, § 500-72, and § 500-75 of this chapter.

§ 500-41. R-9 Medium-Density Urban Residential District.

- A. District intent. The R-9 District is the least dense of the two multifamily residential district types. The R-9 District is intended to permit medium-density, urban-type, multiple-family residential development at planned locations in a manner consistent with the provision of a high-quality, urban, community character. Areas of open space may also be provided to maintain this character. This district may be served by either public sanitary sewer facilities (in either conventional or cluster/open space options) or by on-site soil absorption sewage disposal systems (group systems for cluster/open space options not served by public sanitary sewer) and private wells. This district may serve as a transitional district between areas of a lesser land use intensity and those of a higher land use intensity, such as between the urban areas of adjacent municipalities and the suburban and rural areas of the Town of Barton. It may also be used as a transitional district between the R-8 and the R-10 Districts, the R-7 and R-10 Districts, and the R-6 and R-10 Districts.
- B. District standards. The R-9 District is further intended to have the development standards as set forth in Table 1J at the end of this chapter. Those developments served by on-site sewage disposal systems must meet all requirements set forth under § 500-14 of this chapter.
- C. Permitted, accessory, and special uses. See § 500-66, Article X, § 500-72, and § 500-75 of this chapter.

§ 500-42. R-10 High-Density Urban Residential District.

- A. District intent. The R-10 District is the most dense of the residential district types. The R-10 District is intended to permit high-density, urban-type, multifamily residential development in a manner consistent with the provision of a high-quality, urban character within a suburban setting. Areas of open space may also be provided to maintain this character. This district may be served by either public sanitary sewer facilities (in either conventional or cluster/open space subdivisions or open space condominiums) or by on-site soil absorption sewage disposal systems (group systems for cluster/open space subdivisions or open space condominiums not served by public sanitary sewer) and private wells. This district may serve as a transitional district between areas of a lesser land use intensity and those of a higher land use intensity, such as between the urban areas of adjacent municipalities and the urban, suburban, and rural areas of the Town of Barton. It may be used as a transitional district between the less dense R-9 District and other higher intensity commercial or institutional use districts with the provision of adequate landscape buffer yards.
[Amended 3-3-2004 by Ord. No. 04-001]
- B. District standards. The R-10 District is further intended to have the development standards as set forth in Tables 1K and 1L at the end of this chapter. Those developments served by on-site sewage disposal systems must meet all requirements set forth under § 500-14 of this chapter.
- C. Permitted, accessory, and special uses. See § 500-66, Article X, § 500-72, and § 500-75 of this chapter.

Article VI. Nonresidential Zoning Districts

§ 500-43. Purpose.

This article sets forth detailed descriptions of the nonresidential zoning districts and their respective dimensional and bulk regulations, requirements, and design standards. The nonresidential zoning districts are generally grouped as follows: business districts, industrial districts, public and semipublic districts, agricultural districts, special districts, and floodland districts.

§ 500-44. NHB Neighborhood and Hamlet Business District.

- A. District intent. The NHB Neighborhood and Hamlet Business District is established for the convenience of persons residing in nearby residential areas. The NHB District is limited to accommodating the basic day-to-day shopping and service needs of the residents living in the adjacent areas. It provides for an arrangement of retail trade establishments that are compatible in function and operation. Buildings constructed in the NHB District could be clustered on parcels of land under individual or multiple ownership. The NHB District may also be used in the hamlet of Young America. The requirements of the NHB District are further established to maintain the historic hamlet characteristics of Young America. The NHB District is designed to prevent land and structures in the aforementioned Young America hamlet from becoming nonconforming as they would if placed under different, more suburban-oriented, land use or zoning classifications. It also provides for the minor infilling of vacant or redevelopment areas within the Young America hamlet consistent with this planned land use district and the established character of Young America. The NHB District is further intended to permit future nonresidential development and redevelopment of the Young America hamlet consistent with earlier approved subdivisions and certified survey maps.
- B. District standards. The NHB District is further intended to have the development standards as set forth in Table 2A at the end of this chapter. Those developments served by on-site sewage disposal systems must meet all requirements set forth under § 500-14 of this chapter.
- C. Permitted, accessory, and special uses. See §§ 500-67, 500-68, 500-69 and 500-70, Article X, § 500-73, and Article XI.

§ 500-45. CB Community Business District.

- A. District intent. The CB Community Business District is intended to accommodate the needs of a much larger consumer population than served by the NHB District. It provides for relatively large groupings of two or more compatible retail sales and customer service establishments in a community-serving shopping area. Business establishments in the CB District have on-site parking for customer automobiles combined with a pedestrian-oriented shopping environment. Buildings could be clustered on parcels of land under individual or multiple ownership. In addition, all property in the CB District shall abut a United States, state trunk, or county trunk designated highway.
- B. District standards. The CB District is further intended to have the development standards as set forth in Table 2B at the end of this chapter. Those developments served by on-site sewage disposal systems must meet all requirements set forth under § 500-14 of this chapter.
- C. Permitted, accessory, and special uses. See §§ 500-67, 500-68, 500-69 and 500-70, Article X, § 500-73, and Article XI.

§ 500-46. FB Freeway Interchange Business District.

- A. District intent. The FB Freeway Interchange Business District is intended to accommodate business establishments and property located at the U.S. 45 and CTH D freeway interchange in the Town of Barton. The FB District is further established to accommodate a wide range of retail business and complementary uses to serve a trade area reaching out several miles or more and embracing a large segment of an urban, suburban, and rural region, including areas located outside of the Town of Barton and the West Bend area, as well as areas located outside of Washington County. Business establishments have on-site parking for customer automobiles. Buildings may be clustered on parcels of land under individual or multiple ownership.
- B. District standards. The FB District is further intended to have the development standards as set forth in Table 2C at the end of this chapter. Those developments served by on-site sewage disposal systems must meet all requirements set forth under § 500-14 of this chapter.
- C. Permitted, accessory, and special uses. See §§ 500-67, 500-68, 500-69 and 500-70, Article X, § 500-73, and Article XI.

§ 500-47. LM Limited Manufacturing District.

- A. District intent. The LM Limited Manufacturing District is intended to provide for manufacturing, industrial, warehousing, and uses of a limited nature and size in locations where the relative proximity to other uses requires more restrictive regulation. It may be used to accommodate existing scattered uses of an industrial nature so as not to make them nonconforming uses. The LM District is not intended to accommodate business parks under unified design and ownership which would be best accommodated under the BP Business Park District. The character of the LM District is suburban.
- B. District standards. The LM District is further intended to have the development standards as set forth in Table 2D at the end of this chapter. Those developments served by on-site sewage disposal systems must meet all requirements set forth under § 500-14 of this chapter.
- C. Permitted, accessory, and special uses. See §§ 500-67, 500-68, 500-69 and 500-70, Article X, § 500-73, and Article XI.

§ 500-48. BP Business Park District.

- A. District intent. The BP Business Park District is intended to provide for the development of the attractive grouping of office, manufacturing, industrial development, and limited ancillary service uses which serve the needs of the occupants of this district. Uses are of a limited intensity and provide an aesthetically pleasing environment. The BP District provides for ample off-street parking

and loading areas and landscape planting and screening of adjacent uses of a lower intensity. The BP District is further intended to be applied to areas of the Town of Barton identified for business park development by the Town of Barton Land Use Plan. It is to accommodate industrial or business parks which are under unified design and ownership and which exceed 20 acres in area.

- B. District standards. The BP District is further intended to have the development standards as set forth in Table 2E at the end of this chapter. Those developments served by on-site sewage disposal systems must meet all requirements set forth under § 500-14 of this chapter.
- C. Permitted, accessory, and special uses. See §§ 500-67, 500-68, 500-69 and 500-70, Article X, § 500-73, and Article XI.

§ 500-49. QE Quarrying and Extractive District.

- A. District intent. The QE Quarrying and Extractive District is intended to provide for the conduct of existing quarries or other mineral extractive and related operations. The QE District also provides for the restoration of quarries and extractive areas in a manner which will not deteriorate the natural environment. Although the operations which take place within the QE District can have a relatively high intensity with respect to trucking and blasting, due to the open space nature of its uses, it has an overall rural character.
- B. District standards. The QE District is further intended to have the development standards as set forth in Table 2F at the end of this chapter. Also see the design standards set forth in Article X of this chapter. Those developments served by on-site sewage disposal systems must meet all requirements set forth under § 500-14 of this chapter.
- C. Permitted, accessory, and special uses. See §§ 500-67, 500-68, 500-69 and 500-70, Article X, § 500-73, and Article XI.

§ 500-50. I Institutional District.

- A. District intent. The I Institutional District is intended to eliminate the ambiguity of maintaining, in unrelated planned land use districts, areas which are under public or public-related ownership and where the use for public, or quasi-public, purposes is anticipated to be permanent. The I District is intended to accommodate governmental uses, schools, churches, etc. The character of this district is suburban.
- B. District standards. The I District is further intended to have the development standards as set forth in Table 2G at the end of this chapter. Those developments served by on-site sewage disposal systems must meet all requirements set forth under § 500-14 of this chapter.
- C. Permitted, accessory, and special uses. See §§ 500-67, 500-68, 500-69 and 500-70, Article X, § 500-73, and Article XI.

§ 500-51. PR Park and Recreational District.

- A. District intent. The PR Park and Recreational District is intended to provide for areas where the recreational needs, both public and private, of the populace can be met without undue disturbance of natural resources and adjacent land uses and other adjacent zoning districts.
- B. District standards. This PR District is further intended to have the development standards as set forth in Table 2H at the end of this chapter. Those developments served by on-site sewage disposal systems must meet all requirements set forth under § 500-14 of this chapter.
- C. Permitted, accessory, and special uses. See §§ 500-67, 500-68, 500-69 and 500-70, Article X, § 500-73, and Article XI.

§ 500-52. EA Exclusive Agricultural Preservation District.

- A. District intent. The EA Exclusive Agricultural Preservation District is intended to provide for, maintain, preserve, and enhance agricultural lands historically utilized for food production and/or the raising of livestock. The EA District is further intent upon preventing the premature conversion of agricultural land to scattered urban and suburban uses such as residential, commercial, and industrial uses. The lands placed in the EA District are limited to those lands identified as primary farmlands on the adopted Washington County Farmland Preservation Plan, as amended. The EA District is further intended to retain the rural character of Town areas in which it is used.
[Amended 2-17-1998 by Ord. No. 98-03]
- B. District standards. The EA District is further intended to have the standards as set forth in Table 2I at the end of this chapter. Those developments served by on-site sewage disposal systems must meet all requirements set forth under § 500-14 of this chapter.
- C. Permitted, accessory, and special uses. See §§ 500-67, 500-68, 500-69 and 500-70, Article X, § 500-73, and Article XI.

§ 500-53. AT Agricultural Transition District.

- A. District intent. The AT Agricultural Transition District is intended to preserve existing agricultural uses for the intermediate term until an orderly transition to another planned district and use is approved by the Town Board. For this purpose, use of lands in the AT District should be reviewed at least once every five years, or more often when lands are proposed to be developed for urban and/or suburban uses in conformance with the Town-adopted Comprehensive Plan, or component thereof. Land included in the AT District should be those lands which are planned under the Town-adopted Comprehensive Plan, or component thereof, for nonagricultural land uses and where nonagricultural use is expected to occur during the Town-adopted Comprehensive Plan, or component thereof, planning period.
- B. District standards. The AT District is further intended to have the standards as set forth in Table 2J at the end of this chapter. Those developments served by on-site sewage disposal systems must meet all requirements set forth under § 500-14 of this chapter.
- C. Permitted, accessory, and special uses. See §§ 500-67, 500-68, 500-69 and 500-70, Article X, § 500-73, and Article XI.

§ 500-54. GA General Agricultural District.

- A. District intent. The GA General Agricultural District is intended to provide for, maintain, preserve, and enhance agricultural lands historically utilized for crop production but which are not included within the EA Exclusive Agricultural Preservation District and which are generally best suited for smaller farm units, including truck farming, horse farming, hobby farming, orchards, and other similar agricultural-related activity. The overall intent of the GA District is to retain the rural character of areas of the Town of Barton in which the GA District is used. The GA District may also be used as a transitional district between the EA Exclusive Agricultural Preservation District and the R-1 and R-2 Residential Districts.
- B. District standards. The GA District is further intended to have the standards as set forth in Table 2K at the end of this chapter. Those developments served by on-site sewage disposal systems must meet all requirements set forth under § 500-14 of this chapter.
- C. Permitted, accessory, and special uses. See §§ 500-67, 500-68, 500-69 and 500-70, Article X, § 500-73, and Article XI.

§ 500-55. HFA Hobby Farm Agricultural District.

[Added 4-19-2011 by Ord. No. 11-001]

- A. District intent. This district is designed to provide for, maintain, preserve, and enhance small area agricultural lands historically utilized for crop production but which are not included within the EA Exclusive Agricultural Preservation District or GA General Agricultural District and which are generally best suited for smaller farm units, including horse farming, hobby farming, orchards, and other similar small-scale agricultural-related activity. The overall intent of the HFA District is to retain the rural character of areas of the Town of Barton in which the HFA District is used. The HFA District residential development intensities are consistent with the maintenance of a rural countryside character and lifestyle. The HFA District serves as a transitional district between the more intensive farmland areas (such as the EA Exclusive Agricultural Preservation District or GA General Agricultural District areas) and the countryside, estate, and suburban intensity residential areas of the Town. The HFA District is further intended to be used for parcels of land which directly abut either the EA Exclusive Agricultural Preservation District or GA General Agricultural District areas. The HFA District is intended to be served by on-site soil absorption sewage disposal systems. The HFA District areas shall not be located contiguous to the incorporated City of West Bend and are typically located somewhat distant from the boundaries of the incorporated City of West Bend. The HFA District is not mapped on the Town Land Use Plan but may be used in the General Agricultural (GA), Rural Countryside Single-Family Residential (R-1), and Countryside Single-Family Residential (R-2) land use districts on Maps 22 through 25 of the adopted "Comprehensive Plan for the Town of Barton: 2035," dated April 2008 (as amended), provided that all standards of the HFA District are met. The HFA District is considered an agricultural district.
- B. District standards. The HFA District is further intended to have the standards as set forth in Table 2L at the end of this chapter. Those developments served by on-site sewage disposal systems must meet all requirements set forth under § 500-14 of this chapter.
- C. Permitted, accessory, and special uses.
- (1) Permitted uses in the GA District shall be permitted uses in the HFA District, and hobby farms (as defined in § 500-201) shall be allowed as a permitted use in the GA District and the HFA District, and Table 4, titled "Permitted and special uses in the Residential Districts," and Table 5, titled "Permitted and Special Uses in Nonresidential Districts," shall be modified accordingly.
^[1]
^[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
 - (2) Special uses in the GA District shall be special uses in the HFA District, and Table 4, titled "Permitted and Special Uses in the Residential Districts," and Table 5, titled "Permitted and Special Uses in Nonresidential Districts," shall be modified accordingly, except that a maximum of one single-family dwelling structure shall be allowed on a lot or parcel in the HFA District, and no additional dwelling units on a lot or parcel are allowed in the HFA District.
^[2]
^[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
 - (3) See § 500-66 and Table 4, Permitted and Special Uses in the Residential Zoning District; see § 500-67 and Table 5, Permitted and Special Uses in the Nonresidential Zoning Districts; see § 500-68, Floodplain and floodway areas; see § 500-69, Shoreland wetland areas; see § 500-70, Wetland areas; see Article X, Special Uses; and see Article XI, Accessory and Temporary Uses.

Article VII. Planned Unit Development Districts

§ 500-56. Intent.

- A. General intent. The PUD Planned Unit Development Districts are intended to be created, pursuant to § 62.23(7)(b), Wis. Stats., as amended, to foster developments that will derive maximum benefit from coordinated area site planning, diversified location of structures, and mixed compatible uses that result in the provision of a safe and efficient system for pedestrian and vehicular traffic, attractive recreation and landscaped open spaces, economic design and location of public and private utilities and community facilities, and ensure adequate standards of construction and planning. The unified and planned development of a site, in single or corporate ownership or control at the time of application, may be permitted in a PUD Planned Unit Development District with one or more principal uses or structures and related accessory uses and structures. The regulations within a PUD Planned Unit Development District need not be uniform throughout the individual PUD District, except for those types of intensity standards set forth herein.
- B. Open space, land use intensity, and residential density intent. All PUD Planned Unit Development Districts shall set forth their land use intensity, including, where applicable, the open space ratio (OSR), maximum gross residential density, maximum net residential density, maximum floor area ratio (GFAR and NFAR), and minimum landscape surface ratio (LSR). These shall be established on an individual PUD District basis in order to ensure the intensity of development on the site does not exceed the maximum permitted intensity standards allowed within a PUD District. PUD Districts may be permitted by the Town if the owner or his agent can prove to the Town of Barton that the resulting PUD District will achieve a better design, identical or lesser intensity land uses (in terms of dwelling units, land use type, or GFAR and NFAR), and identical or greater OSR than that which is indicated on the current adopted Town of Barton Zoning Map.
- C. Natural resources features protection intent. While the PUD District is intended to be flexible in its application, it is not the intent of the PUD Districts to be used to alter or amend any of the prescribed natural resource base protection standards advanced by this chapter.

§ 500-57. Conformance with Comprehensive Plan.

A PUD Planned Unit Development District shall be in general conformance with or shall carry out the general objectives of the adopted Town of Barton Comprehensive Plan or other element or component of the Town of Barton Comprehensive Plan.

§ 500-58. Minimum area and use requirements; other standards.

- A. Minimum area requirements. In order to be approved under the provisions of this article, proposed PUD Planned Unit Development Districts shall include the minimum area as set forth in Table 500-58A.

Table 500-58A

Minimum Land Area Requirements for PUD Planned Unit Development Districts by General Use Type

General Use Type	Minimum Required Site Area (acres)
Residential	3
Commercial, retail sales, and services	5
Industrial	15
Institutional	5
Mixed compatible uses	10

- B. Natural resource features protection standards. All development in a PUD Planned Unit Development District shall meet the natural resource protection standards set forth in Article XV of this chapter.

- C. Maximum site intensity and density standards. Site intensity and capacity calculations shall be performed pursuant to the requirements of Article VIII of this chapter. Maximum site intensity and density standards in the PUD Planned Unit Development District shall not exceed those set forth in Table 500-58C. Individual uses and structures in a PUD Planned Unit Development District shall comply with the specific use, building location, height, building size, gross and net floor area ratios (GFAR and NFAR), lot size, open space ratio (OSR), and landscape surface ratio (LSR) requirements as set forth by the Plan Commission as conditions and restrictions of approval.

Table 500-58C

PUD Planned Unit Development District

Maximum Intensity and Density Measures

General Use Type	Residential Standards				Nonresidential Standards			
	Minimum Open Space Ratio (OSR)	Maximum Gross Density (GD)	Maximum Net Density (ND)	Single-Family	Minimum Landscape Surface Ratio (LSR)	Maximum Gross Floor Area Ratio (GFAR)	Maximum Net Floor Area Ratio (NFAR)	Minimum Lot Size (square feet)
				Detached Dwelling Minimum Lot Size (square feet)				
Residential	0.40	20.00 (b) 0.93(c)	25.00(b) 20.00(c)	7,200	N/A	N/A	N/A	N/A
Office	N/A	N/A	N/A	N/A	0.45	0.23	0.42	20,000 (b) 40,000 (c)
Commercial, retail sales and service	N/A	N/A	N/A	N/A	0.45	0.31	0.57	20,000 (b) 40,000 (c)
Industrial	N/A	N/A	N/A	N/A	0.45	0.50	0.91	20,000 (b) 40,000 (c)
Institutional	N/A	N/A	N/A	N/A	0.45	0.23	0.42	20,000 (b) 40,000 (c)
Mixed compatible uses	(a)	(a)	(a)	(a)	(a)	(a)	(a)	(a)

NOTES:

N/A = Not Applicable

- (a) Apply the appropriate standard for each individual land use type and its corresponding site area as listed in this table.
- (b) With public sanitary sewer service only.
- (c) With on-site sewage disposal systems.

- D. Minimum required setbacks from the ultimate rights-of-way of arterial streets and highways. See § 500-115 for increased setback requirements along the ultimate rights-of-way of arterial streets and highways.

- E. On-site sewage disposal systems. Those developments served by on-site sewage disposal systems must meet all requirements set forth under § 500-14 of this chapter.

§ 500-59. District procedures.

See § 500-176 of this chapter.

Article VIII. Site Intensity and Capacity Calculations

§ 500-60. Site intensity and capacity calculations required; exceptions.

- A. Recognition of natural resource features. This chapter recognizes that landforms, parcel size and shape, and natural resource features vary from site to site, and that development regulations must take into account these variations. The maximum density or intensity of use allowed in any zoning district is controlled by the various district standards set forth for each of the various zoning districts of this chapter.
- B. When site intensity and capacity calculations are required. The site intensity and capacity calculations set forth in this article shall be made for each parcel of land to be used or built upon in the Town of Barton, including all new residential developments, all nonresidential development, and as may be required elsewhere in this chapter.
- C. Exclusions (when site intensity and capacity calculations are not required). The site intensity and capacity calculations set forth in this article shall not be required for the construction of single-family and two-family residential development located within existing lots of record, existing platted subdivisions (with an approved final plat), existing approved certified survey maps, and approved condominiums existing at the time of the adoption of this chapter.

§ 500-61. Calculation of base site area.

The base site area shall be calculated as indicated in Table 3A, included at the end of this chapter, for each parcel of land to be used or built upon in the Town of Barton as referenced in § 500-60 of this chapter.

§ 500-62. Calculation of area to be protected.

All land area with those natural resource features as described in Article **XV** of this chapter and as listed in Table 3B, included at the end of this chapter, and lying within the base site area (as defined in § 500-61) shall be measured relative to each natural resource feature present. The actual land area encompassed by each type of resource is then entered into the column of Table 3B titled "Acres of Land in Resource Feature." The acreage of each natural resource feature shall be multiplied by its respective natural resource protection standard (to be selected from Table 500-109 of this chapter for applicable agriculture, residential, or nonresidential zoning district) to determine the amount of resource protection land area required to be kept in open space in order to protect the resource or feature. The sum total of all resource protection land on the site equals the total resource protection land. The total resource protection land shall be calculated as indicated in Table 3B.

§ 500-63. Calculation for residential uses.

In order to determine the maximum number of dwelling units which may be permitted on a parcel of land zoned in a residential zoning district, the site intensity and capacity calculations set forth in Table 3C, included at the end of this chapter, shall be performed.

§ 500-64. Calculation for nonresidential uses.

In order to determine the maximum floor area which may be permitted on a parcel of land zoned in a nonresidential zoning district, the site intensity and capacity calculations set forth in Table 3D, included

at the end of this chapter, shall be performed.

Article IX. Use Regulations

§ 500-65. Purpose.

The purpose of this article is to establish which uses are either permitted or not permitted to locate in each zoning district, floodplain, floodway, and wetland areas. A further distinction is made for uses which may locate in a given zoning district, floodplain, floodway, and wetland area only after obtaining a special use permit. (See § 500-160 of this chapter.) All uses and structures must comply with the applicable provisions of this chapter.

§ 500-66. Residential districts.

Table 4, included at the end of this chapter, sets forth those uses which are permitted uses and special uses in the residential R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, R-9, and R-10 Districts. In addition, Table 4 lists those residential uses which are permitted uses or special uses in the EA, AT, GA, HFA and PUD Districts.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

§ 500-67. Nonresidential districts.

Table 5, included at the end of this chapter, sets forth those uses which are permitted uses and special uses in the NHB, CB, FB, LM, BP, QE, I, PR, EA, AT, GA, PUD and HFA Districts. In interpreting the various use designations, reference should be made to the Standard Industrial Classification Manual (1987 or latest edition) published by the Executive Office of the President, Office of Management and Budget. Standard Industrial Classification (SIC) code numbers are given for each use type listed in Table 5.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

§ 500-68. Floodplain and floodway areas.

Permitted and/or special uses in floodplain and/or floodway areas are as specified in Chapter 23, Shoreland, Wetland and Floodplain Zoning, of the Washington County Code, as amended.

§ 500-69. Shoreland wetland areas.

Permitted and/or special uses in shoreland wetland areas are as specified in Chapter 23, Shoreland, Wetland and Floodplain Zoning, of the Washington County Code.

§ 500-70. Wetland areas (not including shoreland wetlands).

This section sets forth those uses which are permitted uses and special uses in wetland areas which are not shoreland wetlands under the jurisdiction of Washington County. The following uses are allowed by the Town of Barton as permitted uses or special uses (as applicable) if all other required and applicable county, federal, and state permits, including United States Army Corps of Engineers and Wisconsin Department of Natural Resources (DNR) permits, have been granted. A copy of all such permits shall be transmitted to the Town of Barton prior to any approvals granted by the Town.

- A. Permitted uses in wetland areas (not including shoreland wetlands). The following are permitted as a matter of right:
- (1) Hiking, fishing, trapping, swimming, and boating, unless prohibited by other ordinances and laws.
 - (2) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits, and tree seeds, in a manner that is not injurious to the natural reproduction of such crops, and that does not involve earthmoving, filling, flooding, draining, dredging, ditching, tiling, or excavating.
 - (3) Construction and maintenance of fences that does not involve earthmoving, filling, flooding, draining, dredging, ditching, tiling, or excavating.
 - (4) Existing agricultural uses, provided they do not involve extension of cultivated areas, extension of or creation of new drainage systems, and further provided they do not substantially disturb or impair the natural fauna, flora, topography, or water regimen.
 - (5) Earthmoving, ditching, tiling, dredging, excavating, or filling done to maintain or repair an existing agricultural drainage system only to the extent necessary to maintain the level of drainage required to continue the existing agricultural use.
 - (6) The construction and maintenance of piers, docks, and walkways, including those built on pilings.
 - (7) The maintenance, repair, replacement, and reconstruction of existing streets, roads, and bridges.
- B. Special uses in wetland areas (not including shoreland wetlands). The following uses may be allowed by special use permit:
- (1) The construction of streets which are necessary for the continuity of the Town street system, necessary for the provision of essential utility and public safety services, or necessary to provide access to permitted open space uses in the zoning district, provided that:
 - (a) The street cannot, as a practical matter, be located outside a wetland; and
 - (b) The street is designed and constructed to minimize the adverse impact upon the natural functions of the wetland and meets the following standards:
 - [1] The street shall be designed and constructed for the minimum cross section practical to serve the intended use;
 - [2] Street construction activities shall be limited to the immediate area of the roadbed only; and
 - [3] Any earthmoving, filling, flooding, draining, dredging, ditching, tiling, or excavating that is to be done must be necessary for the construction or maintenance of the street.
 - (2) The establishment and development of public and private parks and recreation areas, public boat access sites, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game preserves, and private habitat areas in the area, provided that:
 - (a) Any private recreation or wildlife habitat area must be used exclusively for that purpose;
 - (b) No filling is to be done; and
 - (c) Earthmoving, ditching, excavating, dredging, and dike and dam construction may be done in wildlife refuges, game preserves, and private wildlife habitat areas, but only for the purpose of improving wildlife habitat or to otherwise enhance wetland values.
 - (3) The construction and maintenance of electric, gas, telephone, water, and sewer transmission and distribution lines, and related facilities in the wetland area by public utilities and

cooperative associations organized for the purpose of producing or furnishing heat, light, power, or water to members, provided that:

- (a) The transmission and distribution lines and related facilities cannot as a practical matter be located outside a wetland; and
 - (b) Any earthmoving, filling, excavating, ditching, or draining that is to be done must be necessary for such construction or maintenance, and must be done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the wetlands.
- (4) The construction and maintenance of railroad lines in the wetland area, provided that:
- (a) The railroad lines cannot as a practical matter be located outside a wetland; and
 - (b) Any earthmoving, filling, excavating, ditching, or draining that is to be done must be necessary for such construction or maintenance, and must be done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the wetlands.

Article X. Special Uses

§ 500-71. General standards.

- A. General standards. No special use permit shall be recommended or granted pursuant to this chapter unless the applicant shall establish the following:
- (1) Chapter and Comprehensive Plan purposes and intent. The proposed use and development will be in harmony with the general and specific purposes for which this chapter was enacted and for which the regulations of the zoning district in question were established and with the general purpose and intent of the Town of Barton Comprehensive Plan or element thereof.
 - (2) No undue adverse impact. The proposed use and development will not have a substantial or undue adverse or detrimental effect upon or endanger adjacent property, the character of the area, or the public health, safety, morals, comfort, and general welfare and not substantially diminish and impair property values within the community or neighborhood.
 - (3) No interference with surrounding development. The proposed use and development will be constructed, arranged, and operated so as not to dominate the immediate vicinity or to interfere with the use and development of neighboring property in accordance with the applicable zoning district regulations.
 - (4) Adequate public facilities. The proposed use and development will be served adequately by essential public facilities and services such as streets, public utilities, including public water supply system and sanitary sewer, police and fire protection, refuse disposal, public parks, libraries, schools, and other public facilities and utilities, or the applicant will provide adequately for such facilities.
 - (5) No traffic congestion. The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets and that adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
 - (6) No destruction of significant features. The proposed use and development will not result in the destruction, loss, or damage of any natural, scenic, or historic feature of significant importance.
 - (7) Compliance with standards. The special use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the Town Board pursuant to the recommendations of the Plan Commission (also see §§ **500-85** and **500-88** of this chapter). The proposed use and

development shall comply with all additional standards imposed on it by the particular provision of this article and chapter authorizing such use.

- B. Special standards for specified special uses. When the zoning district regulations authorize a special use in a particular zoning district and that special use is indicated as having special standards, as set forth in §§ **500-72** and **500-73** of this article, a special use permit for such use in such zoning district shall not be recommended or granted unless the applicant shall establish compliance with all such special standards.
- C. Considerations. In determining whether the applicant's evidence establishes that the foregoing standards have been met, the Plan Commission and the Town Board shall consider the following:
- (1) Public benefit. Whether and to what extent the proposed use and development at the particular location requested is necessary or desirable to provide a service or a facility that is in the interest of the public convenience or that will contribute to the general welfare of the neighborhood or community.
 - (2) Alternative locations. Whether and to what extent such public goals can be met by the location of the proposed use and development at some other site or in some other area that may be more appropriate than the proposed site.
 - (3) Mitigation of adverse impacts. Whether and to what extent all steps possible have been taken to minimize any adverse effects of the proposed use and development on the immediate vicinity through building design, site design, landscaping, and screening.
 - (4) Establishment of precedent of incompatible uses in the surrounding area. Whether the use will establish a precedent of, or encourage, more intensive or incompatible uses in the surrounding area.
- D. Conditions on special use permits. The Plan Commission may recommend, and the Town Board may impose, such conditions and limitations concerning use, construction, character, location, landscaping, maintenance, screening, operation, hours of operation, and other matters relating to the purposes and objectives of this chapter upon the premises benefited by the issuance of a special use permit as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject property, upon such public facilities and services, protection of the public interest, and to secure compliance with the standards and requirements specified in this chapter. Such conditions shall be expressly set forth in the ordinance granting the special use permit, and the Town Board may require the unconditional consent of the applicant to such conditions. Violation of any such condition or limitation shall be a violation of this chapter and shall constitute grounds for revocation of the special use permit.
- E. Affidavit of compliance with conditions. In all cases in which special uses are granted, the Town Board shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being, and will be, complied with. Whenever any special use permit granted pursuant to this chapter is made subject to conditions or limitations to be met by the applicant, the applicant shall, upon meeting such conditions, file an affidavit with the Zoning Administrator so stating.
- F. Effect of issuance of a special use permit. The grant of a special use permit shall not authorize the establishment or extension of any such use nor the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any other permits or approvals that may be required by the ordinances and codes of the Town of Barton, including but not limited to building permit, zoning permit, land division approval, site plan approval, or other type of permit or approval.
- G. Limitations on special use permits.
- (1) Time limitations. Subject to an extension of time granted by the Town Board, upon recommendation of the Plan Commission, no special use permit shall be valid for a period longer than one year unless a building permit is issued and construction is actually begun

within that period and is thereafter diligently pursued to completion or unless a zoning permit is issued and a use commenced within that period.

- (2) Use discontinuance. A special use permit shall be deemed to authorize only the particular use for which it was issued, and such permit shall automatically expire and cease to be of any force or effect if such use shall, for any reason, be discontinued for a period of six consecutive months or more.
 - (3) Special use permit runs with land and not the applicant. Except when otherwise provided in the resolution granting a special use permit, a special use permit shall be deemed to relate to, and to be for the benefit of, the use and lot in question rather than the applicant, owner, or operator of such use or lot.
 - (4) Additions and enlargements to legal special uses. Any additions or enlargements of an existing legal special use for which a special use permit has been issued may be allowed only pursuant to the procedures and subject to the standards and limitations provided in this chapter for its original approval.^[1]
[1] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).
 - (5) Additions and enlargements to illegal special uses. Any additions or enlargements of an existing illegal special use for which a special use permit has not been issued shall not be allowed unless the entire use is made to conform to all the regulations of the zoning district in which it is located and pursuant to the procedures and subject to the standards and limitations provided in this chapter.
- H. Amendments to special use permits. A special use permit may be amended, varied, or altered only pursuant to the procedures and subject to the standards and limitations provided in this chapter for its original approval.

§ 500-72. Residential districts.

- A. Open space subdivisions and open space condominiums. The following specific requirements and standards shall apply to all permitted use and special use open space subdivision and open space condominium options in the R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-9, and R-10 Districts:
 [Amended 3-3-2004 by Ord. No. 04-001]
- (1) Must meet district standards. All open space subdivisions and open space condominiums shall meet the applicable open space ratio, sewage disposal, density, lot dimension and yard requirements (for open space subdivision lots and individual condominium unit site area per dwelling unit for open space condominium) and living area per dwelling unit and height requirements for both the zoning district and open space subdivision/open space condominium option selected.
 - (2) Conservation and/or open space preservation easements. All open space subdivisions and open space condominiums shall have submitted conservation and/or open space preservation easements regulating the protection of natural resource features and/or open space in the proposed development. Such documents shall assure that all such conservation and/or open space preservation easements are held privately and in perpetuity under a Wisconsin nonprofit membership corporation (homeowners' or condominium association, as applicable). Said conservation and/or open space preservation easements shall cover the total required open space ratio (OSR) area of the open space subdivision or open space condominium. In addition:
 - (a) Covenants and restrictions to be enforceable by Town. All covenants, deed restrictions, easements, and similar restrictions to be recorded in connection with the open space subdivision or open space condominium shall provide that they may not be modified, removed, or released without the express consent of the Town Board and that they may be enforced by the Town and by future landowners within the proposed development.

- (b) Limitation on construction of any structure or improvement in areas covered by a conservation and/or open space preservation easement. No areas covered by a conservation and/or open space preservation easement shall be used for the construction of any structure or improvement, except such structures and improvements as may be approved by the Town Board.
- (c) Continued preservation of open space required. The conservation and/or open space preservation easement must be permanent, not be for a given period of years, and must run with the land. Such conservation and/or open space preservation easements may provide that they may be released, but only with the approval of the Town Board.
- (d) Ownership and maintenance.
 - [1] The open space subdivision or open space condominium plans shall include such provisions for the ownership and maintenance of such open space and improvements as are reasonably necessary to ensure their continuity, care, conservation, maintenance, and operation according to predetermined standards and to ensure that remedial measures will be available to the Town if such open space or improvements are permitted to deteriorate or are not maintained in a condition consistent with the best interests of the subject open space subdivision, open space condominium or the Town.
 - [2] The initial maintenance of the common open space and improvements within an open space subdivision or open space condominium shall be the responsibility of the developer. The covenants, deed restrictions, easements, and similar restrictions, as well as the Wisconsin nonprofit membership corporation (homeowners' or condominium association, as applicable) documents, may prescribe a method for transfer of maintenance responsibility to the Wisconsin nonprofit membership corporation (homeowners' or condominium association). In the event no method for transfer or maintenance responsibility is prescribed, the developer shall retain this responsibility until 50% of the development has been sold to lot or unit owners. When at least 50% of the open space subdivision or open space condominium has been sold, the Wisconsin nonprofit membership corporation (homeowners' or condominium association, as applicable) shall be deeded the common open space and improvements, and such owners shall become fully responsible for its continued maintenance and upkeep.
- (3) Wisconsin nonprofit membership corporation (homeowners' or condominium association). All open space subdivisions and open space condominiums shall have submitted the legal instruments and rules for the creation of a Wisconsin nonprofit membership corporation (homeowners' or condominium association, as applicable). Said nonprofit membership corporation shall be responsible for maintaining all open space areas and conservation and/or open space easements in the development. In addition, such nonprofit membership corporation shall meet each of the following standards:
 - (a) That the bylaws and rules of the nonprofit membership corporation and all declarations, covenants, and restrictions to be recorded must be approved as part of the open space subdivision or open space condominium plans before becoming effective. Each such document shall provide that it shall not be amended in any manner that would result in it being in violation of the requirements of this chapter.
 - (b) That the nonprofit membership corporation must be established and all declarations, covenants, and deed restrictions must be recorded before the sale of any property within the area of the open space subdivision or open space condominium designated to have the exclusive use of the proposed open space or improvements.
 - (c) That the nonprofit membership corporation must be responsible for casualty and liability insurance, taxes, and the maintenance of the open space and improvements to be deeded to the nonprofit membership corporation.

- (d) That membership in the nonprofit membership corporation must be mandatory for each property owner of the open space subdivision or open space condominium and any successive property owner having a right to the use or enjoyment of such open space or improvements.
 - (e) That every property owner having a right to the use or enjoyment of such open space or improvements must pay its pro rata share of the cost of the nonprofit membership corporation by means of an assessment to be levied by the nonprofit membership corporation that meets the requirements for becoming a lien on the property according to the state statutes.
 - (f) That the nonprofit membership corporation must have the right to adjust the assessment to meet changed needs. The membership vote of the nonprofit membership corporation required to authorize such adjustment shall not be fixed at more than 2/3 of the nonprofit membership corporation members voting on the issue.
 - (g) That the Town must be given the right to enforce the protective covenants, deed restrictions, or conservation and/or open space preservation easements as they relate to common property.
 - (h) That the Town must be given the right, after a minimum of 10 days' written notice to the nonprofit membership corporation, to perform any maintenance or repair work that the nonprofit membership corporation has neglected to perform, to assess the nonprofit membership corporation membership for such work and to have a lien against the property of any member failing to pay such assessment. For this purpose alone, the Town shall have all the rights and powers of the nonprofit membership corporation and its governing body under the agreements and declarations creating the nonprofit membership corporation. In the case of an emergency, as determined by the Town, the Town may issue an enforcement correctional order. If no such nonprofit membership corporation exists, the Town has the right to assess the property owner(s) of the development for such work and to place a lien against the property if any property owner(s) fails to pay such assessment.
 - (i) That, in the event the Wisconsin nonprofit membership corporation should cease to exist or should fail to fulfill its obligations as stated herein or to pay the real estate taxes assessed against its properties within the open space subdivision or open space condominium, the Town may cause such maintenance to be performed and levy the cost thereof as a special assessment against all of the properties within the open space subdivision or open space condominium under the provisions of the Wisconsin Statutes. Similarly, any real estate taxes remaining unpaid, together with any penalties and interest thereon, may be collected by the Town as a special assessment against all of the properties in the open space subdivision or open space condominium which border the properties, or the Town may seek a mandatory injunction requiring the Wisconsin nonprofit membership corporation to levy and collect assessments for such purpose.
- (4) The Town Attorney shall review all conservation and/or open space easements and homeowners' or condominium association legal instruments and shall approve said instruments as to form.
 - (5) Minimum required width of open space when abutting an adjacent conventional subdivision or open space condominium. A minimum fifty-foot-wide open space buffer shall be provided between an open space subdivision or open space condominium and an abutting conventional subdivision. Said open space buffer shall be protected by a conservation and/or open space preservation easement and shall count towards the total required amount of open space for the open space subdivision or open space condominium. In the case of an open space condominium, said fifty-foot-wide open space buffer shall be provided within a common element (but outside of and not including any limited common elements) between an open space condominium and an abutting conventional subdivision.
 - (6) Open space subdivisions or open space condominiums for properties under one ownership but within two or more zoning district classifications. Open space subdivisions or open space

condominiums for properties under one ownership but within two or more zoning district classifications may combine the maximum permitted dwelling units for each of the land areas encompassed within each of the two or more zoning classifications, provided that:

- (a) Separate site intensity and capacity calculations, pursuant to the requirements of Article **VIII** of this chapter, are prepared for each of the two or more zoning classification areas of the property.
 - (b) The maximum total permitted dwelling units on the total property shall not exceed the total derived from adding the maximum permitted dwelling units for each of the two or more zoning classification areas of the property as determined under the requirements of § **500-63**, Calculation for residential uses. The resulting maximum total permitted dwelling units on the total property (i.e., the total derived from adding the maximum permitted dwelling units for each of the two or more zoning classification areas of the property) may be located in any of the two or more zoning classification areas of the property.
 - (c) The resulting cumulative amount of open space to be provided for the total property is based upon each of the open space ratios required by this chapter for each of the two or more zoning classification areas of the property. Said cumulative amount of open space required shall be as determined under the requirements of § **500-63**, Calculation for residential uses, for each of the two or more zoning classification areas of the property.
 - (d) Minimum lot areas shall conform to the minimum lot area requirements of each of the two or more zoning classification areas of the property and the open space subdivision or open space condominium option selected for each of the two or more zoning classification areas of the property. In the case of one residential district and the GA District, minimum lot areas shall conform to the minimum lot area requirements of the residential zoning district portion of the property and the open space subdivision or open space condominium option selected for the residential-zoned portion of the property.
 - (e) The property under one ownership which is contiguous but within two or more zoning district classifications shall be planned and developed as a single condominium plat, certified survey map, or subdivision plat (as applicable), meeting all applicable standards of this chapter and Chapter **340**, Land Division.
- (7) No lots or outlots used exclusively for the preservation of open space and/or protection of natural resource features allowed to be transferred. In an open space subdivision or open space condominium, any lots or outlots used exclusively for the preservation of open space and/or protection of natural resource features and which formed the basis, in part, of calculating the maximum allowable density in an open space subdivision or open space condominium development shall be owned by that development's Wisconsin nonprofit membership corporation (homeowners' or condominium association, as applicable), and said ownership shall not be transferred or said lots or outlots applied in the calculation of the maximum allowable density of any other property or development.

B. Kennels, private. Private kennels shall meet the following requirements:

- (1) Solid waste and feces removal. The disposal of all feces and other solid waste generated by the kennel operation shall be reviewed and approved by the Washington County Planning and Parks Department.
- (2) Required fencing. All runs and kennel areas shall be fenced with chain-link, solid wood fencing or a masonry wall of a height to be determined by the Plan Commission. The fence or wall shall be of quality material and be neat in appearance.
- (3) Noises, smoke, and odor. Any training of animals shall not include the use of loud noises (unless approved by the Town Board) or produce smoke or odor. The kennel facility shall not generate adverse, off-site noise or odor impacts.

- (4) Humane Society of the United States (HSUS) guidelines to be used. Humane Society of the United States (HSUS) guidelines shall be used, at a minimum, for the flooring, walls between kennels, drainage, heating and cooling, cage sizes, and runs.
 - (5) Minimum required setbacks. All outdoor runs shall be a minimum of 150 feet from any residential zoning district, and all exercise areas shall be a minimum 50 feet from any residential zoning district.
- C. Stables, private. The following specific standards shall be used in the R-1, R-2, R-3, R-4, and PUD Districts:
- (1) Minimum lot area. The minimum lot area shall be three acres for the first two equine. This minimum lot area shall be increased by 60,000 square feet for each equine in addition to two. The maximum number of equine shall not exceed six equine.
 - (2) Required setbacks. The following minimum setbacks shall also be provided:
 - (a) On parcels of land five acres in area or less, all feed and bedding shall be stored indoors.
 - (b) On parcels of land larger than five acres, piles of feed or bedding shall be located 75 feet from any public street right-of-way or lot line of an adjacent nonresidential district and 100 feet from any lot line of an adjacent residential district, in order to minimize odor and nuisance problems.
 - (3) Pasture location. Pasture area may extend to the lot line.
 - (4) Manure maintenance. Manure piles shall be stored, removed, and/or applied in accordance with applicable Town requirements.
 - (5) Stable location. All points on the perimeter of any stable building and/or corral shall be at least 50 feet from the nearest boundary line or right-of-way line of the parcel on which it is located.
 - (6) Maximum stable size. In the R-1 District, the maximum stable size shall not exceed 1,200 square feet in area. In the R-2, R-3, and PUD Districts, the maximum stable size shall not exceed 800 square feet in area.
 - (7) Maximum number of stables. In the R-1, R-2, R-3, and PUD Districts, there shall be no more than one such stable allowed per lot.
- D. Application requirements and standards for special use accessory buildings and structures in the R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, R-9, and R-10 Districts. The following are application requirements and other standards for special use accessory buildings and structures located on a lot or parcel in the R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, R-9, and R-10 Districts:
[Added 3-16-2004 by Ord. No. 04-002]
- (1) The applicant shall submit (at the time application for the special use is made by the applicant) a plat of survey prepared by a Wisconsin-registered land surveyor which accurately depicts and dimensions the proposed location of the accessory building or accessory structure. Said accessory building or accessory structure shall be located as depicted as the same relates to the property or as approved by the Town Board.
 - (2) The application materials submitted by the applicant for the accessory building or accessory structure shall specifically indicate all of the exterior building dimensions of the accessory building or accessory structure, including height.
 - (3) The following specific requirements and standards shall be considered and may be applied as deemed appropriate by the Plan Commission and/or Town Board when considering the granting of special use permits for accessory buildings and structures located on a lot or parcel in the R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, R-9, and R-10 Districts:
 - (a) The accessory building or accessory structure shall be code compliant, meeting all building restrictions required by the Town of Barton.

- (b) No business operation of any kind shall be allowed as part of the use of the accessory building or accessory structure allowed herein.
 - (c) No additional accessory buildings and/or structures shall be allowed on the parcel.
 - (d) No reduction of land area through land divisions of any kind (including transfers of land between abutting property owners) shall be allowed, as the size of the accessory building and/or accessory structure allowed herein was based, in part, upon the size of the property represented by the applicant, unless the accessory structure is reduced in size prior to the land division occurring to meet the requirements of Table 500-72D for the applicable zoning district within which the property is located.
 - (e) The materials for construction of the accessory building or accessory structure shall be consistent with the materials represented by the applicant to the Plan Commission and Town Board and shall remain consistent throughout the useful life of the accessory building or accessory structure.
[Amended 10-20-2015 by Ord. No. 15-2003]
 - (f) The property owner and the property owner's successors and assigns shall maintain landscaping and screening consistent with a plan for said accessory building or accessory structure approved by the Town Board and which shall remain as a condition for said special use throughout the useful life of the accessory building or accessory structure.
 - (g) Construction of the accessory building or accessory structure shall not commence until an approved landscape plan is agreed to by the property owner and the Town Board.
 - (h) The property owner and his successors and assigns are hereby precluded from any outdoor storage of any kind, including, but not limited to, boats, snowmobiles, motorcycles, cars, farm equipment, campers, trucks, vans, horse trailers, flatbed trailers, personal watercrafts, or any other personal property other than for purposes of landscaping.
 - (i) The accessory structure shall not be rented or leased to any person, nor may the same be used by any person other than the owner of the property upon which said accessory building or accessory structure is located.
 - (j) The Plan Commission may recommend to the Town Board or the Town Board may increase the minimum required setbacks of the accessory structure(s) as deemed necessary.
 - (k) The maximum height limitations for accessory structures in the residential zoning districts set forth under Article V of this chapter notwithstanding, the Plan Commission may recommend to the Town Board, or the Town Board may allow, an increase in the height of the accessory structure(s) not to exceed 30 feet.
- (4) In no case shall the cumulative floor area of all accessory buildings and structures exceed the building coverage area (See § 500-201 for the definition of "building coverage area.") as set forth in Table 500-72D below. Table 500-72D indicates the maximum sizes which may be allowed as determined by the Town Board, upon recommendation of the Plan Commission, on a case-by-case basis.
[Amended 3-15-2016 by Ord. No. 16-002]

Table 500-72D

**Maximum Allowable Cumulative Building Coverage Area
(Determined as a Percentage of Parcel Size)
of Special Use Accessory Buildings and Structures**

Type of Use	R-1	R-2	R-3	R-4	R-5	R-6	R-7	R-8	R-9	R-10
Accessory buildings and structures				Not to exceed	(a)	(a)	(a)	(a)	(a)	(a)

Table 500-72D

Maximum Allowable Cumulative Building Coverage Area

(Determined as a Percentage of Parcel Size)

of Special Use Accessory Buildings and Structures

Type of Use	R-1	R-2	R-3	R-4	R-5	R-6	R-7	R-8	R-9	R-10
<p>tures where the building coverage area of any 1 building or structure or the cumulative building coverage area of all such buildings and structures located on a lot or parcel exceeds a square footage equivalent to 2.25% of the lot area</p>				2,500 square feet (a) (b)						
<p>Accessory buildings and structures in Option 1 open space subdivisions where the building coverage area of any 1 building or structure or the cumulative coverage area of all such buildings and structures located on a lot or parcel exceeds a square footage equivalent to 2.25% of the lot area</p>	Not to exceed 3,500 square feet (a) (b)	Not to exceed 3,500 square feet (a) (b)	Not to exceed 3,500 square feet (a) (b)							
<p>Accessory buildings and structures in conventional subdivisions where the building coverage area of any 1 accessory building or structure or the cumulative coverage area of all such buildings and structures located on a lot or parcel exceeds a square</p>	Not to exceed 12,000 square feet (a) (b)	Not to exceed 8,000 square feet (a) (b)	Not to exceed 5,500 square feet (a) (b)							

Table 500-72D

**Maximum Allowable Cumulative Building Coverage Area
(Determined as a Percentage of Parcel Size)
of Special Use Accessory Buildings and Structures**

Type of Use	R-1	R-2	R-3	R-4	R-5	R-6	R-7	R-8	R-9	R-10
to 2.25% of the lot area										

NOTES:

- (a) As determined by the Town Board, upon recommendation of the Plan Commission, on a case-by-case basis.
- (b) Parcel size shall not include any portion of a dedicated public street right-of-way.

§ 500-73. Nonresidential districts.

A. Amusement parks. The following standards shall apply to all amusement parks:

- (1) Contiguity with arterial or collector street required. All amusement parks shall be located contiguous to an arterial or collector street.
- (2) Buffer yard requirements. A landscaped buffer yard intensity level factor of five (see Article **XVIII** of this chapter) shall be provided along all property lines of the entire amusement park, and said amusement park shall be enclosed with a masonry wall of at least eight feet or more in height so as to discourage entrance from areas other than the designated entrances to said facilities, or enclosed by an earthen berm of at least eight feet in height or higher and a chain-link fence, fully screened from view by vegetation so as to discourage entrance from areas other than the designated entrances to said facilities.
- (3) Property abutting residential zoning district. If the property abuts a residential zoning district, then a buffer yard with a minimum width of 100 feet comprised of an earthen berm equal to the height of the top of the roofs shall be constructed with a slope of no greater than two to one and landscaping installed to provide 100% canopy cover over said buffer yard area. The minimum buffer yard intensity level factor of said buffer yard shall be five. (See Article **XVIII** of this chapter.)
- (4) Lighting. All off-street parking areas and accessways shall be adequately illuminated. Cutoff lighting shall be required. The total cutoff of light shall be at an angle of less than 90° and shall be located so that the bare light bulb, lamp, or light source is completely shielded from the direct view of an observer five feet above the ground at the point where the cutoff angle intersects the ground and so that no light can be viewed from said residential districts.
- (5) Loudspeaker and announcement systems. Loudspeaker and announcement systems shall be so located with respect to the zoning district boundaries so that the level of sound, as measured in decibels, as measured at the property line shall not exceed 40 db during the hours of 9:00 a.m. to 6:00 p.m. or 35 db during the time period from 6:00 p.m. to 10:00 p.m.

B. Animal hospitals and veterinary clinics. Animal hospitals and veterinary clinics shall meet the following requirements:

- (1) Activities to be conducted within enclosed building. All activities, including animal exercise areas, shall be conducted within an enclosed building which allows for adequate ventilation.
- (2) Enclosed exercise areas. Enclosed exercise areas shall be not less than 100 feet from any residential zoning district. The operator of the animal hospital or veterinary clinic shall be responsible for using good management practices to discourage undesirable odors, insects,

and excessive noise. All exercise areas shall be permanently attached to the principal building and fully enclosed.

- C. Apartment, commercial. Commercial apartments shall meet the following requirements:
- (1) Location in commercial building. This dwelling type shall be located on the second or third story, or level, of a building with commercial uses occupying the ground floor.
 - (2) Additional landscaping requirements. Landscaping shall require a ten-percent increase in parking lot landscaping and one additional canopy-type tree for every two apartments.
- D. Boardinghouse. Boardinghouses shall meet the following requirements:
- (1) Maximum allowable density. In each boardinghouse, for the purposes of calculating density, every 2.55 residents (Note: This number is based upon the 2010 U.S. census of 2.55 persons per household in the Town of Barton) shall constitute one dwelling unit. Therefore, the facility must be located on a lot large enough to meet the density requirements of the Comprehensive Plan for the equivalent number of dwelling units or the minimum requirements of the zoning district in which the proposed boardinghouse is located, whichever is more restrictive.^[1]
 [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
 - (2) Direct access to collector or arterial street. All boardinghouses containing more than 15 residents shall have direct access to a collector or arterial street.
 - (3) Other applicable regulations. All boardinghouses shall comply with all applicable state and local regulations.
- E. Bus terminals. Bus terminals shall meet the following requirements:
- (1) Direct access to collector or arterial street. All bus terminals shall have direct access to an arterial street which is a federal-, state- or county-designated highway.
 - (2) Use abutting residential zoning district prohibited. Such use shall not adjoin a residential zoning district.
- F. Campgrounds, travel and recreational vehicle trailer parks, and tents.
- (1) Minimum required site area. All campgrounds, travel and recreational vehicle trailer parks, and tents shall have a minimum site area of 30 contiguous acres.
 - (2) Accessory uses. Accessory uses may be allowed by the Town of Barton as follows:
 - (a) Recreational facilities, laundry buildings, one service retail store (not to exceed 4,000 square feet in total floor area), manager's office and storage buildings, sanitary facilities, and fences, constructed in accordance with all the provisions of this chapter and all other applicable Town of Barton regulations.
 - (b) No accessory buildings or structures shall be used for human occupancy, except as may be permitted by a special use permit.
 - (3) Development and design requirements.
 - (a) A maximum density of 15 units per gross acre and 25 units per net acre.
 - (b) Each unit or site shall be improved with a minimum parking space for the travel trailer or recreational vehicle, with a minimum area of 10 feet by 25 feet in addition to the access driveway.
 - (c) Vehicle parking.
 - [1] One parking space, nine feet by 20 feet, shall be located on each site (may be located in front or side yard setback areas).

- [2] Guest parking, one space for each 10 trailer sites, shall be provided off of the interior drives.
- (d) Recreation area requirements shall be at a ratio of 100 square feet per unit site.
 - (e) No direct access to an individual site shall be permitted from a public street.
 - (f) All public utilities shall be placed underground.
 - (g) All unpaved areas shall be landscaped to accommodate surface water drainage and be seeded to prevent erosion. Weeds shall be controlled in compliance with all county and local ordinances.
 - (h) Minimum buffer yard intensity level factor of five is required on all exterior boundaries, including street frontage. (See Article **XVIII** of this chapter.)
 - (i) Interior landscaping of the park shall require at least one tree per lot, existing or planted, and the tree shall be a minimum of three-inch caliper. Existing vegetation may be substituted for required landscaping on a one-to-one basis.
 - (j) Individual travel trailer or recreational vehicle site development standards:
 - [1] Minimum width: 25 feet.
 - [2] Minimum depth: 45 feet.
 - (k) Campground areas of any travel trailer park shall provide a minimum of 500 square feet for each tent site. A ten-foot separation shall be maintained between tents.
 - (l) All private driveways in the park shall be a minimum of 12 feet in width for posted one-way traffic and 24 feet in width for two-way traffic. All private driveways shall be surfaced with a minimum of five inches of road gravel covered by a minimum of three inches of blacktop surfacing satisfactory to the Town Board.
 - (m) Each campsite shall not exceed a single-family unit.
 - (n) Sanitary sewerage and waste disposal facilities shall be provided as required by all applicable Washington County and State of Wisconsin regulations. Each campsite shall be located not more than 400 feet from a toilet. No campsite shall be located closer than 75 feet to a nonflushing toilet.
 - (o) There shall be an adequate source of pure water with supply outlets for drinking and domestic purposes located not more than 400 feet from any camping unit. Where a public water supply is not available, all wells shall comply with all applicable Washington County and State of Wisconsin regulations, except that well pits or pump pits shall not be permitted.
- (4) Sanitary garbage pickup. In every campground there shall be provided an adequate number of sanitary garbage pickup areas on the campground site as determined by the Plan Commission. Said garbage pickup area shall be screened from view in accordance with this chapter and all other applicable Town regulations.
- (5) Maintenance. Regular maintenance of campgrounds shall be adequate so as to preclude creation of any nuisance. Maintenance shall include such things as cleaning toilet facilities, collection of trash and garbage, upkeep of interior private driveways and roads, upkeep of beach areas, repair of recreational equipment, removal of noxious flora, control of pests, and replacement of burned-out outdoor lighting and luminaires.
- (6) Fencing may be required. The Town may require that a fence be built to specifications which would serve to discourage trespassing on private property.
- (7) Compliance with regulations. All campgrounds shall comply with all state, county, and local regulations.

G. Cemeteries, human. Cemeteries for humans shall meet the following requirements:

- (1) State requirements. All requirements of the Wisconsin Statutes regarding the interment of human dead shall be met.
- (2) Minimum required site area. A minimum required site size for the entire cemetery site shall be three acres.
- (3) Off-street parking and maneuvering of funeral corteges. There shall be adequate space within the site for the parking and maneuvering of funeral corteges.
- (4) Minimum interment setbacks. No interment shall take place within 50 feet of any adjoining lot line.
- (5) Minimum structure setback. All structures shall be set back a minimum of 50 feet from any boundary line of the cemetery property, plus two feet for each one foot of structure height over 25 feet, to the maximum height permitted by the zoning district in which it is located.

H. Special standards for wireless communications towers, antennas, and associated accessory structures and facilities (including SIC No. 4812, "Radiotelephone Communications").
[Amended 6-24-2009 by Ord. No. 09-03]

(1) Applicability.

- (a) All new communication antennas and communication towers in the Town shall be subject to these zoning regulations and all other applicable building and construction codes.
- (b) All communication towers existing on June 24, 2009, shall be allowed to continue to be used as they presently exist. Routine maintenance (including modifications to accommodate the co-location of an additional user or users) shall be permitted on such existing towers. New construction, other than routine maintenance and modifications to accommodate co-location on an existing communication tower, shall comply with the requirements of this section.
- (c) For communication antennas, replacement of antennas on a structure with different antennas shall be considered routine maintenance as long as the replacement antenna(s) does not increase the height of any structure other than the communication tower on which it is placed by more than 25 feet and the area (square footage) of the replacement antenna(s) is less than 50% more than the area (square footage) of the antenna that was permitted originally on the structure.
- (d) For purposes of this section, a communication tower that has received final approval in the form of either a site plan approval or a building permit, but has not yet been constructed, shall be considered an existing tower so long as such approval is valid and unexpired as of June 24, 2009.

(2) Standards. The following special standards shall apply:

- (a) Type of tower. A wireless communications tower (including SIC No. 4812, "Radiotelephone Communications") shall be a monopole tower. The Plan Commission may consider other tower designs in place of the use of a monopole tower design if the Plan Commission determines that said other tower design is:
 - [1] More compatible with the architecture of the surrounding neighborhood area.
 - [2] Not more visually obtrusive than a monopole tower design.
- (b) Interference with air traffic prohibited. The proposed antenna(s) or antenna structure shall not result in restriction or interference with air traffic or air travel to or from any existing or proposed airport and must meet the applicable Federal Aviation Administration regulations.

- (c) Interference with radio and television reception prohibited. The proposed antenna or antenna structure shall not result in interference with radio and/or television reception in nearby residential or nonresidential areas based upon the applicable Federal Communications Commission regulations.
- (d) On-site location requirements. The tower shall be located on the site pursuant to the drawings submitted by the applicant as part of the application.
- (e) Maximum height. The tower and antenna support structures shall not exceed a maximum height of 200 feet.
- (f) Towers and antenna structures to be structurally self-supporting. The tower and antenna structures shall be structurally self-supporting without the use of guy wires and shall be designed by a structural professional engineer licensed in the State of Wisconsin.
- (g) Advertising and signage. No form of advertising or signage (other than warning or equipment information signage) shall be allowed on the antenna, antenna structure, base, or framework. This prohibition shall include but not be limited to any flag, pennant, whirling object, banner, inflatable device, or other article attached to a string or line.
- (h) Cable installation. All cable to and from the antenna and/or antenna structure shall be installed underground.
- (i) Applicant and/or owners to allow at least five service providers to use antenna facilities. In the case of wireless communications towers, the applicant shall allow the sharing of the antenna support facilities among five or more service providers through the use of a co-location agreement. The holder of a special use permit for an antenna support facility shall not make access to the antenna support facility and site economically unfeasible. If additional user(s) demonstrate (through an independent arbitrator or other pertinent means) that the holder of a special use permit for an antenna support facility and site has made access to such antenna support facility and site economically unfeasible, then the special use permit for said facility shall become null and void.
 - [1] All antenna support facilities shall be designed structurally, electrically, and in all respects to:
 - [a] Accommodate both the applicant's antennas and comparable collocated antennas.
 - [b] Allow for the future rearrangement of five or more antennas upon the communication structure.
 - [c] Accept antennas mounted at varying heights provided said heights do not exceed the maximum height approved or the height of the approved communication tower.
 - [2] No additional antenna towers shall be constructed on the entire property until the subject antenna tower has reached the above stated minimum total number of co-location users.
 - [3] If the applicant is not collocating (sharing space) on the proposed communication tower of another communications provider, the applicant shall provide evidence that it has made diligent but unsuccessful efforts to collocate its antenna and associated equipment on an existing structure, and evidence that the applicant has made diligent but unsuccessful efforts to locate the proposed communication tower on suitable government-owned property, prior to any consideration being given to the proposed new site plan and special use application.
- (j) Security. The base of the tower and its associated accessory structures shall be fenced and secured so that they are not accessible by the general public. All fencing shall meet the applicable fence requirements of the Town.

(k) Removal of antenna facilities upon abandonment.

[1] In the event the use of any communication tower has been discontinued for a period of 180 consecutive days, the tower shall be deemed to be abandoned. Determination of the date of abandonment shall be made by the Zoning Administrator, based upon documentation and/or affidavits from the communication tower owner/operator regarding the issue of tower usage. Upon the Zoning Administrator's determination of such abandonment, the owner/operator of the tower shall have an additional 180 days within which to:

[a] Reactivate the use of the tower or transfer the tower to another owner/operator who makes actual use of the tower; or

[b] Dismantle and remove the tower.

[2] At the earlier of 180 days from the date of abandonment without reactivation or upon completion of dismantling and removal, any exception and/or variance approval for the tower shall automatically expire.

[3] The property owner shall sign, as a condition of issuance of a special use permit, an agreement (subject to the Town Attorney's review and approval) and record (with the Washington County Register of Deeds, as applicable) as a deed restriction to remove the communications tower, antenna(s), and associated accessory structure(s) and/or facility(ies) within 180 days of the determination of such abandonment, including a provision in said agreement that the Town of Barton may cause such removal to be performed and levy the cost thereof, including direct costs (i.e., contractual costs, personnel and legal expenses) and overhead expenses (to be calculated at 125% of all direct costs), as a special charge against the property.

[4] In conjunction with said removal, the Town of Barton shall have full access to both the tower site and all access and/or utility easements associated with said facilities.

(l) Anchoring. The communications tower shall be securely anchored to the ground.

(m) Lighting. The communications tower shall not be artificially lighted except to assure human safety, unless required by the Federal Aviation Administration or other applicable authority.

(n) Color. The communications tower shall be left in its galvanized steel color or painted a gray finish.

(o) Outdoor storage. There shall be no outdoor storage of any vehicles, equipment, or other goods permitted in conjunction with communications towers, antennas, and associated accessory structures and facilities. This section does not apply to overnight storage of vehicles or equipment necessary for the construction or repair of the communications tower(s), antennas, and associated accessory structures and facilities.

(p) Maintenance. All communications towers, antennas, and associated accessory structures and facilities shall be maintained in a clean, sanitary, and safe manner and kept free from trash, refuse, and debris. In addition, all communications towers, antennas, and associated accessory structures and facilities shall be maintained in accordance with all applicable local, state, and federal regulations. If the property owner should fail to fulfill the obligation of said maintenance, the Town of Barton may cause such maintenance to be performed and levy the cost thereof, including direct costs (i.e., contractual costs, personnel and legal expenses) and overhead expenses (to be calculated at 125% of all direct costs), as a special charge against the property. In conjunction with the performance of said maintenance, the Town of Barton shall have full access to both the tower site and all access and/or utility easements associated with said facilities.

(q) Landscaping required and landscape plant material maintenance. Landscape plant materials consisting of coniferous trees shall be required to be installed on the perimeter of all communications towers, antennas, and associated accessory structures and facilities

which are to be a minimum of eight feet in height at the time of installation. Said coniferous trees shall visually obscure from view from surrounding areas all associated accessory structures and facilities. All landscape plant materials shall be maintained in a live condition at all times. Any plant materials included in the approved landscape plan that do not survive shall be replaced with plant material(s) of the same or like species of equal size within the next planting season, but in any event within six months of the plant's demise. The property owner shall make said replacement. If the property owner should fail to fulfill the obligation to replace said landscape plant(s) within said period, the Town of Barton may cause such replacement to be performed and levy the cost thereof, including direct costs (i.e., contractual costs, personnel and legal expenses) and overhead expenses (to be calculated at 125% of all direct costs), as a special charge against the property. In conjunction with the performance of said landscape plant replacement, the Town of Barton shall have full access to both the tower site and all access and/or utility easements associated with said facilities.

- (r) Federal Communications Commission (FCC) licensing required. No construction of the communications tower(s), antennas, and/or associated accessory structures and facilities shall be commenced until all applicable FCC licenses have been granted and copies of said FCC licenses have been furnished the Town of Barton.
- (s) Minimum setback requirements. No portion of any wireless communications towers, antennas, and associated accessory structures and facilities shall overhang any property line. There shall be a setback from any adjacent property lines, right-of-way lines, and overhead power lines of sufficient radius around the tower or alternative tower structure (as measured from the extremities of the tower base or alternative tower structure base) equal to the tower height or alternative tower structure height (as applicable and as set forth in the special use permit), plus 25 feet, so that its collapse will be entirely contained on the property. This standard may be modified to a lesser requirement if the applicant submits written evidence from a structural professional engineer licensed in the State of Wisconsin which indicates that the tower is so designed that the collapse of the tower would require a lesser setback in order to entirely contain its collapse on the property upon which it is placed. All setbacks shall be measured from the base of the tower or alternative tower structure or associated accessory structures and facilities closest to the applicable property line. Tower or alternative tower structure setback requirements may be waived by the Town Plan Commission only under the following circumstances, as determined by the Town Plan Commission:
 - [1] The communications antennas and associated accessory structures and facilities are proposed to be located on an existing, legally established tower or alternative tower structure, building or accessory structure; and
 - [2] Overall, the reduced setback enables the further mitigation of adverse visual and other environmental impacts than would otherwise be possible.
- (t) Minimum distance of communication towers from residential zoning districts and residential structures.
 - [1] Regardless of the zoning district in which a communication tower is located, the tower shall be at least 200 feet from the nearest residential zoning district lot line, except that the tower shall be at least 250 feet from the nearest residential lot line of any single-family residence.
 - [2] Distances shall be measured from the center of the base of the communication tower to the residential lot line.
 - [3] Notwithstanding anything to the contrary in this chapter, no communication tower other than a monopole (freestanding) tower shall be located in any location adjacent to a residential lot, except that a communication tower necessary for provision of an essential service by a public utility adjacent to a residential lot is not limited to a

monopole if the entity with the authority to approve the site plan determines that a different type of tower is necessary for provision of the essential service.

- (u) Maps required to be submitted showing the number and location of all existing and potential locations of all antenna sites needed in the Town of Barton. The applicant for the initial communication tower special use shall prepare and submit (with the special use application) a plan showing the number and location of all existing and potential locations of all antenna sites needed in the Town of Barton to complete the communications network with the special use application. Propagation maps showing the existing and proposed signal of the carrier or service provider within all of the Town of Barton and within six miles of the Town of Barton boundary shall be submitted with the special use application. Propagation maps submitted with the special use application shall include areas serviced through roaming agreements with other service providers, if applicable.
- (v) Site plan and landscape plan required. A site plan meeting the requirements of § 500-149 of this chapter shall be required. A landscape plan meeting the requirements of § 500-154 of this chapter shall be required.
- (w) Nonconforming communication towers. To the extent set forth herein, the restrictions on nonconforming uses and structures contained in Article XIII are modified and supplemented by this section. Legal nonconforming communication towers or antennas that are damaged or destroyed may be rebuilt and all such towers or antennas may be modified or replaced without meeting the minimum distance requirements specified within this Subsection H, provided that the replacement structure shall not be placed less of a minimum distance to abutting property lines than the original structure. The type, height, and location of the tower on the site shall have no greater impact on the adjacent property than the original facility approval. Building permits to rebuild the tower shall comply with all applicable Town codes and shall be obtained within 180 days from the date the tower is damaged or destroyed. If no permit is applied for, or obtained, or if said building permit expires, the communication tower shall be deemed abandoned as specified in Subsection H(2)(k) hereinabove.
- (x) Facilities exempt from this section. The following wireless communications towers, antennas, and associated accessory structures and facilities are exempt from the provisions of this Subsection H:
 - [1] A ground- or building-mounted receive-only radio antenna, television antenna, or internet antenna which does not exceed 40 feet in height and which is used solely by the occupants of a dwelling located in a residential zoning district.
 - [2] A ground- or building-mounted receive-only radio or television satellite dish that does not exceed one meter in diameter in any zoning district.
 - [3] A citizens band radio tower and antenna that does not exceed 40 feet in height.
 - [4] A tower and antenna(s) used in the amateur radio service that does not exceed 75 feet in height.
 - [5] Microwave dish antennas for private home use.
 - [6] Towers, equipment facilities, and antennas that existed prior to the effective date of this subsection (June 24, 2009).
 - [7] Governmental-owned and/or -operated wireless communications towers, antennas, and associated accessory structures and facilities (including SIC No. 4812, "Radiotelephone Communications"). However, all towers and antennas constructed and maintained in the Town of Barton shall comply with all other applicable local, state, and federal laws.
 - [8] Handheld telecommunications devices such as cell phones, business-band mobile radios, walkie-talkies, portable radios, cordless telephones, garage door openers, and

similar devices.

I. Convenience stores. Convenience stores shall meet the following requirements:

- (1) Direct access to arterial streets required. All convenience stores shall have direct access to an arterial street which is a federal-, state-, or county-designated highway, except where it is part of a nonresidential development where access is provided by a parallel access road, or reverse frontage road, where nonresidential uses will be on both sides of the street.
- (2) Required additional landscape buffer yard when abutting residential zoning districts. When abutting a residential zoning district, convenience stores shall provide an additional one buffer yard intensity level factor to that already required under the provisions set forth in § 500-132 of this chapter.
- (3) Screening of all loading, storage, and garbage or waste facilities. All loading, storage, and garbage or waste facilities shall be fully enclosed and screened from view as deemed appropriate by the Plan Commission. Under no circumstances, however, shall such requirements be less than those specified elsewhere in this chapter.
- (4) Architectural design. All convenience stores adjoining residential uses and zoning districts shall have pitched roofs matching the rooflines of adjoining residential structures. Each convenience store building shall use the same architectural materials on all sides of the building.
- (5) Fuel pump number and location. The total maximum number of fuel pumps allowed at any convenience store shall be four. Any fuel pumps, underground fuel storage tanks, and islands shall be at least 100 feet from any street or abutting lot line and meet all other State of Wisconsin regulations.
- (6) Canopies. The canopies provided over the pump islands of convenience stores with gas pumps shall meet the yard requirements of a principal structure. In addition:
 - (a) Obstruction of visibility at rights-of-way prohibited. The canopy shall not block visibility at intersections of rights-of-way or drives.
 - (b) Zoning district front yard requirements shall be met. All pump islands, their surrounding structures, and the canopy overhang shall meet the zoning district's front yard requirement.
 - (c) Canopies to be counted towards maximum permitted GFAR and NFAR. All canopies shall be counted towards the maximum permitted gross floor area ratio (GFAR) and maximum net floor area ratio (NFAR) of the nonresidential zoning district in which the canopy is to be constructed.
 - (d) Maximum height. Under no circumstances shall the canopy be higher than 25 feet.
 - (e) Signs not permitted. No signs shall be permitted on canopy roofs or fascia.
- (7) Lighting. The off-street parking and fueling area may be illuminated. Total cutoff of light shall be at an angle of less than 90° and shall be located so that the bare light bulb, lamp, or light source is completely shielded from the direct view of an observer five feet above the ground at the point where the cutoff angle intersects the ground and so that no light can be viewed from any abutting residential zoning districts. Maximum footcandle levels allowed are set forth in Article XIX of this chapter for the zoning district in which the convenience store is located.
- (8) Hours of operation. Hours of operation shall be established by the Town Board.

J. Firing range, small arms. Firing ranges for small arms shall meet the following requirements:

- (1) Minimum parcel size. The minimum size of the site shall be 20 acres.
- (2) Maximum caliber allowed to be fired. The maximum caliber for rifled barrels used shall be determined by the Town Board.

- (3) Projectile-proof backstop required. A projectile-proof backstop, consisting of concrete, steel, earth or a combination thereof, at least 15 feet high, shall be erected and maintained behind all target areas.
 - (4) Nuisances prohibited. The use shall not constitute a nuisance or be a hazard to life or property as determined by the Town of Barton.
 - (5) Maximum noise level. The noise level shall not exceed 55 dBA at the property boundary line.
 - (6) Hours of operation. The hours of operation shall be determined by the Town Board.
 - (7) Design and safety standards. The design and safety standards of the National Rifle Association, the National Skeet Shooting Association, and the Amateur Trap Shooting Association shall be met as applicable and as determined by the Town Board.
 - (8) Proximity to residential districts. The use shall not abut or be located within 1,000 feet any residential zoning district or any area planned for residential use as set forth in the Town of Barton Comprehensive Plan or component thereof.
 - (9) Term of special use permit. The special use permit shall be reviewed by the Town Board annually.
- K. Gas stations (including gas stations with automotive repair facilities, and automotive repair facilities). Gas stations, gas stations with automotive repair facilities, and automotive repair facilities shall meet the following requirements:
- (1) Direct access to arterial streets required. All gas stations shall have direct access to an arterial street which is a federal-, state- or county-designated highway, except where it is part of a nonresidential development where access is provided by a parallel access road or reverse frontage road where nonresidential uses will be on both sides of the street.
 - (2) Required additional landscape buffer yard when abutting residential zoning districts. When abutting a residential zoning district, gas stations shall provide an additional two buffer yard intensity level factors to that already required under the provisions set forth in § **500-132** of this chapter.
 - (3) Screening of all loading, storage, and garbage or waste facilities. All loading, storage, and garbage or waste facilities shall be screened from view and fully enclosed within a masonry wall eight feet in height on a minimum of three sides. Under no circumstances, however, shall such requirements be less than those specified elsewhere in this chapter.
 - (4) Architectural design. All gas stations adjoining residential uses and zoning districts shall have pitched roofs matching the rooflines of adjoining residential structures. The building shall use the same architectural materials on all sides of the building.
 - (5) Fuel pump location. Any fuel pumps, underground fuel storage tanks, and islands shall be at least 100 feet from any street or abutting lot line and meet all other State of Wisconsin regulations.
 - (6) Canopies. The canopies provided over the pump islands of gas stations with gas pumps shall meet the yard requirements of a principal structure. In addition:
 - (a) Obstruction of visibility at rights-of-way prohibited. The canopy shall not block visibility at intersections of rights-of-way or drives.
 - (b) Zoning district front yard requirements shall be met. All pump islands, their surrounding structures, and the canopy overhang shall meet the zoning district's front yard requirement.
 - (c) Canopies to be counted towards maximum permitted GFAR and NFAR. All canopies shall be counted towards the maximum permitted gross floor area ratio (GFAR) and maximum

net floor area ratio (NFAR) of the nonresidential zoning district in which the canopy is to be constructed.

- (d) Maximum height. Under no circumstances shall the canopy be higher than 25 feet.
 - (e) Signs not permitted. No signs shall be permitted on canopy roofs or fascia.
- (7) Lighting. The off-street parking and fueling area may be illuminated. Total cutoff of light shall be at an angle of less than 90° and shall be located so that the bare light bulb, lamp, or light source is completely shielded from the direct view of an observer five feet above the ground at the point where the cutoff angle intersects the ground and so that no light can be viewed from any abutting residential zoning districts. Maximum footcandle levels allowed are set forth in Article **XIX** of this chapter for the zoning district in which the gas station is located.
- (8) Repair services. All repair services shall be performed within a completely enclosed building and shall meet the following requirements:
- (a) No more than the required off-street parking set forth under the provisions of § **500-118** shall be allowed.
 - (b) All storage of vehicles awaiting needed parts shall be within the building or in an enclosed or screened-in yard. The maximum number of vehicles stored shall be determined by the Town Board.
 - (c) All damaged or nonoperable parts shall be stored indoors until removed from the premises.
 - (d) An automotive repair facility shall store all vehicle parts within a completely enclosed building.
 - (e) The maximum allowable number of trucks used for service which can be parked at the site shall be determined by the Plan Commission as a condition of approval of the special use permit.
- (9) Hours of operation. Hours of operation shall be established by the Town Board.
- (10) State regulations. All applicable State of Wisconsin regulations shall be met.
- L. Golf driving ranges. Golf driving ranges shall meet the following requirements:
- (1) Minimum required site area. The site shall be a minimum of 15 acres in area and shall be of such configuration so as to permit a minimum driving distance of 300 yards from each proposed tee, exclusive of all required buffer yard areas.
 - (2) Additional site plan requirements. A site plan of the facility shall be submitted showing the layout of the property with all ranges, roughs, tees, structures, off-street parking areas, fencing, and proposed plant materials and location.
 - (3) Site lighting. Lighting used at the site shall be designed, located, and constructed so as to prevent glare and minimize reflection onto neighboring property. Those lighting standards set forth in Article **XIX** shall be adhered to.
 - (4) Minimum setbacks. Minimum setbacks for front, rear, and side yards shall be 100 feet.
 - (5) Direct access to arterial streets required. All golf driving ranges shall have direct access to an arterial street which is a federal-, state- or county-designated highway.
- M. Heliports. Heliports shall meet the following requirements:
- (1) Minimum site size. The area proposed for this use shall be sufficient in size, and the site shall otherwise be adequate to meet the standards for the type of facility proposed of the Federal Aviation Administration and the Department of Transportation in accordance with their

published Rules and Regulations. In no case shall a site be less than 15 contiguous acres in area.

- (2) Location of landing area on the site. Any proposed landing area shall be situated so that any structures, high-voltage power lines, towers, chimneys, and natural obstructions within the approach zones shall comply with regulations for height restrictions in airport approach zones of the Federal Aviation Administration, Wisconsin Division of Aeronautics, or other airport authority qualified by law to establish hazard zoning regulations. No planned approach areas shall be permitted over proposed residential areas. Landing and takeoff areas shall be located a minimum of 150 feet from any zoning lot boundary and a minimum of 500 feet from any dwelling unit or residential zoning district.
- (3) Required off-street parking. In addition to those off-street parking requirements set forth in Article **XVII** of this chapter, one space for every helicopter space within a hangar or enclosed aircraft storage area, plus one space for every aircraft tie-down space, plus one space for every two employees shall be required.
- (4) Minimum required setbacks. Any building, hangar, or other structure shall be at least 100 feet from any street right-of-way line. Hangars and repair facilities shall be set back at least 150 feet from any zoning lot boundary, and all other buildings shall be set back at least 50 feet from any zoning lot boundary.
- (5) Repairs. All repair of airplanes and machinery shall be done inside hangars.
- (6) Limitations on the location of nearby residential structures. Residential uses shall not be located within the approach path or within the 65 L_{dn} unless measures to achieve a noise-level reduction of 25 dBA (outdoor to indoor) are incorporated into the design and construction of the residential structures.
- (7) Applicable federal, state, and local regulations to be met. Heliports shall meet all applicable federal, state and local regulations.

N. Helistops. Helistops shall meet the following requirements:

- (1) Minimum site size. The area proposed for this use shall be sufficient in size, and the site shall otherwise be adequate to meet the standards for the type of facility proposed of the Federal Aviation Administration and the Department of Transportation, for the type of facility proposed, in accordance with their published rules and regulations.
- (2) Location of landing area on the site. Any proposed landing area shall be situated so that any structures, high-voltage power lines, towers, chimneys, and natural obstructions within the approach zones shall comply with regulations for height restrictions in airport approach zones of the Federal Aviation Administration, Wisconsin Division of Aeronautics, or other airport authority qualified by law to establish hazard zoning regulations. Landing and takeoff areas shall be located a minimum of 150 feet from any zoning lot boundary and a minimum of 500 feet from any dwelling unit or residential zoning district.
- (3) Limitations on the location of nearby residential structures. Residential uses shall not be located within the approach path or within the 65 L_{dn} unless measures to achieve a noise-level reduction of 25 dBA (outdoor to indoor) are incorporated into the design and construction of the residential structures.
- (4) Applicable federal, state, and local regulations to be met. Helistops shall meet all applicable federal, state, and local regulations.

O. Kennels, commercial. Commercial kennels shall meet the following requirements:

- (1) Solid waste and feces removal. The disposal of all feces and other solid waste generated by the kennel operation shall be reviewed and approved by the Washington County Planning and Parks Department.

- (2) Required fencing. All runs and kennel area shall be fenced with chain-link, solid wood fencing or a masonry wall of a height to be determined by the Plan Commission. The fence or wall shall be of quality material and be neat in appearance.
 - (3) Noises, smoke, and odor. Any training of animals shall not include the use of loud noises (unless approved by the Town Board) or produce smoke or odor. The kennel facility shall not generate adverse, off-site noise or odor impacts.
 - (4) Humane Society of the United States (HSUS) guidelines to be used. Humane Society of the United States (HSUS) guidelines shall be used, at a minimum, for the flooring, walls between kennels, drainage, heating and cooling, cage sizes, and runs.
 - (5) Minimum required setbacks. All outdoor runs shall be a minimum of 150 feet from any residential zoning district and all exercise areas shall be a minimum 50 feet from any residential zoning district.
- P. Mini warehouses. Mini warehouse facilities shall meet the following requirements:
- (1) Limitations on use of facilities. Such facilities shall be used only for the storage of materials or articles and shall not be used for assembly, fabrication, processing, or repair.
 - (2) Services and sales activities prohibited. No services or sales shall be conducted from any storage unit. Garage sales and/or flea market type activities are prohibited.
 - (3) Practice rooms, meeting rooms, and residences prohibited. Facilities shall not be used for practice rooms, meeting rooms, or residences.
 - (4) Outdoor storage prohibited. No outdoor storage shall be permitted.
 - (5) Storage of explosive or highly flammable material prohibited. Storage of explosive or highly flammable material shall be prohibited.
 - (6) Storage of motor vehicles. Motor vehicles shall not be stored with batteries or fuel.
- Q. Outdoor nursery and garden sales. Outdoor nursery and garden sales shall meet the following requirements:
- (1) Outdoor sales of merchandise to be accessory to enclosed building. There shall be an enclosed building with outdoor sales of merchandise accessory to said building.
 - (2) No outdoor display permitted not accessory to enclosed building. No outdoor display shall be permitted which is not accessory to an enclosed building.
 - (3) Maximum area of outdoor sales. The overall area of any outdoor sales accessory use shall be determined by the Town Board.
- R. Power-generation facilities. Power-generation facilities shall meet the following requirements:
- (1) Direct access to arterial streets required. All power-generation facilities shall have direct access to an arterial street which is a federal-, state- or county-designated highway.
 - (2) Minimum required setbacks. Front, rear, and side yards shall be a minimum of 50 feet from all lot and public street right-of-way lines. When adjacent to a residential zoning district, yards shall be a minimum of 1,000 feet from said residential zoning district line.
 - (3) All applicable local, state, and federal environmental standards to be met. Proof of the ability to meet all applicable local, state, and federal environmental standards shall be provided.
- S. Quarrying and extraction uses. The following shall be considered extraction uses: sand, clay, dolomite, shale, gravel, topsoil, or similar extractive operations, including borrow pits (excavations for removing material for filling operations). When applying for a change of zoning, the applicant shall provide the following plans and information in addition to what is otherwise required for a special use permit:

(1) Plans required.

- (a) Plan of the general area required. Plan of the general area (within a six-hundred-foot radius of site) shall be prepared at a scale of 1,000 feet to the inch or less, with a ten-foot contour interval or less, to show:

[1] Existing data:

- [a] Location of proposed site.
- [b] Land use pattern, including all building locations and historical sites.
- [c] The width, weight loads, types of surfaces and traffic data for all public streets.

[2] Site and geological data:

- [a] Soil and geology with soil borings on a five-hundred-foot grid.
- [b] Surface drainage patterns and watercourses.
- [c] General groundwater movements and aquifer information.
- [d] Aquifer recharge data.
- [e] Vegetation cover in the site and dominant species noted.
- [f] Climate, precipitation, predominant wind direction, and percentage of time.

[3] Proposed operation of the site:

- [a] Type of material to be removed.
- [b] Annual removal rate.
- [c] Method of extraction, including types of equipment, use of conveyors, use of blasting materials.
- [d] Supplementary processes, drying, grading, mixing or manufacturing.
- [e] Estimated life of the operation and maximum extent of area disturbed, final depths, and sidewall slopes.
- [f] Sediment erosion control plan meeting the requirements of this chapter.

[4] Other required plans and data.

- (b) Plan of the proposed site. Plan of proposed site at a scale of 100 feet to the inch or less, with a two-foot contour interval or less, to show:

[1] Basic data.

- [a] Soils and geology, with soil borings on a one-hundred-foot grid for storage facility areas.
- [b] Detailed site-specific surface drainage patterns.
- [c] Detailed groundwater movements and aquifer information.
- [d] Detailed site-specific vegetation, with dominant species noted.

[2] Proposed usage.

- [a] Interior road pattern, its relation to operation yard and points of ingress and egress to local, state and county streets and highways.
- [b] Ultimate use and ownership of site after completion of operation.

- (c) Plan of operation required. A plan of operation is required showing:
- [1] Proposed tree and earthen berm screen locations as well as landscape plans for all required buffer yards. (See Article **XVIII**.)
 - [2] Soil embankments for noise, dust, and visual barriers, and heights of spoil mounds.
 - [3] Method of disposition of excess water during operation.
 - [4] Location and typical schedule of blasting.
 - [5] Machinery, type and noise levels.
 - [6] Safety measures and monitoring of complaints.
 - [7] Street, road and drive pattern.
 - [8] Final contours of area after extraction or disposal has been completed and prior to restoration.
 - [9] Estimated amount and description of aggregate and overburden to be removed.
 - [10] Source of water, if used.
 - [11] Location for storage of aggregate and overburden.
 - [12] Sedimentation and erosion control plan during operations.
 - [13] A plan for the continued maintenance of the Town roads used.
- (d) End use plan and restoration requirements.
- [1] An end use plan for the rehabilitation of the site after the extraction operation is completed shall be submitted and must be approved by the Plan Commission. Such plan shall show and provide for either a final end use or an open space use. If it is to be an open space use, documentation as to who shall own and maintain such site or restrictive easements must be presented as well as a final contour and site plan submittal. If there is an end use other than open space, then engineering data on the length of time needed for the restoration work to settle sufficiently to provide a stable base for the proposed end use shall be submitted. For all such uses, proper legal documents must be presented that outline:
 - [a] Post-operation maintenance procedures.
 - [b] Legal responsibility for any environmental pollution that occurs even if after the facility is closed.
 - [c] Financial ability to clean up any possible pollution that occurs even if after the facility closed.
 - [d] Final contours of area after extraction or disposal has been completed and prior to restoration.
 - [e] The owner or operator shall submit a plan for progressive restoration as the operation is being carried on.
 - [2] In order to ensure that the area of extraction operation shall be restored to a condition of practical usefulness and reasonable physical attractiveness, the owner or operator shall, prior to the issuance of a special use permit, submit to the Plan Commission a plan for such restoration in the form of the following:
 - [a] An agreement with the Town of Barton whereby the applicant contracts to restore the premises to the agreed condition and within a time satisfactory to the Town.

- [b] A physical restoration plan showing the existing and proposed contours at two feet and at Washington County vertical datum after restoration, plantings and other special features of restoration, and the method by which such restoration is to be accomplished.
 - [c] A bond, written by a licensed surety company, a certified check, letter of credit, or other financial guarantee in a form satisfactory to the Town Attorney and in an amount sufficient in the opinion of the Town Engineer to secure the performance of the restoration agreement.
 - [i] If the applicant fails to fulfill the agreement, such bond, check, or other financial guarantee shall be deemed forfeited for the purpose of enabling the Town of Barton to perform the restoration.
 - [ii] Restoration shall proceed as soon as practicable and at the order and direction of the Town Engineer. The required bond in such case may cover progressive stages of the restoration for periods of not less than two years.
 - [iii] At any stage during the restoration, the plan may be modified by mutual agreement between the Town of Barton and the owner or operator.
 - [iv] Where there is any backfilling, the material used or method of fill shall not be such as to create a health hazard or which would be objectionable because of odor, combustibility, or unsightliness. In any case, the finished condition of the restored area, except for rock faces, outcroppings, water bodies, or areas of proposed building or paving construction, shall be of sufficient depth of earth to support plant growth.
 - [v] Within one year after the cessation of the operation, all temporary structures (except fences) and equipment shall be removed; stockpiles, rubble heaps or other debris shall be removed or backfilled into excavation, so as to leave the premises in a neat and orderly condition, and covered with a minimum of two feet of earth including four inches of topsoil.
 - [vi] In any restoration procedure which takes place in sand or gravel pits or on other sites where the material is of a loose or friable nature, no slope shall be left which is steeper than a ratio of 1 1/2 horizontal to one vertical. In no case shall any slope exceed the normal angle of slippage or repose of the material involved.
 - [vii] In addition, all restoration shall be in conformance with the construction site erosion control requirements of this chapter.
- [3] Planting.
- [a] When planting is the final use to which the property is put, all that is not covered by water shall be covered with a sufficient amount of arable soil to support vegetation. A landscape planting plan shall be prepared for the entire finished property using various types of plant material that prevent soil erosion and provide vegetative cover.
 - [b] When buildings are proposed as part of the final use to which the tract is put, planting in areas adjacent to proposed buildings shall be planted with a vegetative cover in keeping with the requirements of the ultimate building purposes.
 - [c] All buffer yards and associated plantings required under the provisions of Article **XVIII** of this chapter shall be met.

(2) Performance standards.

- (a) Location.
 - [1] A quarry or extraction use shall take direct access via a road meeting the requirements of Subsection **S(2)(e)** below.
 - [2] No quarry or extraction operation shall be located in a wetland or one-hundred-year recurrence interval floodplain.
 - [3] The exterior wall elevation of a quarry or extraction use shall be at least four feet above the one-hundred-year recurrence interval flood elevation.
- (b) Operations. Quarrying and extractive operations shall meet all development and performance standards of this chapter and all other applicable local, state, and federal regulations.
- (c) Minimum required setbacks. The excavation, quarry, or extraction use wall shall not be located within 125 feet from any public street right-of-way. The setbacks listed in Table 500-73S are required from the periphery of the subject property to any disposal area, excavation, quarry or extraction use wall, or storage area on the subject property. Setback distance is dependent upon both the zoning and land use district designation of adjacent property as set forth in the Comprehensive Plan (whichever designation, zoning or planned land use, would impose the stricter requirement).^[2]

Table 500-73S

Minimum Required Setbacks from Abutting Zoning and Planned Land Use Districts for Quarrying and Extractive Operations

Zoning and/or Planned Land Use District of Abutting Property	Minimum, Required Setback from Zoning and/or Land Use District Boundary Line (whichever is greater)
All residential districts, including the PUD (residential) District (not owned by the quarrying or extractive operation)	1,200 feet
All residential and PUD Districts (owned by the quarrying or extractive operation)	300 feet
NHB, CB, FB and PUD (commercial) Districts	200 feet
BP Districts	1.5 miles
I District and PUD (institutional) Districts	1,200 feet
PR District	300 feet
LM and PUD (industrial) Districts	150 feet
QE District	50 feet
EA, AT, GA and HFA Districts	300 feet
Landfills	500 feet
100-year recurrence interval floodplains, wetlands, and shoreland wetlands	200 feet

[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- (d) Grading. All disposal areas and excavations shall be graded in such a way as to provide an area which is harmonious with the surrounding terrain and not dangerous to human or animal life.
 - [1] Excavations shall be graded and backfilled to the grades indicated by the site plan. Grading and backfilling shall be accomplished continually and as soon as practicable

after excavation. Grading and backfilling may be accomplished by use of construction rubble such as concrete or other materials, provided such materials are composed of non-noxious, noncombustible solids.

- [2] Grading and backfilling shall be accomplished in such a manner that the slope of the fill or its cover shall not exceed the normal angle of slippage of such material or 33° in angle, whichever is less. During grading and backfilling, the setback requirements in Subsection **S(2)(c)** above may be reduced so that the top of the graded slope shall not be closer than 25 feet to any lot line, 75 feet to any street line, nor within 100 feet of any delineated environmental corridors or isolated natural areas or residential zoning or land use district boundary line.
- [3] When excavations which provide for a body of water are part of the final use of the tract, the banks of the excavation shall be sloped to a minimum ratio of seven feet horizontal to one foot vertical, beginning at least 50 feet from the edge of the water and maintained into the water to a depth of five feet.
- [4] Drainage shall be provided, either natural or artificial, so that disturbed areas shall not collect nor permit stagnant water to remain.

(e) Access. Truck access to any disposal area or excavation shall be so arranged as to minimize danger to traffic and nuisance to surrounding properties and to ensure the quality of public roads. No extraction facility shall be allowed to take access through a residential street. Approved access streets and highways shall meet Town, county, or Wisconsin Department of Transportation specifications (whichever is applicable based upon the jurisdiction of the street or highway) for base and pavement or shall be improved by the operator to such specifications. There shall be a minimum of 500 feet of sight distance at the entrance to the facility.

T. Radio and television transmitting and receiving facilities. Radio and television transmitting and receiving facilities shall meet the following requirements:

- (1) Interference with air traffic prohibited. The proposed structure would not result in restriction or interference with air traffic or air travel to or from any existing or proposed airport.
- (2) Minimum tower setback requirements. The proposed tower shall be set back from the zoning lot line one foot for every three feet of height of the tower.
- (3) Locational requirements for radio and television receiving dishes associated with radio and television transmitting and receiving facilities.
 - (a) A radio or television receiving dish shall be located within the rear yard of the property except for corner lots. On corner lots, the dish may be located in the portion of the lot which functions as a rear yard, but shall not be located closer to the street than front edge of the principal use (the portion of the principal use closest to the street). Any dish located within a required side yard shall be located behind (further from the street than) the principal structure on any lot abutting the side yard.
 - (b) On parcels or lots of a minimum size of five acres, radio and television receiving dishes shall not be located within required front and side yards.
 - (c) All dishes shall be screened from view from any street by a fence, wall, or hedge a minimum of six feet in height and 75% opaque.

U. Stables, public. Public stables shall meet the following requirements:

- (1) Minimum lot area. The minimum lot area shall be 10 acres.
- (2) Required minimum setbacks. Front, rear, and side yard setbacks shall be a minimum of 75 feet.
- (3) Pasture location. Pasture location and setbacks are to be determined by the Town Board.

- (4) Manure removal and general maintenance. Manure piles shall be stored, removed, and/or applied in accordance with applicable Town requirements. The operator of the stable shall be responsible for using good management practices to discourage undesirable odors, insects, and runoff.
- (5) Stable location. All points on the perimeter of any stable building or corral shall be at least 75 feet from the nearest boundary line or right-of-way line of the parcel on which it is located.
- (6) Feed and bedding storage. All feed and bedding shall be stored indoors.
- (7) Plan of operation required. The applicant shall submit a plan of operation for the Plan Commission's and Town Board's review and consideration.

Article XI. Accessory and Temporary Uses

§ 500-74. General standards.

- A. Accessory uses. Accessory uses and structures are permitted in any zoning district but not until the principal structure is present or under construction on the lot or parcel. Residential accessory uses shall not involve the conduct of any business, trade, or industry. Accessory uses include incidental repairs; storage; parking facilities; gardening; servants, owners, itinerant agricultural laborers, and watchmen's temporary quarters, not for rent; decks; private swimming pools; and private emergency shelters.
- B. Location. No part of an accessory building shall be located within the front yard or required side yard setback or rear yard setback, except:^[1]
 - (1) Required minimum distance from alley right-of-way. When an alley exists, no part of an accessory building shall be located closer than five feet to the right-of-way line of said alley.
 - (2) Area of accessory building. This shall not prohibit the erection of an accessory building located no closer than five feet to the side and rear lot lines.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- C. Time of construction. No accessory building or structure shall be constructed on any lot prior to the start of construction of the principal building to which it is accessory.
- D. Height of accessory buildings or structures in required rear yards. No accessory building or structure, or portion thereof, located in a required rear yard shall exceed the maximum permitted height of the zoning district in which the accessory building or structure is located.
- E. No slab required for accessory buildings of 200 square feet or less in area. Accessory buildings of 200 square feet or less in area (excluding trash and garbage waste receptacles, or dumpsters, in the R-9, R-10, PUD, and all nonresidential zoning districts) shall not require a concrete slab foundation. If a concrete slab foundation is not provided for such accessory building, the flooring shall be constructed of decay resistant wood, and the building shall be securely anchored to the ground.
- F. Maximum number of accessory structures per lot. There shall be no limitation on the maximum number of accessory buildings in the EA, AT, GA, and HFA Districts. The maximum number of accessory structures per zoning lot in the R-1, R-2, R-3, and R-4 Districts (conventional subdivisions only) shall be four accessory structures per zoning lot. The maximum number of accessory structures per zoning lot in the R-1 (open space subdivision and open space condominium options only), R-2 (open space subdivision and open space condominium options only), R-3 (open space subdivision and open space condominium options only), and R-4 (open space subdivision and open space condominium options only) Districts shall be three accessory structures per zoning lot. The maximum number of accessory structures per zoning lot in the R-5, R-6, R-7, R-8, and R-9 Districts shall be two accessory structures per zoning lot. The maximum

number of accessory structures per zoning lot in the R-10, NHB, CB, FB, BP, QE, I, PR, LM and PUD Districts shall be determined by the Plan Commission at the time of site plan review. (Also see § 500-20, regarding the maximum number of principal buildings on a zoning lot.)

[Added 11-1-1995 by Ord. No. 95-2; amended 3-3-2004 by Ord. No. 04-001; 4-19-2011 by Ord. No. 11-001^[2]]

[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

§ 500-75. Accessory uses in residential districts.

The following are detailed standards for certain accessory uses which are permitted accessory uses in residential districts:

A. Automobile or motor vehicle repair in residential districts. The repair of a resident-owned automobile or a resident-owned motor vehicle in any residential or agricultural zoning district (automobile or motor vehicle repair is not permitted in the R-9 and R-10 Districts or multiple-family uses and nonresidential uses in a PUD District), is subject to the following restrictions:^[1]

(1) Minor repairs and maintenance. Only minor repairs and maintenance may be performed which, for purposes of this subsection, are defined as the changing and replenishment of fluid levels, such as hydraulic fluid, windshield washer fluid, and lubricating oil; the replacement of spark plugs, or ignition points; the rotation of tires and the checking of adequate pressure; and the replacement of drive belts and hydraulic lines. Repairs and maintenance shall be limited to only those automobiles or motor vehicles owned by the resident or owner of the property upon which the repair or maintenance is conducted.

(2) Other repairs. Any other repairs on the motor vehicle or automobile shall be restricted to totally enclosed spaces which are properly ventilated and only accomplished on privately registered vehicles having current State of Wisconsin license plates, or motor vehicles designated by the State of Wisconsin as qualifying for an antique or horseless carriage designation.

[1] *Editor's Note: Original § 3.0802A, Antennas, satellite, which immediately preceded this subsection, was repealed 6-24-2009 by Ord. No. 09-03.*

B. Barns, silos, and storage buildings (not including private stables or garages).

[Amended 11-1-1995 by Ord. No. 95-2; 6-8-1999 by Ord. No. 99-05]

(1) Maximum number of barns or storage buildings. In the R-1, R-2, R-3, and PUD Districts there shall be no more than one such barn or storage building allowed per lot [also see Subsection **B(4)** below].

(2) Maximum height of barns or storage buildings in the R-1, R-2, and R-3 Districts. The provisions of Article **V** for accessory structures notwithstanding, the maximum height of barns or storage buildings (not including garages) in the R-1, R-2, and R-3 Districts shall be no more than 30 feet.

(3) Maximum height of silos in the R-1 District. The provisions of Article **V** for accessory structures notwithstanding, the maximum height of silos in the R-1 District shall be no more than 70 feet.

(4) Barns, silos, and storage buildings and open space subdivision or open space condominium options. Barns, silos, and storage buildings (as described herein) shall not be allowed under any open space subdivision or open space condominium options on any residential lot. However, a single barn, silo, or storage building may be constructed per open space subdivision or open space condominium development within a common open space area used in conjunction with the farming or recreational use of the open space area of the open space subdivision or open space condominium development.

[Amended 3-3-2004 by Ord. No. 04-001]

C. Commercial vehicle parking. The parking of commercial vehicles in any residential district is prohibited. This requirement shall not be interpreted to prohibit vehicles from loading and unloading

in any residential district.

- D. Decks. Decks shall be located a minimum of 10 feet from side and rear lot lines and 75 feet from all navigable waters, floodplains, and wetlands.
- E. Fences.
- (1) General. The following are required of all fences installed in the Town of Barton:
- (a) All fences shall be maintained in good repair and in structurally sound condition. All fences shall be constructed and maintained in a good aesthetic condition and in such a manner and of such materials and colors so as not to adversely affect the value of adjoining property or property in the immediate neighborhood. No fence may be constructed or maintained which is detrimental to human life or safety or causes a traffic hazard. All fences shall be constructed and maintained straight, plumb, and of an even height along their length, except for such deviations as required by grade.^[2]
- [2] Editor's Note: Original § 3.0802F1b, pertaining to advertising on fences, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- (b) No materials shall be stored between a fence located adjacent to a lot line and the lot line.
- (c) Fencing shall be constructed with the finished or decorative side facing the adjacent or abutting property or street.
- (d) Snow fencing will only be permitted between November 15 and April 15 of each year. No building permits for the installation of said snow fencing shall be required.
- (2) Fencing in residential zoning districts.
- (a) Fences having a height of six feet or less may be used to locate property lines within the required side and rear yard areas in the residential districts.
- (b) Fences may not be located within the front yard, except decorative fencing may be installed within the front yard areas in the residential districts.
- (c) In the R-9, R-10, and PUD Districts, where aesthetic appearance may require a fence or wall to shield parking lots or other unattractive areas or to generally improve the aesthetics of the development, a wall or fence may be erected in the front yard of the development by approval of the Plan Commission, and which approval may include design or other architectural requirements.
- (d) No barbed wire, chicken wire, or electrically charged fences shall be allowed in residential zoning districts.
- (e) Solid fences shall be placed a minimum of three feet from any property line; all others may be placed on the property line.
- F. Accessory buildings. Accessory buildings not elsewhere defined in this section shall meet the following minimum requirements:
[Amended 11-1-1995 by Ord. No. 95-2]
- (1) Maximum accessory building area. Except as otherwise specified and regulated under this section for private stables and barns, silos, and storage buildings for those zoning districts specified, on parcels of land or lots having an area of 40,000 square feet or more, maximum size of wood-frame constructed accessory buildings shall be 900 square feet.
- G. Home occupations and home offices. The following specific standards shall be used for home occupations and home offices located as accessory uses in all residential districts and in the EA, AT, GA and HFA Districts:^[3]

- (1) Home occupation employees. No person shall be employed other than members of the immediate family residing on the premises.
- (2) Maximum floor area permitted to be used for home occupation. The use of the dwelling unit for the home occupation or home office shall be clearly incidental and secondary to its use for residential purposes. No more than 25% of the floor area of the dwelling unit shall be used in the conduct of the home occupation or home office, and no outside display, storage, or use of land is permitted.
- (3) No change in the outside appearance of the building, accessory structure, or premises permitted. There shall be no change in the outside residential appearance of the building, accessory structure, or premises as a result of such home occupation or office, with the exception of home occupation signs mounted against the building and not exceeding four square feet in area. Freestanding home occupation signs are allowed but must be 10 feet off the road right-of-way, must not exceed five feet in height from surrounding grade and must not exceed four square feet in area. No home occupation signs are allowed to be illuminated by any means.
- (4) Conduct of home occupation in accessory building or structure prohibited. No home occupation or home office shall be conducted in any accessory building or structure or outdoors.
- (5) Use of mechanical and electrical equipment. No mechanical equipment shall be used on the premises, except such that is normally used for purely domestic or household purposes. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television sets off the premises, or causes fluctuations in line voltage in excess of that normally associated with household use. Computer equipment which meets the aforementioned criteria and which can be purchased for use in the home shall be considered as normally associated with household use.
- (6) Sale and display of commodities and goods. No commodity or good not produced on the premises shall be sold on the premises nor displayed on the exterior or interior of the premises, or warehoused on the premises for sale elsewhere. This does not preclude taking orders for sales or provision of services off site.
- (7) Traffic. No vehicular or pedestrian traffic shall be generated by such home occupation or home office in greater volume than would normally be expected from the principal use. In the case of measuring vehicular traffic, criteria established in the most current edition of the Institute of Transportation Engineers publication titled "Trip Generation" shall be used.
- (8) Home occupation uses: permitted and not permitted. A home occupation may include but not be limited to the following: domestic crafts such as seamstress, sewing, tailoring, weaving, washing and ironing, private tutoring and instruction (limited to three pupils at any one time), and home offices shall include professional services. Millinery shops, tearooms, restaurants, tourist homes, bed-and-breakfast establishments, auto repair and tune-up, general offices which would require more off-street parking than which is required for the type of residential use which is permitted in the residential district, clinics, physician's, dentist's and offices of the like, welding shops, animal hospitals, veterinary clinics, catering or other food preparation businesses, funeral parlors and undertaking establishments, antique shops, rooming houses, dancing schools, and commercial kennels, among others, shall not be deemed to be home occupations.
- (9) Levels of noise, emissions, radiation, vibration, heat, glare, smoke, dust, fumes, odors, or electrical interference. There shall be no levels of noise, emissions, radiation, vibration, heat, glare, smoke, dust, fumes, odors, or electrical interference created which is detectable to the normal senses outside the dwelling unit in excess of that normally associated with household use.
- (10) Refuse. No refuse in excess of the amount allowable for regular residential pickup shall be generated by any home occupation.

- (11) Nuisance-causing activities. No home occupation shall cause or create any nuisance or cause or create any substantial or undue adverse impact on any adjacent property or the character of the area; or threaten the public health, safety or general welfare; or be noxious, offensive, or hazardous.
 - (12) Materials which decompose by detonation prohibited. No materials which decompose by detonation shall be allowed in conjunction with a home occupation.
 - (13) Public utility use exceeding typical residential dwelling unit demand not permitted. No home occupation shall be permitted which generates sewerage or water use in excess of what is typical for a residential dwelling unit.
- [3] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- H. Recreational vehicle parking. Any owner of domestic or recreational vehicles or private pleasure crafts may park or store such vehicles on his own private residential property subject to the following conditions:
- (1) Prohibition of vehicle as dwelling unit. No vehicle shall be lived in, have housekeeping maintained, or have hookup to utilities while parked or stored on a residential lot.
 - (2) Vehicle registration and licensing. A vehicle which requires State of Wisconsin licensing shall have a current vehicle registration plate affixed to the vehicle at all times.
 - (3) Parking in public right-of-way prohibited. No recreational vehicles or private pleasure crafts shall be parked or stored in the public rights-of-way.
- I. Residential rental complex offices. One rental office shall be allowed within a residential rental complex. The office may be the rental manager's dwelling. Rental complex offices shall be subject to the following restrictions:
- (1) Hours of operation. All rental complex offices shall open no earlier than 7:00 a.m. and shall close prior to 9:00 p.m. during the spring, summer, and fall seasons and shall close prior to 8:00 p.m. during the winter season. No rental complex office shall be open on Sunday before 12:00 noon.
 - (2) Lighting. All exterior lighting must meet the requirements set forth in Article **XIX** of this chapter for the zoning district in which the rental office is located. All off-street parking areas must be illuminated. All exterior lighting associated with the rental office shall be extinguished at the closing time of the rental complex office.
 - (3) Off-street parking. All rental complex offices shall provide off-street paved parking for the public. An area contiguous to the structure within which the rental complex office is located shall be utilized for the off-street, paved parking lot for public use. The number of required off-street parking spaces shall be six per rental complex office. Such parking spaces shall be in addition to those otherwise required by Article **XVII** of this chapter.
 - (4) Trash receptacles. Trash receptacles shall be provided around the rental complex office for use by the public.
- J. Swimming pools (private). The following requirements shall be met for swimming pools located in residential districts:
- (1) Fencing, in-ground swimming pools. Private in-ground swimming pools shall be enclosed with a fence not less than four feet in height. Such fencing shall be equipped with self-closing and self-latching gate(s) and shall be designed so as to make the swimming pool inaccessible to children.
 - (2) Fencing, aboveground swimming pools with an associated deck. Private aboveground swimming pools with an associated deck shall be equipped with self-closing and self-latching gate(s) at locations of access to the pool and shall be designed so as to make the swimming pool inaccessible to children.

- (3) Required placement. A private pool shall not occupy required front yards, except for corner lots, pools and their surrounding decking shall be permitted within one front yard, which functions as a side yard, provided the pool or decking is located no more than 10 feet into the required front yard, as measured from the rear line of the front yard. However, in districts requiring side yards greater than 10 feet, this permitted intrusion shall be increased up to a distance equal to said required side yard. For double frontage lots, pools and their surrounding decking shall be permitted within the front yard which functions as a rear yard, provided that the pool is screened from the rear street by a fence, wall, or hedge.
- K. Trash dumpsters and garbage receptacles (trash and garbage storage). The following requirements shall be met for trash dumpsters and garbage receptacles located in residential districts:
- (1) Centralized location(s) of trash dumpsters and garbage receptacles required. All new multiple-family residential buildings and uses, except for single-family and two-family dwellings, shall provide facilities for the central and accessible storage of solid waste within the parcel or lot. The location of said facilities shall be approved by the Plan Commission. Multiple locations may be required by the Plan Commission.
 - (2) Trash dumpster and garbage receptacle enclosures required. All garbage cans, trash dumpsters, trash containers, and other storage devices situated on any property shall be closed containers with lids and shall be concealed or suitably screened from public view. Sight-proof fencing (wood or masonry) and landscaping shall be used to totally obstruct vision into the storage areas. Where such facilities are provided outside of a building, they shall be screened from public rights-of-way and adjacent property by an enclosure constructed of materials compatible with the materials on the front building wall of the main building.
 - (3) Trash dumpster and garbage receptacle maintenance required. Fencing and landscaping for storage areas shall be maintained in good condition and kept litter-free. All garbage cans, trash containers, and other garbage storage devices shall be emptied and the contents thereof properly disposed of not less than once every seven days.
 - (4) Unenclosed storage of trash or waste prohibited. No portion of the lot shall be used for open or unenclosed storage of trash or waste of any kind.
 - (5) Trash dumpster and garbage receptacle location in off-street parking space or drive prohibited. No trash dumpster or other trash or waste receptacle shall be permitted in any off-street parking space or drive.
 - (6) Concrete slab required. All trash dumpsters and garbage receptacles shall be placed upon a concrete slab which has a thickness of not less than five inches.
 - (7) Adequate size to accommodate recycling materials. All trash dumpster and garbage receptacle areas shall be of an adequate size to accommodate the storage of materials to be recycled.
 - (8) Building permit required for the construction of garbage, trash, waste, and dumpster enclosures. A building permit shall be required for the construction of any garbage, trash, waste, or dumpster enclosure.

§ 500-76. Accessory uses in nonresidential districts.

- A. Agricultural equipment, storage of. The storage of agricultural equipment such as but not limited to tractors, trailers, fertilizer spreaders, wagons, planters, and the like, as a use accessory to a permitted use in the EA, AT, GA, and HFA Districts, shall be subject to the following requirements: [Amended 4-19-2011 by Ord. No. 11-001]
- (1) Use of equipment. The equipment shall be used in association with the permitted use.
 - (2) Storage of junk. The storage of junk is prohibited.

- (3) Motor vehicle sales prohibited. This provision shall not be used to permit the establishment of motor vehicle sales as a use within the EA, AT, GA, and HFA Districts.
 - (4) Inoperable machinery prohibited. The accumulation of inoperable machinery is prohibited.
- B. Barns, silos, and storage buildings (not including private stables or garages).
[Amended 4-19-2011 by Ord. No. 11-001]
- (1) Maximum height of barns or storage buildings in the EA, AT, GA, and HFA Districts. The provisions of Article V for accessory structures notwithstanding, the maximum height of barns or storage buildings (not including garages) in the EA, AT, GA, and HFA Districts shall be no more than 40 feet.
 - (2) Maximum height of silos in the EA, AT, GA, and HFA Districts. The provisions of Article V for accessory structures notwithstanding, the maximum height of silos in the EA, AT, GA, and HFA Districts shall be no more than 70 feet.
- C. Canopies as accessory uses. The canopies provided over the pump islands at gas stations, convenience stores with gas pumps, automobile and motor vehicle service stations, drive-in and drive-through facilities associated with financial institutions, restaurants, cleaners, and similar uses shall meet the yard requirements of a principal structure. In addition:
- (1) Obstruction of visibility at rights-of-way prohibited. The canopy shall not block visibility at intersections of rights-of-way or drives.
 - (2) Zoning district front yard requirements shall be met. All pump islands, their surrounding structures, and the canopy overhang shall meet the zoning district's front yard requirement.
 - (3) Canopies to be counted towards maximum permitted GFAR and NFAR. All canopies shall be counted towards the maximum permitted gross floor area ratio (GFAR) and maximum net floor area ratio (NFAR) of the nonresidential zoning district in which the canopy is to be constructed.
 - (4) Maximum height. Under no circumstances shall the canopy be higher than 25 feet.
 - (5) Signs not permitted. No signs shall be permitted on canopy roofs or fascia.
- D. Fences.
- (1) General. The following are required of all fences installed in the Town of Barton:
 - (a) All fences shall be maintained in good repair and in structurally sound condition. All fences shall be constructed and maintained in a good aesthetic condition and in such a manner and of such materials and colors so as not to adversely affect the value of adjoining property or property in the immediate neighborhood. No fence may be constructed or maintained which is detrimental to human life or safety or causes a traffic hazard. All fences shall be constructed and maintained straight, plumb and of an even height along their length, except for such deviations as required by grade.
 - (b) No advertising or signs shall be permitted on any fence in any zoning district.
 - (c) No materials shall be stored between a fence located adjacent to a lot line and the lot line.
 - (d) Fencing shall be constructed with the finished or decorative side facing the adjacent or abutting property or street.
 - (e) Snow fencing will only be permitted between November 15 and April 15 of each year.
 - (f) Solid fences shall be placed a minimum of three feet from any property line, all others may be placed on the property line.
 - (2) Fencing in nonresidential zoning districts (excluding the EA, AT, GA, HFA, I, and PR Districts).
[Amended 4-19-2011 by Ord. No. 11-001]

- (a) Fences may be located in all yards in nonresidential zoning districts. Fences located in the front yard shall be approved by the Plan Commission.
 - (b) Fences installed in nonresidential zoning districts shall not exceed six feet in height, except, when required to enclose outside storage areas or when approved by the Plan Commission, may be up to 10 feet in height.
 - (c) Fencing constructed to enclose outside storage areas shall be at least eight feet in height and in no case lower in height than the enclosed storage area when approved by the Plan Commission.
 - (d) Barbed wire may be allowed on the top of fences six feet or more in height.
 - (e) All fencing constructed to enclose outside storage areas in nonresidential zoning districts shall be approved by the Plan Commission.
- (3) Fencing in the EA, AT, GA, and HFA Districts.
[Amended 4-19-2011 by Ord. No. 11-001]
- (a) Fencing shall be permitted in all yards in the EA, AT, GA and HFA Districts and in all yards on legal nonconforming agricultural uses for replacement of existing fencing. Fencing shall be permitted in front yards only for the enclosure of cultivated fields, pastures and animal pens.
 - (b) Fencing may be constructed in the EA, AT, GA and HFA Districts for cultivated fields and pastures before a principal structure is present.
- (4) Location of fencing in the I and PR Districts.
- (a) Fencing enclosing a park, elementary, middle or high school site shall be permitted in all yards.
 - (b) All fencing in institutional districts or for institutional uses shall be limited to open mesh-type fencing (chain-link).
- E. Mechanical penthouses and mechanical accessory structures. Where mechanical penthouses and mechanical accessory structures are installed, they shall be designed to blend into the building's architecture and shall not cause the building's total height to exceed the maximum height allowed as required under the zoning district dimensional requirements set forth in Articles **V** and **VI** of this chapter. A penthouse shall not be counted as a story, provided that:
- (1) The penthouse is less than 10 feet in height.
 - (2) The penthouse floor area covers less than 25% of the roof area.
 - (3) In the event that a mechanical accessory structure is supplied, it shall be fully screened from view by a combination of berms and evergreens. This screening shall be approved by the Plan Commission.
- F. Open storage, screening of. Open storage areas shall be screened from view of any street and from the view from all residential zoning districts as follows:
- (1) Abutting a collector or arterial street. When an open storage area abuts a collector or arterial street, the method of screening shall consist of solid masonry walls or solid wooden fences at least six feet in height, with access only through solid gates which shall be closed except when said storage area is in use. An existing permanent structure may be used to screen such storage areas.
 - (2) Abutting a residential zoning district. When an open storage area abuts a residential zoning district, the method of screening shall consist of solid wooden fences or masonry walls at least six feet in height along the boundary of the storage areas and the entire residential district.
 - (3) Fencing. All fencing shall conform to the requirements of Subsection **D**.

- G. Roadside stands for the sale of agricultural products. The following specific standards shall be used:
- (1) Off-street parking and loading. The use shall provide for all required off-street parking and loading on private property.
 - (2) Vehicular access to public street. The use shall be located along and have direct vehicular access to a public street.
 - (3) Sales or display on public lands prohibited. No sales or display activity shall be located on public land.
 - (4) Access. Access to and from the site shall be in accord with the requirements of the applicable highway or arterial street access authority, including the Wisconsin Department of Transportation, Washington County, and/or the Town of Barton.
 - (5) Items sold. The items sold shall be produced on the property from which they are sold.
- H. Stables, private. The following specific standards shall be used in the EA, AT, GA, and HFA Districts:
[Amended 4-19-2011 by Ord. No. 11-001]
- (1) Minimum lot area. The minimum lot area shall be three acres for the first two equine. This minimum lot area shall be increased by 60,000 square feet for each equine in addition to two. The maximum number of equine shall not exceed six.
 - (2) Required setbacks. The following minimum setbacks shall also be provided:
 - (a) On parcels of land five acres in area or less, all feed and bedding shall be stored indoors.
 - (b) On parcels of land larger than five acres, piles of feed or bedding shall be located 75 feet from any public street right-of-way or lot line of an adjacent nonresidential district and 100 feet from any lot line of an adjacent residential district lot line, in order to minimize odor and nuisance problems.
 - (3) Pasture location. Pasture area may extend to the lot line.
 - (4) Manure maintenance. Manure piles shall be stored, removed, and/or applied in accordance with applicable Town requirements.
 - (5) Stable location. All points on the perimeter of any stable building and/or corral shall be at least 50 feet from the nearest boundary line or right-of-way line of the parcel on which it is located.
- I. Trash dumpsters and garbage receptacles (trash and garbage storage). The following requirements shall be met for trash dumpsters and garbage receptacles located in nonresidential districts:
- (1) Trash dumpster and garbage receptacle enclosures required. All garbage cans, trash dumpsters, trash containers, and other storage devices situated on any property shall be closed containers with lids and shall be concealed or suitably screened from public view. Sight-proof fencing (wood or masonry) and landscaping shall be used to totally obstruct vision into the storage areas. Where such facilities are provided outside of a building, they shall be screened from public rights-of-way and adjacent property by an enclosure constructed of materials compatible with the materials on the front building wall of the main building.
 - (2) Trash dumpster and garbage receptacle maintenance required. Fencing and landscaping for storage areas shall be maintained in good condition and kept litter-free. All garbage cans, trash containers, and other garbage storage devices shall be emptied and the contents thereof properly disposed of not less than once every seven days.
 - (3) Unenclosed storage of trash or waste prohibited. No portion of the lot shall be used for open or unenclosed storage of trash or waste of any kind.

- (4) Trash dumpster and garbage receptacle location in off-street parking space or drive prohibited. No trash dumpster or other trash or waste receptacle shall be permitted in any off-street parking space or drive.
- (5) Concrete slab required. All trash dumpsters and garbage receptacles shall be placed upon a concrete slab which has a thickness of not less than five inches.
- (6) Adequate size to accommodate recycling materials. All trash dumpster and garbage receptacle areas shall be of an adequate size to accommodate the storage of materials to be recycled.
- (7) Building permit required for the construction of garbage, trash, waste, and dumpster enclosures. A building permit shall be required for the construction of any garbage, trash, waste, or dumpster enclosure.

§ 500-77. Temporary uses in all districts.

A. Christmas tree sales lot. The following specific standards shall be used:

- (1) Location. Trees shall not be located in any right-of-way.
- (2) Parking. All parking shall be on site.
- (3) Visibility. The location of trees on the property shall not block visibility for vehicles or pedestrians on or off the lot in a way that would create a safety hazard.
- (4) Hours of operation. The Christmas tree sales shall be limited between the hours of 7:00 a.m. and 9:00 p.m.
- (5) Trash and debris. All trash and debris shall be removed when sales end.
- (6) Written consent may be required. Written consent from the owner, or authorized agent, of the property shall be provided if required by the Zoning Administrator.
- (7) Signage. All signage shall be in accordance with the sign regulations set forth in this chapter.
- (8) Removal of trees after December 31. Trees remaining on hand after December 25 shall be removed from the premises no later than December 31 of that same year.

B. Construction trailers as temporary offices.

- (1) Removal of trailer required upon completion of work. A licensed contractor engaged upon a construction project for which a building permit has been issued by the Building Inspector may temporarily use a construction trailer for office facilities in the location where the work is being done, provided such construction trailer shall not be placed upon the streets but upon the property on which the building permit authorizes the construction. The construction trailer shall be removed within 30 days after completion of the work for which the building permit has been issued.
- (2) Use of mobile homes, or modular homes, as temporary offices during remodeling. A zoning permit may be issued by the Plan Commission for a one-year period for the use of mobile homes, or modular homes, as temporary offices while business properties are being remodeled, provided that they are placed upon the property for which there is a building permit issued by the Building Inspector for the remodeling. The permit shall be for a period of one year or until the remodeling is completed, whichever is the shorter period. The zoning permit may not be renewed after the expiration of the one-year period.

C. Garage and yard sales. Garage, yard, tag, patio, and apartment sales are specifically permitted as a temporary use in all residential zoning districts without a zoning permit granted by the Zoning Board of Appeals. Such sales shall be limited to one such sale during each six-month period, for a duration not to exceed three consecutive days.

D. Model homes, model dwelling units, and preconstruction sales offices. Model homes, model dwelling units, and preconstruction sales offices are residential-type structures used as sales offices by a builder/developer and to display the builder/developer's product. The same may be furnished within, since its purpose is to display to perspective buyers the builder/developer's features (such as exterior siding treatments, roofing materials, interior trim, moldings, floor coverings, etc.) in the environment of a completed home, and may be staffed by the builder/developer's sales force. Model homes shall be subject to the following restrictions:

- (1) District dimensional requirements to be met. The model dwelling unit shall meet all district requirements for lot and yard dimensions.
- (2) Sign illumination. Signs shall not be illuminated after 9:00 p.m.
- (3) Business activity not permitted before 9:00 a.m. nor after 9:00 p.m. The model dwelling unit shall not be used for any business activity before 9:00 a.m. nor later than 9:00 p.m.
- (4) Lighting. All exterior lighting must be downlighting, so that absolutely no light shall be cast onto adjoining residential properties. All off-street parking areas must be illuminated. All exterior lighting shall be extinguished at the closing time of the model home.
- (5) Screening and trash receptacles. Landscape drawings shall be required and show adequate landscaping and screening from adjoining residential lots, together with the clear marking of the boundaries of the model home lot. Trash receptacles shall be provided around the model home for use by the public.
- (6) Construction and issuance of certificate of occupancy. The construction of all model homes shall be approved by the Town Board. Certificates of occupancy shall not be issued until after the abutting street has been dedicated to the Town of Barton and provided with a hard surface.
- (7) Termination of use. The use of model homes within a residential subdivision, or within any single phase of a multiphase subdivision, shall terminate when building permits have been issued for 90% of the lots therein.
- (8) Model dwelling unit constructed in nonresidential zoning districts. Model dwelling units may be erected or displayed in districts which exclude residential uses, provided that such models shall not be used for residential purposes, but only for display as a means to sell homes in districts in which they are permitted and provided that all other requirements of the district in which the model dwelling unit is erected shall be met.
- (9) Temporary sales structure in multiple-family developments. In those zoning districts where multifamily dwelling uses are permitted, a temporary structure may be used as a preconstruction sales office for the purpose of displaying a typical dwelling unit arrangement, subject to the following restrictions:
 - (a) The structure shall be limited to two stories in height.
 - (b) The structure shall be appropriately landscaped.
 - (c) The structure shall be subject to the same front yard requirements as the principal structure to be erected and shall otherwise be subject to all yard requirements for the district in which located.
 - (d) Adequate off-street parking facilities (a minimum of six spaces) and access driveways shall be developed within those locations approved for such facilities in conjunction with the permanent multiple-family structure, and no additional parking areas or access driveways shall be permitted.
 - (e) Signs shall be permitted only in accordance with the regulations set forth for the use within the district and in compliance with this chapter.
 - (f) The structure shall comply fully with all existing building codes and ordinances of the Town of Barton.

- (g) The structure shall be completely and totally removed within six months from the date of the issuance of a building permit or upon the completion of the permanent residential dwelling structure, whichever date is later.
 - (h) In the event that the structure should not be removed or demolished by the owner or other parties in interest within the terms of this section, the Town of Barton, to the extent permitted by law, acting through its Building Inspector, is authorized to vacate, demolish, or remove, either with forces or by independent contractor submitting the lowest and best bid, any such building or structure. The Town of Barton shall assess the entire costs of such vacation, demolition, or removal against the owner or other parties in interest.
- E. Temporary concrete batch plants or asphalt or asphalt reprocessing plants (including materials processing and handling) and temporary stone crushers. The following specific standards shall be used:
- (1) Routing plan required. The contractor shall submit a routing plan for trucks to and from the proposed plant to the Zoning Administrator and Town Engineer for their review and recommendations as a condition prior to approval.
 - (2) Financial assurance required for potential damage to roads. The contractor shall provide a financial assurance in the amount requested by the Town Engineer to pay for correcting any damage done to Town or county roads during the course of said facility's operation and for the planned restoration of the site.
 - (3) Access. Such facilities shall only be allowed access via arterial or collector roads or highways. Access via dedicated existing local residential roads and/or collector roads serving residential areas shall be prohibited.
 - (4) Restoration plan. A restoration plan shall be provided the Town for review and approval by the Town Engineer.
 - (5) When allowed. Such facilities shall be erected only in conjunction with a Town, county, or state/federal highway or road improvements.
 - (6) Maximum period of use. The allowable period of such use shall be for the period of such roadway or highway work, with a maximum of an eight-month period.
 - (7) General location. Such facilities shall be located not less than 250 feet from any occupied building, with the exception of an associated accessory construction trailer/office which may be located on the same site.
 - (8) Outside sales prohibited. No outside sales of batch plant materials shall be permitted. The sale of crushed stone shall not be permitted.
 - (9) Site plan of operation and facilities required. Such facilities will be shown on a site plan and be contained within a maximum five-acre area.
 - (10) Location of stone crushers. Stone crushers shall be located not less than 250 feet from any building used for residential purposes.
 - (11) Prevention of dust, fumes, vapors, mists, or gas nuisances. The prevention of any dust, fumes, vapors, mists, or gas nuisances due to operations shall be maintained at all times in accordance with established Town, county, state, and federal air pollution standards.
- F. Temporary roadside stands for the sale of agricultural products. The following specific standards shall be used:
- (1) Off-street parking and loading. The use shall provide for all required off-street parking and loading on private property.
 - (2) Access. The use shall be located along and have direct vehicular access to a public street. Access to and from the site shall be in accord with the requirements of the applicable highway

or arterial street access authority, including the Wisconsin Department of Transportation, Washington County, and/or the Town of Barton.

- (3) Sales or display prohibited on public land. No sales or display activity shall be located on public land.
- (4) Items sold. The items sold shall be produced on the property from which they are sold.

G. Temporary borrow pits.

[Added 7-9-2003 by Ord. No. 03-007]

- (1) Temporary borrow pits may be allowed by the Town Board as a temporary use in the following zoning districts upon recommendation by the Plan Commission after the holding of a public hearing before the Plan Commission pursuant to the requirements of this section:^[1]

NHB	Neighborhood and Hamlet Business District
CB	Community Business District
FB	Freeway Interchange Business District
LM	Limited Manufacturing District
BP	Business Park District
QE	Quarrying and Extractive District
EA	Exclusive Agricultural Preservation District
AT	Agricultural Transition District
GA	General Agricultural District
HFA	Hobby Farm Agricultural District

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- (2) All temporary borrow pits shall meet the requirements of this section and any other requirements deemed necessary by the Town Board in order to meet the purpose and intent of this chapter, as set forth in Article I of this chapter.
- (3) Application for temporary use permit and public hearing required. Upon receipt in proper form of the application, the Plan Commission shall hold at least one public hearing. At least 11 days in advance of such hearing, but not more than 30 days, notice of the time and place of such hearing shall be published in a newspaper of general circulation in the Town of Barton as a Class 2 notice as required under Ch. 985, Wis. Stats. In addition to publication, due notice may also be given by first-class mail to property owners of property located in the Town of Barton which is located within 500 feet of the affected property, and any nonresident's notice shall be given to the clerk of any municipality whose boundaries are within 500 feet of the affected property. Failure to give first-class mailing notice to property owners of properties located in the Town of Barton in the affected area described above or to nonresidents or to the municipal clerk of any municipality affected herein shall not invalidate any action by the Plan Commission taken on the temporary borrow pit temporary use application.
- (4) Plans, drawings, and data required. The following plans, drawings, and data shall be required at the time the application is submitted:
 - (a) Plan of the proposed site. Plan of proposed site at a scale of 100 feet to the inch or less, with a two-foot contour interval or less, to show:

[1] Existing site conditions:

- [a] Existing topography, water bodies, streams, wetlands, floodplains, surface drainage patterns, structures, roads, buildings, and other site features as may be required by the Town Plan Commission.

- [b] Detailed site-specific vegetation (if any woodlands are located on the site), with dominant species noted.
 - [c] Description of present land use.
 - [d] Identification of existing zoning district classification of property.
 - [e] Identification of all adjacent landowners.
- [2] Other plans and data as may be required by the Town Plan Commission and/or Town Board.
- (b) Plan of operations:
- [1] Description of the material to be removed, with an estimated amount and description of aggregate and overburden to be removed (in terms of total cubic yards).
 - [2] Method of extraction, including types of equipment.
 - [3] Indication if there is any supplementary processes, drying, grading, or mixing proposed to take place on site.
 - [4] A delineation on a map of the maximum extent of area disturbed, and resulting elevations (final contours and grading plan) and slopes upon completion of operations.
 - [5] Location of any soil embankments or earthen berms for noise mitigation, dust mitigation, and visual barriers for visual mitigation, and heights of spoil mounds (if any).
 - [6] Source of water (if used) and method of disposition of excess water during operation (if any).
 - [7] Sediment erosion control plan during operations.
 - [8] Complete listing of the type of machinery to be used and the noise levels expected at the property line.
 - [9] Safety measures and monitoring of complaints.
 - [10] Street, road, and drive pattern and their relationship with external streets and highways, including a statement listing the public streets to be used as haul routes, a plan for the continued maintenance of the Town roads used, and a statement of the methods to be used to maintain or repair any public street or highway to be used for hauling purposes.
 - [11] Description of the point at which the haul road intersects the public right-of-way, including width, radii, composition of surface material, and length of improved surfaces.
 - [12] The number, type, carrying capacity, and weight of vehicles to be used in the hauling operation.
 - [13] The names and addresses of all haulers shall be provided to the Town. If the hauler is a corporation, the name and address of its corporate offices and registered agent.
 - [14] The proposed date on which the hauling operation will commence and the proposed date on which the operation will be completed.
 - [15] Location for storage of aggregate and overburden (if any storage is contemplated).
 - [16] A traffic maintenance/control plan, including, but not limited to, signage and signage locations.

(c) End use plan and restoration requirements:

- [1] In order to ensure that the area of extraction operation shall be restored to a condition of practical usefulness and reasonable physical attractiveness, the owner or operator shall, prior to the issuance of a temporary use permit, submit to the Plan Commission a plan for such restoration in the form of the following:
- [a] A physical restoration plan showing the existing and proposed contours at two feet and at Washington County vertical datum after restoration, plantings and other special features of restoration, and the method by which such restoration is to be accomplished.
 - [b] A bond, written by a licensed surety company, a certified check, letter of credit, or other financial guarantee in a form satisfactory to the Town Attorney and in an amount sufficient, in the opinion of the Town Engineer, to secure the performance of the restoration plan.
 - [i] If the applicant fails to fulfill the agreement, such bond, check, or other financial guarantee shall be deemed forfeited for the purpose of enabling the Town of Barton to perform the restoration.
 - [ii] Restoration shall proceed as soon as practicable and at the order and direction of the Town Engineer. The required bond in such case may cover progressive stages of the restoration for periods of not less than two years.
 - [iii] At any stage during the restoration, the plan may be modified by mutual agreement between the Town of Barton and the owner or operator.
 - [iv] Where there is any backfilling, the material used or method of fill shall not be such as to create a health hazard or which would be objectionable because of odor, combustibility, or unsightliness. In any case, the finished condition of the restored area except for rock faces, outcroppings, water bodies, or areas of proposed building or paving construction, shall be of sufficient depth of earth to support plant growth.
 - [v] Within one year after the cessation of the operation, all temporary structures (except fences) and equipment shall be removed; stockpiles, rubble heaps or other debris shall be removed or backfilled into excavation, so as to leave the premises in a neat and orderly condition, and covered with a minimum of two feet of earth, including four inches of topsoil.
 - [vi] In any restoration procedure which takes place in sand or gravel pits or on other sites where the material is of a loose or friable nature, no slope shall be left which is steeper than a ratio of three horizontal to one vertical. In no case shall any slope exceed the normal angle of slippage or repose of the material involved.
 - [vii] In addition, all restoration shall be in conformance with the approved construction site erosion control plan.
- [2] Planting. All land that is not covered by water shall be covered with a sufficient amount of arable soil to support vegetation. A landscape planting plan shall be prepared for the entire property using various types of plant material (including grasses) that prevent soil erosion and provide vegetative cover.

(5) Performance standards.

(a) Location.

- [1] A temporary borrow pit use shall take direct access via a road meeting the requirements of Subsection **G(5)(e)** below.

- [2] No borrow pit operation shall be located in wetlands or in a one-hundred-year recurrence interval floodplain area. The stockpiling within or the filling of wetlands or one-hundred-year recurrence interval floodplain area is prohibited.
- [3] The exterior wall elevation of a borrow pit use shall be at least four feet above the one-hundred-year recurrence interval flood elevation.
- (b) Operations. All borrow pit operations shall meet all development and performance standards of this chapter and all other applicable local, state, and federal regulations.
- (c) Minimum required setbacks. The temporary borrow pit use shall not be located within 50 feet from any public street right-of-way or 50 feet from any other property line, except with the written consent of said adjacent property owner.
- (d) Grading. All disposal areas and excavations shall be graded in such a way as to provide an area which is harmonious with the surrounding terrain and not dangerous to human or animal life.
- [1] Excavations shall be graded and backfilled to the grades indicated by the site plan. Grading and backfilling shall be accomplished continually and as soon as practicable after excavation. Grading and backfilling may be accomplished by use of construction rubble such as concrete or other materials, provided such materials are composed of non-noxious, noncombustible solids.
- [2] Grading and backfilling shall be accomplished in such a manner that the slope of the fill or its cover shall not exceed the normal angle of slippage of such material or 33° in angle, whichever is less. During grading and backfilling, the setback requirements in Subsection **G(5)(c)** above may be reduced so that the top of the graded slope shall not be closer than 25 feet to any lot line, 25 feet to any street line, nor within 50 feet of any Southeastern Wisconsin Regional Planning Commission (SEWRPC) delineated environmental corridors or isolated natural areas or residential zoning or land use district boundary line.
- [3] When excavations which provide for a body of water are part of the final use of the tract, the banks of the excavation shall be sloped to a minimum ratio of seven feet horizontal to one foot vertical, beginning at least 50 feet from the edge of the water and maintained into the water to a depth of five feet.
- [4] Drainage shall be provided, either natural or artificial, so that disturbed areas shall not collect nor permit stagnant water to remain.
- (e) Access. Truck access to any borrow pit site shall be so arranged as to minimize danger to traffic and nuisance to surrounding properties and to ensure the quality of public roads. No extraction facility shall be allowed to take access through a residential street. Approved access streets and highways shall meet Town, county, or Wisconsin Department of Transportation specifications (whichever is applicable based upon the jurisdiction of the street or highway) for base and pavement or shall be improved by the operator to such specifications. There shall be a minimum of 500 feet of sight distance at the entrance to the facility.
- (f) Material crushing and blasting. There shall be no crushing of material at this site, and there shall be no blasting.
- (g) Duration of operation. The duration of the borrow pit operation shall not exceed 12 months from the time the temporary use permit is granted, unless such time frame is extended by the Town Board following a public hearing [the procedures of which are set forth in Subsection **G(3)**] and upon recommendation of the Town Plan Commission.
- (h) Reclamation completion. The temporary borrow pit shall be totally reclaimed within six months of the completion of the temporary borrow pit operation.

- (i) Minimum distance from school, church, or public park. No temporary borrow pit shall be located closer than 500 feet from a school, church, or public park.
- (j) Maximum size of operation. No temporary borrow pit shall exceed 20 total acres in area.
- (k) Written consent required. Written consent from the owner, or authorized agent, of the property shall be provided the Building Inspector within 30 days of Zoning Administrator approval.
- (l) Certificate(s) of insurance required. The Town Board shall require the applicant therefor to place on file with the Zoning Administrator a certificate or certificates of insurance indicating that there is in effect public liability insurance covering any damages arising out of the use or operation of any devices and facilities operated in connection with the use. Such insurance shall be in the minimal amount of \$1,000,000 per person, \$1,000,000 for each accident and \$100,000 property damage. The Town of Barton and all participating property owners shall be named as an additional insured party on said certificate of insurance.
- (m) Indemnification. The applicant shall agree to indemnify and hold harmless the Town of Barton, its officials, its agents, employees, and consultants from all claims and liabilities (including reasonable attorneys fees) arising out of or related to the granting of a temporary use permit for the intended use.
- (n) Noise, vibration, or dust. All equipment shall be operated in such a manner as to eliminate, as far as practicable, noise, vibration, or dust which would injure or annoy persons living or working in the vicinity.
- (o) Hours of operation. The hours of borrow pit operation shall be as established by the Town Board.
- (p) Access roadway dust. Accessways or roads within the premises shall be maintained in a dust-free condition.
- (q) Fencing requirements. Whenever the floor of a borrow pit is five feet or more below the grade of adjacent land, the property containing the borrow pit shall be completely enclosed by a barrier either consisting of a mound of earth not less than six feet high located at least 25 feet from any street right-of-way or shall be enclosed with a chain-link fence or its equivalent in strength and protective character to a height of six feet in height along the property line. Said fence or barrier shall be removed upon the closure of the borrow pit.
- (r) Natural resource protection standards for existing natural steep slopes. The required natural resource protection standards set forth in Table 500-109 of this chapter for the various degrees of steep slopes may be mitigated by the provision of one acre of new steep slope area(s) (within the same steep slope category or higher steep slope category or combination thereof) for each one acre of steep slope area disturbed. All such steep slope mitigation shall take place on the property upon which the disturbance took place and shall be in accordance with the restoration plan of the borrow pit.

Article XII. Modifications

§ 500-78. Height.

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

- A. Architectural projections. Architectural projections such as spires, steeples, belfries, parapet walls, cupolas, domes, flues, and chimneys are exempt from the height limitations of this chapter.

- B. Special structures. Special structures such as elevator penthouses, gas tanks, grain elevators, observation towers, and scenery lofts, manufacturing equipment and necessary appurtenances, cooling towers, fire towers, substations, and smokestacks are exempt from the height limitations of this chapter.
- C. Essential services, utilities, water towers, windmills, and electric power and communication transmission lines. Essential services, utilities, water towers, windmills, and electric power and communication transmission lines are exempt from the height limitations of this chapter.^[1]
 [1] *Editor's Note: Original Subsection D, Communications structures, which immediately followed this subsection, was repealed 6-24-2009 by Ord. No. 09-03.*
- D. Public or semipublic facilities. Public and semipublic facilities, such as schools, churches, hospitals, monuments, sanatoriums, libraries, and governmental offices and stations, may be erected to a height of 60 feet, provided all required yards are increased not less than one foot for each foot the structure exceeds the district's maximum height requirement.
- E. Modification of other ordinances and regulations not permitted under this article. Modifications permitted under this article of this chapter do not modify any requirements of federal, state, or local building codes relating to the elements addressed in this article of this chapter.

§ 500-79. Yards.

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

- A. Uncovered stairs, landings, and fire escapes. Uncovered stairs, landings, and fire escapes may project into any yard, but not further than six feet and not closer than three feet to any lot line.
- B. Architectural projections. Architectural projections, such as chimneys, flues, sills, eaves, belt courses, and ornaments, may project into any required yard, but such projections shall not exceed two feet. [See § 500-16E(1) and (2) of this chapter for exceptions.]
- C. Essential services, utilities, and electric power and communication transmission lines. Essential services, utilities, and electric power and communication transmission lines are exempt from the yard and distance requirements of this chapter.
- D. Landscape buffer yards, landscaping, vegetation, and areas of natural resource features mitigation exempt from yard and setback requirements. Landscape buffer yards, landscaping, vegetation, and natural resource features mitigation areas are exempt from the yard and setback requirements of this chapter. Landscape plantings such as shrubs shall not be permitted in the street right-of-way, unless approved by the Plan Commission.

§ 500-80. Additions and average street yards.

Additions in the street yard of existing structures shall not project beyond the average of the existing street yards on the abutting lots or parcels.

§ 500-81. Corner lots.

Structures shall provide a street yard as required by this chapter on the street that the structure faces. A second street yard shall be provided on the side of the structure abutting a second public or private street. The setbacks on each street shall be as specified in this chapter.

§ 500-82. Double frontage lots.

Lots abutting two opposite streets shall provide the front yard setback required by the district in which the lot is located from each street upon which the lot abuts.

§ 500-83. Natural resource protection and open space areas.

Where a lot is located partially within a deed-restricted and preserved natural resource protection area or open space area (see Articles **VIII** and **XV**), that portion of the lot in such an area may be utilized to meet the lot area requirements of the zoning district. In no case, however, shall such eligibility be used to increase the maximum permitted net floor area ratio (NFAR) or maximum net density (ND) of any parcel of land or lot which exceeds those levels as determined by the site intensity calculations and capacity calculations of Article **VIII** of this chapter.

§ 500-84. Noise.

Sirens, whistles, and bells which are maintained and utilized solely to serve a public purpose are exempt from the sound-level standards of this chapter. (Also see § **500-103B**.)

Article XIII. Nonconforming Buildings, Structures and Uses

[Amended 11-1-1995 by Ord. No. 95-2; 6-24-2009 by Ord. No. 09-03; 4-19-2011 by Ord. No. 11-001; 10-20-2015 by Ord. No. 15-2003; 12-20-2016 by Ord. No. 16-009]

§ 500-85. Existing nonconforming uses.

Any lawfully established use of a building, structure or land at the time of the enactment of this chapter or any amendment applicable thereto that does not conform to the use regulations for the district in which it is located shall be deemed to be a legal nonconforming use and may be continued, except as otherwise provided herein.

§ 500-86. Existing nonconforming structures.

Any lawfully established construction of a building or structure at the time of the enactment of this chapter or any amendment applicable thereto that does not conform to the dimensional regulations for the district in which it is located shall be deemed a legal nonconforming structure and may be continued, except as otherwise provided herein.

§ 500-87. Existing nonconforming lots.

Any lawfully established lot or parcel of land at the time of enactment of this chapter or any amendment thereto which does not meet the requirements for the district in which it is located shall be deemed to be a legal nonconforming lot and may be used in accordance with this chapter and as provided herein.

§ 500-88. Existing nonconforming uses.

- A. The lawful nonconforming use of land without buildings or structures; or
- B. The lawful nonconforming use of water; or
- C. The lawful nonconforming use in a conforming building or structure; or
- D. The lawful nonconforming use in a nonconforming building or structure; or

- E. The lawful nonconforming use on a conforming lot; or
- F. The lawful nonconforming use on a nonconforming lot; or
- G. The lawful nonconforming use of land with conforming buildings or structures; or
- H. The lawful nonconforming use of land with nonconforming buildings or structures which existed at the time of the enactment of this chapter or any amendment applicable thereto may be continued although the use does not conform with the provisions of this chapter and Code; however:
 - (1) Only that use in actual existence at the time of the enactment of this chapter or any amendment applicable thereto may be so continued as a legal nonconforming use and said use may not in any way be extended, enlarged, substituted, intensified, moved, added to or changed.
 - (2) No structure containing a legal nonconforming use or, on lands containing a legal nonconforming use, may be extended, enlarged, rebuilt, substituted, intensified, moved, remodeled, modified, or added to except when required to do so by law or until the legal nonconforming use has been made to conform with this chapter and Code.
 - (3) No lot on lands containing a legal nonconforming use may be reduced in size, modified, increased in size or changed in any manner except when required to do so by law or until the legal nonconforming use has been made to conform to this chapter and Code.
 - (4) If a legal nonconforming use is discontinued or terminated for a period of 12 months, any future use of the structure, land or water shall conform to the provisions of this chapter and Code.

§ 500-89. Existing conforming uses on nonconforming lots containing conforming structures.

- A. A conforming building or structure existing at the time of enactment of this chapter or any amendment applicable thereto may be continued, although the lot does not conform to the requirements of this chapter, as long as all uses on the lands containing the building or structure and all uses of the buildings or structures on the lands are legal conforming uses.
- B. The aforementioned building or structure may be extended, enlarged, substituted, moved, remodeled, modified, or added to as long as any such change conforms with the established setback, offset, height, parking, loading, and access provisions of this chapter or may be totally rebuilt if such reconstruction is identical in size, style, shape and use to the original building or structure.

§ 500-90. Legal conforming uses on conforming lots; nonconforming lots containing legal nonconforming structures.

- A. The legal conforming use of a nonconforming building or structure existing at the time of the adoption or amendment of this chapter, whether on a conforming lot or nonconforming lot, may be continued although the building's or structure's size or location does not conform with the established setback, offset, height, parking, loading or access provisions of this chapter and Code.
- B. The aforementioned building or structure may be extended, enlarged, substituted, moved, remodeled, modified or added to as long as any such change conforms with the established setback, offset, height, open space, parking, loading, and access provisions of this chapter and Code.
- C. Legal nonconforming buildings or structures existing at the time of the adoption or amendment of this chapter with a legal conforming use, whether on a conforming or nonconforming lot, may be

moved and, if moved, must conform with the established building setback lines along streets and the yard, height, parking, loading, and access provisions of this chapter and Code.

- D. Notwithstanding Subsections **A**, **B** and **C**, above, repair, maintenance, renovation, remodeling and restoration of such legal nonconforming building or structure can be conducted under circumstances allowed by § 60.61(5e) and (5m), Wis. Stats., in full compliance with statutes. This Subsection **D** is intended to comply with § 60.61(5e) and (5m), Wis. Stats.

§ 500-91. Maintenance of current file required.

A current file of all legal nonconforming uses, legal nonconforming structures, and legal nonconforming lots shall be maintained by the Zoning Administrator listing the following: owner's name and address, description of all uses of the structure, land or water, a site plan of the property showing the location and size of all structures on the same, a plat map showing the dimensions of the lot, and equalized value of the land and improvements at the time the legal nonconformity was created.

§ 500-92. Burden of proof.

The property owner has the burden of showing that a use, structure or lot is legal nonconforming. The determination shall be made by the Plan Commission after a majority of the members of the Plan Commission have been satisfied by proof presented by the property owner or agent that the use, structure and/or lot is in fact legal nonconforming. Appeals from the decision of the Plan Commission concerning the determination of legal nonconformity may be made by any person aggrieved to the Town Board. Such appeal shall be filed with the Clerk within 30 days after the determination by the Plan Commission.

§ 500-93. Reversion to legal nonconforming status.

Once a legal nonconforming use, legal nonconforming structure or legal nonconforming lot has been changed to conform, it shall not revert back to the legal nonconforming status.

§ 500-94. Substandard lots.

- A. No building or structure shall be erected on a lot of less area or width than hereinafter specified by the regulations of the district in which such building or structure is proposed to be located, except as modified herein.
- B. For the purpose of this chapter, the lot area shall be measured from the base setback line and shall be exclusive of the area between the base setback line and the existing property line ultimately to be included in the street, but may include land zoned wetland-floodplain subject to compliance with this chapter and Code.
- C. Lot width shall be the length of the building setback line, and shall be no less than the district's stated minimum lot width.
- D. No lot area or lot width shall be reduced by any means so as to create a lot of less than the required area or width or so that the existing offsets, setbacks, open space or lot area would be reduced below that required by the regulations for the district in which such lot is located.
- E. Any lot which legally existed prior to enactment of this chapter shall not be made legal solely by the adoption of this chapter.
- F. In the case of an existing substandard legal nonconforming lot of record, such lot may be used for any purpose permitted in such district but not for residential purposes for more than one family;

provided, however, that in no case, except as provided in this chapter, shall the setback, offset or open space requirements be reduced except by a grant of a variance.

- G. In the case of an existing substandard legal nonconforming lot of record at the time of the passage of this chapter which does not conform to the zoning regulations of the Town, and which adjoins along a side lot line of property held in the same ownership, whether a conforming legal lot or legal nonconforming lot, neither lot shall be conveyed to another owner nor shall building permits be issued for a building or structure on either lot except in conformity with the following:
- (1) Petition for determination. The owner of said lots may at any time prior to a conveyance of either lot or request for building and zoning permits for either lot petition the Town Board for a determination as to the status of the lots.
 - (2) Referral to Plan Commission. Such petition shall be referred to the Plan Commission for a study to determine the practical possibility of a redivision of such lots to provide lots which will be in conformity, if possible, or otherwise in substantial conformity to the underlying zoning regulations of the Town.
 - (3) Criteria. The Plan Commission, in making its recommendation, and the Town Board, in making its determination, shall give consideration, among others, to the following factors:
 - (a) Compatibility. The size, quality, and character of existing lots and building development in the immediate area with a view to maintaining compatibility and protecting existing values.
 - (b) Sewage disposal. Where public sewer is not available, the lot size necessary to insure safe sewage disposal.
 - (c) Practicability. The economic and engineering practicality of any possible redivision.
 - (d) Hardship. The degree of practical hardship which may be imposed upon the owner.
 - (e) Method of redivision. Such redivision may be accomplished as is appropriate by:
 - [1] Vacation and replatting of all or a part of a recorded plat.
 - [2] Combining of lots or parts of lots by certified survey map.
 - (f) Determination of ownership. For the purposes of this section, lots are to be considered in the same ownership when owned by the same individual or corporation; an individual and another in joint tenancy, or as tenants in common, and either of said joint or common tenants owns other lots individually or as a joint tenant or tenant in common with another; an individual and other lots are owned by a spouse, parents, grandparents, children, grandchildren, or the spouse of any child or grandchild, or a brother or sister or spouse of a brother or sister of such person; and when any of said lots are owned by an individual and other lots are owned by a corporation in which said individual is an officer or director or controlling stockholder.

§ 500-95. Conditional use status.

Subject to the provisions of Article X, Special Uses, of this Code, conditional use status may be granted to existing legal nonconforming uses upon petition of the owner where such use is determined to not be any of the following:

- A. Adverse to any of the following:
- (1) Public health;
 - (2) Safety; or
 - (3) Welfare.

- B. In conflict with the spirit or intent of the chapter; or
- C. Otherwise detrimental to the community and particularly the surrounding neighborhood.

§ 500-96. Floodplain and floodway nonconforming uses; shoreland wetland nonconforming uses.

See Chapter 23, Shoreland, Wetland and Floodplain Zoning, of the Washington County Code.

Article XIV. Hazard Abatement Performance Standards

§ 500-97. Compliance.

Any use established hereafter in any zoning district shall be so operated as to comply with the hazard abatement performance standards set forth in this article, as well as all applicable state and federal regulations, unless otherwise specified.

§ 500-98. Air pollution, contaminants and smoke.

- A. Smoke and particulate matter. The provisions of Subsection **A(1)** and **(2)** below shall not apply in the case of an equipment breakdown which makes compliance not reasonably possible and shall not apply to home fireplaces not used for heating, to barbecues, campfires on legal campgrounds, and to burning incidental to agricultural operations for clearing land, but not for waste disposal.
 - (1) Measurement of smoke emissions. Smoke emissions shall be measured by the use of the Ringelmann Chart, as adopted and published by the United States Department of the Interior, Bureau of Mines Information Circular 8333, May 1967, on which are illustrated graduated shades of gray for use in estimating the light-obscuring capacity of smoke. All uses shall conform with the following standard. The density of smoke shall be measured at the point of emission, except, when the point of emission cannot be readily observed, it may be measured at an observable point on the plume nearest the point of emission.
 - (2) Established requirements not to be exceeded. No person or activity shall emit any fly ash, dust, fumes, vapors, mists, or gases in such quantities so as to substantially contribute to exceeding the established requirements of the Town of Barton, Washington County, State of Wisconsin, or federal air pollution standards set forth by the United States Environmental Protection Agency. In case of conflict, the most restrictive requirements shall govern.
 - (3) Maximum amount of particulate matter on a single site. Emission of particulate matter from all sources shall be included in the maximum amount permitted for a single site as prescribed by the requirements of the agencies and regulations cited in Subsection **A(2)** above.
 - (4) Windborne particulate matter. Emission of particulate matter from materials or products subject to becoming windborne from such sources as storage areas, yards, roads, and so forth, within lot boundaries, shall be kept to a minimum by landscaping, paving, wetting, or other means not in violation of any other applicable laws or regulations in order to render the surface wind-resistant.
 - (5) Maximum smoke units. No stack shall emit more than 10 smoke units during any one hour, nor shall smoke of a density in excess of Ringelmann No. 2 be emitted, provided that during a single one-hour period in each twenty-four-hour day, each stack may emit up to 20 smoke units when blowing soot or cleaning fires, and during such cleaning of fires, smoke of a density of Ringelmann No. 3 may be emitted, but not for more than four minutes each period except for a plume consisting entirely of condensed steam.

- (6) Declaration of public nuisance. In addition to the performance standards specified herein, the emission of smoke or particulate matter in such manner or quantity as to be detrimental to or endanger the public health, safety, comfort, or welfare is hereby declared to be a public nuisance.

B. Toxic and noxious matter. All uses shall conform with the following standards:

- (1) Ambient air quality standards. The ambient air quality standards of the State of Wisconsin and the United States Environmental Protection Agency, or any other federal agency having jurisdiction, shall limit the release of airborne toxic and noxious materials. In case of conflict, the most restrictive requirements shall govern.
- (2) Toxic materials not included in ambient air quality standards. When toxic materials are not included in the ambient air quality standards of the State of Wisconsin, the United States Environmental Protection Agency, or any other federal agency, the release of such materials shall not exceed 1/40 of the threshold limit value across site boundary lines of those toxic materials currently listed in the "Threshold Limit Values" adopted by the American Conference of Governmental Industrial Hygienists. Unless otherwise stated, the measurement of all toxic and noxious matter shall be at ground level or habitable elevation and shall be the average of a twenty-four-hour sampling period. The Town of Barton may request that an applicant submit a statement from the Wisconsin Department of Natural Resources that the proposed levels of toxic matter to be released will not result in any hazard to human life or health or to wildlife.
- (3) Discharge across property boundaries prohibited. No use on any property shall discharge across the boundaries of said property toxic or noxious matter in such concentrations as to be detrimental to or endanger the public health, safety, comfort, or welfare or cause injury or damage to other property or business.

§ 500-99. Fire and explosive hazards.

Fire and explosive hazards shall be controlled as set forth in this section.

- A. Storage or manufacture of materials or products which decompose by detonation not permitted. Activities involving the storage or manufacture of materials or products which decompose by detonation are not permitted unless licensed by the Town of Barton. If such activities are permitted by Town of Barton license, such activities shall take place exclusively in the LM District.
- B. Storage, utilization, or manufacture of materials ranging from free to active burning may be permitted with conditions. The storage, utilization, or manufacture of materials ranging from free to active burning, as determined by the Town Board based upon recommendation by the Zoning Administrator and Plan Commission, is permitted in the LM or BP (storage only in the BP District) Districts under the following conditions:
 - (1) Location. All storage, utilization, or manufacture of such materials or products shall be within completely enclosed buildings or structures having noncombustible exterior walls.
 - (2) Setbacks and sprinkler protection. All such buildings or structures shall be set back at least 40 feet from property boundaries, unless greater standards are required by the specific zoning district in which said materials are located, or, in lieu thereof, shall be protected throughout by an automatic sprinkler system complying with standards for installation prescribed by the National Fire Protection Association.
 - (3) Noncombustible to moderate burning materials. The storage, utilization, or manufacture of materials ranging from noncombustible to moderate burning, as determined by the Zoning Administrator, is permitted.
 - (4) Materials or products which produce flammable or explosive vapors. Materials or products which produce flammable or explosive vapors or gases under ordinary weather temperatures shall not be permitted, with the exception of the following, which are permitted:

- (a) Materials required for emergency or standby equipment.
 - (b) Materials used in secondary processes which are auxiliary to a principal operation, such as paint-spraying of finished products.
 - (c) Flammable liquids and oils stored, sold, and used in conjunction with the operation of an automobile service station and customarily required or used in such operation.
- (5) Manufacture, possession, storage, transportation, and use of hazardous materials. All manufacture, possession, storage, transportation, and use of hazardous materials which include explosives and blasting agents, flammable and combustible liquids, liquefied petroleum gas, and hazardous chemicals shall be required to comply with all applicable state and local fire codes or as set forth in the National Fire Protection Association's Fire Protection Handbook, 1986 Edition, as amended, whichever is stricter.
- (6) No storage allowed within one-hundred-year recurrence interval floodplain. Any permitted structural storage facilities for chemicals, explosives, buoyant materials, flammable liquids and gases, or other toxic materials which could be hazardous to public health or safety shall be located at elevations a minimum of four feet above the one-hundred-year recurrence interval flood elevation.

§ 500-100. Glare.

- A. Measurement of glare. Glare illumination levels shall be measured with a photoelectric photometer having a spectral response similar to that of the human eye, utilizing the standard spectral luminous efficiency curve adopted by the International Commission on Illumination. Illumination levels shall be measured in footcandles with a direct-reading, portable light meter. The meter shall have a color and cosine-corrected sensor with multiple scales and shall read within an accuracy of plus or minus 5%. It shall have been tested, calibrated, and certified by an independent commercial photometric laboratory or the manufacturer within one year of the date of use.
- B. Glare standards. All uses shall conform to the following minimum standards:
- (1) Maximum illumination increase. Any operation or activity producing glare shall be conducted so that direct or indirect illumination from the source of light shall not cause an illumination increase in excess of 0.2 footcandle as measured at a location beyond the site boundary line as measured during the day or at night.
 - (2) Flickering and intrinsically bright sources of illumination. Flickering and intrinsically bright sources of illumination, even if meeting the standard set forth in Subsection **B(1)** above, shall be controlled by luminaire shielding or aiming the light source away from roads and nearby sites. Exposed sources of light shall be shielded so as not to exceed the outdoor lighting standards set forth elsewhere in this chapter.
 - (3) Reflective materials which cause glare prohibited. Reflective roofs, sidings, and building surfaces, including reflective glass, shall not be permitted, with the exception of solar heating devices.
- C. Declaration of public nuisance. Any operation producing intense glare shall be performed within a completely enclosed building and effectively screened in such a manner as not to create a public nuisance or hazard along property boundaries.

§ 500-101. Heat and humidity.

The following standards shall apply to heat and humidity:

- A. Location. Any activity producing intense heat shall be conducted within an enclosed building in such a manner as not to raise the temperature of the air beyond the site boundary line.

- B. Increases in humidity in the form of steam or moist air from cooling towers or equipment. Increases in humidity in the form of steam or moist air from cooling towers or equipment shall be controlled so that they do not create an ice hazard. Cooling towers shall be controlled by either reheating the plume or using a closed system.
- C. Declaration of public nuisance. Any operation producing intense heat or humidity shall be performed within a completely enclosed building and effectively screened in such a manner as not to create a public nuisance or hazard along property boundaries.

§ 500-102. Water quality protection.

- A. General water quality standards. No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that might run off, seep, percolate, or wash into surface or subsurface waters so as to contaminate, pollute, or harm such waters or cause nuisances such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.
- B. Minimum state requirements to be met. No activity shall withdraw or discharge any liquid or solid materials so as to exceed, or contribute toward the exceeding of, the minimum standards set forth in Subsection **A** above and those other standards and the application of those standards set forth in Ch. NR 102, Wis. Adm. Code, as amended.

§ 500-103. Noise.

- A. Measurement of noise. Noise shall be measured using a sound-level meter meeting the standards of the American National Standards Institute's (ANSI S14-1961) "American Standard Specification for General Purpose Sound Level Meters." The instrument shall be set to the A-weighted filter response scale and the meter to the slow response. Measurements shall be conducted in accord with ANSI S1.2-1962, "American Standard Method for the Physical Measurement of Sound." Measurements of sound may be made at any point along a district boundary or site boundary line. In the case of measuring impact sounds, however, the impact sound shall be measured using the fast response of the sound-level meter. Traffic, aircraft, and other background noises must not be considered in measuring noise levels, except when the background noise constitutes a part of the noise being measured.
- B. Exemptions from standards of this section. Noises exempt from the requirements of this section include the following (also see § **500-84**):
 - (1) Noises of vehicles.
 - (2) Home appliances.
 - (3) Chain saws, lawn mowers, and snowblowers in private use (not including commercial repair services).
 - (4) Occasionally used safety signals, warning and emergency signals, and emergency pressure-relief valves.
 - (5) Unamplified human voice.
 - (6) Legal freedom of speech bells or chimes.
 - (7) The lowing of cattle, the clucking of fowl, the neighing of horses, or other sounds of reasonably cared for agricultural animals, as well as the sound of necessary farming equipment for a bona fide agricultural operation.
 - (8) Temporary construction operations.

- (9) Noise levels in the QE Quarrying and Extractive District, which shall be regulated by the conditions set forth in a special use permit.
- C. Maximum permitted sound levels in all zoning districts. At no point either on the boundary of a zoning district or site boundary line shall the sound level of a use exceed the decibel level shown in Table 500-103C for the zoning districts indicated.

Table 500-103C

Maximum Permitted Sound Levels in dBA by Zoning District

Zoning District	Maximum Permitted Sound Level (dBA) 7:00 a.m. to 10:00 p.m.	Maximum Permitted Sound Level (dBA) 10:00 p.m. to 7:00 a.m.
All agricultural, all residential, NHB and I Districts (including residential, institutional, and commercial retail sales and service uses in any PUD District)	50	45
CB and FB Districts	65	60
LM and BP Districts (including industrial uses in any PUD District)	65	65
PR District	55	55

- D. Increases to maximum permitted sound levels. The sound levels set forth in Table 500-103C may be exceeded by 10 dBA for a single period, not to exceed 15 dBA in any one day except in the CB, FB, LM, BP, QE, PR, and PUD (business and industrial uses only) Districts.
- E. Impact noises. For impact noises, the sound levels set forth in Table 500-103C may be increased by 10 dBA in the LM and BP Districts.
- F. Creation of excessive noise in noise-sensitive areas prohibited. The creation of, or causing the creation of, any sound within any noise-sensitive area, containing a hospital, nursing home, school, court or other designated area, so as to exceed the specified land use noise standards set forth in this section is prohibited, provided that conspicuous signs are displayed indicating the presence of the noise-sensitive area.
- G. Creation of excessive noise in areas adjacent to noise-sensitive areas prohibited. The creation of, or causing the creation of, any sound adjacent to any noise-sensitive area, containing a hospital, nursing home, school, court or other designated area, so as to exceed the specified land use noise standards set forth in this section and to interfere with the functions of such activity or annoy the occupants in the activity, is prohibited, provided that conspicuous signs are displayed indicating the presence of the noise-sensitive area.
- H. Occasional outdoor activities exempted. The provisions of this section shall not apply to occasional outdoor gatherings, public dances, shows, and sporting and entertainment events (excluding regularly scheduled school athletic events), provided the events are conducted pursuant to any permits issued by the Town of Barton relative to the event.
- I. Barking of dog(s). The continual barking of dog(s) for one continuous fifteen-minute period during any given twenty-four-hour period shall not be permitted.

§ 500-104. Odor.

[Amended 3-3-2004 by Ord. No. 04-001; 4-19-2011 by Ord. No. 11-001]

This section is applicable to all zoning districts and uses except agricultural uses and activities conducted within the EA, AT, GA, HFA, and R-1 Districts, and on the open space areas of open space

subdivisions and open space condominiums within the R-1, R-2, R-3, R-4, and R-5 Districts as defined herein.

- A. Generation of odor. Any use in any district may generate any odor that reaches the odor threshold concentration or does not exceed the lowest amount set forth in Table III, "Odor Thresholds," of Chapter 5, "Physiological Effects," of the Air Pollution Abatement Manual of the Manufacturing Chemists Association, according to the latest edition of such table for the compounds therein described. For compounds not described in Table III, odor thresholds may be established by methods indicated in Chapter 5 of the manual. No odor shall be permitted at any lot line exceeding the amount determined by the application of such methods as measured at:
- (1) Two or more uses occupying a single lot or parcel of land. The outside boundary of the immediate space occupied by the use generating the odor.
 - (2) Single use lot or parcel of land. The lot line of the use generating the odor if said use is the only use on the lot.
- B. Public nuisance or hazard prohibited. The emission of odorous matter from any property in such concentrations at any point along the boundaries of said property or in such concentrations as to create a public nuisance or hazard beyond such boundaries is prohibited.

§ 500-105. Radioactivity.

All uses shall conform to the following specified standards pertaining to radioactivity:

- A. Maximum concentrations of radioactivity permitted. The maximum permissible concentrations of radioactivity that can be released shall be subject to the regulations of the State of Wisconsin, the United States Atomic Energy Commission, and any other federal agency having jurisdiction. In the case of conflict, the most restrictive requirements shall govern.
- B. Storage of radioactive materials. Radioactive materials shall be stored in fireproof containers made of steel and concrete, but shall not be stored in containers made of lead or other low-melting metals or alloys, unless completely encased in steel.
- C. Medical sources of radiation residues. Medical sources of radiation residues, such as X-ray machines, gamma and neutron sources, and pharmaceutical isotopes which are used for diagnostic and therapeutic purposes, shall be permitted when located within a hospital, clinic, medical or dental office, or medical research facility. Other uses of radioactive materials shall be limited to measuring in X-ray and similar apparatus and in connection with the processing and preservation of food.

§ 500-106. Vibration.

- A. Measurement. Earthborne vibrations are measured with a seismograph or accelerometer and are measured in three mutually perpendicular directions (one vertical and two horizontal). Vibration shall be measured at the site boundary lines. All uses shall conform to the standards set forth in this section.
- B. Permitted steady-state vibration displacement. Except for temporary construction activities and agricultural activities, no activity shall cause or create a displacement in excess of the permitted steady-state vibration displacement for the frequencies set forth in Table 500-106B.

Table 500-106B

Maximum Permitted Steady-State Vibration Displacement	
Frequency	Vibration Displacement
(cycle per second)	(inches)
10 and below	0.0008
10 to 20	0.0005
20 to 30	0.0003
30 to 40	0.0002
40 and over	0.0001

- C. Impact vibrations. For impact vibrations, the maximum permitted vibration displacement shall be twice that permitted for steady-state vibrations.
- D. Temporary construction activities exempt from requirements. Vibrations resulting from temporary construction activity that occurs between 7:00 a.m. and 7:00 p.m. shall be exempt from the requirements of this section, provided that steady-state vibrations and impact vibrations shall not exceed twice the permitted displacement for permanent operations.
- E. Prohibition on vibrations beyond property boundaries. Except for temporary construction activities and blasting which may be allowed by special use permit in the QE Quarrying and Extractive District, no activity shall be permitted which creates a vibration beyond the boundaries of the site of the activity sufficient to cause a displacement of 0.003 of one inch.
- F. Public nuisance prohibited. In no case shall vibrations be allowed to create a public nuisance or hazard beyond the property boundaries.

§ 500-107. Electrical disturbance, interference and electromagnetic fields.

- A. No use, activity, or process allowed which produces electric and/or magnetic fields or radiation with adverse effects. In all zoning districts, no use, activity, or process shall be conducted which produces electric and/or magnetic fields or radiation which adversely affects public health, safety, and welfare, including but not limited to interference with normal radio, telephone, or television reception from off the premises where the activity or process is conducted or the use is located.
- B. Minimum standards for electromagnetic radiation. Where electrical systems are planned to be established which are either equal to or exceed a level of electromagnetic radiation of 60 Hertz (Hz), the following standards shall be applicable:
- (1) Environmental and health assessment reports required. Environmental and health assessment reports of such proposed systems shall be prepared at the expense of the developer of such systems. An electromagnetic field mitigation plan shall be a component of all such reports.
 - (2) Location of residential land uses and places of assembly. No residential land uses or places of assembly shall be allowed to be sited in areas exposed to four or more milligauss of 60 Hertz (Hz) electromagnetic fields.

§ 500-108. Chemical, asbestos and other hazardous material storage.

The following standards shall apply to chemical, asbestos, or other hazardous materials or wastes use and/or storage:

- A. Location. Any activity involving chemical, asbestos, or other hazardous materials or wastes use or storage shall be conducted within an enclosed building.
- B. Transfer off parcel by natural causes or forces prohibited. No chemical, asbestos, or other hazardous materials or wastes shall be deposited upon a parcel in any zoning district in such form or manner that they may be transferred off of the parcel by natural causes or forces.
- C. Outdoor storage prohibited. In all zoning districts, no chemical, asbestos, or other hazardous materials or wastes which might cause fumes, dust, or which constitute a fire hazard or which may be edible by or otherwise attractive to rodents or insects shall be stored outdoors.
- D. Public nuisance prohibited. In no zoning district shall the storage of chemical, asbestos, or other hazardous materials or wastes be allowed to create a public nuisance or hazard beyond the property boundaries.
- E. Compliance with all fire and building codes for hazardous materials use and storage. In all zoning districts, uses involving the storage of chemicals, asbestos, or other hazardous materials or wastes shall be designed to comply with all fire and building codes for the hazardous materials use and storage, and adequate precautions using the best technology available shall be taken to protect against negative off-site impacts of a hazardous materials release.
- F. Hazardous materials impact analysis required. In all zoning districts where chemical, asbestos, or other hazardous materials or wastes are used or stored, a hazardous materials impact analysis shall be required to determine potential off-site impacts and required mitigation precautions. Said hazardous materials impact analysis shall be submitted to the Plan Commission for its review and consideration.

Part 4. Natural Resources

Article XV. Protection of Natural Resources

§ 500-109. Standards and requirements.

[Amended 7-9-2003 by Ord. No. 03-007^[1]; 12-16-2014 by Ord. No. 14-001]

All new development (including building and/or site improvements), additions to existing development (including building and/or site improvements), all new certified survey maps, subdivision plats, or condominiums in all zoning districts created in the Town of Barton (except as may be excluded under § 500-60C of this chapter) shall comply with the resource protection standards set forth in Table 500-109. All the natural resources required to be protected under this article shall remain undisturbed and in a natural state, except those natural resources where mitigation is permitted and where that mitigation is in strict accord with those requirements set forth in this article of this chapter.

Table 500-109

Natural Resource Feature	Natural Resource Protection Standards					
	Zoning District Type					
	Agricultural		Residential (c)		Nonresidential (d)	
Protection Standard	Mitigation Permitted	Protection Standard	Mitigation Permitted	Protection Standard	Mitigation Permitted	
Steep slopes:						
10% to 19%	0%	N/A	0%	No	0%	No
20% to 30%	0%	No	0%	No	0%	No
>30%	0%	No	0%	No	0%	No
Woodlands and forests (a):						

Table 500-109

Natural Resource Protection Standards

Natural Resource Feature	Zoning District Type					
	Agricultural		Residential (c)		Nonresidential (d)	
	Protection Standard	Mitigation Permitted	Protection Standard	Mitigation Permitted	Protection Standard	Mitigation Permitted
Mature	0%	No	70%	Yes	70%	Yes
Young	0%	No	50%	Yes	50%	Yes
Lakes and ponds	100%	No	100%	No	100%	No
Streams	100%	No	100%	Yes	100%	Yes
Shore buffers (a)	100% (a)	No	100% (a)	No	100% (a)	No
Floodplains/floodlands (b)	100%	No	100%	No	100%	Yes
Drainageways	100%	No	30%	Yes	30%	Yes
Wetlands and shoreland wetlands (a)	100%	No	100%	No	100%	Yes

NOTES:

- (a) As regulated by Chapter 23, Shoreland, Wetland and Floodplain Zoning, of the Washington County Code, as amended.
- (b) As regulated by Chapter 23, Shoreland, Wetland and Floodplain Zoning, of the Washington County Code, as amended.
- (c) Including residential Planned Unit Development Districts (or residential portions thereof).
- (d) Including nonresidential Planned Unit Development Districts (or nonresidential portions thereof).

N/A = Not applicable.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

§ 500-110. Determination of features.

A. Steep slopes.

- (1) Steep slopes, as defined in Article **XXX** of this chapter, are to be determined through the use of the following sources and/or methods in the order indicated below. If the first source is considered inaccurate or inappropriate, as determined by the Plan Commission, the succeeding source shall be used:
 - (a) Topographic survey prepared by and certified by a Wisconsin-registered land surveyor at a contour interval of not less than two feet.
 - (b) Large-scale one inch equals 200 feet Washington County topographic maps.
 - (c) USGS 7.5-minute topographic quadrangle maps.
- (2) The area of steep slopes (in square feet or acres) shall be measured and graphically delineated on a topographic drawing and on the natural resource protection plan. Such steep slope drawing shall graphically indicate those steep slope areas, by slope type, of the property pursuant to the "steep slope" definition set forth in Article **XXX** of this chapter.

B. Woodlands and forests. The definitions of "woodlands" and "forests" (mature and young), as applied to this article, appear in Article **XXX** of this chapter.

- (1) The determination of woodland and forest boundaries shall be based on the following sources:
 - (a) One inch equals 400 feet aerial photographs prepared by the Southeastern Wisconsin Regional Planning Commission (SEWRPC) and available from either SEWRPC or from Washington County (most recent date only); and

- (b) A field survey of trees compiled by a registered land surveyor and identified by a landscape architect, forester, arborist, or botanist with a professional degree in one of those fields of endeavor.
 - (2) The area of woodlands and forests (mature and young), in square feet or acres, shall be measured and graphically delineated on the natural resource protection plan. Such woodland and forest area drawing shall indicate all woodland and forest areas of the property. The location, size, and species of all healthy trees having a diameter of eight inches or greater DBH that are located in woodland and forest areas within 25 feet of any proposed improvement and/or in woodland and forest areas to be demolished due to the placement of improvements or grading are to be graphically shown on the natural resource protection plan or submitted as a separate drawing. For the remaining undisturbed areas of the development, certified survey map, subdivision plat, or condominium, only the outline of woodland and forest areas indicating whether they are mature or young woodlands is required.
- C. Lakes and ponds.
- (1) Lakes and ponds, as defined in Article **XXX** of this chapter, are to be determined through the use of the definitions of "lake" and "pond" as set forth in Article **XXX** of this chapter and the sources in the order indicated below. If the first source is considered inaccurate or inappropriate, as determined by the Plan Commission, the succeeding source shall be used:
 - (a) Topographic survey prepared by and certified by a Wisconsin-registered land surveyor at a contour interval of not less than two feet.
 - (b) Large-scale one inch equals 200 feet Washington County topographic maps.
 - (c) USGS 7.5-minute topographic quadrangle maps.
 - (2) The area of lakes and ponds (in square feet or acres) shall be measured and graphically delineated on the natural resource protection plan.
- D. Streams.
- (1) Streams, as defined in Article **XXX** of this chapter, are to be determined through the use of the definitions of "channel" and "stream" (see Article **XXX** of this chapter) and the sources in the order indicated below. If the first source is considered inaccurate or inappropriate, as determined by the Plan Commission, the succeeding source shall be used:
 - (a) Topographic survey prepared by and certified by a Wisconsin-registered land surveyor at a contour interval of not less than two feet.
 - (b) Large-scale one inch equals 200 feet Washington County topographic maps.
 - (c) USGS 7.5-minute topographic quadrangle maps.
 - (2) The area of streams (in square feet and acres) shall be measured and graphically delineated on the natural resource protection plan.
- E. Shore buffers. Shore buffers, as defined in Article **XXX** of this chapter, are to be determined as the land within 75 feet of the ordinary high-water mark of all navigable waters and parallel to that ordinary high-water mark.
- (1) Navigable waters are to be determined through the use of the definition of "navigable water" set forth in Article **XXX** of this chapter and the sources in the order indicated below. If the first source is considered inaccurate or inappropriate, as determined by the Plan Commission, the succeeding source shall be used:
 - (a) Topographic survey prepared by and certified by a Wisconsin-registered land surveyor at a contour interval of not less than two feet.
 - (b) Large-scale one inch equals 200 feet Washington County topographic maps.

- (c) USGS 7.5-minute topographic quadrangle maps.
- (2) The area of shore buffers (in square feet and acres) shall be measured and graphically delineated on the natural resource protection plan.
- F. Floodplain/floodways/floodlands. The definitions of "floodplain," "floodway" and "floodlands" appear in Article **XXX** of this chapter. The one-hundred-year recurrence interval floodplain and floodways shall be determined as depicted on the Federal Emergency Management Agency's (FEMA) "FIRM: Flood Insurance Rate Map(s)," with the effective date of September 1, 1983, as amended. Where a conflict exists between the floodland limits as shown on the Federal Emergency Management Agency's (FEMA) "FIRM: Flood Insurance Rate Map(s)" and actual field conditions, the elevations from the one-hundred-year recurrence interval flood profiles contained in the published Flood Insurance Study, Washington County, Wisconsin (Unincorporated Areas), prepared by the Federal Emergency Management Agency (FEMA), dated March 1, 1983, shall be used.
- G. Drainageways. Drainageways, as defined in Article **XXX** of this chapter, are to be determined as the land on either side of and within 50 feet of the center line of any intermittent or perennial stream graphically shown on those maps cited below, except for areas designated as wetlands, shoreland wetlands, floodlands, floodways, or one-hundred-year recurrence interval floodplains.
 - (1) Drainageways are to be determined through the use of the following sources and/or methods in the order indicated below. If the first source is considered inaccurate or inappropriate, as determined by the Plan Commission, the succeeding source shall be used:
 - (a) Topographic survey prepared by and certified by a Wisconsin-registered land surveyor at a contour interval of not less than two feet.
 - (b) Large-scale one inch equals 200 feet Washington County topographic maps.
 - (c) USGS 7.5-minute topographic quadrangle maps.
 - (2) The area of drainageways (in square feet and acres) shall be measured and graphically delineated on the natural resource protection plan.
- H. Wetlands (including shoreland wetlands). Wetlands and shoreland wetlands are defined in Article **XXX** of this chapter.
 - (1) Wetland areas shall be determined by reference to the following sources in the order shown below. If the first source is considered inaccurate or inappropriate as determined by the Plan Commission, the succeeding source shall be used:
 - (a) Wetland inventory maps prepared for the Town of Barton as part of the "Wisconsin Wetland Inventory" prepared by the Wisconsin Department of Natural Resources, as amended.
 - (b) Field survey and mapping of plant material by a botanist with a professional degree in either botany or biology.
 - (2) The area of wetlands and/or shoreland wetlands (in square feet and acres) shall be measured and graphically delineated on the natural resource protection plan.
- I. Natural resources measurement. All land area within a proposed development, certified survey map, subdivision plat, or condominium consisting of the natural resource features defined in this chapter shall be accurately measured. The total square feet and acreage of each natural resource feature shall be multiplied by its respective natural resource protection standard as set forth in Table 500-109, Natural Resource Protection Standards, of this chapter to determine the amount of each natural resource feature to be protected by a conservation easement. The methodology, termed "site intensity and capacity calculations," to be used for such calculations is set forth in Article **VIII** of this chapter. If two or more natural resource features are present on the same area of land, only the most restrictive natural resource protection standard shall be used. [For example, if floodlands and woodlands and forests occupy the same space on a site, the natural resource protection standard

would be 100% (100% is the resource protection standard for a floodland) for this area representing the higher of the two standards.] Those areas to be demolished due to improvements or site grading or disturbed through the application of permitted mitigation techniques shall also be measured and so noted but shall not be counted as a natural resource area to be preserved.

§ 500-111. Features mitigation.

- A. Intent of mitigation. The Town of Barton recognizes that, under certain circumstances, property owners, subdividers, or condominium developers may wish to develop in portions of those protected natural resource feature areas that are shown as eligible for mitigation as indicated in Table 500-109. In Subsection **B** of this section, the conditions for mitigation and mitigation standards are set forth for the various natural resource features for which mitigation is allowed under the provisions of Table 500-109. The intent of this section is not to permit greater destruction of natural resource features than is permitted under the requirements of this chapter for typical property or development. This section sets specific standards for use when the extent of the natural resources on a site and the use of the regulations would create a major hardship for said natural resource feature protection. Thus, mitigation is intended to be used in lieu of a variance request when severe hardships would result from the strict enforcement of the natural resource protection standards and requirements set forth in this chapter.
- B. Mitigation standards. The following methods, requirements, standards and/or criteria shall be followed for the mitigation of those natural resource features that may be mitigated under the requirements set forth under Table 500-109:
- (1) Woodlands and forests. Woodlands and forest areas may be mitigated under either of the following two alternative requirements applicable to the mitigation of woodland and forest areas:
- (a) Alternative 1:
- [1] Mitigation shall include the planting of 1.25 acres of new woodland/forest for every one acre of disturbed woodland/forest for which mitigation is required.
- [2] Mitigation shall include the replacement of woodlands/forests that have been disturbed. Such mitigation shall consist of the planting of new woodland/forest areas, as specified in Subsection **B(1)(a)[1]** above, using the following numbers of plants per acre of mitigated area:
- 15 canopy trees, minimum 3.5-inch caliper*
- 12 canopy trees, minimum 2-inch caliper
- 250 canopy trees, minimum 4-foot-high whips
- 50 understory trees, minimum 5-foot-high whips
- 25 shrubs, minimum 12 inches high
- *NOTE: Each 3.5-inch-caliper canopy tree may be substituted with two 1.5-inch-caliper canopy trees.
- (b) Alternative 2:
- [1] Mitigation shall include the planting of 1.50 acres of new woodland/forest for every one acre of disturbed woodland/forest for which mitigation is required.
- [2] Mitigation shall include the replacement of woodlands/forests that have been disturbed. Such mitigation shall consist of the planting of new woodland/forest areas, as specified in Subsection **B(1)(b)[1]** above, using the following number of plants per acre of mitigated area:

- 12 canopy trees, minimum 3.5-inch caliper*
- 10 canopy trees, minimum 2-inch caliper
- 200 canopy trees, minimum 4-foot-high whips
- 40 understory trees, minimum 5-foot-high whips
- 20 shrubs, minimum 12 inches high

*NOTE: Each 3.5-inch-caliper canopy tree may be substituted with two 1.5-inch-caliper canopy trees.

- (c) The species of plants to be used in the mitigation of woodlands/forests shall be similar to those that are destroyed, and a minimum mix of six species are to be planted. Acceptable species for woodland and forest mitigation are as indicated in Table 500-111. No more than 80% of the total number of trees planted for mitigation purposes, however, shall be of the any single species.

Table 500-111

Tree Species for Woodland and Forest Mitigation

Species	Species
Common Name	Scientific Name
Sugar maple	Acer saccharum
Bitternut hickory	Carya cordiformis
Hackberry (sugarberry)	Celtis occidentalis
Butternut	Juglans cinerea
Black walnut	Juglans nigra
Eastern hophornbeam	Ostrya virginiana
Black cherry	Prunus serotina
White oak	Quercus alba
Red oak	Quercus borealis
American basswood	Tilia americana
American elm	Ulmus americana
Slippery elm	Ulmus rubra

- (d) The land upon which the mitigation is to take place shall be protected with a deed restriction and conservation easement as a permanent natural resource features conservation easement.
 - (e) No tree cutting or removal, subsequent to the adoption of this chapter, shall reduce the woodland/forest natural resource features protection requirements of this chapter.
- (2) Lakes and ponds. Lakes and ponds may be mitigated as may be permitted under the requirements of Chapter 23, Shoreland, Wetland and Floodplain Zoning, of the Washington County Code, as amended. Where permitted under the requirements of Chapter 23 of the Washington County Code, as amended, the required lakes and ponds natural resource protection standard may be reduced and/or mitigated only if such reduction and/or mitigation is part of a Town Engineer approved stormwater drainage system that meets, at a minimum, all of the following criteria:
- (a) The time of concentration of stormwater flows remains unchanged or is lengthened.
 - (b) Stormwater storage capacity is unchanged or increased.
 - (c) Additional water is not backed up onto adjoining properties.

- (3) Floodplains, floodways, and floodlands. Floodplains, floodways, and floodlands may be mitigated as may be permitted under the requirements of Chapter **23**, Shoreland, Wetland and Floodplain Zoning, of the Washington County Code, as amended.
 - (4) Drainageways. The required drainageway natural resource protection standard may be reduced and/or mitigated only if such reduction and/or mitigation is part of a Town Engineer approved stormwater drainage system that meets, at a minimum, all of the following criteria:
 - (a) The time of concentration of stormwater flows remains unchanged or is lengthened.
 - (b) Stormwater storage capacity is unchanged or increased.
 - (c) Vegetation is installed stabilizing the drainageway soil.
 - (d) The resultant drainageway produces less stormwater velocity than preexisted or reduces stream bank erosion through the provision of erosion control measures.
 - (e) Additional water is not backed up onto adjoining properties.
 - (5) Wetlands and shoreland wetlands. As may be permitted under the requirements of Chapter **23**, Shoreland, Wetland and Floodplain Zoning, of the Washington County Code, as amended. In addition, a permit from the United States Army Corps of Engineers pursuant to the requirements of Section 404 of the Clean Water Act (33 U.S.C. § 1344) shall be submitted to the Town of Barton certifying that filling has been approved and permitted by the Corps, as a condition of Town review.
- C. Off-site mitigation. Off-site mitigation may be permitted by the Plan Commission, provided that such off-site mitigation occurs within the same subwatershed as the natural resource feature, or property, being mitigated and follows the methods, requirements, standards, and/or criteria set forth under Subsection **B** of this section.

Part 5. Design Standards

Article XVI. General Design Standards

§ 500-112. Access to public streets.

This section sets forth vehicular access requirements for proposed site plans for developments which abut arterial, collector, and minor streets. This chapter recognizes that public streets are a public investment which require control mechanisms in order to assure both public safety and functional capacity. Proposed development for residential and nonresidential uses shall meet the following requirements:

- A. Access standards for all residential and nonresidential uses. All proposed site plans proposed for residential and/or nonresidential uses located in residential and/or nonresidential zoning districts shall meet the following standards:
 - (1) Controlled access to public streets. Lot and parcel vehicular access points shall be permitted only at locations in accordance with this chapter and other Town of Barton adopted plans and ordinances. The Plan Commission may limit vehicular access to any adjoining arterial, collector, or minor street.
 - (2) Distance between vehicular access points. The spacing of vehicular access points from arterial streets and highways to lots and parcels shall be determined as a function of arterial street and highway operating speeds. The minimum spacing between vehicular access points along such streets or highways shall be determined according to Table 500-112A. These spacings are based upon average vehicle acceleration and deceleration rates and are considered necessary to maintain safe traffic operation.

Table 500-112A**Arterial Street and Highway Operating Speed and Minimum Spacing Between Direct Vehicular Access Points**

Street/Highway Speed Limit	Minimum Driveway Spacing Measured at the Street Right-of-Way Line
(miles per hour)	(feet)
25	105
30	125
35	150
40	185
45	230
50	275

Source: American Planning Association. Planning Advisory Service (PAS) Memo, July 1983.

- (3) Limitation of access to interstate, United States, and state trunk highways. No new direct vehicular access shall be allowed to interstate, United States, and state trunk highway public rights-of-way unless approved by the Wisconsin Department of Transportation, Washington County, and the Plan Commission.
- (4) Temporary access.
 - (a) Town streets. On Town streets, the Town Board may grant temporary access to properties and require their closure when access through adjoining properties is acquired upon recommendation by the Plan Commission. Such access shall be temporary, revocable, and subject to any conditions required and shall be issued for a period not to exceed 12 months.
 - (b) County streets and highways. Temporary access to Washington County street and highway rights-of-way is reviewed and may be approved by the Washington County Highway Department. It is the applicant's responsibility to obtain all necessary approvals from the Washington County Highway Department for all such temporary access points proposed prior to site plan approval by the Town.
 - (c) State highways. Temporary access to state highway rights-of-way is reviewed and may be approved by the Wisconsin Department of Transportation. It is the applicant's responsibility to obtain all necessary approvals from the Wisconsin Department of Transportation for all such temporary access points proposed prior to site plan approval by the Town.
- (5) Area circulation plan may be required. The Plan Commission may require the preparation of an area circulation plan for the proposed development covering several properties in an area surrounding a proposed site plan. The delineation of the area for the preparation of an area circulation plan shall be determined by the Plan Commission upon recommendation of either the Town Engineer or Zoning Administrator. Such a plan may require the sharing of access locations or temporary access. All landowners, except those with a previously approved site plan, shall be required to conform to such an area circulation plan once it is adopted by the Plan Commission as a component, or element, of the Town of Barton Comprehensive Plan. The Plan Commission may require that such an area circulation plan be prepared based upon the conduct of a traffic impact analysis conducted by a licensed professional engineer with expertise in traffic engineering. The Town Engineer and Zoning Administrator shall review all such studies and assist the Plan Commission.
- (6) Vehicular nonaccess reservations required. The Plan Commission may require deed restrictions to be placed on a lot or parcel for which a site plan is proposed in order to limit vehicular access to abutting arterial, collector, or minor streets and highways. A landscaped buffer yard of an adequate buffer yard intensity level, as determined by the Plan Commission

or by Article **XVIII** of this chapter, shall be provided in vehicular nonaccess reservations along the property line abutting a public street right-of-way. In such situations, vehicular access to such lots may be provided by an abutting minor or collector street at designated access driveways. Such vehicular nonaccess reservations shall be graphically so noted on site plans or as a formal deed restriction formally filed with the Washington County Register of Deeds prior to their approval by the Town.

- (7) Arterial street and highway access and street intersections. No new direct public or private access shall be permitted to an arterial street or highway within 115 feet of the intersection of the right-of-way lines of another arterial street or highway; and, where lot or parcel size permits, no new direct public or private access shall be permitted to an arterial street or highway within 500 feet of the intersection of the right-of-way lines of another arterial street.
- (8) Minor streets and vehicular access point alignments. Minor streets and vehicular access points along both sides of a collector and/or arterial street shall be aligned to assist in reducing the number of driveways needed and to improve safety conditions related to access to the street system.
- (9) Sight distance and driveway placement. Direct vehicular access placement on abutting collector and arterial streets and highways shall be such that an exiting vehicle has a minimum unobstructed sight distance according to Table 500-112B based upon the operating design speed of the abutting collector or arterial street or highway.

Table 500-112B

Highway Design Speed and Minimum Required Sight Distance for Direct Vehicular Access Point Placement

Highway Design Speed (miles per hour)	Minimum Sight Distance (feet)
30	200
35	225
40	275
45	325
50	350

Source: American Planning Association Planning Advisory Service (PAS) Memo, July 1983.

- B. Access standards for nonresidential and multiple-family residential uses. All proposed site plans proposed for nonresidential and multiple-family residential uses located in nonresidential and/or multiple-family residential zoning districts shall meet the following standards:
 - (1) Maximum number of vehicular access points per lot. Generally, along arterial streets and highways (including lots which abut the frontage roads of said rights-of-way), where the abutting street frontage is less than 400 feet, a maximum of one vehicular access point shall be permitted to a particular lot from each of any one or two abutting arterial streets and highways. One additional driveway entrance along a single continuous lot with frontage in excess of 400 feet may be permitted by the Plan Commission. When a shared vehicular access point is used by two or more abutting lots, said shared vehicular access point shall be considered as one single vehicular access point for each lot or parcel served.
 - (2) Provision of shared vehicular access points between lots. Vehicular access points planned to be located along property lines, or within five feet of a property line, shall be shared vehicular access points with the abutting lot or parcel. The vehicular access point center line may be the property line between two lots or parcels of land or may be a mutually agreed upon land access easement.

- (3) Provision of shared vehicular access points between lots. Vehicular access points planned to be located along property lines, or within five feet of a property line, shall be shared vehicular access points with the abutting lot or parcel. The vehicular access point center line may be the property line between two lots or parcels of land or may be a mutually agreed upon land access easement.

§ 500-113. Easements.

- A. Natural resource features protection/mitigation, conservation, landscape buffer yard, and utility easements required. The Plan Commission shall require natural resource features protection/mitigation, conservation, landscape buffer yard, and/or utility easements of widths deemed adequate for the intended purpose on each side of all rear lot lines and on side lot lines or across lots where necessary or advisable for natural resource feature protection, landscape buffer yards (see Article **XVIII** of this chapter), electric power and communication lines, wires, conduits, storm and sanitary sewers, and gas, water, and other utility lines.
- B. Site traversed by watercourse, drainageway channel, or stream. Where a site is traversed by a watercourse, drainageway channel, or stream, an adequate drainageway or easement shall be provided as may be required by the Town Engineer. The location, width, alignment, and improvement of such drainageway or easement shall be subject to the approval of the Plan Commission, and parallel streets or parkways may be required in connection therewith. Where necessary, stormwater drainage shall be maintained by landscaped open channels of adequate size and grade to hydraulically accommodate maximum potential volumes of flow. These design details are subject to review and approval by the Town Engineer.
- C. Minimum width required for all utility easements. All utility easements shall be a minimum of 12 feet in width where recommended by the Town Engineer.

§ 500-114. Stormwater management plan.

Stormwater drainage facilities shall be required which are adequate to serve the development. Such stormwater drainage facilities shall be in conformance (as applicable) with the adopted County Development Plan or elements thereof; all applicable Washington County codes pertaining to stormwater management; and/or local Comprehensive Plans or adopted Comprehensive Plan components; or as required by the Town of Barton based upon recommendation of the Town Engineer. These facilities may include curbs and gutters, catch basins and inlets, storm sewers, road ditches, open channels, water retention and detention structures, basins, and settling basins. All such facilities shall be of adequate size and grade to hydraulically accommodate the maximum potential volumes of flow and shall be so designed as to prevent and control soil erosion and sedimentation and to present no hazards to life or property. In addition:

- A. Stormwater management plan required. A stormwater management plan shall be prepared by a Wisconsin-registered professional engineer, which shall include, but not be limited to, the following:
 - (1) Existing and proposed topography at two-foot contour intervals of the proposed development.
 - (2) Proposed elevations of all streets, internal sidewalks, drives, and off-street parking areas.
 - (3) Proposed drainage swales.
 - (4) Proposed storm sewers, manholes, and inlets.
 - (5) Construction site erosion facilities.
 - (6) A report and map(s) showing the drainage basin for the entire area where the development is located, including estimates of the total acreage in the drainage basin and percentage of the drainage basin within the proposed development.

- (7) Location of any planned stormwater detention and/or retention basins and applicable calculations for their sizing and design.
- (8) Calculations relating to the amount of runoff from the site of the proposed development prior to development and anticipated runoff following the development of the site.

B. Unpaved street gutters.

- (1) Unpaved street gutters shall be permitted and shall be shaped and seeded and/or sodded as grassed waterways.
- (2) The developer is encouraged to use natural wetland plant materials where possible.
- (3) Where the velocity of flow is in excess of four feet per second on soils having a severe or very severe erosion hazard and in excess of six feet per second on soils having moderate, slight, or very slight erosion hazard, the developer shall meander the waterway or install a paved invert or check dams, flumes, or other energy-dissipating devices.

C. Drainage facilities.

- (1) These shall, if required by the Town Engineer, include stormwater detention and/or retention basins, structures, and settling basins necessary so as to prevent erosion and sedimentation where such facilities discharge into streams or lakes.
- (2) The design criteria, the size, type, grades, and installation of all stormwater drains and sewers and other cross-section, invert and erosion control paving check dams, flumes, or other energy-dissipating structures and seeding and/or sodding of open channels and unpaved road ditches proposed to be constructed shall be in accordance with the plans and standard specifications approved by the Town, including the Town's "Standards and Specifications for Development," approved by the Town.

D. Storm sewers.

- (1) When required by the Town, the developer shall assume the cost of installing all required storm sewers within the proposed development, except for the added cost of installing storm sewers greater than those which are necessary to serve tributary drainage areas lying outside of the proposed development.
- (2) The cost of such larger storm sewers shall be prorated in proportion to the ratio which the total area of the proposed development is to the total drainage area to be served by such larger sewer, and the excess cost shall either be borne by the Town of Barton or assessed against the total tributary drainage area.

§ 500-115. Setback requirements along arterial streets and highways.

The following Table 500-115 sets forth the minimum required setbacks for lots or parcels which abut the indicated arterial streets and highways:

Table 500-115

Required Increased Setbacks Along Arterial Streets and Highways

Minimum Required Setback from Ultimate Arterial Street or Highway Right-of-Way Line (a)

Name of Arterial Street or Highway	(feet)
United States highways	55
State trunk highways	55

Table 500-115**Required Increased Setbacks Along Arterial Streets and Highways****Minimum Required Setback from Ultimate Arterial Street or Highway Right-of-Way Line (a)**

Name of Arterial Street or Highway	(feet)
County trunk highways	45
Locally designated arterial streets and highways	45

NOTES:

- (a) Based upon the ultimate right-of-way width established by the adopted county jurisdictional highway plan.

Article XVII. Traffic Visibility; Off-Street Parking and Loading; Highway Access

§ 500-116. Traffic visibility.

- A. No obstructions permitted. No visual obstructions, such as structures, parking, or vegetation, shall be permitted in any district between the heights of 2.5 feet and 10 feet above the plane through the mean curb grades within the triangular space formed by any two existing or proposed intersecting street or alley right-of-way lines and a line joining points on such lines, located a minimum of 30 feet from their intersection.
- B. Corner cutoff distances for intersecting arterial and/or collector streets. In the case of arterial and/or collector streets intersecting with other arterial and/or collector streets, the corner vision clearance distances establishing the triangular vision clearance space shall be 60 feet from the two intersecting street right-of-way lines and a line joining the two points on such lines. No visual obstructions, such as structures, parking, or vegetation, shall be permitted in any such triangular vision clearance space.

§ 500-117. Off-street parking requirements.

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

- A. Adequate access. Adequate access to a public street shall be provided for each parking space, and driveways shall be at least 12 feet wide for one- and two-family dwellings and a minimum of 24 feet wide for all other uses. Each required off-street parking space shall open directly onto an aisle or driveway that is wide enough to provide safe and efficient means of vehicular access to the parking space.
- B. Minimum parking space size. The size of each parking space shall be not less than 180 square feet nor less than nine feet in width, exclusive of the space required for ingress and egress.
- C. Minimum required parking lot setbacks and screening/landscaping.
- (1) General. Any building hereafter erected or structurally altered shall be provided with off-street parking spaces within the property line limits of the property being served, or within the limits of a common parking lot serving one or more buildings, and in no case closer than 10 feet to the base setback line, including front yard, side yard, and rear yard.

- (2) Minimum screening and landscaping requirements to be met when off-street parking areas abut the R-1, R-2, R-3, R-4, R-5, R-6, R-7 or R-8 Residential District. All off-street parking areas, except in the R-1, R-2, R-3, R-4, R-5, R-6, R-7 or R-8 Residential District, shall be screened and maintained at the base setback from any abutting R-1, R-2, R-3, R-4, R-5, R-6, R-7 or R-8 Residential District pursuant to the buffer yard and landscape requirements set forth in Article **XVIII** of this chapter. All screening and plant materials shall be a minimum of six feet in height at the time of installation.
 - (3) Minimum off-street parking setback when the R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, R-9, R-10 or PUD Residential District abut. In the R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, R-9, R-10 or PUD Residential District, no parking stall or driveway shall be closer than six feet to a side lot line of an abutting R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, R-9, R-10 or PUD Residential District, except where the Zoning Board of Appeals grants a variance.
 - (4) Minimum distance of truck parking from any residential zoning district. No truck parking shall be allowed within 150 feet of any residential zoning district.
- D. Off-street parking area surfacing. All open, off-street loading, vehicular drives, and parking spaces shall be improved with pavement of either asphalt or concrete and stormwater drainage facilities as approved by the Town Engineer. This subsection shall not apply to single-family residential districts or to single-family detached dwellings in the R-9 or R-10 Residential District. Open, off-street loading, vehicular drives, and parking spaces associated with mini storage facilities located within the LM Limited Manufacturing District do not need to be improved with pavement of either asphalt or concrete if the following conditions are met:
[Amended 6-18-2002 by Ord. No. 02-007]
- (1) A stable compacted, dust-free gravel, crushed stone, and/or crushed asphaltic material is provided for all areas proposed for open off-street loading, parking spaces, and vehicular drive areas. No such compacted, dust-free gravel, crushed stone, and/or crushed asphaltic material shall be allowed to be placed within any required landscape area or within any landscape surface ratio area.
 - (2) All such gravel, crushed stone and/or crushed asphaltic material areas shall be contained within designated areas as indicated on a site plan, shall be well-maintained by the owner in a state of good repair, shall be free of noxious weeds, shall not contribute to nor be subjected to soil erosion, and shall not pose any access hazards for access by emergency vehicles at all times.
 - (3) For the purposes of this section and the definition of "landscaping" as set forth within § **500-201** of this chapter notwithstanding, such gravel, crushed stone, and/or crushed asphaltic material used for the surfacing of open off-street loading, vehicular drives, and parking spaces associated with mini storage facilities in the LM Limited Manufacturing District shall not be considered landscaping.
- E. Concrete curb and gutter required for all off-street parking areas. Except for off-street parking spaces associated with mini storage facilities located within the LM Limited Manufacturing District which are not improved with pavement of either asphalt or concrete, concrete curb and gutter meeting Town specifications shall be required for all off-street parking areas serving more than five vehicles in all nonresidential zoning districts and in the R-9, R-10 and PUD Districts. This requirement shall also apply to the expansion of any existing off-street parking lot where the number of off-street parking spaces is increased by 20 spaces or more.
[Amended 6-18-2002 by Ord. No. 02-007]
- F. Off-street parking stalls. Except for off-street parking spaces associated with mini storage facilities located within the LM Limited Manufacturing District which are not improved with pavement of either asphalt or concrete, off-street parking stalls shall be marked by painted lines or other approved material and shall be maintained so as to be legible at all times.
[Amended 6-18-2002 by Ord. No. 02-007]

- G. Landscaping. All public off-street parking areas which serve five vehicles or more and are created or redesigned and rebuilt subsequent to the adoption of this chapter shall be provided with accessory landscape areas meeting all applicable requirements of Article XVIII of this chapter.
- H. Parking spaces for use by persons with disabilities. All open, off-street parking areas shall provide parking spaces for persons with disabilities meeting all applicable "Americans with Disabilities Act (ADA) Guidelines for Buildings and Facilities," as documented in the Federal Register, Vol. 56, No. 144, July 26, 1991, as amended. Unless conflicting with the above-specified "Americans with Disabilities Act (ADA) Guidelines for Buildings and Facilities" requirements, as amended, the following standards are applicable:
 - (1) Minimum required number of accessible off-street parking spaces for use by persons with disabilities. The following Table 500-117H shall apply. The minimum required number of accessible off-street parking spaces for use by persons with disabilities shall be considered as a part of the total off-street parking spaces required.

Table 500-117H

Minimum Required Number of Accessible Off-Street Parking Spaces

Total Number of Off-Street Parking Spaces in Parking Lot or Area	Minimum Required Number of Accessible Off-Street Parking Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total
1,001 and over	20, plus 1 for each 100 over 1,000

- (2) Minimum dimensions for off-street parking spaces provided for use by persons with disabilities. The minimum dimensions for all parking spaces provided for use by persons with disabilities shall be 13 feet wide by 20 feet long for automobiles and 16 feet wide by 20 feet long for vans.
- (3) Distance to facility entrances for the location of off-street parking for persons with disabilities. Off-street parking spaces provided for the use of persons with disabilities shall be located as close as possible to an entrance which allows such persons to enter and leave the parking area without assistance.
- (4) Signage of off-street parking spaces serving persons with disabilities. All parking spaces provided for the use of disabled persons shall be marked by a sign which includes the international symbol for barrier-free environments and a statement informing the public that the parking space is reserved for use by disabled persons. Such signs shall comply with the requirements of the aforementioned "Americans with Disabilities Act (ADA) Guidelines for Buildings and Facilities," as amended, and with §§ 346.50, 346.503, and 346.505, Wis. Stats., as amended.

§ 500-118. Parking space and on-site queuing requirements.

- A. Minimum number of off-street parking spaces and on-site queuing required for uses. The minimum number of off-street parking spaces accessory to designated uses (except for a specific use which

has a special ordinance with requirements for off-street parking, in which event the special ordinance shall apply, such as for a PUD District or as a condition of the granting of a special use permit) shall be provided as set forth in Table 6, included at the end of this chapter. Calculations resulting in fractional numbers of off-street parking and/or queuing spaces required shall be rounded to the next higher whole number.

- B. Uses not listed in Table 6 and other uses. Parking spaces for permitted uses not listed in Table 6 shall be provided in accordance with requirements designated by the Plan Commission upon recommendation of the Zoning Administrator. In the case of special uses, parking spaces for special uses not listed in Table 6 shall be provided in accordance with requirements designated by the Plan Commission upon recommendation of the Zoning Administrator and as may be required by the Town Board. The provisions for a use which is deemed similar by the Plan Commission may be applied upon recommendation of the Zoning Administrator.
- C. Employee parking. Parking spaces required on an employee basis as set forth in Table 6 shall be based on the average number of employees on duty or residing, or both, on the premises at any one time.
- D. Off-street parking requirements for mixed or combined uses located within the same building or on the same lot or parcel. Combinations of any of the uses set forth in Table 6 shall provide the total number of off-street parking stalls and/or queuing space required for each individual use.

§ 500-119. Off-street parking lot design.

- A. Minimum width of off-street parking rows and aisles. The design of all off-street parking regulated by this chapter shall be in conformance with the requirements set forth in Table 500-119.

Table 500-119

**Minimum Width of Off-Street Parking Rows and Aisles
(feet)**

Type of Row	Parallel Spaces	Angle Spaces		
		45°	60°	90°
Single row and aisle	20	35	40	45
Double row and aisle	28	60	62	65

- B. Required curbs, barriers, and overhangs. See § 500-135C.

§ 500-120. Off-street loading requirements.

Off-street loading spaces accessory to designated uses shall be provided as follows:

- A. Location. All required loading spaces shall be located on the same lot as the use served. No permitted or required loading space shall be located within 40 feet of the nearest point of intersection of any two streets. No loading space shall be located in a required side yard abutting a residential zoning district, residential portion of a PUD District, or a required front yard.
- B. Access. Each required off-street loading space shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movement. Loading spaces on lots located adjacent to public ways shall be so situated as to enable the vehicles to back into the loading dock from areas other than public ways. The blocking of loading spaces by other loading spaces, permanent or moveable structures of any type, including trash receptacles or compactors, shall be prohibited.
- C. Surfacing. All open off-street loading spaces shall be improved with pavement and stormwater drainage facilities in accordance with such standards set forth in § 500-117 of this chapter, unless

otherwise exempted from such requirements as set forth under the provisions of § 500-117D and E. [Amended 6-18-2002 by Ord. No. 02-007]

- D. Computation. Where the total floor area of the use being served is less than 2,000 square feet, the required off-street loading spaces may be used to satisfy the requirements for any off-street parking spaces. Employee parking maneuver areas may also be used for access to loading docks and as truck standing areas.
- E. Repair and service. No motor vehicle repair work or service of any kind shall be permitted in conjunction with loading facilities provided in any residential or nonresidential zoning districts.
- F. Maneuvering space required to service outdoor loading areas. Adequate off-street truck maneuvering area shall be provided on site and not within any public street right-of-way or other public lands.
- G. Interference with fire exit or emergency access prohibited. Off-street loading facilities shall be designed so as not to interfere with any fire exits or emergency access facilities to either a building or site.

§ 500-121. Off-street loading space design.

- A. Minimum required off-street loading spaces accessory to nonresidential uses in business and public and semipublic districts. The minimum number of required off-street loading spaces accessory to nonresidential uses in the NHB, CB, FB, I, and PR Districts shall be one loading space for buildings containing 10,000 to 100,000 square feet of gross floor area, plus one additional loading space for each additional 100,000 square feet of gross floor area or fraction thereof. The minimum required size of such loading space shall be 10 feet in width and 25 feet in length, exclusive of aisle and maneuvering space, and it shall have a vertical clearance of not less than 15 feet.
- B. Minimum required off-street loading spaces accessory to nonresidential uses in industrial districts. The minimum number and size of off-street loading spaces accessory to uses in the LM, BP, and QE Districts shall be in accordance with Table 500-121. For each additional 100,000 square feet of gross floor area, or fraction thereof, over 100,000 square feet of gross floor area, one additional loading space shall be provided. Such additional space shall be a minimum of 12 feet in width by 50 feet in length and have a vertical clearance of not less than 15 feet. Loading spaces on lots located on public ways shall be so situated as to enable the vehicles to back into the loading dock from areas other than the public way.

Table 500-121

Minimum Number of Required Off-Street Loading Spaces Accessory to Nonresidential Uses in Industrial Districts and Related Minimum Dimensional Requirements

Gross Floor Area of Building/Use Served (square feet)	Minimum Required Number of Off-Street Loading Spaces	Minimum Size of Required Off-Street Loading Spaces (feet)	Minimum Vertical Clearance Required for Each Off-Street Loading Space (feet)
5,000 to 10,000	1	10 x 35	15
10,000 to 25,000	2	12 x 40	15
25,000 to 40,000	2	12 x 50	15
40,000 to 100,000	3	12 x 60	15

§ 500-122. Driveways.

- A. Driveways for multiple-family residential and nonresidential uses. All driveways installed, altered, changed, replaced, or extended for multiple-family residential and nonresidential uses after the effective date of this chapter shall meet the following requirements, those requirements set forth in § 500-112 of this chapter, and the requirements of Chapter 239, Driveways and Culverts:
- (1) Islands. Islands between driveway openings shall be provided with a minimum of 12 feet between all driveways and six feet from all lot lines.
 - (2) Openings. Openings for vehicular ingress and egress shall not exceed 24 feet at the street right-of-way line and 30 feet at the roadway.
 - (3) Vehicular entrances and exits. Vehicular entrances and exits to drive-in theaters; banks; restaurants; motels; funeral homes; vehicular sales, service, washing and repair stations; garages; and public parking lots shall be not less than 200 feet from any pedestrian entrance or exit to a school, college, university, church, hospital, park, playground, library, public emergency shelter, or other place of public assembly.
- B. Driveways for residential uses (not including multiple-family residential uses). All driveways installed, altered, changed, replaced, or extended for residential uses (not including multiple-family residential uses) after the effective date of this chapter shall meet those requirements set forth in § 500-112 of this chapter and the requirements Chapter 239, Driveways and Culverts.

§ 500-123. Highway access.

No direct private access shall be permitted to the existing or proposed rights-of-way of expressways nor to any controlled-access arterial street without permission of the highway agency that has access-control jurisdiction. Additional access requirements are set forth in greater detail in § 500-112 of this chapter.

§ 500-124. Area circulation plan required.

In order to minimize the number of vehicular access points on arterial and collector streets when development occurs in an area, the Town may require an area circulation plan be prepared pursuant to the requirements set forth in § 500-112A(5) of this chapter.

§ 500-125. Snow storage requirements.

- A. Snow storage prohibited in required off-street parking, drive, and loading areas. The storage of snow for more than 48 hours is hereby prohibited in required off-street parking, drive, and loading areas.
- B. Snow storage plan required. Prior to the approval of any site plan for any off-street parking area which exceeds five vehicles or a loading area which exceeds one outdoor loading berth, a snow storage and/or removal plan shall be submitted to the Plan Commission for review and approval.
- (1) Said snow storage plan shall adequately address, either graphically and/or in writing, the on-site storage of snow removed from said off-street parking or loading area or the removal from the site of such snow.
 - (2) If the snow is to be physically removed from the site, the location of the proposed snow repository site shall be made known to the Plan Commission in writing.
 - (3) A determination shall be made by the Plan Commission if the proposed repository site is adequate to accommodate the proposed storage of snow.

- (4) If the snow is proposed to be stored off site, a letter of permission from the owner of the snow repository site shall be furnished the Plan Commission with the snow storage or removal plan.
- C. On-site snow storage standards for parking and loading areas. If an off-site snow repository is not used, adequate on-site snow storage shall be provided using the following standards:
- (1) A minimum site area representing 10% of the total required off-street parking or loading area, inclusive of access drives, shall be provided as the snow storage area.
 - (2) The required snow storage area may be paved or not paved. In either case, adequate drainage of the snow storage area shall be provided to accommodate snowmelt, and no snowmelt shall drain on abutting properties.
 - (3) Required setbacks, yards, and buffer yards may be used to accommodate the required snow storage area. However, areas landscaped with shrubs and/or trees shall not be used as snow storage areas.

Article XVIII. Landscaping Requirements

§ 500-126. Applicability.

- A. Landscaping required. Landscaping is required in peripheral buffer yards, street buffer yards, on-lot landscaping, in off-street parking areas, and in areas where vegetative mitigation (see § 500-111 of this chapter) is required. The area and/or length of each, as required herein, must be measured in order to determine the amount of landscaping required.
- B. Exemptions and modifications. All developments shall meet the provisions of this article, except as specifically exempted below:
- (1) Residential development on existing lots of record in the EA, AT, GA, HFA, R-1, R-2, R-3, R-4, R-5, R-6, R-7 and R-8 Districts. Residential development on existing lots of record in the EA, AT, GA, HFA, R-1, R-2, R-3, R-4, R-5, R-6, R-7 and R-8 Districts as of the date of the adoption of this chapter.
[Amended 4-19-2011 by Ord. No. 11-001]
 - (2) Additions to existing buildings where the total floor area is not increased more than 10%. Additions to existing buildings where the total floor area is not increased more than 10% of the existing total floor area.
 - (3) Additions to buildings which increase overall building area from 10% to 50%. Additions to buildings which increase their overall building area from 10% to 50% shall conform to the landscaping standards specified in this article to the maximum extent possible. All off-street parking areas and buffer yards shall conform to the landscaping requirements of this article. If insufficient dimensions exist on site, in order to achieve a sufficient level of landscaping, the standards set forth in this article may be reduced by up to 30% by the Plan Commission.
 - (4) Floodplain, floodway, floodlands, and wetland areas. Areas located within floodplains, floodways, floodlands and wetlands are exempt from the landscaping requirements set forth in this article.
- C. Buffer yards to ameliorate nuisances between certain adjacent zoning districts. A buffer yard is a combination of a setback and a visual buffer or barrier and is a yard or area, together with the planting and/or landscape structure required thereon. The amount of land, the type of planting, and the amount of planting specified for each buffer yard requirement of this chapter are designed to ameliorate nuisances between certain adjacent zoning districts. Buffer yards are also designed to ensure a desired character along public streets and roads.

- D. Buffer yards required to separate different zoning districts. Buffer yards shall be required to separate different zoning districts from each other. Buffer yards function to eliminate or minimize potential nuisances such as dirt, litter, noise, glare of lights, signs, and unsightly buildings or parking areas or to provide spacing to reduce adverse impacts of noise, odor, or danger from fires or explosions.

§ 500-127. Standard plant units.

All landscaping requirements are stated in terms of the number of standard plant units required. This section defines the standard plant unit and its alternatives. All required landscaping shall conform to one or more of the plant unit alternatives of this section. The following Table 500-127 specifies the plant unit alternatives. In general, the five alternative plant mixes are interchangeable. In other cases, where a year-round variety is required, alternative Unit A is preferred and may even be specified by the Plan Commission. Where a year-round screen is required, Type D shall be used.

Table 500-127

Plant Unit Type Alternatives

Alternative Plant Unit Type	Type of Plants Required	Minimum Size of Plants	Minimum Quantity of Plants Required
Type A	Canopy/shade trees	See Table 500-137B	1
	Understory trees	See Table 500-137B	2
	Shrubs	See Table 500-137B	8
Type B*	Canopy/shade trees	See Table 500-137B	1
	Understory trees	See Table 500-137B	1
	Evergreen trees	See Table 500-137B	1
	Shrubs	See Table 500-137B	6
Type C*	Canopy/shade trees	See Table 500-137B	1
	Evergreen trees	See Table 500-137B	2
	Shrubs	See Table 500-137B	5
Type D*	Evergreen trees	See Table 500-137B	3
	Evergreen shrubs	See Table 500-137B	14
Type E	Canopy trees	See Table 500-137B	2
	Shrubs	See Table 500-137B	10

***NOTE:** Not to be used in off-street parking areas.

§ 500-128. Credit for existing plant materials; substitutions for required plant materials.

Credit for existing plant material will be allowed to offset required plant unit landscaping in the buffer yards and parking lots as follows:

- A. Buffer yards. Where the buffer yard is to be left in a natural state, no shrubs shall be required. Individual trees six feet in height or more shall be counted on an individual basis towards the planting requirements; other components of a plant unit are required, including all shrubs.
- B. Parking lots. Any existing trees six feet in height or more shall be subtracted from the required area amount of parking lot landscaping on a tree-by-tree basis.

- C. Plant material substitution. Required landscape plant material types may be substituted for other types based upon the requirements of Table 500-128.^[1]

Table 500-128

Substitution Schedule for Required Plant Materials

Required Plant Material Type	Acceptable Substitutions
1 canopy tree (single-stem or multistem clump)	2 understory trees, 2-inch caliper each; or 2 coniferous trees, 6 feet in height each; or 1 understory tree, 2-inch caliper, plus 1 coniferous tree, 6 feet in height
1 coniferous tree	1 understory tree, 1.5-inch caliper
1 understory tree	1 coniferous tree, 6 feet in height
1 shrub	1 understory tree, 1.5-inch caliper; or 1 coniferous tree, 4 feet in height

[1] *Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

§ 500-129. General landscaping requirements.

[Amended 11-1-1995 by Ord. No. 95-2]

- A. Physical containment of landscaped areas. All landscaped areas located within or adjacent to a parking area or adjacent to a public street or sidewalk shall be designed to contain landscape materials and to prevent vehicular encroachment (i.e., through the use of continuous concrete curbing, railroad ties, headers, or depressed construction).
- B. Artificial landscape materials. Artificial trees, shrubs, turf, or plants shall not be permitted as landscaping.
- C. Ground cover. The use of landscape fabrics under all areas landscaped with nonliving materials, except those areas set aside for stormwater retention/detention, is recommended to prevent weed growth.
- D. Location. New vegetation shall be selected, planted, and maintained so that at maturity it will not interfere with utility lines, snow storage areas, vehicular parking, pedestrian circulation, traffic sight visibility at driveways and street intersections and will not cause damage or upheaval of sidewalks and pavement.
- E. Installation.
- (1) Timing of installation. Landscaping and watering devices shall be installed in accordance with the approved landscape plan prior to issuance of a zoning permit or commencement of operations. The Town of Barton will have the right to refuse approval of any project not meeting the provisions of this section.
 - (2) Financial surety required. If approved landscaping and watering devices cannot be installed prior to occupancy or commencement of operations, a zoning permit may be issued by the Town of Barton if the applicant provides an acceptable form of surety meeting the requirements set forth in § 500-151 of this chapter. The application shall be accompanied by a complete estimate of the total cost of the approved landscaping and watering system improvements prepared by a landscape architect. All landscape materials shall be guaranteed for two years.
 - (3) Return of financial surety. When it is determined that the landscaping and watering system have been installed in accordance with the approved plans, the Town of Barton shall return the surety to the applicant.

F. Maintenance.

- (1) Responsibility for maintenance.
 - (a) Maintenance of all landscaping shall be the responsibility of the owner, lessee, heirs, assigns, agents, homeowners' association, or other liable entity of the property and shall consist of regular watering, pruning, mowing, fertilizing, the removal and replacement of irrigation systems, and architectural features.
 - (b) The owner or liable entity in control of any private premises shall at all times maintain the premises free of litter and weeds.
- (2) Landscape phasing. Future building pads within a phased development shall be maintained in a dust-free condition vegetated with ground cover.
- (3) Plant replacement. Any plant materials included in an approved landscaping plan that do not survive a plant establishment period of two years after installation shall be replaced with plant material(s) of the same or like species of equal size within the next planting season, but in any event, within six months of the plant's demise. Said replacement shall be made by the property owner or, in the case of landscape plant materials located within a landscape easement under the control of a homeowners' association, the homeowners' association shall be responsible for said replacement.

§ 500-130. General buffer yard requirements.

A. General.

- (1) Buffer yard standards are listed in this section for peripheral buffer yards and for street buffer yards.
- (2) Peripheral and street buffer yard standards are based on a required buffer yard intensity factor value. A variety of combinations of buffer yard width, planting intensity, and structural options (i.e., fences and earthen berms) may be selected from Table 500-134 to reach the required buffer yard intensity level value.
- (3) Peripheral buffer yards shall be located along the outer perimeter of a lot or parcel and shall extend to the lot or parcel boundary line. Peripheral buffer yards shall not be located on any portion of an existing or dedicated public or private street or right-of-way.
- (4) Required buffer yard plantings may be planted in natural-appearing groupings along the total length of the buffer yard and need not be spaced uniformly along said total buffer yard length.

B. Plant materials.

- (1) For each buffer yard listed, a specific combination of canopy, shade, and understory trees, evergreen trees, and shrubs is required as indicated in § **500-127**.
- (2) All buffer yard areas shall be seeded with lawn or native ground cover, unless such vegetation is already fully established.
- (3) The exact placement of required plants and structures shall be the decision of the property developer.

C. Fences. Fences shall be constructed of rock, masonry, or wood. Chain-link fences and chain-link with slats shall be prohibited from use in required buffer yards. All fences used shall also meet the requirements for the construction of fences as set forth in Article **XI** of this chapter.

D. Height of required vegetation. Height of vegetation selected for required buffer yards shall be measured from the highest finished adjacent grade of the element to be screened.

- E. Berming. Earthen berms shall be designed to transition to existing grades, not to exceed a slope ratio of 2:1, and shall be covered with plant material, ground cover, or partially ripped to prevent erosion. Berms with vegetative cover shall be designed to retain irrigation water rather than encourage runoff. All earthen berms shall be safely designed in order to accommodate mowing when needed.
- F. Calculation of buffer yard requirements.
- (1) Buffer yard requirements are calculated using the standards listed in this article for peripheral buffer yards and for street buffer yards as specified in §§ **500-132** through **500-134**.
 - (2) Buffer yard standards listed in this section are to be calculated for every 100 linear feet of peripheral lot line boundary and/or street frontage present on a given lot.
 - (3) In instances where the zoning district boundary and/or street frontage is less than 100 feet, the required buffer yard planting shall be one plant unit. (See Table 500-127.)
 - (4) To determine the type of buffer yard required on a parcel, between two parcels or lots, or between a parcel or lot and a street, the following procedures shall be used:
 - (a) Procedures for determining minimum required peripheral buffer yards:
 - [1] Identify whether any portion or property line of the parcel or lot coincides with a zoning district boundary. If it does, determine the abutting zoning districts on both sides of the property line.
 - [2] Refer to § **500-132** to determine the required buffer yard intensity factor needed to be achieved between the two zoning districts.
 - [3] Based upon the buffer yard intensity factor required, refer to the applicable Table 500-134A to 500-134E to select the minimum number of plant materials (per 100 feet of buffer yard length), the buffer yard width, and required structure type combination by selecting the desired alternative buffer yard type.
 - [4] Calculate the actual number of plants required by selecting the minimum number of plant materials (per 100 feet of buffer yard length) from the alternatives indicated the applicable Table 500-134A to 500-134E and multiply by the hundreds of feet of buffer yard to be planted. Calculations resulting in fractional numbers of plant materials required shall be rounded to the next higher whole number.
 - [5] Review §§ **500-128** and **500-129** of this chapter for responsibility for installation of peripheral buffer yards.
 - (b) Street buffer yards:
 - [1] Refer to Table 500-133 to determine the required buffer yard intensity level factor.
 - [2] Follow the calculation and procedures outlined in the preceding Subsection **F(4)(a)**.

§ 500-131. Limitations on buffer yard use.

- A. A buffer yard may be used for passive recreation. It may contain pedestrian, bike, or equestrian trails, provided that:
- (1) No plant material is eliminated;
 - (2) The total width of the buffer yard is maintained; and
 - (3) All other regulations of this chapter are met.

- B. In no event, however, shall swimming pools, decks, drives, curbing, stormwater detention/retention ponds, tennis courts, sports fields, golf courses, parking lots, or other such uses be permitted in buffer yards.

§ 500-132. Peripheral buffer yards between zoning districts.

The minimum required buffer yard intensity level factor values for peripheral buffer yards between zoning districts set forth in the Table 7 at the end of this chapter refer to the buffer yard width and plant unit standards set forth in Table 500-134 of this article. Peripheral buffer yards are required between adjacent zoning districts. The abbreviations used in Table 7 represent the Town of Barton zoning district designations used throughout this chapter.

§ 500-133. Street buffer yards.

[Amended 4-19-2011 by Ord. No. 11-001; 10-21-2014 by Ord. No. 14-003]

The numbers given in Table 500-133 refer to the various buffer yard intensity level factors described in Table 500-134 of this chapter. Any combination of vegetation, structure(s), and width set forth in Table 500-134 may be selected, provided the required buffer yard intensity level factor is met as required by § 500-132 of this chapter. The abbreviations used in Table 500-133 represent the Town of Barton zoning district designations used throughout this chapter.

Table 500-133

Street Buffer Yards

Minimum Required Buffer Yard Intensity Level Factors

Zoning District	Arterial Street	Collector Street	Residential Minor Street
R-1	0	0	0
R-2	0	0	0
R-3	0	0	0
R-4	0	0	0
R-5	0	0	0
R-6	0	0	0
R-7	0	0	0
R-8	0	0	0
R-9	0	0	0
R-10	0	0	0
NHB	0	0	0
CB	0	0	0
FB	0	0	0
LM	0	0	0
BP	0	0	0
QE	0	0	0
I	0	0	0
PR	0	0	0
EA	0	0	0
AT	0	0	0
GA	0	0	0
PUD	0	0	0

§ 500-134. Buffer yard width and plant material standards.

The following Tables 500-134A through 500-134E set forth the minimum buffer yard width and plant material standards required for achieving required buffer yard intensity levels. Tables 500-134A through 500-134E are designed so as to allow for choice from a variety of alternative buffer yard widths and general landscape plant material types in order to meet the required buffer yard intensity levels required elsewhere in this article.

Table 500-134A

Buffer Yard Intensity Factor 1:

Alternative Plant Material Standards

Buffer Yard Alternatives	Type of Plants Required (a)	Minimum Quantity of Each Plant Type Required Per 100 Feet of Buffer Yard Length	Minimum Required Buffer Yard Width (feet)	Minimum Structure Type (if required)
Type 1A	Canopy/shade trees	0.7	5	None
	Understory trees	1.4		
	Shrubs	5.6		
Type 1B*	Canopy/shade trees	0.6	10	None
	Understory trees	0.6		
	Evergreen trees	0.6		
	Shrubs	3.6		
Type 1C*	Canopy/shade trees	0.5	15	None
	Evergreen trees	0.9		
	Shrubs	2.3		
Type 1D*	Evergreen trees	1.1	20	None
	Evergreen shrubs	4.9		
Type 1E	Canopy trees	.5	25	None
	Shrubs	2.5		

NOTES:

(a) See Table 500-137B for minimum required plant material sizes.

Table 500-134B

Buffer Yard Intensity Factor 2:

Alternative Plant Material Standards

Buffer Yard Alternatives	Type of Plants Required (a)	Minimum Quantity of Each Plant Type Required Per 100 Feet of Buffer Yard Length	Minimum Required Buffer Yard Width (feet)	Minimum Structure Type (if required)
Type 2A	Canopy/shade trees	1.7	15	2-foot berm
	Understory trees	3.4		
	Shrubs	13.6		

Table 500-134B**Buffer Yard Intensity Factor 2:****Alternative Plant Material Standards**

Buffer Yard Alternatives	Type of Plants Required (a)	Minimum Quantity of Each Plant Type Required Per 100 Feet of Buffer Yard Length	Minimum Required Buffer Yard Width (feet)	Minimum Structure Type (if required)
Type 2B*	Canopy/shade trees	2.3	20	None
	Understory trees	2.3		
	Evergreen trees	2.3		
	Shrubs	13.5		
Type 2C*	Canopy/shade trees	2.1	25	None
	Evergreen trees	4.2		
	Shrubs	10.5		
Type 2D*	Evergreen trees	5.9	30	None
	Evergreen shrubs	27.3		
Type 2E	Canopy trees	2.2	30	3-foot berm
	Shrubs	11.0		

NOTES:

(a) See Table 500-137B for minimum required plant material sizes.

Table 500-134C**Buffer Yard Intensity Factor 3:****Alternative Plant Material Standards**

Buffer Yard Alternatives	Type of Plants Required (a)	Minimum Quantity of Each Plant Type Required Per 100 Feet of Buffer Yard Length	Minimum Required Buffer Yard Width (feet)	Minimum Structure Type (if required)
Type 3A	Canopy/shade trees	2.3	20	3-foot berm
	Understory trees	4.6		
	Shrubs	18.4		
Type 3B*	Canopy/shade trees	3.4	20	None
	Understory trees	3.4		
	Evergreen trees	3.4		
	Shrubs	20.4		
Type 3C*	Canopy/shade trees	3.2	25	None
	Evergreen trees	6.4		
	Shrubs	16.0		
Type 3D*	Evergreen trees	9.2	30	None
	Evergreen shrubs	42.7		
Type 3E	Canopy trees	5.8	35	None

Table 500-134C**Buffer Yard Intensity Factor 3:****Alternative Plant Material Standards**

Buffer Yard Alternatives	Type of Plants Required (a)	Minimum Quantity of Each Plant Type Required Per 100 Feet of Buffer Yard Length	Minimum Required Buffer Yard Width (feet)	Minimum Structure Type (if required)
	Shrubs	29.0		

NOTES:

(a) See Table 500-137B for minimum required plant material sizes.

Table 500-134D**Buffer Yard Intensity Factor 4:****Alternative Plant Material Standards**

Buffer Yard Alternatives	Type of Plants Required (a)	Minimum Quantity of Each Plant Type Required Per 100 Feet of Buffer Yard Length	Minimum Required Buffer Yard Width (feet)	Minimum Structure Type (if required)
Type 4A	Canopy/shade trees	3.0	25	4-foot berm
	Understory trees	6.0		
	Shrubs	24.0		
Type 4B*	Canopy/shade trees	3.7	25	2-foot berm
	Understory trees	3.7		
	Evergreen trees	3.7		
	Shrubs	22.2		
Type 4C*	Canopy/shade trees	4.3	30	None
	Evergreen trees	8.5		
	Shrubs	21.3		
Type 4D*	Evergreen trees	12.3	35	None
	Evergreen shrubs	57.4		
Type 4E	Canopy trees	7.9	40	None
	Shrubs	39.5		

NOTES:

(a) See Table 500-137B for minimum required plant material sizes.

Table 500-134E**Buffer Yard Intensity Factor 5:****Alternative Plant Material Standards**

Buffer Yard Alternatives	Type of Plants Required (a)	Minimum Quantity of Each Plant Type Required Per 100 Feet of Buffer Yard Length	Minimum Required Buffer Yard Width (feet)	Minimum Structure Type (if required)
Type 5A	Canopy/shade trees	4.1	25	4-foot berm
	Understory trees	8.2		
	Shrubs	32.8		
Type 5B*	Canopy/shade trees	4.8	30	2-foot berm
	Understory trees	4.8		
	Evergreen trees	4.8		
	Shrubs	28.5		
Type 5C*	Canopy/shade trees	5.3	35	None
	Evergreen trees	10.6		
	Shrubs	26.5		
Type 5D*	Evergreen trees	15.6	40	None
	Evergreen shrubs	72.8		
Type 5E	Canopy trees	9.0	40	None
	Shrubs	45.0		

NOTES:

(a) See Table 500-137B for minimum required plant material sizes.

§ 500-135. Minimum standards for off-street parking areas and lots.

- A. Minimum landscaping requirements for residential and nonresidential off-street parking areas and lots. Each residential and nonresidential off-street parking lot shall contain a minimum amount of landscaping within the parking lots and adjoining entrance drives and circulation drives as set forth in Table 500-135A. A specified number of landscape plant units shall be planted per 24 parking spaces or fraction thereof as set forth in Table 500-135A. Where the resulting number of required plant units is expressed in a fraction, the required number of landscape plant units shall be rounded to the next highest whole number.

Table 500-135A

Minimum Landscaped Area Required for Off-Street Parking Spaces

Zoning District and Type of Use	Minimum Landscape Area Required Within the Off-Street Parking Area per 24 Required Off-Street Parking Spaces or Fraction Thereof (square feet)	Minimum Number of Plant Units (see Table 500-127) Required to be Planted Within Required Off-Street Parking Landscape Areas per 24 Required Off-Street Parking Spaces or Fraction Thereof
All zoning districts:		
All agricultural uses	None	None
All zoning districts (except as otherwise noted below):		
All residential uses (with 0 to 5 off-street parking spaces required under § 500-118 of this chapter)	None	None
All residential uses (with more than 5 off-street parking spaces required under § 500-118 of this chapter)	720	2
All other uses	720	2.5
Other specified zoning districts:		
All uses in the I District	900	2.5
All uses in the BP District	900	3

- B. Existing vegetation may count towards the provision of minimum off-street parking landscape requirements. Existing trees that can be preserved, where grading does not cut them off from a reasonable supply of water and where the area under the canopy remains undisturbed, shall count towards the plant requirements by measuring the area of the island. The minimum size of such an island shall be 300 square feet. Table 500-135A specifies the minimum area requirements per 24 required off-street parking spaces or fraction thereof.
- C. Curbs, barriers, and overhangs required to contain landscape areas. The curb or barrier around landscape areas may be utilized as a wheel stop, provided the area of vehicle overhang does not exceed two feet and does not damage or interfere with the landscaping. Where vehicle overhangs abut required landscape areas, a minimum five-foot-wide planter is required for a single vehicle overhang and an eight-foot-wide planting area is required for a double vehicle overhang. Vehicle overhang into the public right-of-way is not permitted.
- D. Uses not permitted in required landscaped areas. Parking (except where vehicle overhang is permitted), buildings, and display of equipment or vehicles are not permitted in required landscaped areas.
- E. Required landscape materials not to constitute a driving hazard. To ensure that landscape materials do not constitute a driving hazard, trees used to landscape parking islands shall have a clear trunk height of six feet; mature shrubs, ground cover, or other landscaping material shall not exceed three feet in height. The landscaped area within these planters may be used to satisfy, to the extent provided, the landscaping requirements.

§ 500-136. Minimum standards for parcels and lots.

- A. Minimum on-site landscaping required. Each residential and nonresidential zoning district or lot in a new development shall contain a minimum amount of landscaping in areas not designated as off-street parking under the provisions of §§ 500-117 and 500-135, buffer yards under §§ 500-130 through 500-134 of this chapter, or areas designated as buildings. For each acre of land not occupied by buildings, off-street parking areas, drives, or buffer yards, the number of Type B plant units as described in Table 500-127 shall be planted. In the case of residential buildings, the requirement shall be for every parcel, lot, or dwelling unit, whichever results in a greater amount of plant materials.
- B. Deed-restricted open space and undisturbed resource protection areas excluded. No area that is undisturbed and designated as open space required under the open space or natural resource protection provisions of this chapter, and other deed-restricted residential open space meeting open space ratio (OSR) requirements of this chapter, or is designated as an undisturbed resource protection area and protected by deed restrictions, shall be included in the calculation of the area to be planted.
- C. Minimum required on-site landscaping. For residential and all nonresidential zoning district parcels and lots, the minimum amount of on-site landscaping set forth in Table 500-136C shall be provided in addition to all other required buffer yard landscaping and off-street parking landscaping.

Table 500-136C

Minimum Required Plant Units for Residential and Nonresidential Zoning District Parcels and Lots

Zoning District or Type of Use	Minimum Number of Plant Units (see Table 500-127) Required to be Planted On Site (a)
R-9, R-10, and PUD Districts:	
Agricultural uses	None
Single-family residential	1 per lot or dwelling unit
Two-family and multiple-family residential	6 per acre
All other uses	6 per acre
NB, CB, FB, LM, and I Districts:	
Agricultural uses	None
All other uses	6 per acre
BP District:	
Agricultural uses	None
All other uses	8 per acre
All other zoning districts (excluding lots of record existing at the time of the adoption of this chapter in the R-1, R-2, R-3, R-4, R-5, R-6, and R-7 Districts):	
Agricultural uses	None
All other uses (including open space subdivisions)	4 per acre

NOTES:

- (a) Not applicable when the minimum landscape surface ratio (LSR) requirements are lowered due to mitigation, as provided under § 500-139, allowed by the Plan Commission. When mitigation is allowed by the Plan Commission, the minimum plant unit requirements set forth in Table 500-139 are applicable.

§ 500-137. Minimum plant material standards.

- A. General plant material standards. All new landscape plant material shall be grown in a nursery located in Plant Hardiness Zone 4 and shall conform to the applicable requirements as specified in the current edition of American Standard for Nursery Stock as approved by the American National Standards Institute, Inc., and sponsored by the American Association of Nurserymen, Inc. Botanical plant names shall be in accordance with the current edition of Standardized Plant Names prepared by the American Joint Committee on Horticultural Nomenclature.
- B. Plant material minimum size standards. All required new landscape plant material shall be, at the time of installation, those minimum sizes as set forth in Table 500-137B.

Table 500-137B

Minimum Size Standards for Required Plant Materials

Plant Material Type	Plantings in Buffer Yards	
	Abutting a Vacant Parcel	All Other Buffer Yard Plantings
Canopy trees:		
Single stem	1.5-inch caliper	3-inch caliper
Multistem clump	6 feet tall	12 feet tall
Coniferous trees	4 feet tall	6 feet tall
Understory trees	4 feet tall	1.5-inch caliper
Shrubs	15 inches tall	2 feet tall

§ 500-138. Landscape construction performance surety.

Landscape construction sureties may be required pursuant to § 500-151 of this chapter.

§ 500-139. Mitigation requirements.

The Town of Barton recognizes that the use of the landscape surface ratio (LSR) standards for the provision of adequately landscaped open space in nonresidential areas as set forth in this chapter may not always lead to good design and, under some circumstances, may be difficult to achieve. This section addresses landscape mitigation measures which may be allowed by the Plan Commission.

- A. Mitigation of required buffer yards and off-street parking landscaping not permitted. The mitigation of the dimensional requirements, structural requirements, and/or landscape plant unit and/or material requirements of required peripheral or street buffer yards shall not be allowed. Landscape surface ratio (LSR) mitigation shall only be allowed for required on-site landscaping as required in Table 500-136C.
- B. Maximum allowable reduction of the landscape surface ratio (LSR) through mitigation measures. The maximum allowable reduction of the landscape surface ratio (LSR) through mitigation measures shall not fall below those landscape surface ratios (LSRs) set forth in Table 500-139. In no case shall reductions in landscape surface ratios (LSRs) supersede the natural resource protection standards set forth in Article XV or allow for increases in either the maximum gross floor area ratio (GFAR) or net floor area ratio (NFAR) set forth in the various zoning district requirements of this chapter.

Table 500-139**Maximum Allowable Mitigation of Landscape Surface Ratio (LSR) Requirements in Nonresidential Zoning Districts**

Nonresidential Zoning District	Required Landscape Surface Ratio (LSR)	Alternative Landscape Surface Ratio (LSR) with Mitigation	Minimum Number of Plant Units (see Table 500-127) Required to be Planted On Site Under LSR Mitigation Requirements
NHB Neighborhood	0.45	0.35	7 per acre
CB Community	0.40	0.30	7 per acre
FB Freeway Interchange Business	0.35	0.30	7.5 per acre
LM Limited Manufacturing	0.40	0.30	5 per acre
BP Business Park	0.45	0.40	9 per acre
QE Quarrying And Extractive	0.50	0.45	6 per acre
I Institutional	0.40	0.30	7.5 per acre
PR Park And Recreation	0.50	0.45	5 per acre

Article XIX. Lighting Standards**§ 500-140. Exterior lighting standards.**

[Amended 4-19-2011 by Ord. No. 11-001]

Exterior lighting shall meet one of the following standards:

- A. Requirements for the use of no cutoff-type luminaires. When a light source or luminaire has no cutoff-type luminaire, the maximum permitted illumination and the maximum permitted luminaire height shall be as set forth in Table 500-140A.

Table 500-140A**Requirements for Use of No Cutoff-Type Luminaires (a)**

Zoning District	Maximum Permitted Illumination (a) (footcandles)	Maximum Permitted Luminaire Height (feet)
EA, AT, GA, HFA, R-1 Districts	0.30	20
R-2, R-3, R-4, R-5, R-6, R-7, and R-9 Residential Districts	0.20	10
R-8, R-9, and R-10 Districts	0.30	15
NHB District	0.30	20
All other districts	0.30 (b)	25 (b)
Town-required streetlights in all districts	Per Town of Barton requirements and specifications (§ 500-143 of this chapter)	Per Town of Barton requirements and specifications (§ 500-143 of this chapter)

NOTES:

- (a) These standards do not address illumination levels or fixture height which may be required by the Town of Barton for the adequate lighting of public street rights-of-way. These represent maximum illumination levels on private property.
 - (b) See § 500-142 for lighting standards for outdoor recreational facilities in the PR Park and Recreation District.
- B. Requirements for total cutoff-type luminaires (with angle greater than 90°). When a luminaire has total cutoff of light at an angle greater than 90°, the maximum illumination and the maximum permitted luminaire height shall be as set forth in Table 500-140B.

Table 500-140B

Requirements for Use of Cutoff-Type Luminaires with Angle Greater than 90° (a)

Zoning District	Maximum Permitted Illumination (a) (footcandles)	Maximum Permitted Luminaire Height (feet)
EA, AT, GA, HFA, R-1 Districts	0.50	20
R-2, R-3, R-4, R-5, R-6, R-7, and R-9 Residential Districts	0.50	12
R-8, R-9, and R-10 Districts	0.8	20
NHB District	1.0	25
All other districts	2.0 (b)	30 (b)
Town-required streetlights in all districts	Per Town of Barton requirements and specifications (§ 500-143 of this chapter)	Per Town of Barton requirements and specifications (§ 500-143 of this chapter)

NOTES:

- (a) These standards do not address illumination levels or fixture height which may be required by the Town of Barton for the adequate lighting of public street rights-of-way. These represent maximum illumination levels on private property.
 - (b) See § 500-142 for lighting standards for outdoor recreational facilities in the PR Park and Recreation District.
- C. Requirements for total cutoff-type luminaires (with angle less than 90°). When a luminaire has total cutoff of light at an angle less than 90° and is located so that the bare light bulb, lamp, or light source is completely shielded from the direct view of an observer five feet above the ground at the point where the cutoff angle intersects the ground, then the maximum permitted illumination and the maximum permitted height of the luminaire shall be as set forth in Table 500-140C.

Table 500-140C

Requirements for Use of Cutoff-Type Luminaires with Angle Less Than 90° (a)

Zoning District	Maximum Permitted Illumination (a) (footcandles)	Maximum Permitted Luminaire Height (feet)
EA, AT, GA, HFA, R-1 Districts	0.80	20
R-2, R-3, R-4, R-5, R-6, R-7, and R-9 Residential Districts	0.80	15
R-8, R-9, and R-10 Districts	1.0	20
NHB District	2.0	25
All other districts	4.0 (b)	50 (b)

Table 500-140C**Requirements for Use of Cutoff-Type Luminaires with Angle Less Than 90° (a)**

Zoning District	Maximum Permitted Illumination (a) (footcandles)	Maximum Permitted Luminaire Height (feet)
Town-required streetlights in all districts	Per Town of Barton requirements and specifications (§ 500-143 of this chapter)	Per Town of Barton requirements and specifications (§ 500-143 of this chapter)

NOTES:

- (a) These standards do not address illumination levels or fixture height which may be required by the Town of Barton for the adequate lighting of public street rights-of-way. These represent maximum illumination levels on private property.
- (b) See § 500-142 for lighting standards for outdoor recreational facilities in the PR Park and Recreation District.

§ 500-141. Exterior lighting plan required.

- A. General. At the time any exterior light is installed or substantially modified, and whenever a zoning permit application is made, an exterior lighting plan shall be submitted to the Town of Barton in order to determine whether the requirements of this section have been met and that adjoining property will not be adversely impacted by the proposed lighting.
- B. Lighting plan elements. A lighting plan submitted pursuant to this chapter shall have, at a minimum, the following elements:
 - (1) A catalog page, cut sheet, or photograph of the luminaire, including the mounting method.
 - (2) A photometric data test report of the proposed luminaire graphically showing the lighting distribution at all angles vertically and horizontally around the luminaire.
 - (3) A plot plan, drawn to a recognized engineering or architectural scale, indicating the location of the luminaire(s) proposed, mounting, and/or installation height in feet, the overall illumination levels (in footcandles) and uniformities on the site, and the illumination levels (in footcandles) at the property boundary lines. This may be accomplished by means of an isolux curve or computer printout projecting the illumination levels.
 - (4) A graphic depiction of the luminaire lamp (or bulb) concealment and light cutoff angles.

§ 500-142. Exterior lighting for specified outdoor recreational uses.

Ball diamonds, playing fields, golf driving ranges, tennis courts, and similar outdoor recreational facilities have unique requirements for nighttime visibility and generally have limited hours of operation. These uses may be exempted from the exterior lighting standards of this article if the applicant can satisfy the Plan Commission, upon site plan review, that the following requirements are met:

- A. Site plan. The site plan must meet all other requirements of this article and chapter; and
- B. Exterior light sources. Any exterior light sources shall not exceed the maximum permitted post height of 50 feet; and
- C. Shielded luminaires. If the luminaire is shielded in either its orientation or by a landscaped buffer yard to prevent light and glare spillover to adjacent residential property(ies) or residential zoning

districts, then the luminaire may exceed a total cutoff angle of 90°. The maximum permitted illumination at the interior buffer yard line of all required buffer yards shall not exceed two footcandles; and

- D. Lighting plan required. A lighting plan meeting the requirements of § 500-141 of this article shall be submitted to the Plan Commission for review and approval.

§ 500-143. Streetlighting.

Streetlighting shall conform to the standards set forth by the State of Wisconsin for state trunk highways, Washington County for county trunk highways, and the Town of Barton for Town streets and highways.

§ 500-144. Searchlights.

The Zoning Administrator may permit the temporary use of a searchlight for advertising purposes in any nonresidential zoning district, provided that the searchlight will not be located in any public right-of-way, will not be located closer than 10 feet to an adjacent property, and will not cause a hazard to traffic or adjoining properties. Searchlight permits shall not be granted for a period of more than five days in any six-month period.

§ 500-145. Additional regulations.

Notwithstanding any other provision of this article to the contrary, the following provisions shall also be applicable:

- A. Flickering and flashing lights. No flickering or flashing lights shall be permitted (excluding seasonal lighting between November 1 and January 31).
- B. Light sources and/or luminaires not to be located within required buffer yards. Light sources or luminaires shall not be located within required buffer yard areas except on pedestrian walkways.
- C. Requirements of other applicable codes and ordinances to be met. The provisions of this article are designed to supplement other applicable ordinances and codes and not as a substitute. All outdoor electrically powered illuminating devices shall be installed in conformance with the provisions of this chapter, applicable building codes and ordinances, electrical codes and ordinances, and all other codes and ordinances as applicable and under appropriate permit and inspection.

§ 500-146. Light measurement.

- A. Metering equipment. Lighting levels shall be measured in footcandles with a direct-reading, portable light meter. The meter shall be read within an accuracy of plus or minus 5%. It shall have been tested, calibrated, and certified by an independent commercial photometric laboratory or the manufacturer within 30 days of its use.
- B. Method of measurement. The meter sensor shall be mounted not more than six inches above ground level in a horizontal position at the interior line of the buffer yard or at the property line, as required herein. Readings shall be taken only after the cell has been exposed long enough to provide a constant reading. In order to eliminate the effects of moonlight and other ambient light, measurements shall be made after dark with the light source in question on, then with the same sources off. The average of the two readings shall be compared to the maximum permitted illumination allowed under this article.

Part 6. Required Plans

Article XX. Site Plan

§ 500-147. Plan required.

[Amended 11-1-1995 by Ord. No. 95-2^[1]]

For the purpose of promoting compatible development and stability of property values, and to prevent impairment or depreciation of property values, no person shall commence any use or erect any structure, without first obtaining the approval of the Plan Commission of a detailed site plan(s) as set forth in this article. All single-family dwellings located on lots (and their associated accessory structures), two-family dwellings located on lots (and their associated structures), and agricultural structures (in the R-1, EA, AT, GA and HFA Districts only) are deemed exempt from the requirements of site plan review. The Plan Commission shall review the site, natural resource features of the site, site intensity of use, building location, density of dwelling units, floor area, impervious surface area, existing and proposed structures, architectural plans, neighboring uses, potential impacts upon neighboring uses, utilization of landscaping and open space, off-street parking and loading areas, driveway locations, loading and unloading in the case of commercial and industrial uses, highway access, traffic generation and circulation, drainage, sewerage and water systems, and the proposed operation.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

§ 500-148. Approval standards.

The Plan Commission will approve said site plan(s) only after determining that:

- A. Conformity of use to zoning district. The proposed use(s) conform(s) to the uses permitted as either a permitted use or special use (whichever is applicable) in the zoning district.
- B. Dimensional requirements. The dimensional arrangement of buildings and structures conforms to the required area, yard, setback, and height restrictions of this chapter.
- C. Site intensity and site capacity calculations to be reviewed. The requirements of Article **VIII** of this chapter shall be met. In this respect, the necessary worksheets for determining the maximum site intensity, or development capacity, of the site shall be submitted to the Plan Commission for review and approval.
- D. Use and design provisions. The proposed use conforms to all use and design provisions and requirements (if any) as found in this chapter for the specified uses.
- E. Relation to existing and proposed streets and highways. There is a proper relationship between the existing and proposed streets and highways within the vicinity of the project in order to assure the safety and convenience of pedestrian and vehicular traffic. In the case of arterial streets and highways not under the jurisdiction of the Town of Barton, that the applicable highway authority (county, state, or federal) has been contacted and the needed permits have been obtained and submitted to the Town for review.
- F. Impacts on surrounding uses. The proposed on-site buildings, structures, and entryways are situated and designed to minimize adverse effects upon owners and occupants of adjacent and surrounding properties by providing for adequate design of ingress/egress and interior/exterior traffic flow, stormwater drainage, erosion, grading, lighting, and parking, as specified by this chapter or any other codes or laws.
- G. Natural resource features protection. Natural features of the landscape are retained to enhance the development on the site, or where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes, or where they assist in preserving the general safety, health, welfare, and appearance of the neighborhood. The requirements set forth in Articles **XV**, **XXI** and **XXX** are to be met. Where required, a natural resource protection plan meeting the

requirements set forth in Article **XXI** has also been submitted for Plan Commission review and approval.

- H. Required landscaping and landscape buffer yards. Adverse effects of the proposed development and activities upon adjoining residents or owners are minimized by design and installation of landscape buffer yards to provide for appropriate screening, fencing, or landscaping as required in Article **XVIII** of this chapter. Where required, a landscape plan meeting the requirements set forth in Article **XXII** has also been submitted for Plan Commission review and approval.
- I. Provision of emergency vehicle accessibility. Land, buildings, and structures are readily accessible to emergency vehicles and the handicapped.
- J. Building location. No building shall be permitted to be sited in a manner which would unnecessarily destroy or substantially damage the beauty of the area, particularly insofar as it would adversely affect values incident to ownership of land in the area, or which would unnecessarily have an adverse effect on the beauty and general enjoyment of existing structures on adjoining properties.
- K. Location and design of loading facilities. No loading facility shall be permitted to be designed or sited in a manner which would unnecessarily destroy or substantially damage the beauty of the area, particularly insofar as it would adversely affect values incident to ownership of land in the area, or which would unnecessarily have an adverse effect on the beauty and general enjoyment of the existing structures on adjoining properties.
- L. Consistency with the intent of this chapter. The site plan is consistent with the intent and purposes of this chapter, which is to promote the public health, safety, and general welfare, to encourage the use of lands in accordance with their character and adaptability, to avoid the overcrowding of population, to lessen congestion on the public roads and streets, to reduce hazards of life and property, to facilitate the implementation of the Town of Barton Comprehensive Plan or component thereof, and those other purposes and intents of this chapter set forth in Article **I** of this chapter.
- M. Consistency with the intent of the Town of Barton Comprehensive Plan. The site plan is consistent with the public goals, objectives, principles, standards, policies, and design criteria set forth in the Town-adopted Comprehensive Plan or component thereof.
- N. Plan Commission reserves the right to determine a site unsuitable for planned use. Pursuant to the requirements of § **500-14B(3)** of this chapter, the Plan Commission reserves the right to declare land or structures unsuitable for planned use during the site plan review process.

§ 500-149. Application requirements.

- A. The site plan(s) and related plans and data shall be submitted to the Zoning Administrator, who shall transmit all site plan review applications and their accompanying site plan(s) and related plans and data to the Plan Commission for its review and approval. Fourteen full-size copies of said site plan shall be submitted with 14 copies of the site plan review application.
- B. Site plan(s) submitted with site plan review applications shall include the following:
 - (1) Scale and name of project. Site plan drawn to a recognized engineering scale with the name of project noted.
 - (2) Owner's and/or developer's name and address. Owner's and/or developer's name and address noted on the site plan.
 - (3) Architect and/or engineer's name and address. Architect and/or engineer's name and address noted on the site plan.
 - (4) Date. Date of site plan submittal with all dates of revision noted on the site plan.
 - (5) Scale and site size. The scale of drawing and the size of the site (in square feet or acres) noted on the site plan.

- (6) Existing and proposed topography. Existing and proposed topography shown at a contour interval of not more than two feet at National Geodetic Vertical Datum of 1929 (mean sea level) noted on the site plan. A site grading plan may also be required by the Zoning Administrator and/or Plan Commission.
- (7) Soils data. The characteristics and types of soils related to contemplated specific uses noted on the site plan. Soil borings may be required by the Town Engineer, Zoning Administrator, and/or Plan Commission meeting those requirements set forth under § **500-14B(3)(b)** of this chapter.
- (8) Off-street parking spaces, loading, ingress and egress, and driveway locations of adjoining properties. The total number of off-street parking spaces, loading areas, drives, curb cuts, and vehicular ingress and egress locations to the site. If the proposed development abuts an existing or planned collector or arterial street or highway, as identified on the Town of Barton Comprehensive Plan or component thereof, all driveway locations of all adjoining properties within 200 feet of the site shall be graphically indicated and dimensioned (with distances and widths noted) on the site plan.
- (9) Type, size, and location of all structures and signs. The type, size, and location of all structures and signs with all building and sign dimensions noted on the site plan.
- (10) Building height. Height of all building(s), including both principal and accessory, expressed in both feet and stories noted on the site plan.
- (11) Existing and proposed street names. Existing and proposed street names noted on the site plan.
- (12) Existing and proposed public street rights-of-way or reservations. Existing and proposed public street rights-of-way or reservations and widths with existing or proposed center-line elevations, pavement type, fire lanes, walks, curbs, gutters, culverts, etc., shall be indicated on the site plan.
- (13) Building and yard setbacks. All building and yard setback lines shall be graphically indicated on the site plan.
- (14) North arrow. A North arrow shall be indicated on the site plan.
- (15) Proposed sanitary sewers, storm sewers, and water mains. Existing and general location of proposed sanitary sewers and/or on-site sewage disposal system, storm sewers (including direction of flow), water mains, and fire hydrants. All locations for the proposed connections to such utilities shall be indicated on the site plan.
- (16) Proposed stormwater management facilities. Location of any proposed stormwater management facilities, including detention/retention area(s), and the submission of stormwater calculations which justify the stormwater detention/retention area(s). Said submission shall indicate how the planned stormwater drainage system meets the requirements of the Town's stormwater management plan or other Town stormwater drainage policies.
- (17) Natural resource protection plan required. Location of natural resource features present on the site, as defined in Articles **XV** and **XXX** of this chapter. A natural resource protection plan meeting the requirements of Article **XXI** of this chapter shall be submitted with the site plan review application for Plan Commission review and approval. The natural resource protection plan should include any areas of the site where natural resources are to be mitigated and how and where the mitigation is to take place with natural resource protection easements indicated. Copies of any letters of review or permits granted by applicable federal or state regulatory agencies having jurisdiction over said natural resources shall also be submitted.
- (18) Landscape plan required. Where landscaping as required in Article **XXII** of this chapter is to be installed on the site, a landscape plan meeting the requirements set forth in Article **XXII** of this chapter shall be submitted with the site plan review application for Plan Commission review and approval.

- (19) Site intensity and capacity calculations to be submitted. The site intensity and capacity calculation worksheets required under Article **VIII** for determining the maximum site intensity, or development capacity, of the site. For residential uses, the maximum number of dwelling units permitted on the site shall be determined based upon the zoning district's maximum density (gross and net), the natural resources present on the site and the level of their preservation, minimum open space ratio, and the residential development option selected. For nonresidential uses, the maximum floor area permitted on the site shall be determined based upon the zoning district's allowable maximum floor area ratio (gross and net), the natural resources present on the site and their level of preservation, the minimum landscape surface ratio, and building height in feet and stories.
 - (20) Pedestrian sidewalks and walkways. The location of pedestrian sidewalks and walkways.
 - (21) Development staging/phasing. A graphic outline of any development staging or phasing which is planned noted on the site plan.
 - (22) Architectural plans, elevations, and perspective drawings and sketches. Architectural plans, elevations, and perspective drawings and sketches illustrating the design, character, materials, and dimensions of proposed structures. At this stage of the project review process, said architectural plans, elevations, perspective drawings, and sketches do not need to meet the requirements of Article **XXIII** of this chapter.
 - (23) Lighting plan required. A lighting plan which meets the lighting regulations set forth in Article **XIX** of this chapter. Said lighting plan shall indicate the location, type, and illumination level (in footcandles) of all outdoor lighting proposed to illuminate the site.
 - (24) Easements. The location of all existing and proposed easements on the site, including natural resource protection and mitigation area easements, landscape easements, access easements, utility easements, and all other easements.
 - (25) Highway access. Copies of any letters of review or permits granted by applicable federal, state, or county regulatory agencies having jurisdiction over highway access, if applicable.
 - (26) Market analysis. In the case of a commercial use on a parcel of land greater than 30,000 square feet in area, a market analysis, prepared and signed by an independent market analyst, may be required by the Plan Commission, containing the following:
 - (a) Trade area.
 - (b) Population of trade area, present and projected.
 - (c) Effective buying power in the trade area, present and projected (in the case of retail).
 - (d) Residual buying power and how it may be expected to be expended in existing business areas serving the trade area.
 - (27) Financial plan for project implementation to be provided. A financial plan for project implementation, acceptable to the Plan Commission, may be required.
 - (28) Project summary. A written project summary, including fiscal impact upon the Town of Barton, operational information, building schedule, and estimate of project value and including all site improvement costs.
 - (29) Additional data may be required by the Town. Additional data as may be required by the Plan Commission, Zoning Administrator, or Town Engineer to review the site plan. Such other data may include the preparation and submittal of detailed traffic impact analyses studies performed by a transportation engineer or fiscal impact analyses studies.
- C. Planned unit development (PUD) site plan requirements in the PUD District. Planned Unit Development (PUD) District site plans shall meet those site plan requirements set forth in Subsection **B(1)** through **(29)** of this section. In addition to those other site plan requirements specified elsewhere in this section, Planned Unit Development (PUD) Districts shall show all

buildings and their use, open space, common open space, recreation facilities, service areas, and other facilities to indicate the character of the proposed development. The submission for proposed developments in PUD Districts shall also include information and drawings depicting the following:

- (1) Utilities on and adjacent to the property. The location, size, and invert elevation of sanitary, storm, and combined sewers; location and size of water mains; location of gaslines, fire hydrants, electric and telephone lines, cable television lines, and streetlights; direction and distance to and size of nearest water mains and sewers adjacent to the property showing invert elevations of sewers.
- (2) Zoning on and adjacent to the property. The zoning on the property and the zoning of those properties adjacent to the property.
- (3) Proposed public improvements. The location, alignment, and width of any proposed public improvements, including highways or other major improvements planned by public authorities for future construction on or near the tract.
- (4) Open space. All parcels of land intended for use as open space shall be indicated.
- (5) General location and purpose of each building. The general location and purpose of each building proposed for the property shall be graphically indicated on the site plan.
- (6) A written description of the character of the proposed planned unit development to be submitted with site plan. A written description of the character of the planned unit development and the manner in which it has been planned to take advantage of the flexibility of the Planned Unit Development District regulations.
- (7) Schedule. A development schedule shall be submitted, indicating the following:
 - (a) Project phasing plan required. A project phasing, or staging, plan is required indicating when various areas, open space, densities, uses, and public facilities are planned to be developed with each phase or stage. The overall design of each stage shall be shown on the plan and through supporting graphic material.
 - (b) Project phase dates and timing of development. The approximate dates for the beginning and completion of each development phase, or stage, shall be indicated.
 - (c) Land use schedule required. If different land use types are to be included in the planned unit development, the schedule must include the mix or uses to be built in each stage.
- (8) Covenants and deed restrictions required. Written documentation of the proposed agreements, provisions, declarations, deed restrictions, or covenants which will govern the use, maintenance, and continued protection of the planned unit development and any of its common open space.
- (9) Density. Provide information on the density of residential uses and the number of dwelling units by type.
- (10) Nonresidential uses. Provide information on the type and amount of ancillary and nonresidential uses in the development.
- (11) Preliminary facility plans required. Preliminary plans for the following facilities are required to be submitted as part of the site plan submission:
 - (a) Roads, including classification, width of rights-of-way, width of pavement, and typical construction details.
 - (b) Sanitary sewers (if applicable).
 - (c) Storm drainage.
 - (d) Water supply system.

(e) Lighting plan.

- (12) Special studies may be required. Fiscal, traffic, or environmental impact studies may be required when deemed appropriate by the Plan Commission or the Town Board.
- (13) Engineering requirements and specifications. Engineering requirements and specifications are to be in conformance with the standards set forth in Chapter **340**, Land Division, and other accepted engineering standards as determined by the Town Engineer.
- (14) Chapter **340**, Land Division, preliminary plat requirements to be met. Where the planned unit development involves the division of land, the site plan for planned unit development (PUD) developments in the PUD District shall meet all of the requirements of a preliminary plat for subdivision requirements as set forth in Chapter **340**, Land Division, as amended, prior to the approval of any planned unit development.

§ 500-150. Review and findings.

[Amended 11-1-1995 by Ord. No. 95-2]

The Plan Commission shall review the referred plans within 45 days following their submittal. The Plan Commission shall render a decision at a subsequent Plan Commission meeting. The Plan Commission shall not approve any site plan(s) or other required plans unless it finds after viewing the site plan review application and data that the structure or use, as planned, will not violate the intent and purpose of this chapter. The Plan Commission will approve said plans only after determining that the proposed building or buildings will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or traffic congestion, or otherwise endanger the public health or safety and provided such proposed development meets the various intent and purpose statements set forth in Article I and elsewhere in this chapter. Said decision shall be filed with the Zoning Administrator in the form of Plan Commission meeting minutes.

§ 500-151. Completion schedules; financial sureties.

The Plan Commission may impose time schedules for the completion of buildings, improved off-street parking and loading areas, open space utilization, utilities, landscaping, and natural resource features mitigation. The Plan Commission may require appropriate financial sureties as deemed necessary to guarantee that improvements, including improved off-street parking and loading areas, open space areas, utilities, landscaping, and natural resource features mitigation, will be completed on schedule. [Also see § **500-129F(2)**].

§ 500-152. Appeals.

Any person or persons aggrieved by any decisions of the Plan Commission related to site plan review may appeal the decision to the Town Board. Such appeal shall be filed with the Town Clerk (or other Town Board authorized agent) within 30 days after filing of the decision with the Zoning Administrator.

Article XXI. Natural Resource Protection Plan

§ 500-153. Plan requirements.

If natural resource features defined and described in Articles **XV** and **XXX** of this chapter are present on the property for which a site plan review, planned unit development concept plan, or planned unit development preliminary plan is requested, 20 full-size copies of a natural resource protection plan, drawn to the same scale as the site plan, planned unit development concept plan or planned unit

development preliminary plan submission, shall be submitted. The natural resource protection plan shall show the following:

- A. Proposed name. The proposed name of the development.
- B. Location. The location of the proposed development.
- C. Names, addresses, and telephone numbers of the owners, subdividers, lessee and/or developer. The names, addresses, and telephone numbers of the owners, subdividers, lessee and/or developer(s) of the property and of the designer of the plan.
- D. Date. Date of the natural resource plan submittal and all applicable revision dates.
- E. Site boundary. The boundary line of the site with dimensions and bearings, indicated by a solid line, and the total land area encompassed by the site.
- F. Lot lines, right-of-way lines, and easements. The location of all proposed lot lines, right-of-way lines, and easements.
- G. Existing streets. The location, ownership, widths, and names (if available) of all existing and previously platted streets, rights-of-way, parks, and other public or open spaces located within or adjacent to the subject property.
- H. Easements and neighboring property boundaries. The location and dimensions of all permanent easements and the subject property boundary lines adjacent to the site.
- I. Location and extent of existing natural resource features. The location and extent of any existing natural resource features defined and described in Articles **XV** and **XXX** of this chapter. Each individual resource area on the site shall be graphically shown on the natural resource protection plan.
- J. Disturbed and preserved natural resource features. Graphic and numerical illustration shown on the natural resource protection plan of those existing natural resource features that will be disturbed and those that will be preserved and showing on the illustration the area (in square feet or acres) of each existing resource and those areas of resources that are to be preserved. Numerical data may be shown in tabular form with labeled reference to specific areas designated on the natural resource protection plan. Any areas of the site where natural resources are to be mitigated and how and where the mitigation is to take place with natural resource protection easements shall be indicated.
- K. Method of natural resource preservation. Graphic illustration and notes relating to how those natural resource features, which are to be preserved, will actually be preserved (conservation easements, deed restrictions, protective covenants, etc.).
- L. Scale, North arrow, contours. A drawing legend containing the scale appropriate to the size of the site plan, the date of preparation, North arrow, and designation of existing and proposed contours at a maximum two-foot contour interval.
- M. Maximum sheet size of natural resource protection plan. The natural resource protection plan shall not exceed a maximum sheet size as required for the site plan, planned unit development concept plan, or planned unit development preliminary plan, whichever is applicable.
- N. Site intensity and capacity calculations required. All applicable site intensity and capacity calculations as required under Article **VIII** of this chapter.

Article XXII. Landscape Plan

§ 500-154. Plan requirements.

A landscape plan shall be prepared on tracing cloth, or reproducible drafting film, or paper of good quality at a map scale as appropriate and shall show correctly the following information:

- A. Proposed name. The proposed name of the development.
- B. Location. The location of the proposed development.
- C. Names, addresses, and telephone numbers of the owners, subdividers, lessee and/or developer. The names, addresses, and telephone numbers of the owners, subdividers, lessee and/or developer(s) of the property and of the designer of the plan.
- D. Date. Date of the landscape plan submittal and all applicable revision dates.
- E. Site boundary. The boundary line of the site with dimensions and bearings, indicated by a solid line, and the total land area encompassed by the site.
- F. Landscape buffer yard easements and natural resource mitigation areas. All proposed landscape buffer yard easements and/or areas of natural resource mitigation clearly delineated and dimensioned and graphically shown in relation to all proposed lot lines and lots upon which said landscape buffer yard easements or mitigation areas are located.
- G. Location, extent, type, and sizes of existing trees and natural resource features. Location, extent, type (common name and scientific name in the case of plant materials), and sizes of all existing trees and natural resource features in all areas of the proposed development which are designated as a landscape buffer yard easement and/or mitigation area. If any existing vegetation or other natural resource features are to be demolished or mitigated, the extent of such demolition or area to be mitigated shall be properly delineated and so noted on the landscape plan.
- H. Location, extent, type, and sizes of landscape materials and plantings. Location, extent, type (common name and scientific name in the case of plant materials), and sizes of proposed landscaping and landscape plantings in all areas of the proposed development which are designated as a landscape buffer yard easement or for areas which are to serve as landscaped entrances or other special landscaped features of the development.
- I. Landscape plant material specifications. All new landscape plant material shall be grown in a nursery located in Plant Hardiness Zone 4 (as defined by the United States Department of Agriculture) and shall conform to the applicable requirements as specified in the current edition of American Standard for Nursery Stock as approved by the American National Standards Institute, Inc., and sponsored by the American Association of Nurserymen, Inc. Botanical plant names shall be in accordance with the current edition of Standardized Plant Names prepared by the American Joint Committee on Horticultural Nomenclature.
- J. Natural resource features mitigation plan required. If any natural resource feature is to be mitigated, either on site or off site, the plan for such mitigation, in adequate detail, as required by the Plan Commission, shall be submitted with the landscape plan.
- K. Maintenance. Areas of a development designated as landscape easement areas shall be maintained by the property owner and kept free of all debris, rubbish, weeds, and tall grass.

Article XXIII. Architectural Plans

§ 500-155. Approval required.

For the purpose of promoting compatible development, stability of property values, and to prevent impairment or depreciation of property values, no person shall erect any structure without first obtaining the approval of the architectural plans by the Plan Commission as set forth in this article.

§ 500-156. Principles and standards for review.

[Amended 11-1-1995 by Ord. No. 95-2^[1]]

The following principles and standards for architectural review are used by the Plan Commission in its review, approval or denial of the architectural review application. These are also intended to be a design aid for builders and owners to use in the preparation of architectural plans. A building permit shall not be issued for any multiple-family residential structure or nonresidential building which does not meet the requirements of this section. All single-family dwellings (and their associated accessory structures), two-family dwellings (and their associated accessory structures), and agricultural structures (in the R-1, EA, AT, GA and HFA Districts only) are deemed exempt from the requirements of architectural review. To implement this chapter, the following architectural review principles and guidelines are established:

- A. Building scale and mass. The relative proportion of a building to its neighboring existing buildings, to pedestrians or observers, or to other existing buildings shall be maintained or enhanced when new buildings are built or when existing buildings are remodeled or altered.
- B. Building rooflines and roof shapes. The visual continuity of roofs and their contributing elements (parapet walls, coping, cornices, etc.) shall be maintained in building development or redevelopment.
- C. Materials. Material selection for architectural design shall be based upon the prevailing material already used on existing buildings in the area. No building shall be permitted where any exposed facade is constructed or faced with a finished material which is aesthetically incompatible with other building facades in the area or which presents an unattractive appearance to the public and surrounding properties.
- D. Colors. Since the selection of building colors has a significant aesthetic and visual impact upon the public and neighboring properties, color shall be selected in general harmony with the existing area or neighborhood buildings.
- E. Design repetition. A building design may not be repeated within four lots of an existing building. This shall apply to all buildings, whether or not they are constructed by the same builder.
- F. Elevations of buildings facing the public streets on a corner lot. Buildings located on corner lots shall continue the major front elevation design elements around the corner elevation.
- G. Building elevations clad with a singular exterior surface material. Building elevations clad with a singular exterior surface material shall provide some additional architectural design element(s) to break up the plane of the wall. This may be done by the addition of window(s), gable end wall treatments, siding design and accent panels, or other architectural design treatments consistent with the principal building design.
- H. Foundations below overhanging bays. Buildings shall be designed with foundations below all bays which overhang the building foundation. The Plan Commission will allow the construction of bay windows, projections of floors above the first floor, provided that they are a minimum of 12 inches above grade.
- I. Enclosure of metal furnace vents. All chimney and fireplace vents shall be enclosed in a chase constructed of materials similar to those materials used on the building elevations; metal housings designed by the vent manufacturer to enclose the chimney vents are acceptable.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

§ 500-157. Application requirements.

Architectural review applications, including architectural plans, and related data and materials shall be submitted to the Building Inspector, who shall transmit all architectural review applications and their accompanying data and materials to the Plan Commission for its review and approval. The Plan Commission shall review plans for new buildings and building plans for additions to or alterations of buildings which significantly alter the original design. Architectural plan(s) submitted with architectural review applications shall include the following:

- A. Required application submittal materials. Architectural plans, elevations, and perspective drawings and sketches illustrating the design and character of all proposed structures. A color building elevation or perspective rendering of the exterior of the proposed building(s) shall be required for review by the Plan Commission for all nonresidential and multiple-family dwelling structures. Said elevations and perspective drawings shall indicate the location and placement of all auxiliary building equipment such as heating, ventilating, and/or air-conditioning equipment. These drawings are to be drawn to a recognized architectural scale with the name of the project noted. Building plans shall be submitted with all details drawn on each elevation. Plans drawn with partial building details indicated will be returned to the architectural review applicant for redrafting. Red-line drawings will only be accepted for minor detail changes; major changes will require redrafting of the building elevations. In addition, the following data, information, and materials are to be included:
- (1) Owner/developer. Owner's and/or developer's name and address noted.
 - (2) Architect/engineer. Architect's and/or engineer's name and address noted.
 - (3) Date. Date of submittal of plans.
 - (4) Scale. Scale of drawings noted on each drawing.
 - (5) Building type, size, and location. The type, size, and location of all structures, with all building dimensions shown.
 - (6) Height. The height of building(s).
 - (7) Plan Commission approved site plan required. The Plan Commission approved site plan indicating building location drawn to a recognized engineering or architectural scale, with the name of the project noted and North arrow shown.
 - (8) Exterior materials samples to be provided. Samples of exterior materials and their colors.
 - (9) Additional information may be required. Additional information and data which may be required by the Building Inspector or Plan Commission may include, but not be limited to, the following upon request:
 - (a) Photographs from the site of adjacent neighboring structures and/or property.
 - (b) Detailed drawings of decorative elements of the building(s) or structure(s).
 - (c) Sectional building or site drawings drawn to a recognized engineering or architectural scale.

Part 7. Administration and Enforcement

Article XXIV. Administration

§ 500-158. Zoning Administrator.

[Amended 11-1-1995 by Ord. No. 95-2^[1]]

- A. Appointment. The Town Board shall appoint a Zoning Administrator who shall serve at the pleasure of the Town Board.
- B. Terms of employment. The compensation, hours of work and other terms of employment of the Zoning Administrator shall be established from time to time by the Town Board.
- C. Powers and duties. The Town Zoning Administrator of the Town of Barton is designated as responsible for enforcing this chapter. Said Zoning Administrator shall have the power and shall see that the provisions of this chapter are properly enforced.

- (1) Duties of the Zoning Administrator. In the enforcement of this chapter, the Zoning Administrator shall perform the following duties:
 - (a) Issue the necessary zoning permits and other permits as provided for in the provisions of this chapter and assure that the provisions of this chapter have been complied with.
 - (b) Keep an accurate record of all permits and interpretation, numbered in order of issuance, in a record book for this purpose.
 - (c) Create such forms and procedures deemed necessary to administer and enforce this chapter.
- (2) Authority. In the enforcement of this chapter, the Zoning Administrator shall have the power and authority for the following:
 - (a) At any reasonable time, and for any proper purpose, to enter upon any public or private premises and make inspection thereof.
 - (b) Upon reasonable cause or question as to proper compliance, to revoke any building permit, certificate of occupancy or zoning permit and issue cease and desist orders requiring the cessation of any building, moving, alteration, or use which is in violation of the provisions of this chapter, such revocation to be in effect until reinstated by the Zoning Administrator or the Zoning Board of Appeals.
 - (c) In the name of the Town, and with authorization of the Town Board for matters initiated in Circuit Court, commence any legal proceedings necessary to enforce the provisions of this chapter or the Town of Barton Building Code, including the collection of forfeitures provided for herein.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

§ 500-159. Zoning permits.

- A. Zoning permit required. In all zoning districts, except the R-1, R-2, R-3, R-4, R-5, R-6, R-7, and R-8 Districts and except one-family and two-family dwellings only in the R-9 and R-10 Districts, no vacant land shall be occupied or used and no building shall be erected, structurally altered, relocated, or used, including, but not limited to, use by a new use or changed use, until a zoning permit has been approved by the Zoning Administrator to certify that any such site, building, or use complies with the provisions of this chapter. No zoning permit is required for uses requiring a special use permit.

[Amended 11-1-1995 by Ord. No. 95-2]

B. Application.

- (1) Application for a zoning permit shall be made in duplicate to the Zoning Administrator for Zoning Administrator consideration of the intended use. The zoning permit shall include the following:
 - (a) The name, address, and phone number of the applicant or agent to be contacted with regard to the application.
 - (b) Description of the property by lot, block, and recorded subdivision, certified survey map, or by metes and bounds; address of the subject site; type of structure; a word description of the existing and proposed operation or use of the structure or site; number of employees; the zoning district within which the subject site lies; and any other information pertinent to an adequate understanding of the intended use by the Zoning Administrator and Plan Commission (when a site plan is involved).
 - (c) A site plan and/or plat of survey of the property in a form and indicating information and data as set forth under the requirements of § 500-149 (as applicable).

- (d) A sanitary permit when such sanitary permit is required under the provisions of Chapter 25, "Sanitary Code," of the Washington County Code, as amended.
- (2) The Zoning Administrator, after scheduling an appearance before the Plan Commission for review of the site plan, shall refer the application and related data to appropriate Town departments and the site plan to the Plan Commission for its study and/or comment prior to the Plan Commission meeting.
- (3) In considering the application, the Zoning Administrator shall take into account the basic intent of this chapter to ensure attractive, efficient, and appropriate development of land in the community and ensure that every reasonable step has been taken to avoid depreciating effects on surrounding property values.
- C. Issuance of zoning permit. If such use complies with the requirements of this chapter and such other additional measures as may be imposed pursuant to the requirements of this chapter, the Plan Commission shall approve the site plan, and the Zoning Administrator shall authorize the issuance of a zoning permit.
- D. Zoning permit expiration. A zoning permit shall expire if, within six months of the date of issuance of a zoning permit, the proposed construction or preparation of land for use has not commenced or if the use has not occupied the structure or location. Upon the showing of valid cause by the applicant, the Zoning Administrator may grant an extension of such zoning permit for a period not to exceed six months.
- E. Enforcement. Failure to comply with this section relating to zoning permits may be enforced pursuant to Article **XXVII** of this chapter, or any other provision of law, including but not limited to revocation of the zoning permit, injunction, or other civil suit.

§ 500-160. Special use permit.

- A. General. It is recognized that there are uses which, because of their unique characteristics, cannot be properly classified in any particular zoning district or districts without consideration, in each case, of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location. Such special uses fall into two categories:
 - (1) Uses publicly operated or traditionally affected with a public interest.
 - (2) Uses entirely private in character but of such an unusual nature that their operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities.
- B. Initiation of special uses. Any person owning or having an interest in the subject property may file an application to use such land for one or more of the special uses provided for in this chapter and in the zoning district in which the land is situated.
- C. Application for special uses. An application for a special use, or for the expansion of an existing special use, shall be filed with the Zoning Administrator on a special use application form prescribed by the Zoning Administrator. The special use application shall be accompanied by a legal description of the property for which a special use permit is being applied for, such plans or data prescribed on the application form, a statement in writing by the applicant, and adequate evidence showing that the proposed special use will conform to the standards set forth in Article **X** of this chapter and those other standards set forth in this chapter which may also be applicable.
- D. Hearing on special use application. Upon receipt in proper form of the application and statement referred to above, the Plan Commission shall hold at least one public hearing. At least 11 days in advance of such hearing, but not more than 30 days, notice of the time and place of such hearing shall be published in a newspaper of general circulation in the Town of Barton as a Class 2 notice as required under Ch. 985, Wis. Stats. In addition to publication, due notice may also be given by first-class mail to property owners of property located in the Town of Barton which is located within

500 feet of the affected property, and any nonresident's notice shall be given to the clerk of any municipality whose boundaries are within 500 feet of the affected property. Failure to give first-class mailing notice to property owners of properties located in the Town of Barton in the affected area described above or to nonresidents or to the municipal clerk of any municipality affected herein shall not invalidate any action by the Plan Commission taken on the special use application.
[Amended 2-10-1998 by Ord. No. 98-02]

- E. Authorization of special uses. For each application for a special use, the Plan Commission shall report to the Town Board its findings and recommendations, including the stipulations of additional conditions and guarantees that such conditions will be complied with when they are deemed necessary for the protection of the public interest. The Town Board may grant or deny any application for a special use; provided, however, that in the event of written protest against any proposed special use, signed and acknowledged by the owners of 20% of the frontage across an alley or directly opposite therefrom, such special use shall not be granted except by the favorable vote of 3/4 of all the members of the Town Board.
- F. Effect of denial of a special use. No application for a special use which has been denied wholly or in part by the Town Board shall be resubmitted for a period of 30 days from the date of said order of denial.
- G. Revocation. In any case where a special use has not been established within one year after the date of granting thereof, then, without further action by the Plan Commission or the Town Board, the special use authorization shall be null and void.

§ 500-161. Site plan review.

See the provisions set forth in Article **XX** of this chapter.

§ 500-162. Architectural review.

See the provisions set forth in Article **XXIII** of this chapter.

§ 500-163. Appeals.

Applications for a zoning appeal shall include the following (also see the provisions set forth in Article **XXIX** of this chapter):

- A. Name and address. Name and address of the appellant or applicant and all abutting and opposite property owners of record.
- B. Plat of survey. In the case of an appeal which involves a specific property, a plat of survey prepared by a registered land surveyor showing the information (as applicable) required under § **500-149** of this chapter.
- C. Questions to be answered by the applicant. Items on the application to be provided in writing by the appellant or applicant shall include the following:
 - (1) Indication of the section(s) of the chapter being appealed.
 - (2) Statement regarding the appeal requested, giving distances and dimensions where appropriate, or, in the case of an appeal of a decision of the Zoning Administrator or Building Inspector, the circumstances and appeal being requested.
 - (3) Statement of the reason(s) for the request.
 - (4) Statement of the exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties

or uses in the same district and which cause the hardship. (Note: Economic hardship and self-imposed hardship are not grounds for the granting of a variance.)

- (5) Date of any previous application for an appeal and the disposition of the previous application (if any).
- D. Additional information. Additional information as required by the Plan Commission, Town Engineer, Zoning Board of Appeals, Zoning Administrator, Building Inspector, or the zoning appeal application form.

§ 500-164. Variances.

Applications for a zoning variance shall include the following (also see the provisions set forth in Article **XXIX** of this chapter):

- A. Name and address. Name and address of the appellant or applicant and all abutting and opposite property owners of record.
- B. Plat of survey. Plat of survey prepared by a registered land surveyor showing all of the information required under § **500-159** of this chapter for a zoning permit.
- C. Questions to be answered by the applicant. Items on the application to be provided in writing by the appellant or applicant shall include the following:
 - (1) Indication of the section(s) of the chapter from which a variance is requested.
 - (2) Statement regarding the variance requested, giving distances and dimensions where appropriate.
 - (3) Statement of the reason(s) for the request.
 - (4) Statement of the exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district and which cause the hardship. (Note: Economic hardship and self-imposed hardship are not grounds for the granting of a variance.)
 - (5) Date of any previous application for a variance and the disposition of the previous application (if any).
- D. Additional information. Additional information as required by the Plan Commission, Town Engineer, Zoning Board of Appeals, Zoning Administrator, Building Inspector, or the zoning variance application form.

§ 500-165. Minor zoning variances.

Applications for a minor zoning variance shall include the following (also see the provisions set forth in Article **XXIX** of this chapter):

- A. Name and address. Name and address of the appellant or applicant and all abutting and opposite property owners of record.
- B. Photographs. Two photographs of the subject structure from different views.
- C. Drawing. If available, a drawing of the structure listing its size and dimensions and a site drawing or survey setting forth the location of the structure and its distance from lot lines and adjacent buildings on the property.
- D. Questions to be answered by the applicant. Items on the application to be provided in writing by the appellant or applicant shall include the following:

- (1) Indication of the section(s) of the chapter from which a minor variance is requested.
 - (2) Statement regarding the minor variance requested, giving distances and dimensions where appropriate.
 - (3) Statement of the reason(s) for the request.
 - (4) Statement of the exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district and which cause the hardship. (Note: Economic hardship and self-imposed hardship are not grounds for the granting of a variance.)
 - (5) Date of any previous application for a minor variance and the disposition of the previous application (if any).
- E. Additional information. Additional information as required by the Plan Commission, Town Engineer, Zoning Board of Appeals, Zoning Administrator, Building Inspector, or the minor zoning variance application form.

§ 500-166. Applications for interpretation.

Applications for an Interpretation by the Zoning Administrator shall include the following (also see the provisions set forth in Article **XXIX** of this chapter):

- A. Name and address. Name and address of the applicant.
- B. Questions to be answered by the applicant. Items on the application to be provided in writing by the appellant or applicant shall include the following:
 - (1) Indication of the section(s) of the chapter for which an interpretation from the Zoning Administrator is requested.
 - (2) Statement of the reason(s) for the request.
 - (3) Date of any previous application and the disposition of the previous application (if any).
- C. Additional information. Additional information as required by the Zoning Administrator or Building Inspector.

§ 500-167. Other required permits.

It is the responsibility of the permit applicant to secure all other necessary permits required by any state, federal, or local agency. This includes, but is not limited to, a water use permit pursuant to Ch. 30 or 31, Wis. Stats., a wetland fill permit pursuant to Section 404 of the Federal Water Pollution Control Act,^[1] and highway access permits.

[1] *Editor's Note: See 33 U.S.C. § 1344.*

Article XXV. Amendments

§ 500-168. Authority.

Whenever the public necessity, convenience, general welfare, or good zoning practice requires, the Town Board may, by ordinance, change the district boundaries or amend, change, or supplement the regulations established by this chapter or amendments thereto. Such change or amendment shall be subject to the review and recommendation of the Plan Commission.

§ 500-169. Initiation.

A change or amendment may be initiated by the Town Board, the Plan Commission, or by a petition of one or more of the owners or lessees [with signed written permission of the owner(s) only] of property within the area proposed to be changed.

§ 500-170. Petitions.

Petitions for any change in the district boundaries or amendments to the regulations shall be filed with the Zoning Administrator, shall describe the premises to be rezoned or the regulations to be amended, shall list the reasons justifying the petition, and shall specify the proposed use and shall include the following:

- A. Owners' names and addresses required. Name, address, and telephone number of the petitioner for a zoning amendment; agent; and tax key numbers, names, and addresses of all property owners of all properties lying within 500 feet of the area proposed to be rezoned.
- B. Plot plan required. Plot plan drawn to scale of one inch equals 100 feet showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts, and the location and existing use of all properties within 500 feet of the area proposed to be rezoned.
- C. Description of requested zoning district boundary change or Zoning Chapter text amendment required. The petitioner shall provide a complete legal description of the property for which a change in zoning is requested. In the case of a proposed chapter text amendment, the petitioner shall provide a copy of the text proposed to be changed, as well as the new text being proposed by the petitioner.
- D. General description of proposed development required. A general description of the proposed development of the property.
- E. Site plan required. A site plan of the proposed development of the property meeting the requirements set forth under Article **XX** of this chapter.
- F. Landscape plan required. A landscape plan meeting the requirements set forth under Article **XXII** of this chapter. Any required buffer yard easements shall be so noted on the landscape plan.
- G. Natural resource protection plan required. If natural resource features are present on the subject property, as defined in Articles **XV** and **XXX** of this chapter, a natural resource protection plan meeting the requirements set forth in Article **XXI** of this chapter.
- H. Site intensity and capacity calculations required. Site intensity and capacity calculations meeting the requirements set forth in Article **VIII** and in the prescribed format set forth in the Town's application form.
- I. Architectural plans required. Architectural plans of the proposed development of the property meeting the requirements set forth under Article **XXIII** of this chapter.
- J. Additional information may be required. Additional information may be required by the Plan Commission or the Town Board.

§ 500-171. Review by Plan Commission; recommendation.

After holding a public hearing as set forth in this article, the Plan Commission shall review all proposed changes and amendments within the corporate limits and shall recommend that the petition be granted as requested, be modified, or be denied. The recommendation shall be made within 30 days after the public hearing and shall be made in writing to the Town Board.

§ 500-172. Hearings.

The Plan Commission shall hold a public hearing upon each proposed change or amendment, giving notice of the time and place of such hearing by publication in the Town of a Class 2 notice under Ch. 985, Wis. Stats. At least 10 days prior written notice shall be given to the clerk of any municipality within 1,000 feet of any land to be affected by the proposed change or amendment.

§ 500-173. Town Board action.

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

§ 500-174. Floodland district boundary changes.

Changes to floodland zoning district boundaries are subject to the regulations and procedures set forth in Chapter **23**, Shoreland, Wetland and Floodplain Zoning, of the Washington County Code.

§ 500-175. Shoreland and wetland district boundary changes.

Changes to shoreland wetland zoning district boundaries are subject to the regulations and procedures set forth in Chapter **23**, Shoreland, Wetland and Floodplain Zoning, of the Washington County Code.

§ 500-176. PUD District procedures.

- A. Preapplication conference. Prior to official submittal of an application for a PUD District, the applicant shall file an application to meet with the Plan Commission for a preliminary discussion on the scope and proposed nature of the contemplated development.
- B. Application for a PUD District. Following the preapplication conference, the owner or his agent may file an application with the Zoning Administrator for an amendment to the Zoning Chapter text and map for the creation of a PUD District pursuant to the requirements of this article. Such application shall be accompanied by all required fees. In addition, the following materials shall be attached to the application for a PUD District: a statement describing the relationship of the PUD District to the Town of Barton's Comprehensive Plan, detailed neighborhood or planning district plans, the general character of and the uses to be included in the proposed PUD District, and the following:
 - (1) Total area to be included in the PUD District, area of open space, residential density computations, proposed number of dwelling units, population analysis, availability of or requirements for municipal services, and any other similar data pertinent to a comprehensive evaluation of the proposed development.
 - (2) A general summary of the estimated value of structures and site improvement costs, including landscaping and special features.
 - (3) A general outline of the organizational structure of a property owners' or management association which is proposed to be established for the purpose of providing necessary private services.
 - (4) A general development plan which meets all of the site plan requirements set forth in Article **XX** of this chapter and also including:
 - (a) A complete legal description of the boundaries of lands included in the proposed PUD District and the PUD District's relationship to surrounding properties.

- (b) The location of public and private roads, driveways, and parking facilities.
 - (c) The size, arrangement, and location of individual building sites and proposed building groups on each individual site.
 - (d) The location of recreational and open space areas and areas reserved or dedicated for public uses, such as school, park, drainage, etc.
 - (e) The type, size, and location of structures.
 - (f) General landscape treatment.
 - (g) Architectural drawings and sketches illustrating the design and character of proposed structures.
 - (h) The location of public sanitary sewer and water supply facilities.
 - (i) Existing topography on the site.
 - (j) Anticipated uses of adjoining lands in regard to roads, surface water drainage, and compatibility with existing adjacent land uses.
- (5) A landscape plan meeting the requirements set forth under Article **XXII** of this chapter. Any required buffer yard easements shall be so noted on the landscape plan.
- (6) If natural resource features are present on the subject property, as defined in Articles **XV** and **XXX** of this chapter, a natural resource protection plan meeting the requirements set forth in Article **XXI** of this chapter.
- (7) Site intensity and capacity calculations meeting the requirements set forth in Article **VIII** and in the prescribed format set forth in the Town's application form.
- C. Referral to Plan Commission. The application for a PUD District shall be referred to the Plan Commission for its review and recommendation, including any additional conditions or restrictions which it may deem necessary or appropriate.
- D. Public hearing required. The Plan Commission, before formulating its recommendations to the Town Board, shall hold a public hearing pursuant to the provisions of § **500-172**. Notice for such hearing shall include reference to the development plans filed in conjunction with the requested zoning change.
- E. Basis for approval. The Plan Commission, in making its recommendation, and the Town Board, in making its determination, shall give consideration to the following:
- (1) Intent to meet construction schedule. That the applicant for the proposed PUD District has demonstrated that applicant intends to meet the time schedule as set forth in the proposed PUD District application following the approval of the change in zoning districts, and that the development will be carried out according to the construction schedule satisfactory to the Town.
 - (2) Consistency with chapter and Comprehensive Plan required. That the proposed PUD District is consistent in all respects to the purpose of this section and to the spirit and intent of this chapter; is in conformity with the Comprehensive Plan, and elements thereof, for community development; is in conformity with, or serves to implement, the appropriate detailed planning district or neighborhood unit development plan, including amendments thereto; would not be contrary to the general welfare and economic prosperity of the Town or the immediate neighborhood; and that the benefits and improved design of the resultant development justifies the establishment of a PUD District. The Plan Commission, in making its recommendations, and the Town Board, in making its determination, shall further find that:
 - (a) The proposed site shall be provided with adequate drainage facilities for surface and stormwater.

- (b) The proposed site shall be accessible from public roads that are adequate to carry the traffic that will be imposed upon them by the proposed development.
 - (c) The proposed development shall not impose any undue burden on public services and facilities, such as fire and police protection.
 - (d) The streets and driveways on the site of the proposed development shall be adequate to serve the residents of the proposed development and shall meet the minimum standards of all applicable ordinances of the Town.
 - (e) Water and sewer facilities shall be provided.
 - (f) The entire tract or parcel of land to be included in a PUD District shall be held under single ownership. If there are two or more owners, the application for such PUD District shall be filed jointly by all of such owners. The PUD District shall be considered as one tract, lot, or parcel, and the legal description must define said PUD District as a single parcel, lot, or tract and so recorded with the Register of Deeds for Washington County. The PUD District shall not be subdivided unless no development occurs and appropriate steps and procedures are taken to vacate the district either by the owners or the Town Board.
- (3) Standards for residential PUD Districts. In the case of proposed residential PUD Districts:
- (a) That such development will create an attractive residential environment of sustained desirability and economic stability, including structures in relation to terrain, consideration of safe pedestrian flow, ready access to recreation space, and coordination with overall plans for the neighborhood.
 - (b) That the total average residential density within the PUD District will be compatible with the Town of Barton Comprehensive Plan, elements thereof, and the detailed planning district or neighborhood unit development plan prepared for the area.
 - [1] That the population composition of the development will not have an adverse effect upon the community's capacity to provide needed school or other municipal service facilities.
 - [2] That adequate guarantee is provided for permanent preservation of open space areas as shown on the approved site plan either by private reservation or by dedication to the public.
 - (c) That the locations for entrances and exits have been designed to prevent unnecessary interference with the safe and efficient movement of traffic on surrounding streets, and that the development will not create an adverse effect upon the general traffic pattern of the surrounding neighborhood.
 - (d) That the architectural design, landscaping, control of lighting, and general site development will result in an attractive and harmonious service area compatible with and not adversely affecting the property values of the surrounding neighborhood.
- (4) Standards for commercial and institutional PUD Districts. In the case of proposed commercial PUD Districts:
- (a) That the economic practicality of the proposed development can be justified.
 - (b) That the proposed development will be adequately served by off-street parking and truck service facilities.
 - (c) That the locations for entrances and exits have been designed to prevent unnecessary interference with the safe and efficient movement of traffic on surrounding streets, and that the development will not create an adverse effect upon the general traffic pattern of the surrounding neighborhood.

- (d) That the architectural design, landscaping, control of lighting, and general site development will result in an attractive and harmonious service area compatible with and not adversely affecting the property values of the surrounding neighborhood.
 - (e) That the total average intensity of development within the PUD District will be compatible with the Town of Barton Comprehensive Plan, elements thereof, and the detailed planning district or neighborhood unit development plans prepared for the area.
- (5) Standards for industrial PUD Districts. In the case of proposed industrial PUD Districts:
- (a) That the operational character, physical plant arrangement, and architectural design of buildings will be compatible with the latest in performance standards and industrial development design and will not result in adverse effects upon the property values of the surrounding neighborhood.
 - (b) That the proposed development will have adequate provision for off-street parking and truck service areas and will be adequately served by rail or highway facilities.
 - (c) That the proposed development is properly related to the total transportation system of the community and will not result in an adverse effect on the safety and efficiency of the public streets.
 - (d) That the total average intensity of development within the PUD District will be compatible with the Town of Barton Comprehensive Plan, elements thereof, and the detailed planning district or neighborhood unit development plans prepared for the area.
- (6) Standards for mixed-use PUD Districts. In the case of mixed-use PUD Districts:
- (a) That the proposed mixture of uses produces a unified composite which is compatible within itself and which, as a total development entity, is compatible with the surrounding neighborhood and consistent with the standards and objectives of the Comprehensive Plan.
 - (b) That the various types of uses conform to the general requirements as hereinbefore set forth, applicable to projects of such use character.
 - (c) That the total average intensity of development within the PUD District will be compatible with the Town of Barton Comprehensive Plan, elements thereof, and the detailed planning district or neighborhood unit development plans prepared for the area.

F. Determination.

- (1) Town Board action. The Town Board, after due consideration, may deny the application, approve the application as submitted, or approve the application subject to additional conditions and restrictions.
- (2) General and detailed approval. The general and detailed approval of an application for rezoning shall be based on and include as conditions thereto the building, site, and operational plans for the development as approved by the Town Board.
 - (a) General approval. Plans submitted with the application for a rezoning to the PUD District need not necessarily be completely detailed at the time of rezoning, provided they are of sufficient detail to satisfy the Plan Commission and Town Board as to the general character, scope, and appearance of the proposed development. Such preliminary plans shall designate the pattern of the proposed streets and the size and arrangement of individual building sites. The approval of such preliminary plans shall be conditioned upon the subsequent submittal and approval of more specific and detailed plans as each stage of development progresses.
 - (b) Detailed approval. Plans submitted for detailed approval shall be sufficiently precise that all factors that need to be identified by the Plan Commission are presented, and that any approvals given are all that would be necessary prior to issuance of a building permit.

- (3) Subsequent change or addition to the plans or use. Any subsequent change or addition to the plans or use shall first be submitted for approval to the Plan Commission and, if in the opinion of the Plan Commission such change or addition constitutes a major change to the original plan, a public hearing before the Plan Commission shall be required and notice thereof be given pursuant to the provisions of this article, and said proposal alterations shall be submitted to the Town Board for approval. The Plan Commission shall find that any modification therein, including modifications in location, design, and number of buildings, roadways, and utilities shall be considered a major change if such modification:
- (a) Changes the concept or intent of the approved plan;
 - (b) Increases the gross residential density or intensity of use;
 - (c) Decreases the total area set aside for common open space or deed-restricted open space;
 - (d) Changes by more than 5% in the gross floor area for a nonresidential use; or
 - (e) Increases by more than 5% the total ground area covered by buildings or structures.^[1]

[1] *Editor's Note: Original § 7.0210, which immediately followed this section, was repealed 2-17-1998 by Ord. No. 98-03.*

§ 500-177. Protests.

In the event of a protest against such district change or amendment to the regulations of this chapter, duly signed and acknowledged by the owners of 20% or more of the land immediately adjacent extending 100 feet therefrom, or by the owners of 20% or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by the favorable vote of 3/4 of the full Town Board membership.

Article XXVI. Fees and Costs

§ 500-178. Administrative fees.

As a condition of the review of any application for any type of permit as required under the provisions of this chapter, the applicant shall pay the Town of Barton, at the time of application, all fees to the Town of Barton as required by the Town of Barton Fee Schedule and at the times specified by the Town of Barton Fee Schedule before being entitled to any approvals or permits.^[1] No application filed pursuant to this chapter shall be considered complete unless and until all fees due pursuant to this chapter have been paid. Every approval granted and every permit issued pursuant to this chapter, whether or not expressly so conditioned, shall be deemed to be conditioned upon payment of the required fees. The failure to fully pay any such fee when due shall be grounds for the Town of Barton to refuse to process, or to continue to process, an application and for denying or revoking any permit or approval sought or issued with respect to the land or development to which the unpaid fee(s) relates.

[1] *Editor's Note: The Town Fee Schedule is on file at the office of the Town Clerk.*

Article XXVII. Violations, Penalties and Remedies

§ 500-179. Unlawful acts.

- A. Unlawful to use or improve any structure or land or to use water or air in violation of any provisions of this chapter. It shall be unlawful to use or improve any structure or land or to use water or air in violation of any provisions of this chapter. In case of violation, the Town Board, the Zoning Administrator, Building Inspector, the Town Attorney, the Plan Commission or any property owner

who would be specifically damaged by such violation may institute appropriate action or proceeding to enjoin a violation of this chapter or cause a structure to be vacated or removed.

- B. Actions and proceedings to enjoin violations. The Town of Barton may institute appropriate action or proceedings to enjoin violations of this chapter or the applicable Wisconsin Statutes or Wisconsin Administrative Code.

§ 500-180. Violations and penalties; additional remedies.

- A. Double fee. A double fee shall be charged by the Zoning Administrator if work is started before a permit is applied for and issued. Such double fee shall not release the applicant from full compliance with this chapter nor from prosecution for violation of this chapter.
- B. Remedial action. Whenever an order of the Zoning Administrator has not been complied with within 30 days after written notice has been mailed to the owner, resident agent, or occupant of the premises, the Town Board, the Zoning Administrator, the Building Inspector, or the Town Attorney may institute appropriate legal action or proceedings to prohibit such owner, agent, or occupant from using such structure, land, or water.
- C. Forfeiture and imprisonment. Any person, firm, or corporation who violates or fails to comply with the provisions of this chapter shall, upon conviction thereof, forfeit not less than \$20 nor more than \$200, plus the costs of prosecution, for each offense.
- D. Separate offense. Each day a violation exists or continues shall constitute a separate offense.
- E. Injunctive relief. In addition to the above-described fines, the Town Board or its agent shall have the power to institute appropriate action for injunctive relief to prevent persons, firms, or corporations from acting in violation of the provision of this chapter.

Part 8. Commissions and Boards

Article XXVIII. Plan Commission

§ 500-181. Establishment.

There is hereby established a Plan Commission for the Town of Barton, Wisconsin, in accordance with § 62.23, Wis. Stats.

§ 500-182. Membership.

[Amended 4-20-2004 by Ord. No. 04-003^[1]]

The Plan Commission shall consist of the Town Chair, who shall be its presiding officer, a Town Supervisor nominated by any member of the Town Board and approved by the Town Board as the appointing authority, who shall serve for three years, unless his office becomes vacant, and five citizens appointed for three-year terms. The citizen members shall be appointed by the Town Board. The Town Chair or any Town Board Supervisor may nominate a citizen member to the Plan Commission, and the Town Board from the nominations shall thereafter make the appointment by majority vote to the Plan Commission.

- A. Presiding officer. The presiding officer shall be the Town Chair.
- B. Secretary. The Secretary shall be appointed by the Town Chair.

- C. Official oaths. The official oaths shall be taken by all members in accordance with § 19.01, Wis. Stats., within five days of receiving notice of their appointments.
 - D. Terms. Terms for the citizen members shall commence in the first week in May, and each term shall be staggered, and each term shall be for a three-year period.
- [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

§ 500-183. Organization; procedural rules.

The Plan Commission shall organize and adopt rules for its own government in accordance with the provisions of this chapter.

- A. Meetings. Meetings shall be held monthly or at the call of the Town Chair or a majority of the full Plan Commission and shall be open to the public.
- B. Standing and special committees. Standing and special committees may be appointed by the Chair.
- C. Quorum. Quorum shall be four members, but all actions shall require approval of a majority of the full Commission, except a motion to adjourn.
- D. Minutes. Minutes shall be kept showing all actions taken, resolutions, findings, determinations, transactions, and recommendations made, and a copy shall be filed with the Town Clerk (or other Town Board authorized agent) as a public record.
- E. Rules of procedure. The Plan Commission may adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which shall be a public record.
- F. Compensation. The Plan Commission shall receive compensation for service on the Plan Commission as the Town Board may determine.

§ 500-184. Powers.

The Plan Commission shall have such powers as may be necessary to enable it to perform its functions and duties and promote municipal planning. Such powers shall include, but not be limited to, the following:

- A. Employment of experts. To employ experts and a staff and to pay for their services, supplies, equipment, and such other expenses as may be necessary and proper, not to exceed the appropriations and regulations made by the Town Board, or placed at its disposal through gift, and subject to any ordinance or resolution enacted by the Town Board.
- B. Reports and recommendations. To make reports and recommendations relating to the plan and development of the municipality to public officials, agencies, utilities, and other organizations and citizens.
- C. Public improvement programs. To recommend public improvement programs and financing thereof to the Town Board or Town Chair.
- D. Request available information. To request available information from any public official to be furnished within a reasonable time.
- E. Enter upon any land. The Plan Commission, its members, and employees may enter upon any land in the performance of its functions, make examinations and surveys, and place and maintain necessary monuments and marks thereon.

§ 500-185. Duties.

The Plan Commission shall have the following functions and duties:

- A. Make and adopt a Comprehensive Plan. To make and adopt a Comprehensive Plan, or element or component thereof, for the physical development of the Town of Barton and, from time to time, extend or add to the Comprehensive Plan in accordance with § 62.23(3), Wis. Stats.
- B. Make and recommend an Official Map. To make and recommend an Official Map to the Town Board in accordance with § 62.23, Wis. Stats.
- C. Prepare and recommend a zoning district plan and regulations. To prepare and recommend a zoning district plan and regulations to the Town Board in accordance with § 62.23, Wis. Stats.
- D. Prepare and recommend land division regulations. To prepare and recommend land division regulations to the Town Board in accordance with § 236.45, Wis. Stats.
- E. Changes to the Comprehensive Plan. To make any changes to the Comprehensive Plan it deems necessary or desirable and to recommend any changes or amendments to the Town Board that it deems necessary or desirable concerning the Official Map and Official Map Ordinance, this chapter and Chapter **340**, Land Division, and other ordinances as deemed related.
- F. Matters referred to the Plan Commission. To consider and report or recommend on all matters referred to it, including, but not limited to, special use permits.
- G. Variances to the land division and platting provisions of this chapter. The granting of variances to the land division and platting-related aspects of this chapter shall be the sole charge of the Plan Commission. [See State ex rel. Westbrook v. City of New Berlin, 120 Wis.2d 256, 354 N.W.2d 206 (Ct. App. 1984).]
- H. Hold public hearings and informational meetings. To hold public hearings and informational meeting on matters referred to the Plan Commission.

§ 500-186. Referrals.

The Town Board or other public body or officer of the Town, having final authority thereon, shall refer to the Plan Commission, for its consideration and report before final action is taken, the following matters:

- A. Public buildings. Location and architectural design of any public building.
- B. Statues and memorials. Location of any statue or other memorial.
- C. Streets, alleys, or other public way, park, playground, airport, parking area, or other memorial or public grounds. Location, acceptance, extension, alteration, vacation, abandonment, change of use, sale, acquisition, or lease of land for any street, alley, or other public way, park, playground, airport, parking area, or other memorial or public grounds.
- D. Public utilities. Location, extension, abandonment, or authorization for any public utility whether publicly or privately owned.
- E. Public or semipublic housing, slum clearance, relief of congestion, or vacation camps for children. Location, character, and extent, or acquisition, leasing, or sale of lands for public or semipublic housing, slum clearance, relief of congestion, or vacation camps for children.
- F. Subdivision plats and certified survey maps. All subdivision plats and certified survey maps in the Town of Barton or within the territory over which the Town is given platting jurisdiction by Ch. 236, Wis. Stats.
- G. Annexations, incorporations, detachments, or consolidations. All annexations, incorporations, detachments, or consolidations affecting the Town.
- H. Changes and amendments. All proposed or requested changes and amendments to the Town's Comprehensive Plan or elements and/or components thereof, Official Map Ordinance, this chapter,

and Chapter **340**, Land Division.

- I. All matters required to be referred by the Wisconsin State Statutes. All matters required to be referred to the Plan Commission as provided in § 62.23, Wis. Stats., and all other matters required to be referred to the Plan Commission by any other statute of the State of Wisconsin or by any ordinance of the Town of Barton, including this chapter and Chapter **340**, Land Division.

§ 500-187. Additional powers and duties.

- A. General. The Plan Commission shall have all additional powers and duties granted or assigned by the Town Board or by Town ordinances. All the powers and duties granted or assigned by the Wisconsin Statutes to plan commissions and any amendments thereto are hereby granted or assigned to the Commission, and such statutes are hereby adopted by reference.
- B. Architectural review. The Plan Commission shall review and make recommendations to the Town Board regarding the architectural design of all multiple-family residential and nonresidential development in the Town of Barton for the purpose of promoting compatible development, aesthetics, stability, or property values, and to prevent impairment or depreciation of existing developments. No structure shall hereafter be erected, moved, reconstructed, extended, enlarged, or have its exterior altered or changed without the Plan Commission's approval. Small accessory structures are exempt unless the Zoning Administrator requests a determination by the Plan Commission.
 - (1) Architectural review power. The Plan Commission shall have the following power:
 - (a) Hear and decide applications. Hear and decide applications for permission to erect, move, reconstruct, extend, alter, or change the exterior of all structures.
 - (b) Approve, deny, or conditionally approve the application. Approve, deny, or conditionally approve the application and may request such modifications as it may deem necessary to carry out the purpose of this section.
 - (c) Assistance. The Plan Commission may request assistance from other municipal officers, departments, boards, and commissions.
 - (d) Additional information. Request applicant to furnish additional information.
 - (2) Applications for architectural review. Applications for approval by the Plan Commission shall be made to the Zoning Administrator or Building Inspector (as applicable) and shall be accompanied by plans showing the exterior elevations of the existing and proposed structure, description of the proposed materials, proposed floor grades, and a list of the names and addresses of the parties in interest. Applications for architectural review shall include that information and data as required under Article **XXIII** of this chapter.
 - (3) Findings of the Plan Commission pertaining to architectural review. The Plan Commission shall not approve any application unless it finds beyond a reasonable doubt that the following facts and conditions exist and shall so indicate in the minutes of its proceedings:
 - (a) Conformance with architectural review principles and standards. The exterior design proposed is in conformance with the principles and standards set forth in § **500-156** of this chapter.
 - (b) No depreciation of property values. The exterior design is not unsightly or obnoxious and is not disharmonious or so similar to existing or proposed neighboring developments that substantial depreciation of neighboring property or development will be caused by the applicant's proposal.
 - (4) Decision of the Plan Commission pertaining to architectural review. The Plan Commission shall decide all applications within five days after its review and shall transmit a signed copy of its

decision to the applicant and file a copy with the Zoning Administrator or Building Inspector (as applicable).

- (5) Appeals relating to architectural review. Any person or persons aggrieved by any decision of the Plan Commission pertaining to architectural review may appeal the decision to the Zoning Board of Appeals. Such appeal shall be filed with the Town Clerk (or other Town Board authorized agent) within 30 days after filing of the decision with the Zoning Administrator.

Article XXIX. Zoning Board of Appeals

§ 500-188. Establishment.

There is hereby established a Zoning Board of Appeals in the Town of Barton for the purpose of hearing appeals and applications and granting variations and exceptions to the provisions of this chapter in harmony with the purpose and intent of this chapter.

§ 500-189. Membership.

The Zoning Board of Appeals shall consist of five members appointed by the Town Chair and confirmed by the Town Board. In addition:

- A. Terms. Terms of the Zoning Board of Appeals shall be staggered three-year periods.
- B. Chair. The Chair of the Zoning Board of Appeals shall be designated by the Town Chair.
- C. Vice Chair. The Vice Chair of the Zoning Board of Appeals shall be designated by the Town Chair.
- D. Two alternate members. Two alternate members of the Zoning Board of Appeals shall be appointed by the Town Chair for a term of three years and shall act only when a regular member is absent or refused to vote because of conflict of interest.
- E. Zoning Administrator and Building Inspector. The Zoning Administrator shall attend, and the Building Inspector may attend, all meetings of the Zoning Board of Appeals for the purpose of providing technical assistance when requested by the Zoning Board of Appeals.
- F. Official oaths. Official oaths shall be taken by all members of the Zoning Board of Appeals in accordance with § 19.01, Wis. Stats., within five days of receiving notice of their appointment.^[1]
 [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- G. Vacancies. Vacancies of the Zoning Board of Appeals shall be filled for the unexpired term in the same manner as appointments for a full term.
- H. Recording secretary. The recording secretary shall be the Zoning Administrator.

§ 500-190. Organization; procedural rules.

The Zoning Board of Appeals shall organize and adopt rules of procedure for its own government in accordance with the provisions of this chapter.

- A. Meetings. Meetings of the Zoning Board of Appeals shall be held at the call of the Chair or, if the Chair is not available, the Vice Chair, based upon an application filed with the Zoning Administrator. All meetings of the Zoning Board of Appeals shall be open to the public.
- B. Minutes. Minutes of the proceedings of the Zoning Board of Appeals and a record of all actions shall be kept by the Secretary, showing the vote of each member upon every question, the reasons for

the Zoning Board of Appeals determination, and its findings of facts. These records shall be immediately filed in the office of the Zoning Board of Appeals and shall be a public record.

§ 500-191. Powers.

The Zoning Board of Appeals shall have the following powers:

- A. Errors. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator or the Building Inspector.
- B. Variances and minor variances. To hear and grant applications for variances (except variances relating to land divisions) pursuant to the provisions of § 62.23(7)(e)7, Wis. Stats., as amended from time to time, and to hear and grant applications for minor variances pursuant to this article of this chapter. Use variances shall not be granted.
- C. Interpretations. To hear and decide applications for interpretation of the zoning regulations and the boundaries of the zoning districts after the Plan Commission has made a review and recommendation.
- D. Substitutions. To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses, provided no structural alterations are to be made and the Plan Commission has made a review and recommendation. Whenever the Zoning Board of Appeals permits such a substitution, the use may not thereafter be changed without application.
- E. Unclassified uses. To hear and grant applications for unclassified and unspecified uses, provided that such uses are similar in character to the principal uses permitted in the district and the Plan Commission has made a review and recommendation.
- F. Temporary uses. To hear and grant applications for temporary uses in any district, provided that such uses are of a temporary nature, do not involve the erection of a substantial structure, and are compatible with the neighboring uses, and the Plan Commission has made a review and recommendation. The permit shall be temporary, revocable, subject to any conditions required by the Zoning Board of Appeals, and shall be issued for a period not to exceed 12 months. Compliance with all other provisions of this chapter shall be required.
- G. Permits. The Zoning Board of Appeals may reverse, affirm wholly or partly, modify the requirements appealed from, and may issue or direct the issue of a permit.
- H. Assistance. The Zoning Board of Appeals may request assistance from other Town officers, departments, commissions, and boards.
- I. Oaths. The Chair of the Zoning Board of Appeals may administer oaths and compel the attendance of witnesses.

§ 500-192. Appeals and applications.

Appeals from the decision of the Zoning Administrator and the Building Inspector concerning the literal enforcement of this chapter may be made by any person aggrieved or by any officer, department, board, or bureau of the Town. Such appeals shall be filed with the recording secretary of the Zoning Board of Appeals within 30 days after the date of written notice of the decision or order of the Zoning Administrator or Building Inspector. Applications may be made by the owner or lessee [with signed written permission of the owner(s) only] of the structure, land, or water to be affected at any time and shall be filed with the Secretary. Such appeals and application shall include that information and data as required under § 500-163 of this chapter.

§ 500-193. Variances.

- A. Purpose. The Zoning Board of Appeals, after a public hearing, may determine and vary the regulations of this chapter in harmony with their general purpose and intent, only in the specific instances hereinafter set forth, where the Zoning Board of Appeals makes findings of fact in accordance with the standards hereinafter prescribed, and further finds that there are practical difficulties or particular hardships in the way of carrying out the strict letter of the regulations of this chapter.
- B. Application and notice of hearing.
- (1) Variance (except minor variances). An application for a variance shall be filed in writing with the Zoning Administrator. The application shall contain such information as set forth in § **500-164** of this chapter. Prior to decisions on such petitions, the Zoning Board of Appeals shall hold a public hearing thereon, notice of which shall be mailed to the petitioner, owners of property within 500 feet, and to the owners of all property deemed by the Zoning Board of Appeals to be affected thereby, and also advertised at least seven days prior to the public hearing in the official newspaper of the Town. The cost of notifying affected property owners and the cost of advertising the notice of the public hearing shall be borne by the petitioner.
 - (2) Minor variances. Appeals from the decision of the Zoning Administrator and the Building Inspector concerning the literal enforcement of this chapter with regard to the accessory buildings of 150 square feet or less in area, decks and fences may be made by the owner of the structure or land to be affected. Such appeals may be filed with the Secretary within 30 days after the date of written notice of the decision or order of the Zoning Administrator or Building Inspector, or if such decision or order of the Zoning Administrator or Building Inspector has been made prior to the effective date of this chapter and no appeal has been taken therefrom, then 60 days from the effective date of this chapter, whichever date occurs later. Applications for a minor variance may be made by the owner of the structure or land to be affected at any time and shall be filed with the Secretary. The application shall contain such information as set forth in § **500-165** of this chapter. The Zoning Board of Appeals shall fix a reasonable time and place for the hearing, give public notice thereof at least seven days prior, and shall give written notice by regular mail to the applicant and all abutting and opposite property owners of record, by mailing at least seven days in advance of the hearing. At the hearing, the applicant may appear in person, by agent or by attorney.
- C. Findings and factors.
- (1) Variances (except minor variances). No variance to the provisions of this chapter (except as otherwise provided) shall be granted by the Zoning Board of Appeals unless it finds that if the variance is granted it would not be contrary to the public interest; a literal enforcement of the chapter provisions would result in practical difficulties or unnecessary hardship due to special conditions; the spirit of the chapter is preserved; public safety and welfare are secured and substantial justice done. In reviewing the application and evidence relating to a variance, the Zoning Board of Appeals shall consider the findings statements set forth in § **500-196** of this chapter.
 - (2) Minor variances. No minor variances to the provisions of this chapter or the Building Code shall be granted by the Zoning Board of Appeals unless it finds, by a preponderance of the evidence, considering the interests of the abutting and opposite property owners and the public, that there exist conditions under which a literal enforcement of the building codes and zoning regulations of this chapter as to the subject structure would result in a substantial burden to the appellant or applicant and no material impact upon the community, so that the spirit and purpose of such regulations be observed and the safety, welfare and health of the public and the abutting and opposite property owners be protected. In reviewing the application and evidence relating to a minor variance, the Zoning Board of Appeals shall consider the following factors and indicate its findings in the minutes of the proceedings:
 - (a) The change sought by the minor variation shall not be inconsistent with the intent of the zoning regulations for the district in which the property is located;

- (b) Minor variances shall not create substantial detriment to or materially impair adjacent property;
 - (c) The Zoning Board of Appeals may consider such other factors which appear relevant to the grant or denial of the minor variance.
- D. Authorized variances. Variances from the regulations of this chapter shall be granted by the Zoning Board of Appeals only in accordance with the standards established in this section and may be granted in the following instances:
- (1) To permit any yard or setback less than the yard or setback required by the applicable regulations;
 - (2) To permit the use of a lot or lots for a use otherwise prohibited solely because of insufficient area or width of the lot or lots, but in no event shall the respective area and width of the lot or lots be less than 90% of the required area and width;
 - (3) To permit the same off-street parking facility to qualify as required facilities for two or more uses, provided the substantial use of such facility by each user does not take place at approximately the same hours of the same days of the week;
 - (4) To reduce the applicable off-street parking or loading facilities required by not more than one parking space or loading space or 20% of the applicable regulations, whichever number is greater;
 - (5) To increase by not more than 25% the maximum distance that required parking spaces are permitted to be located from the use served;
 - (6) To increase by not more than 20% of the gross area of any sign;
 - (7) To exceed any of the authorized variations allowed under this section, when a lot of record or a zoning lot, vacant or legally used on the effective date of this chapter, is, by reason of the exercise of the right of eminent domain by any authorized governmental body or by reason of a nonconveyance under threat of an eminent domain proceeding, reduced in size so that the remainder of said lot of record or zoning lot or structure of said lot does not conform with one or more of the regulations of the district in which said lot of record or zoning lot or structure is located.

§ 500-194. Interpretations.

- A. General. Appeals from interpretations rendered by the Zoning Administrator may be taken to the Zoning Board of Appeals.
- B. Standards for use interpretations. The following standards shall govern both the Zoning Administrator and the Zoning Board of Appeals on appeals from the Zoning Administrator in issuing use interpretations:
- (1) No use interpretation shall be given with respect to the residential zoning districts.
 - (2) Any use defined in either Article **IX** or Article **XXX** of this chapter shall be interpreted as therein defined.
 - (3) No use interpretation shall permit a use which is specifically listed as either a "permitted use" or a "special use" in any other district to be established in a district in which such use is not so listed.
 - (4) No use interpretation shall permit any use in any district unless evidence shall be presented that demonstrates that it will comply with each use limitation established for that particular district.

- (5) No use interpretation shall permit any use in a particular district unless such use is substantially similar to other uses permitted in such district and is more similar to such other uses than to uses permitted or specially permitted in a more restrictive district.
 - (6) If the proposed use is most similar to a use permitted only as a special use in the district in which it is proposed to be located, then any use interpretation permitting such use shall be conditioned upon the issuance of a special use permit for such use pursuant to Articles **X** and **XXIV** of this chapter.
 - (7) No use interpretation shall permit the establishment of any use that would be inconsistent with the district intent statement of the district in question.
 - (8) Subject to the foregoing conditions and limitations, as set forth in this section, in rendering use interpretations, the Zoning Administrator and Zoning Board of Appeals shall be guided by the SIC use classification system and methodology described herein.
- C. Effect of favorable use interpretations. No use interpretation finding a particular use to be permitted or specially permitted in a particular district shall authorize the establishment of such use nor the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any permits and approvals that may be required by the codes and ordinances of the Town of Barton, including but not limited to zoning permits, special use permits, building permits, or any other required permits.
- D. Limitations on favorable use interpretations. Limitations on favorable use interpretations are as follows:
- (1) Subject to an extension of time granted by the Plan Commission, no use interpretation finding a particular use to be permitted or specially permitted in a particular district shall be valid for a period longer than six months from the date of issue unless a building permit is issued and construction is actually begun within the six-month period of time and is thereafter diligently pursued to completion, or a zoning permit or special use permit is obtained and a use commenced within that period.
 - (2) A use interpretation finding a particular use to be permitted or specially permitted in a particular district shall be deemed to authorize only the particular use for which it was issued, and such permit shall not be deemed to authorize any allegedly similar use for which a separate use interpretation has not been issued. Such permit shall automatically expire and cease to be of any force or effect if the particular use for which it was issued shall, for any reason, be discontinued for a period of 12 consecutive months or more.

§ 500-195. Hearings.

- A. General. The Zoning Board of Appeals shall fix a reasonable time and place for the hearing, give public notice thereof at least 10 days prior, and shall give due notice to the parties of interest, the Zoning Administrator or Building Inspector, and the Plan Commission. At the hearing, the appellant or applicant may appear in person, by agent, or by attorney.
- B. Conduct of public hearing. The Chair of the Zoning Board of Appeals shall place all witnesses under oath. The Zoning Board of Appeals shall hear all relevant evidence presented for and against the application. The Chair of the Zoning Board of Appeals may rule on exceptions to evidence and permit examination of witnesses.

§ 500-196. Findings.

No variance to the provisions of this chapter shall be granted by the Zoning Board of Appeals unless it finds beyond a reasonable doubt that all the following facts and conditions exist and so indicates in the minutes of its proceedings:

- A. Preservation of intent. No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted use, accessory use, or special use in that particular district.
- B. Exceptional circumstances. There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district, and the granting of the variance would not be of so general or recurrent a nature as to suggest that this chapter should be changed.
- C. Economic hardship and self-imposed hardship not grounds for variance. No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of the variance.
- D. Preservation of property rights. The variance must be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.
- E. Absence of detriment. No variance shall be granted that will create substantial detriment to adjacent property and will materially impair or be contrary to the purpose and spirit of this chapter or the public interest.

§ 500-197. Decisions.

- A. Appeals and variances (except minor variances). The Zoning Board of Appeals shall decide all appeals and applications within 30 days after the final hearing and shall transmit a signed copy of the Zoning Board of Appeals decision to the appellant or applicant, Zoning Administrator, Building Inspector, and Plan Commission. The concurring vote of four members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator or to decide in favor of the applicant on any matter upon which the Zoning Board of Appeals is required to pass or to effect any variation to the provisions of this chapter.
 - (1) Conditions. Conditions may be placed upon any zoning permit ordered or authorized by the Zoning Board of Appeals.
 - (2) Expiration of variances, substitutions, and permits. Variances, substitutions, or use permits granted by the Zoning Board of Appeals shall expire within six months unless substantial work has commenced pursuant to such grant.
- B. Minor variances. The Zoning Board of Appeals shall decide all minor variances within 30 days after the final hearing. The concurring vote of four members of the Zoning Board of Appeals shall be necessary to grant a minor variance. The Zoning Board of Appeals shall transmit a signed copy of the Zoning Board of Appeals decision to the appellant or applicant and Zoning Administrator and file a copy of same with the office of the Building Inspector for maintenance as a permanent record.
 - (1) Conditions. Conditions may be placed upon any grant of minor variance ordered or authorized by the Zoning Board of Appeals.
 - (2) Expiration of minor variance. Any minor variance granted by the Zoning Board of Appeals shall expire within six months unless substantial work has commenced pursuant to such grant.
 - (3) Structural repairs or alterations. Any grant of a minor variance by the Zoning Board of Appeals shall state that the total structural repairs or alterations to the subject structure shall not, from the date of the decision and during the structure's life, exceed 25% of the value of the structure, and that no additions shall be made to the structure.

§ 500-198. Review by court of record.

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

Part 9. Terminology

Article XXX. Definitions and Word Usage

§ 500-199. Word usage.

The language set forth in the text of this chapter shall be interpreted in accordance with the following rules of construction:

- A. Singular and plural. The singular number includes the plural, and the plural the singular.
- B. Tense. The present tense includes the past and future tenses, and the future the present.
- C. Shall and may. The word "shall" is mandatory; the word "may" is permissive.
- D. Gender. The masculine gender includes the feminine and neuter genders.
- E. Defined words and terms. Whenever a word or term defined hereinafter appears in the text of this chapter, its meaning shall be construed as set forth in the definition thereof; and any word appearing in parentheses between a word and its definition herein shall be construed in the same sense as that word.
- F. Words not defined herein. Any words not defined in this article shall be presumed to have their customary dictionary definitions.
- G. The words "this chapter" shall mean this Zoning Ordinance of the Town of Barton, Washington County, Wisconsin.

§ 500-200. Abbreviations and symbols.

The following abbreviations are used in this chapter and are intended to have the following meanings:

ac	acre(s)
ADT	average daily traffic
BC	building coverage
DBH	diameter at breast height for a tree
DNR	Wisconsin Department of Natural Resources
DU	dwelling unit
FEMA	Federal Emergency Management Agency
ft.	foot/feet
GFAR	gross floor area ratio
Hz	hertz
ISR	impervious surface ratio
GD	gross density
LSR	landscape surface ratio
max.	maximum

min.	minimum
ND	net density
NFAR	net floor area ratio
OSR	open space ratio
SEWRPC	Southeastern Wisconsin Regional Planning Commission
s.f.	square foot/square feet
SIC	Standard Industrial Classification
sq. ft.	square feet
=	equal
<	is less than
≤	is less than or equal to
>	is greater than
≥	is greater than or equal to

§ 500-201. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ABANDONMENT

An action to give up one's rights or interests in property.

ABUTTING

Having a common border with, or being separated from such common border by an alley or easement, other than publicly dedicated and approved rights-of-way.

ACCESS

A means of vehicular or nonvehicular approach or entry to or exit from property, a street, or highway.

ACCESS, DRY LAND

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

ACCESSORY STRUCTURE OR USE

A. One which:

- (1) Is subordinate to and serves a principal structure or principal use;
- (2) Is subordinate in area, extent, or purpose to the principal structure or principal use served;
- (3) Contributes to the comfort, convenience, or necessity of occupants of the principal structure or principal use served; and
- (4) Is located on the same zoning lot as the principal structure or principal use served.

B. "Accessory use" includes, but is not limited to, the following:

- (1) A children's playhouse, garden house, or private greenhouse;
- (2) A garage, shed, or building for domestic storage;
- (3) Incinerators incidental to residential use;

- (4) Storage of merchandise normally carried in stock on the same lot or parcel with any retail service or business use, unless such storage is excluded by the district regulations;
- (5) Storage of goods used in or produced by manufacturing activities on the same lot or parcel of ground with such activities, unless such storage is excluded by the district regulations;
- (6) Off-street motor car parking areas and loading and unloading facilities;
- (7) Carports;
- (8) Signs (other than advertising signs) in conformity with the provisions Chapter **428**, Signs, heretofore adopted by the Town of Barton and as amended from time to time;
- (9) Public utility facilities: telephone, electric, gas, water, and sewer lines, their supports and incidental equipment;
- (10) Decks when used as a patio, porch, or platform without any form of enclosing wall or roof structure.

ACCESS, SECONDARY

A means of vehicular or nonvehicular approach or entry to or exit from property from other than a public street or highway (such as an alley). This is not necessarily meant to include a second primary access that might be required for developments.

ACREAGE

In the case of plats, any tract or parcel of land having an area of three acres or more which has not heretofore been subdivided or platted.

ACREAGE, NET

The remaining ground area after deleting all portions for proposed and existing streets within a development or subdivision.

ADJACENT

Nearby, but not necessarily touching or abutting.

ADT

Average daily traffic; the average total number of vehicles traversing a street on a typical day.

AGENT, AUTHORIZED

A person or firm duly authorized by the property owner to submit applications on his, her, their, or its behalf.

AGRICULTURE

All of the growing of crops in the open and the raising and feeding of livestock and poultry, including farming, farm buildings, and farm dwellings; truck gardens; flower gardens; apiaries; aviaries; mushroom growing; nurseries; orchards; forestry; dairying; greenhouses; and commercial vegetables. Specific agricultural uses are further defined in § **500-67** of this chapter.

AIRPORT

Any area of land or water which is used, or intended for use, for the landing and takeoff of aircraft, and any appurtenant areas which are used or intended for use as airport buildings or other airport structures or rights-of-way, together with all airport buildings and structures located thereon.

ALLEY

A public way, not more than 30 feet wide, which affords only a secondary means of access to abutting property.

ALTERATION, STRUCTURAL

See definition of "structural alteration."^[1]

ALTERNATIVE TOWER STRUCTURE

An existing man-made structure which is used as an alternative to a tower and to which an antenna and/or an antenna support structure is attached.

[Added 6-24-2009 by Ord. No. 09-03]

ANIMAL UNIT

One thousand pounds of live animal weight equals one animal unit. For the purposes of this definition, the total number of animal units at a lot or parcel of land shall be calculated by multiplying the number of animals for each animal type by the appropriate animal unit equivalency factor set forth in the "Animal Unit Calculations Equivalencies Table" below. The total number of animal units at the lot or parcel is the sum of the calculated animal unit numbers of all animal types present at the lot or parcel of land. For animal types not listed in the "Animal Unit Calculations Equivalencies Table" below, the Town shall base equivalency to animal units on live animal weights, the characteristics of the manure (including nutrient content or pollution concentration), or a combination of both. In cases based strictly on live weight, 1,000 pounds of live weight is equivalent to one animal unit.

[Added 4-19-2011 by Ord. No. 11-001]

Animal Unit Calculations Equivalencies Table

Animal Type	Animal Unit Equivalency Factor
Llamas, per animal (typical average 330 pounds)	0.33
Alpacas, per animal (typical average 200 pounds)	0.2
Ostriches, per animal (typical 200 to 350 pounds)	0.4
Emus, per animal (typical 100 to 150 pounds)	0.2
Bison and buffalo:	
Cows (per animal)	1.0
Bulls (per animal)	2
Rabbits, per animal	0.02
Dairy cattle:	
Milking and dry cows	1.4
Heifers (800 to 1,200 pounds)	1.1
Heifers (400 to 800 pounds)	0.6
Calves (under 400 pounds)	0.2
Veal calves, per animal	0.5
Beef cattle:	
Steers or cows (400 pounds to market)	1.0
Calves (under 400 pounds)	0.2
Bulls	1.4
Swine:	
Pigs (55 pounds to market)	0.4
Pigs (up to 55 pounds)	0.1
Sows	0.4
Boars	0.5
Sheep, per animal	0.1
Horses (and all other equine), per animal	2
Ducks:	
Per bird (liquid poultry manure handling)	0.2
Per bird (nonliquid poultry manure handling)	0.01

Animal Unit Calculations Equivalencies Table

Animal Type	Animal Unit Equivalency Factor
Chickens:	
Per bird (liquid poultry manure handling)	0.033
Layers (nonliquid poultry manure handling)	0.01
Broilers and pullets (nonliquid poultry manure handling)	0.005
Turkeys, per bird	0.018

ANTENNA

Any exterior transmitting or receiving device (including radio telephone communications uses as defined under Standard Industrial Classification Industry No. 4812 of Table 5 of this chapter) mounted on a tower, building, or structure and used for communications to radiate or sense electromagnetic waves or radio frequencies, using digital, analog, or spread spectrum modulation. [Added 6-24-2009 by Ord. No. 09-03]

ANTENNA, SATELLITE

Any antenna designed to receive broadcasts relayed by signals from earth-orbiting communications satellites.

ANTENNA SUPPORT FACILITY

A structure that is attached to a tower or an alternative tower structure and which is designed to support an antenna. [Added 6-24-2009 by Ord. No. 09-03]

APARTMENT

A room or suite of rooms in a multiple-family structure which is arranged, designed, used, or intended to be used as a single housekeeping unit. Complete kitchen facilities, permanently installed, must always be included for each apartment.

APARTMENT, COMMERCIAL

An apartment located above the first floor or a commercial building. (See § 500-73C of this chapter.)

AUDITORIUM

A room, hall, or building assigned to the gathering of people as an audience, to hear lectures, plays, or other presentations.

AUTO COURT

(See definition of "hotel-inn.")

AUTOMOBILE LAUNDRY

A building or portion thereof where automobiles are washed with the use of a mechanical conveyor and blower or steam-cleaning device.

AUTOMOBILE LOT, NEW

A zoning lot on which new cars, trailers, or trucks are displayed in the open for sale or trade.

AUTOMOBILE LOT, USED

A zoning lot on which used cars, trailers, or trucks are displayed in the open for sale or trade.

AUTOMOBILE REPAIR, MAJOR

Engine rebuilding or major reconditioning of worn or damaged motor vehicles or trailers; collision service, including body frame or fender straightening or repair; and painting of vehicles.

AUTOMOBILE REPAIR, MINOR

Incidental repairs, replacement of parts, and motor service to automobiles, but not including any operations specified under "automobile repair, major."

AUTOMOBILE SALES AREA

An open area, other than a street, used for the display or sale of new or used automobiles, and where no repair work is done except for minor incidental repair of automobiles to be displayed and sold on the premises.

AUTOMOBILE SERVICE STATION

A place where gasoline, stored only in underground tanks, kerosene, lubricating oil, or grease for operation of automobiles is offered for sale directly to the public, on the premises, and including minor accessories and servicing of automobiles, but not including major automobile repairs, and including washing of automobiles where no chain conveyor, blower, or steam-cleaning device is employed. When the dispensing, sale, or offering for sale of motor fuels or oil is incidental to the conduct of a public garage, the premises shall be classified as a public garage. Automobile service stations shall not include sales, rental, or storage of automobiles or trailers (new or used).

AUTOMOBILE WRECKING YARD

Any place where two or more motor vehicles, not in running condition, or parts thereof, are stored in the open and are not being restored to operation, or any land, building, or structure used for wrecking or storing of such motor vehicles or parts thereof, and including any used farm vehicles or farm machinery, or parts thereof, stored in the open and not being restored to operating condition, and including the commercial salvaging of any other goods, vehicles, or merchandise stored in the open. The open storage of any type of mechanical equipment from which parts can be salvaged shall be classified as salvaging.

AWNING

A roof-like cover, temporary in nature, which projects from the wall of a building and overhangs the wall or building.

A ZONES

Areas of potential flooding shown on the Town's Flood Insurance Rate Maps which would be inundated by the regional flood as defined herein. These areas may be numbered as AO, A1 to A99, or be unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

BASEMENT

- A. A story wholly underground; or
- B. A story of a building, the floor line of which is below lot grade and the ceiling of which is not more than one foot above lot grade, the lot grade being the front center of the garage floor elevation set at time of building permit, or the street center line, whichever is the highest elevation.

BASEMENT, HALF

That story of the building, the floor line of which is below lot grade and the ceiling of which is greater than one foot above lot grade, with an exterior exposure to provide for living area with safe egress, as determined by the Building Code. The lot grade shall be the front center of the garage floor elevation set at time of building permit, or the street center line, whichever is the highest elevation. If any story conforms to the definition of "living area, first-floor" or "basement," that story shall never be considered a half basement. For the purposes of height measurement, a half basement shall be counted as a story where more than 1/2 of the height is above the average level of the abutting ground elevation.

BASIN, DETENTION

A man-made or natural depression below the surrounding grade level designed to collect surface and subsurface water so that it might impede the water flow and to gradually release the same, at a

rate not greater than that prior to the development of the property, into natural or man-made outlets (i.e., the storm sewer system or stream).

BASIN, RETENTION

A man-made or natural body of water of a depth of not less than three feet, designed to contain water at all times, the level of which will be increased as a result of the flow into it of surface and subsurface water, collected therein and released gradually into natural or man-made outlets.

BEDROOM

Any room other than a living room, family room, dining room, kitchen, bathroom, or utility room, for the purpose of this chapter, shall be considered a bedroom. Dens, studies, etc., and similar areas which may be used as bedrooms shall be counted as bedrooms for the purposes of this chapter.

BERTH, LOADING

(See definition of "loading and unloading space, off-street.")

BOARDINGHOUSE

A building other than a hotel or restaurant where meals are provided for compensation to four or more persons, but not more than 12, who are not members of the keeper's family.

BOATHOUSE

Any structure designed for the purpose of protecting or storing of boats used in conjunction with a residence for noncommercial purposes and located on the same lot as the principal building and not for human habitation.

BORROW PIT

Any place or premises where dirt, soil, sand, gravel, or other material is removed below the existing grade or below the grade of surrounding land (other than necessary and incidental to site grading or building construction), the material is unconsolidated and unprocessed, and the material is to be used for a specific construction job located close to the excavation site.

[Added 7-9-2003 by Ord. No. 03-007]

BUFFER

(See definition of "buffer yard.")

BUFFER, SHORE

All of that land area located within 75 feet inland of the ordinary high-water mark of all ponds, streams, lakes, wetlands, and navigable waters and parallel to that ordinary high-water mark.

BUFFER YARD

An area of land within the boundaries of a lot or site, generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or using trees, shrubs, fences, and/or berms, designed to limit continuously the view and/or sound from the lot or site to adjacent lots or sites. Buffer yards are typically defined by a delineated easement graphically indicated on the face of the site plan, landscape plan, certified survey map, subdivision plat, or condominium plat. Buffer yards may be required between zoning districts and/or land uses to eliminate or minimize conflicts between them as set forth in Article **XVIII** of this chapter.

BUFFER YARD INTENSITY FACTOR

The relative sight screening value of a buffer yard as measured by levels of intensity of buffer yard plant foliage or other characteristics of the buffer yard, including fencing, earthen berms, or walls.

BUILDABLE AREA

The space remaining on a zoning lot after the minimum space requirements of this chapter have been complied with.

BUILDING CODE

The Town of Barton Building Code.

BUILDING, COMPLETELY ENCLOSED

A building separated on all sides from the adjacent open space, or from other buildings or other structures, by a permanent roof and by exterior walls, pierced only by windows and normal entrance or exit doors.

BUILDING COVERAGE AREA

The total horizontal area of an accessory building or accessory buildings as measured on a horizontal plane at mean grade level from the exterior surface of the walls, excluding eaves.

[Added 3-16-2004 by Ord. No. 04-002]

BUILDING, DETACHED

A building surrounded by open space on the same zoning lot.

BUILDING HEIGHT

The vertical distance measured from the curb level or its equivalent established grade opposite the middle of the front of the building to the highest point of the roof in the case of a flat or slant roof, to the decline of a mansard roof, and to the mean height level between eaves and ridge of a gable, or hip, or gambrel roof, provided that where buildings are set back from the street line, the height of the building may be measured from the average elevation of the finished grade at the front of the building.

BUILDING INSPECTOR

The Building Inspector of the Town of Barton, Washington County, Wisconsin.

BUILDING LINE

The line nearest the front of and across a zoning lot, establishing the minimum setback to be provided between the front line of a building or structure and the street right-of-way line.

BUILDING, PERMANENT

Any structure with substantial walls and roof securely affixed to the land and entirely separated on all sides from any other structure by space or by walls in which there are no connecting doors, windows, or openings and which is designed or intended for the shelter, enclosure or protection of persons, animals, or chattels. Any structures with interior areas not normally accessible for human use, such as gas holders, oil tanks, water tanks, grain elevators, coal bunkers, oil cracking towers, and other similar structures, are not considered as permanent buildings.

BUILDING, PRINCIPAL

A nonaccessory building in which the principal use of the zoning lot on which it is located is conducted.

BUILDING, TEMPORARY

A structure designed, built, created, or occupied for short and/or intermittent periods of time not to exceed one year, including tents, inflatable structures, lunch wagons, dining cars, trailers, and other roofed structures on wheels or other supports used for residential, business, mercantile, storage, commercial, industrial, institutional, assembly, educational, or recreational purposes; or for the enclosure or screening of goods or property; or for the display of signs and advertising. For the purpose of this definition, "roof" shall include an awning or other similar covering, whether or not it is permanent in nature.

BULK

Term used to indicate the size, height, area, density, intensity, and location of structures. (See Part 3 of this chapter.)

BUSINESS

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

CALIPER

A measurement of the diameter of a tree taken six inches from above the ground level for trees up to and including four-inch caliper sizes and 12 inches above the ground level for larger sizes.

CAMP

Any land, including structures, used for assembly or temporary occupancy by individuals and providing outdoor recreational facilities.

CAMP, RECREATIONAL

An establishment consisting of a permanent building or group of permanent buildings used periodically by an association of persons where seasonal accommodations for recreational purposes are provided only to members of such association and not to anyone who may apply.

CARPORT

A roofed-over area attached to the principal building for vehicle storage, which may be open on three sides.

CERTIFIED SURVEY MAP

A plat or map prepared for a minor land division as defined, prepared, and recorded as set forth in § 236.34, Wis. Stats. (Also see definition for "minor land division.")

CHANNEL

Those floodlands normally occupied by a stream of water under average annual high-water flow conditions while confined within generally well-established banks.

CLINIC

(See definition of "medical health center.")

CLUB, PRIVATE

A nonprofit association of persons, who are bona fide members paying annual dues, which owns, hires, or leases a building or portion thereof, the use of such premises being restricted to members and their guests. It shall be permissible to serve food and meals on such premises, provided that adequate dining room space and kitchen facilities are available. The sale of alcoholic beverages to members and their guests shall be allowed in conjunction with the operation of a dining room for the purpose of serving food and meals, though such beverages may be served in a separate room or rooms, and provided that such sale of alcoholic beverages is in compliance with the applicable federal, state, and county laws.

CO-LOCATION

The provision of multiple antennas or more than one commercial wireless communication service provider or government entity on a single tower or support structure.

[Added 6-24-2009 by Ord. No. 09-03]

COMBUSTIBLE MATERIALS

(See definition for "materials, inflammable.")

COMMON AREA

Land in a residential development held in common and/or single ownership and not reserved for the exclusive use or benefit of an individual tenant or owner but rather for the benefit of all occupants of the development.

COMMON ELEMENT

All of a condominium except its units and its limited common elements.

[Added 3-3-2004 by Ord. No. 04-001]

COMMON ELEMENT, LIMITED

That element of a condominium reserved for the exclusive use of one unit owner and which is typically an individual condominium unit site area.

[Added 3-3-2004 by Ord. No. 04-001]

COMMUNITY

A town, municipality, or a group of adjacent towns and/or municipalities having common social, economic, or physical interests.

COMMUNITY LIVING ARRANGEMENT

The following facilities licensed or operated or permitted under the authority of Wisconsin State Statutes: child welfare agencies under § 48.60 and community-based residential facilities under § 50.01, but does not include day-care centers, nursing homes, general hospitals, special hospitals, prisons, and jails. The establishment of a community living arrangement shall be in conformance with §§ 46.03(22), 50.01(1), and 60.63, Wis. Stats., and amendments thereto.^{[2], [3]}

COMPREHENSIVE PLAN

A document or series of documents prepared by the Plan Commission and duly adopted by said Commission setting forth policies for the future development or redevelopment of the Town of Barton pursuant to § 62.23, Wis. Stats. The Comprehensive Plan shall also include the Town land use plan, neighborhood and subarea plans, proposals for future land use, open space, streets and transportation, parks, urban redevelopment, and public facilities. Devices for the implementation of these plans, such as zoning, Official Map, land division and building line provisions, design guidelines, and capital improvement programs, shall also be considered a part of the Comprehensive Plan.^[4]

CONDOMINIUM

Property subject to a condominium declaration as defined, regulated, and established under Ch. 703, Wis. Stats.

CONDOMINIUM, OPEN SPACE

A residential condominium which provides a designated amount of open space as set forth under the requirements of Article V and § 500-72A of this chapter.

[Added 3-3-2004 by Ord. No. 04-001]

CONGREGATE RESIDENCE

Any building or portion thereof which contains facilities for living, sleeping, and sanitation, as required by this chapter, and may include facilities for eating and cooking, for occupancy by other than a family. A congregate residence may be a convent, monastery, dormitory or fraternity or sorority house but does not include jails, hospitals, nursing homes, hotels, or lodging houses.

CONSTRUCTION

Any or all work or operations necessary or incidental to the erection, demolition, assembling, installing, or equipping of buildings, or any alterations and operations incidental thereto. The term "construction" shall include land clearing, grading, excavating, and filling and shall also mean the finished product of any such work or operations.

CONSTRUCTION, START OF

The excavation of or installation of foundation footings or grading other than for the installation of materials for road construction.

CONTIGUOUS

In contact with one or more sides of a lot for 100 feet or more.

[Amended 11-3-2014 by Ord. No. 14-004]

COURT, OUTER

An open, unoccupied space opening onto a street, alley, or yard.

CUL-DE-SAC

A local street with only one outlet and having an appropriate turnaround for the safe and convenient reversal of traffic movement.

CURB

A vertical or sloping edge of a roadway.

CUTOFF

The point at which all light rays emitted by a lamp, light source, or luminaire are completely eliminated (cut off) at a specific angle above the ground.

CUTOFF ANGLE

The angle formed by a line drawn from the direction of light rays at the light source and a line perpendicular to the ground from the light source above which no light is emitted.

CUTOFF-TYPE LUMINAIRE

A luminaire with elements such as shields, reflectors, or refractor panels which direct and cut off the light at an angle that is less than 90°.

DAY-CARE CENTER

A state-licensed facility where a person, other than a relative or guardian, provides care and supervision for four or more children under seven years of age for less than 24 hours a day and for compensation.

DAY-NIGHT AVERAGE SOUND LEVEL (L_{dn}).

A basic measure for quantifying noise exposure, namely the A-weighted sound level averaged over a twenty-four-hour time period, with a ten-decibel penalty applied to nighttime (10:00 p.m. to 7:00 a.m.) sound levels.

dba

The A-weighting scale of sound measurement as expressed in decibels.

DBH

(See definition of "diameter at breast height.")

DECIBEL

A unit of measurement of the intensity (loudness) of sound. Sound-level meters which are employed to measure the intensity of sound are calibrated in decibels.

DEDICATION

The transfer of property interests from private to public ownership for a public purpose. The transfer may be of fee simple interest or of a less than fee simple interest, including an easement.

DENSITY, GROSS (GD)

The quotient of the total number of dwelling units on a site divided by the base site area of a site.

DENSITY, NET (ND)

The quotient of the total number of dwelling units divided by the net buildable site area of a site.

DEVELOPER

The legal or beneficial owner(s) of a lot or of any land included in a proposed development, including the holder of an option or contract to purchase or other person(s) having enforceable proprietary interests in such land.

DEVELOPMENT

The carrying out of any building activity, the making of any material change in the use or appearance of any structure or land, or the dividing of land into parcels by any person. Any man-made change to improved or unimproved real estate, including, but not limited to, construction of or

additions or substantial improvements to buildings, other structures, or accessory uses, mining, dredging, filling, grading, paving, excavation or drilling operations, or disposition of materials.

- A. The following activities or uses shall be taken for the purposes of these regulations to involve development:
- (1) A reconstruction, alteration of, or material change in the external appearance of a structure on land or water; or
 - (2) A change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on land or an increase in the floor area or number of businesses, manufacturing establishments, or offices; or
 - (3) Alteration of a shore or bank of a pond, river, stream, lake, or other waterway; or
 - (4) Commencement of drilling (except to obtain soil samples), mining, or excavation on a parcel of land; or
 - (5) Demolition of a structure; or
 - (6) Clearing of land as an adjunct of construction, including clearing or removal of vegetation, any significant disturbance of vegetation, or any soil manipulation; or
 - (7) Deposit of refuse, solid or liquid waste, or fill on a parcel of land.
- B. The following operations or uses shall not be taken for the purpose of these regulations to involve development:
- (1) Work by a highway or road agency or railroad company for the maintenance of a road or railroad track if the work is carried out on land within the boundaries of the right-of-way; or
 - (2) Work by any utility, and other persons engaged in the distribution or transmission of gas or water, for the purposes of inspecting, repairing, renewing, or constructing on established rights-of-way sewers, mains, pipes, cables, utility tunnels, power lines, towers, poles, tracks, or the like (exclusive of the activities requiring a special use permit as per the requirements of this chapter); or
 - (3) The maintenance, renewal, or alteration of any structure, where only the interior or the color of the structure or the decoration of the exterior of the structure is affected; or
 - (4) The use of any structure or land devoted to dwelling uses for any purpose customarily incidental to enjoyment of the dwelling; or
 - (5) A change in the ownership or form of ownership of any parcel or structure; or
 - (6) Work involving the landscaping of a detached dwelling; or
 - (7) Work involving the maintenance of existing landscaped areas and existing rights-of-way such as setbacks and other nonnatural planting areas.
- C. "Development" includes all other activity customarily associated with it unless otherwise specified. When appropriate to the context, "development" refers to the act of development or to the result of development within the Town. Reference to any specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not development. Reference to particular operations is not intended to limit the generality of this definition.

DEVELOPMENT, MULTIPLE-FAMILY DWELLING

A residential building designed for occupancy by three or more dwelling units.

DEVELOPMENT, RURAL

Agricultural, residential, recreational, and other open space development at such concentrations and densities not requiring traditional urban services and facilities. Such rural development may be expected to result in minimum disturbance of the land and land cover and, therefore, less impact on the natural environment. (Also see definition for "rural area.")

DEVELOPMENT, URBAN

Residential, commercial, industrial, governmental, and institutional development in sufficient concentrations or densities to require a variety and high level of traditional urban services and facilities, including but not limited to full- or part-time municipal police and fire protection and community administration; additional public streets and highways; neighborhood parks and playgrounds; neighborhood schools; local libraries; public sanitary sewer facilities or other Town and county acceptable sewage disposal system, public water supply facilities, and public solid waste removal; storm sewers; mass transit facilities; continual street maintenance; curbs, gutters, and sidewalks; streetlighting; and neighborhood convenience shopping. Such development may be expected to alter or require the altering of land and land cover and have detrimental impact on the ground and surface waters. (Also see definition for "urban area.")

DIAMETER AT BREAST HEIGHT (DBH)

The diameter of the trunk of a tree measured in inches at a point 4.5 feet above ground line. This point of measurement is used for established and mature trees.

DISTRICT

A part or parts of the Town for which the regulations of this chapter governing the use and location of land and buildings are uniform (such as the residential and nonresidential zoning district classifications).

DISTURBANCE, LAND

Any man-made change of the land surface, including removing vegetative cover, excavating, filling, and grading, but not including agricultural land uses such as planting, growing, cultivating, and harvesting crops, growing and tending gardens or harvesting trees.

DIVISION OF LAND

Where the title or part thereof of land is transferred by the execution of a land contract, an option to purchase, an offer to purchase and acceptance, a deed, a subdivision plat, or a certified survey map.

DRAINAGEWAY

The land on either side of and within 50 feet of the center line of any intermittent or perennial stream graphically shown on either the United States Geological Survey 7.5-minute quadrangle topographic map of the area or the large-scale one inch equals 100 feet Town of Barton topographic maps, except areas designated as wetlands, shoreland wetlands, floodlands, floodways, or one-hundred-year recurrence interval floodplains.

DRIPLINE

The farthest distance, measured as a radius and the total area encompassed thereby, where the branches of a tree extend from its trunk indicating the extent of the canopy of a tree.

DRIVE-IN AND DRIVE-THROUGH (OR DRIVE-THRU) ESTABLISHMENT OR FACILITY

A commercial retail, service, or personal service establishment designed or intended to, by design of physical facilities or by service or packaging procedures, encourage or permit customers to receive a service or obtain a product while staying within a motor vehicle or enable a customer in a motor vehicle parked on or moving through the premises to transact business with a person outside the motor vehicle. Such establishments include, but are not necessarily limited to, financial institutions, restaurants, and dry-cleaning stores.

DRIVEWAY

A paved or unpaved area used for ingress or egress of vehicles allowing access from a street to a lot or site, use, building, or other structure or facility.

DWELLING

A building or portion thereof, but not including a house trailer or mobile home, designed or used exclusively for residential occupancy, including one-family dwelling units, two-family dwelling units, and multiple-family dwelling units, but not including hotels, motels, or boardinghouses or lodging houses.

DWELLING, ATTACHED

A dwelling which is joined to another dwelling at one or more sides by a party wall or walls.

DWELLING, DETACHED

A dwelling which is entirely surrounded by open space on the same lot, parcel or condominium unit. [Amended 3-3-2004 by Ord. No. 04-001]

DWELLING, DUPLEX

A two-family dwelling in which the living quarters are arranged side by side or one over the other.

DWELLING, EFFICIENCY

A dwelling unit consisting of one principal room with no separate sleeping rooms.

DWELLING GROUP

Two or more one-family, two-family, or multiple-family dwellings, or boardinghouses or lodging houses, located on one zoning lot, but not including tourist courts or motels.

DWELLING, MULTIPLE-FAMILY

A building or portion thereof designed or altered for occupancy by three or more families living independently of each other.

DWELLING, ONE-FAMILY

A dwelling unit designed exclusively for use and occupancy by one family.

DWELLING, ROW (PARTY WALL)

A row of two to six attached one-family party wall dwellings, not more than 2 1/2 stories in height, nor more than two rooms in depth, measured from the building line.

DWELLING, TWO-FAMILY

A building designed or altered to provide dwelling units for occupancy by two families.

DWELLING UNIT

One or more rooms in a residential structure, or other structure properly zoned for residential uses, which are arranged, designed, used, or intended for use by one family, plus not more than four lodgers, for living or sleeping purposes, and which includes complete kitchen facilities permanently installed.

EASEMENT

The area of land set aside or over or through which a liberty, privilege, or advantage in land, distinct from ownership of the land, is granted to the public or some particular person or part of the public.

EASEMENT, CONSERVATION

A type of protective covenant, the boundary lines of which are graphically depicted on the face of a certified survey map, preliminary plat, final plat and/or condominium plat, or filed as a separate legal instrument, used to conserve and preserve a natural resource feature that is protected under the provisions of this chapter.

ELECTROMAGNETIC FIELDS

Fields that arise whenever electrons are moved through a conducting medium. They have two components, one electric, the other magnetic. These fields have regular periodicity, measured in hertz.

EROSION

The detachment and movement of soil, sediment, or rock fragments by water, wind, ice, or gravity.

FAMILY

One or more persons living together in a single dwelling unit as a traditional family or the functional equivalent of a traditional family. It shall be a rebuttable presumption that four or more persons living together in a single dwelling unit who are not related by blood, adoption or marriage do not constitute the functional equivalent of a traditional family. In determining the functional equivalent of a traditional family, the following criteria shall be present:^[5]

- A. The group shares the entire dwelling unit.
- B. The group lives and cooks together as a single housekeeping unit.
- C. The group shares expenses for food, rent, utilities or other household expenses.
- D. The group is permanent and stable and not transient or temporary in nature.
- E. Any other factor reasonably related to whether the group is the functional equivalent of a family.

FARM

An area which is used for the growing of the usual farm products, such as vegetables, fruit trees, and grain, and for the packing or storage of the products produced on the premises, as well as for the raising thereon of the usual farm poultry and farm animals, such as horses and cattle, as secondary to crop raising, subject to distance limitations from residential property, and not including the commercial feeding of garbage or offal to swine or other animals, the commercial feeding of animals on open lots where no feed is raised on the premises, or the commercial feeding of poultry broilers, or laboratory animals, such as mice, rats, rabbits, etc. Specific farm uses are further defined in § 500-67 of this chapter.

FARM, HOBBY

Farming activities which occur on a parcel of land less than 20 acres in area and which are an accessory use to the principal residential use of the property. These include the growing of the usual farm products such as vegetables, fruit trees, and grain, and the packing or storage of the products produced on the premises, as well as the raising thereon of the usual farm poultry and farm animals such as horses and cattle, as an accessory use to the principal residential use of the property, subject to distance limitations from residential property, and not including the commercial feeding of garbage or offal to swine or other animals, the commercial feeding of animals on open lots where no feed is raised on the premises, or the commercial feeding of poultry broilers, or laboratory animals, such as mice, rats, rabbits, etc.

[Amended 4-19-2011 by Ord. No. 11-001]

- A. In the R-1, R-2, and R-3 Districts, the raising of farm animals such as horses, cattle, swine, etc., not to exceed one such animal per 1.5 acres of total lot or parcel area. (Also see §§ 500-72 and 500-75 of this chapter.)
- B. In the HFA District, the raising of farm animals such as horses, cattle, swine, etc., not to exceed one animal unit (as defined in this section) per one acre of total lot or parcel area. (Also see § 500-76H of this chapter regarding the limitation on the maximum number of equine permitted to be housed in private stables.)

FENCE

A structure which is a barrier or is used as a boundary or means of protection or confinement.

FENCE, DECORATIVE

A fence, including gates, which is more than 75% open and less than three feet in height, such as split-rail fences used for ornamental purposes. For purposes of this definition, chain-link and picket fences are not considered to be decorative fences.

FENCE, SOLID

A fence, including gates, which conceals from view from adjoining properties, streets, or alleys activities conducted behind it.

FLOOD

A temporary rise in stream flow or stage that results in water overtopping its banks and inundating areas adjacent to the channel.

FLOOD INSURANCE STUDY

An examination, evaluation, and determination of flood hazards, and if appropriate, corresponding water surface elevations; or an examination, evaluation, and determination of mudslide (i.e., mud flow) and/or flood-related erosion hazards. Such studies shall result in the publication of a Flood Insurance Rate Map showing the intensity of flood hazards in either numbered or unnumbered A Zones.

FLOODLANDS

Those lands, including the channels, floodways, and floodplain fringe of any given reach, which are subject to inundation by the flood with a given recurrence frequency. The floodlands are all lands contained in the regional flood or one-hundred-year recurrence interval flood.

FLOODPLAIN-FRINGE

Those floodlands, outside the floodway, subject to inundation by the one-hundred-year recurrence interval flood.

FLOOD, REGIONAL

A flood determined to be representative of large floods known to have generally occurred in Wisconsin and which may be expected to occur on a particular stream because of like physical characteristics. The flood frequency of the regional flood is once in every 100 years; this means that in any given year, there is a one-percent chance that the regional flood may occur or be exceeded. During a typical thirty-year mortgage period, the regional flood has a twenty-six-percent chance of occurrence.

FLOOD STAGE

The elevation of the floodwater surface above an officially established datum plane, which is either National Geodetic Vertical Datum (NGVD) or Washington County datum, as noted on the Washington County Zoning Map(s).

FLOODWAY

A designated portion of the one-hundred-year flood that will safely convey the regulatory flood discharge with small, acceptable upstream and downstream stage increases, limited in Wisconsin to 0.01 foot unless special legal measures are provided. The floodway, which provides the channel, is that portion of the floodplain not suited for human habitation. All fill, structures, and other development that would impair floodwater conveyance by adversely increasing flood stages or velocities or would itself be subject to flood damage should be prohibited in the floodway.

FLOOR AREA, GROSS

- A. For the purpose of determining the floor area ratio, the gross floor area of a building or buildings shall be the sum of the gross horizontal areas of the several floors of such building or buildings, measured from the exterior faces of exterior walls or from the center line of party walls separating two buildings. In particular, "gross floor area" shall include:
- (1) Basement space if at least 1/2 of the basement story height is above the established curb or ground level;
 - (2) Elevator shafts and stairwells at each floor;
 - (3) Floor space used for mechanical equipment where the structural headroom exceeds 7.5 feet, except equipment, open or enclosed, located on the roof, i.e., bulkheads, water tanks,

and cooling towers;

- (4) Attic floor space where the structural headroom exceeds 7.5 feet;
 - (5) Interior balconies and mezzanines;
 - (6) Enclosed porches, but not terraces and breezeways;
 - (7) Accessory buildings.
- B. For determining requirements for off-street parking and off-street loading, the "floor area" shall mean the sum of the gross horizontal areas of the several floors of the buildings, or portion thereof, devoted to such use, including accessory storage areas located within selling or working space, such as counters, racks, or closets, and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, floor area for purposes of measurement for off-street parking spaces shall not include floor area devoted primarily to storage purposes (except as otherwise noted herein), floor area devoted to off-street parking or loading facilities, including aisles, ramps, and maneuvering space, or basement floor area other than area devoted to retailing activities, to the production or processing of goods, or to business or professional offices.

FLOOR AREA, GROUND

The lot area covered by a principal building, measured at grade from the exterior faces of the exterior walls, but excluding open porches or terraces, garages, or carports.

FLOOR AREA RATIO, GROSS (GFAR)

An intensity measured as a ratio derived by dividing the total gross floor area of a building or structure by the base site area. Where the lot is part of a larger development and has no required buffer yard, that lot area may be used instead of the base site area to calculate the lot's development potential. Also see Article VIII.

FLOOR AREA RATIO, NET (NFAR)

An intensity measured as a ratio derived by dividing the total gross floor area of a building or structure by the net buildable site area. Also see Article VIII.

FOOTCANDLE

A unit of illumination produced on a surface, all points of which are one foot from a uniform point source of one candle.

FOREST

(See definitions for "woodland, mature" and "woodland, young.")

FOSTER FAMILY HOME

The primary domicile of a foster parent which is for four or fewer foster children and which is licensed under § 48.62, Wis. Stats., and amendments thereto.

FREEWAY

A major highway having no intersections at grade and having fully controlled access, hence, free from conflicts and interruptions.

FREQUENCY

The number of oscillations per second in a sound wave, measuring the pitch of the resulting sound.

FRONTAGE

All the property fronting on one side of a street between the nearest intersecting streets or between a street right-of-way, waterway, or other similar barrier.

GARAGE, BUS

Any building used or intended to be used for the storage of three or more passenger motor buses, or motor coaches used in public transportation, including school buses.

GARAGE, PRIVATE

An accessory building or an accessory portion of the principal building which is intended for and used to store the private passenger vehicles of family or families resident upon the premises, and in which no business, service, or industry connected directly or indirectly with automobile vehicles is carried on, provided that not more than 1/2 of the space may be rented for the private vehicles of persons not resident on the premises, except that all the space in a garage of one- or two-car capacity may be so rented. Such a garage shall not be used for more than one commercial vehicle and the load capacity of such vehicle shall not exceed 0.5 ton.

GARAGE, PUBLIC

A building other than a private garage, used for the care, incidental servicing, and sale of automobile supplies, or where motor vehicles are parked or stored for remuneration, hire, or sale within the structure, but not including trucks, tractors, truck trailers, and commercial vehicles exceeding 1.5 tons' capacity.

GARAGE, TRUCK

A building which is used or intended to be used for the storage of motor trucks, truck trailers, tractors, and commercial vehicles exceeding 1.5 tons' capacity.

GAUSS

A measure of magnetic flux density. It is used to compare relative strengths of magnetic fields.

GOLF COURSE

Public, semipublic, or private grounds over which the game of golf is played, including accessory buildings and land uses incidental thereto, and consisting of at least 60 acres for each standard nine-hole course, 120 acres for each standard eighteen-hole course, and 25 acres for each nine-hole, par-three course.

GRADE, STREET

The elevation of the established street in front of the building, measured at the center of such front. Where no street grade has been established, the Town Engineer shall establish such street grade or its equivalent for the purpose of this chapter.

GREENHOUSE

An enclosed structure, permanent or portable, which is used for the growth of plants.

GROUP FOSTER HOME

Any facility operated by a person required to be licensed by the State of Wisconsin under § 48.62, Wis. Stats., for the care and maintenance of five to eight foster children.

GUEST HOUSE

Living quarters within a detached accessory building located on the same premises with the principal building for use by temporary guests of the occupants of the premises. Such quarters shall have no kitchen facilities nor be rented or otherwise used as a separate dwelling.

GUTTER

A shallow channel usually set along a curb or the pavement edge of a road for purposes of catching and carrying off runoff water.

HEIGHT, BUILDING

(See definition of "building height.")

HEIGHT, FENCE

The height of the fence shall be determined by measuring the vertical distance from the grade to the top of each section of the fence.

HEIGHT (OF TOWER OR ALTERNATIVE TOWER STRUCTURE)

The distance from the finished ground surface below the center of the base of said tower or distance from the ground of the alternative tower structure to the highest point on the tower or alternative tower structure or any fixture attached thereto (including an antenna), whichever is highest. In the case of an alternative tower structure, the height includes the height of that portion of the alternative tower structure the antenna is mounted to. Measurements of communication tower height shall include the alternative tower structure, base pad, and other appurtenances. Building-mounted communications towers shall be considered a part of the principal structure upon which such towers are mounted.

[Added 6-24-2009 by Ord. No. 09-03]

HELIPORT

A helistop that also includes all necessary passenger and cargo facilities, helicopter maintenance and overhaul, fueling service, storage, tie-down areas, hangars, and other necessary buildings and open spaces. Heliports include any of the uses of helistops.

HELISTOP

An area designated for the landing and taking off of helicopters for the purpose of picking up or discharging passengers or cargo, not including fueling or service facilities.

HERTZ

A unit that measures frequency in all physical systems that have wave pattern. Abbreviated "Hz."

HIGH GROUNDWATER ELEVATION

The highest elevation to which subsurface water rises. This may be evidenced by the actual presence of water during wet periods of the year, or by soil mottling during drier periods. "Mottling" is a mixture or variation of soil colors. In soils with restricted internal drainage, gray, yellow, red, and brown colors are intermingled giving a multicolored effect.

HIGH-WATER ELEVATION (SURFACE WATER)

The average annual high-water level of a pond, stream, lake, flowage, or wetland, referred to an established datum plane or, where such elevation is not available, the elevation of the line up to which the presence of water is so frequent as to leave a distinct mark by erosion, change in or destruction of vegetation, or other easily recognized topographic, geologic, or vegetative characteristic.

HOME OCCUPATION

Any gainful occupation or profession engaged in by an occupant of a dwelling unit as a use which is clearly incidental to the use of the dwelling unit for residential purposes. (See § 500-75 of this chapter.)

HOMEOWNERS' ASSOCIATION

A Wisconsin nonprofit membership corporation which serves as an association of homeowners within a subdivision, certified survey map, or condominium having shared common interest responsibilities with respect to the costs and upkeep of common private property of a subdivision, certified survey map, or condominium. Such common property includes private recreation and open space areas within the subdivision, certified survey map, or condominium. For the purposes of this chapter, homeowners' associations include condominium associations.

HOSPITAL

An institution devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or care for not less than 24 hours in any week of three or more nonrelated individuals suffering from illness, disease, injury, deformity, or other abnormal physical conditions. The term "hospital" as used herein does not apply to institutions operating solely for the treatment of insane persons, drug addicts, liquor addicts, or other types of cases necessitating restraint of patients, and the term "hospital" shall not be used for convalescent, nursing, shelter, or boardinghomes.

HOSPITAL, ANIMAL

A lot, building, structure, enclosure, or premises whereon or wherein three or more dogs, cats, or other domestic animals are kept or maintained and is operated by, or the treatment therein is under direct supervision of, a veterinarian licensed to practice by the State of Wisconsin. Crematory facilities shall not be allowed in an animal hospital.

HOTEL, APARTMENT

A hotel in which at least 90% of the hotel accommodations are for occupancy by the permanent guests. An apartment hotel having not fewer than 50 guest rooms may have a dining room open to the public which is accessible only from an inner lobby or corridor.

HOTEL-INN

An establishment containing lodging accommodations designed for use by transients, travelers, or temporary guests. Facilities provided may include maid service, laundering of linen used on the premises, restaurants, including the sale of alcoholic beverages, telephone, and secretarial or desk service.

HOUSEHOLDER

The occupant of a dwelling unit who is either the owner or lessee thereof.

ILLUMINATION, MAXIMUM PERMITTED

The maximum illumination measured in footcandles at the interior buffer yard line at ground level.

IMPACT NOISES

Noises whose peak values are more than six dBA higher than the values indicated on a sound-level meter meeting the requirements of the American National Standards Institute (ANSI S1.4 1961) "American Standard Specification for General Purpose Sound Level Meters," and are of a short duration. Impact noises are generated by sources that do not operate more than one minute in any one-hour period.

IMPERVIOUS SURFACE

Impervious surfaces are those which do not absorb water. Impervious surfaces consist of all buildings, parking areas, driveways, roads, sidewalks, and any areas of concrete or asphalt. In the case of lumberyards or similar uses, areas of stored lumber constitute impervious surfaces.

IMPERVIOUS SURFACE RATIO (ISR)

A measure of the intensity of land use which is determined by dividing the total area of all impervious surfaces on a site by the base site area (resulting in the gross ISR determination) or the net buildable area (resulting in the net ISR determination).

IMPROVEMENT

Any man-made immovable item which becomes part of, placed upon, or is affixed to real estate.

IMPROVEMENT, PUBLIC

Any sanitary sewer, storm sewer, open channel, water main, roadway, park, parkway, public access, curb and gutter, sidewalk, pedestrianway, bicycle path, stormwater detention and retention basins, planting strip, or other utility and/or facility for which the Town may ultimately assume the responsibility for maintenance and operation.

IMPROVEMENT, SUBSTANTIAL

Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the present equalized assessed value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or any alteration of a structure or site documented as deserving preservation by the Wisconsin State Historical Society or listed on the National Register of Historic Places. Ordinary maintenance repairs are not considered structural repairs, modifications, or

additions; such ordinary maintenance repairs include internal and external painting, decorating, paneling, and the replacement of doors, windows, and other nonstructural components.^[6]

INSTITUTION, EDUCATIONAL

Public, parochial, charitable, or nonprofit junior college, college, or university, other than trade or business schools, including instructional and recreational uses, with or without living quarters, dining rooms, restaurants, heating plants, and other incidental facilities for students, teachers, and employees.

JUNKYARD (including "automobile wrecking" and "storage")

Any lot, building, structure, enclosure, premises or parts thereof used for the storage, keeping, or abandonment of any worn-out, castoff, or discarded or abandoned article, material, vehicle, automobile, or machinery or parts thereof, which is ready for destruction or sale or has been collected or stored for salvage or conversion to some use, including scrap metal, paper, wood, cordage, or other waste or discarded materials, articles, vehicles, automobiles, or machinery or parts thereof, or vehicles or automobiles without a valid current state registration and license plate issued to said vehicle or automobile, and to the occupant, owner, purchaser, lessor, lessee, or tenant of any lot, building, or structure therein or thereon situated.

KENNEL, COMMERCIAL

A lot, building, structure, enclosure, or premises whereon or wherein more than three dogs or cats over six months of age are maintained, boarded, bred, kept, or cared for in return for remuneration, or are kept for the purpose of sale, or are groomed, trained, or handled, for others.

KENNEL, PRIVATE

A lot, building, structure, enclosure, or premises whereon or wherein three or fewer dogs or cats over six months of age are maintained, boarded, bred, kept, or cared for.

LABORATORY, COMMERCIAL

A place devoted to experimental study such as testing and analyzing. Manufacturing, assembly, or packaging of products is not included within this definition.

LAKE

Any body of water two acres or larger in size as measured by the shoreline at its maximum condition rather than the permanent pool condition, if there is any difference.

LANDSCAPE BUFFER YARD

(See definition for "buffer yard.")

LANDSCAPE PLAN

(See Article **XXII** of this chapter.)

LANDSCAPE SURFACE AREA

Surface area of land not covered by any building or impervious surface; pervious surface that is maintained as a natural area and left undisturbed or to support plant life.

LANDSCAPE SURFACE RATIO (LSR)

The ratio derived by dividing the area of landscaped surface by the base site area.

LANDSCAPING

Living material, such as grass, ground cover, flowers, shrubs, vines, hedges, and trees; and nonliving durable material such as rocks, pebbles, sand, mulch, wood chips or bark, walls, and fences, but not including paving.

LAND USER

Any person operating, leasing, renting, or having made other arrangements with the landowner by which the landowner authorizes use of his or her land.

LEVEL, CURB

The level of the established curb in front of a building or structure, measured at the center of such front. Where no curb level has been established, it shall be deemed to be the established level of the center line of the street surface in front of a building or structure, measured at the center line of such front.

LIVING AREA

That area of a dwelling unit measured from the outside of the exterior walls, including utility rooms, foyers, interior stairwells, hallways, closets, columns and walls and finished half basements or finished portions of half basements, but excluding basements and unfinished half basements, or unfinished portions of half basements, open porches, breezeways, garages and other spaces not used frequently or during extended periods for living, eating, or sleeping purposes. The unit of measurement of living area shall be in square feet.

LIVING AREA, FIRST-FLOOR

That space used for living purposes which is not above any other space used for living purposes. The first-floor living area shall never conform to the definition of "half basement" or "basement."

LOADING AND UNLOADING SPACE, OFF-STREET

An open, hard-surfaced area of land other than a street or a public way, the principal use of which is for the standing, loading, or unloading of motor vehicles, tractors, and trailers, to avoid undue interference with public streets and alleys. The minimum required size of such loading space shall be 10 feet in width and 25 feet in length, exclusive of aisle and maneuvering space, and it shall have a vertical clearance of not less than 15 feet.^[7]

LODGE, PRIVATE

(See definition of "club, private.")

LODGING HOUSE

(See definition of "rooming house.")

LOT

A parcel of land legally described as a distinct portion or piece of land of record. In the case of open space condominiums, the land area contained within the exterior, or peripheral, boundary lines of an individual condominium unit site area's limited common elements, excluding common elements, private driveway easements, and public street rights-of-way.

[Amended 3-3-2004 by Ord. No. 04-001]

LOT AREA

[Amended 1-15-2002 by Ord. No. 02-001; 6-18-2002 by Ord. No. 02-006; 3-3-2004 by Ord. No. 04-001; 4-19-2011 by Ord. No. 11-001]

- A. For both existing lots of record and new lots created which are not located in the EA, AT, GA, HFA and R-1 Districts, the area contained within the exterior, or peripheral, boundaries or lot lines of a lot, excluding public street right-of-way.
- B. For existing lots of record located in the EA, AT, GA, HFA and R-1 Districts which abut a public street right-of-way existing on the date of the adoption of this chapter, the area contained within the exterior, or peripheral, boundaries or lot lines of a lot, including that portion of an abutting public street right-of-way as measured to the center line of said abutting public street right-of-way.
- C. For new lots created in the EA, AT, GA, HFA and R-1 Districts and which new lots abut a public street right-of-way existing on the date of the adoption of this chapter, the area contained within the exterior, or peripheral, boundaries or lot lines of a lot, including that portion of an abutting public street right-of-way as measured to the center line of said abutting public street right-of-way.

- D. In the case of open space condominiums, the area contained within the exterior, or peripheral, boundary lines of an individual condominium unit site area's limited common elements, excluding common elements, private driveway easements, and public street rights-of-way.

LOT, CORNER

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

LOT COVERAGE

The area of a zoning lot occupied by the principal building or buildings and accessory buildings.

LOT DEPTH

The mean horizontal distance between the front and rear lot lines of a lot measured within the lot boundaries.

LOT, DOUBLE FRONTAGE

A lot, other than a corner lot, with frontage on more than one street. Double frontage lots shall normally be deemed to have two front yards, two side yards and no rear yard. Double frontage lots shall not generally be permitted unless the lot abuts an arterial highway. Double frontage lots abutting arterial highways should restrict direct access to the arterial highway by means of a planting buffer or some other acceptable access buffering measure.

LOT FRONTAGE

The front of a lot shall be that boundary of a lot along a public street; for a corner lot, the owner may elect either street line as the front lot line.

LOT, INTERIOR

A lot other than a corner lot.

LOT LINE

A property boundary line of any lot held in single or separate ownership, except that where any portion of the lot extends to the abutting street or alley, the lot line shall be deemed to be the street or alley right-of-way line.

LOT LINE, FRONT

The front property boundary line of a zoning lot.

LOT LINE, INTERIOR

A side lot line common with another lot.

LOT LINE, REAR

The lot line or lot lines most nearly parallel to and most remote from the front lot line.

LOT LINE, SIDE

A lot line other than a front or rear lot line.

LOT OF RECORD

An area of land designated as a lot on a plat of subdivision or certified survey map recorded or registered pursuant to statute.

LOT, THROUGH

(See definition of "lot, double frontage.")

LOT WIDTH

The mean horizontal distance between the side lot lines measured within the lot boundaries, or the minimum distance between the side lot lines within the buildable area of a lot.

LOT, ZONING

(See definition of "zoning lot.")

LOUNGE

(See definition of "tavern.")

LUMINAIRE

A complete lighting unit consisting of a light source and all necessary mechanical, electrical, and decorative parts.

MANUFACTURED HOME

A structure that is transportable in one or more sections, built on a permanent chassis, and designed to be used with or without a permanent foundation when connected to the required utilities. The term includes, but is not limited to, the definition of "mobile home" as set forth in regulations governing the Mobile Home Safety and Construction Standards Program [24 CFR 3282.7(a)]. Factory-built homes on permanent foundations are considered buildings and are governed by the Wisconsin Uniform Dwelling Code.

MANUFACTURED HOME PARK

A parcel (or contiguous parcels) of land divided into two or more manufactured home spaces for rent or lease.

MANUFACTURED HOME SUBDIVISION

A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for sale.

MANUFACTURING

The making of anything by any agency or process.^[8]

MATERIALS, INFLAMMABLE

Means and includes oils and oil lights, sweepings from garage floors, barrels, boxes or other containers containing oil or other similar liquids, rags, clothes, paper, shavings, paper or cardboard boxes or cartons, grease, paints, varnish, or other similar substances, any of which are likely to be readily inflammable or combustible.

MATERIALS, TOXIC

A substance (liquid, solid, or gaseous) which, by reason of a deleterious property, tends to destroy life or impair health.

MEDICAL HEALTH CENTER

An establishment where patients are admitted for special study and treatment by two or more licensed physicians and their professional associates, practicing medicine together.

MINI STORAGE

A building or group of buildings in a controlled-access and fenced compound that contains varying sizes of individual, compartmentalized, and controlled-access stalls or lockers for the dead storage of a customer's goods or wares. At least one toilet facility shall be available to customers. No sales, service, or repair activities other than the rental of dead storage units are permitted on the premises. Maximum leasable space per tenant shall be 1,000 square feet. Outdoor storage, or the storage of junk, explosives, or inflammable materials, and other noxious or dangerous materials is specifically prohibited.

MINOR LAND DIVISION

Any division of land not defined as a subdivision. Minor land divisions include the division of land by the owner or subdivider resulting in the creation of two, but not more than four, parcels or building sites, any one of which is less than 35 acres in size; or the division of a block, lot or outlot within a recorded subdivision plat into not more than four parcels or building sites without changing the exterior boundaries of said block, lot, or outlot. Such minor land divisions shall be made by a certified survey map.

MINOR VARIANCE

(See definition of "variance, minor.")

MIXED USE

A building or structure that contains two or more of the following basic land use types, commercial, office, or residential, which are vertically integrated, and that are located over each other in whole or in part. Mixed uses may be integrated horizontally, provided that they are physically interrelated by pedestrian areas that are uninterrupted by vehicular traffic; in horizontal integration of mixed uses, the uses may not be separated by roads or parking areas.

MOBILE HOME

Any trailer as defined herein used for residential purposes.

MOBILE HOME CAMP

(See definition of "mobile home park.")

MOBILE HOME PARK

Any premises occupied or designed to accommodate one or more families living in a house trailer or mobile home, or the parking of one or more trailers for business or storage purposes.

MONOPOLE TOWER

A vertical support structure consisting of a single vertical metal, concrete or wooden pole, pipe, tube or cylindrical structure, typically round or square, and driven into the ground or mounted upon or attached to a foundation.

[Added 6-24-2009 by Ord. No. 09-03]

MOTEL

A group of attached or detached buildings or facility containing individual sleeping or living units, designed for or used temporarily by automobile tourists or transients, with garage attached or parking space conveniently located to each unit, including auto courts, motels, motor lodges, or other similar type uses. Customary services, such as maid service, telephone, linen, and desk service, and the use and upkeep of furniture are provided.

MOTOR LODGE

(See definition of "motel.")

MUNICIPAL CODE

The Municipal Code of the Town of Barton, Washington County, Wisconsin.

MUNICIPALITY

An incorporated village or city or an unincorporated town.

NATURAL RESOURCE PROTECTION PLAN

(See Article **XXI** of this chapter.)

NATURAL RESOURCE PROTECTION STANDARD

The proportion of the natural features of a site (excluding land occupied by public street rights-of-way) which shall remain undeveloped and protected and is specifically designated for natural resource protection by deed restriction, protective covenant, zoning, or a combination thereof.

NATURAL RESOURCES

Areas of steep slopes, woodlands and forests (mature and young), lakes, ponds, streams, shore buffer, floodplains, floodlands, drainageways, wetlands, and shoreland wetlands as defined in this chapter.

NAVIGABLE LAKE

(See definition of "navigable water.")

NAVIGABLE STREAM

Any stream capable of floating any boat, skiff, or canoe of the shallowest draft used for recreational purposes. Also see definition of "navigable water."

NAVIGABLE WATER

Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin, and all streams, ponds, sloughs, flowages, and other water within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state. The Wisconsin Supreme Court has declared navigable bodies of water with a bed differentiated from adjacent uplands and with levels of flow sufficient to support navigation by a recreational craft of the shallowest draft on an annually recurring basis [Muench v. Public Service Commission, 261 Wis. 492 (1952), and DeGayner and Co., Inc., v. Department of Natural Resources, 70 Wis. 2d 936 (1975)]. Rivers and streams are presumed to be navigable if they are designated as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this chapter.

NONCONFORMING BUILDING

A building or structure, or portion thereof, lawfully existing at the time of the adoption of this chapter, which was designed, erected, or structurally altered after the effective date of this chapter for a use that does not conform to the use regulations of the district in which it is located.

NONCONFORMING USE

Any building, structure, or land lawfully occupied by a use or lawfully established at the time of the adoption of this chapter or amendments hereto, which does not conform after the effective date of this chapter, or amendments hereto, with the use regulations of this chapter.

NOXIOUS MATTER

Material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the psychological, social, or economic well-being of human beings.

NURSERY

A place where the primary activity is the growing of plants, flowers, trees, and shrubs for sale.

NURSERY, DAY

A building or portion thereof used for the daytime care of preschool-age children.

NURSERY SCHOOL

An institution providing day care for children from four to six years of age.

NURSING HOME

A private home for the care of children or the aged or infirmed, or a place of rest for those suffering bodily disorders, but not including facilities for the treatment of sickness or injuries or for surgical care.

OBSTRUCTION

An obstacle, impediment, or hindrance.

OCTAVE BAND

A means of dividing the range of sound frequencies into octaves in order to classify sound according to pitch.

OCTAVE BAND FILTER

An electrical frequency analyzer, designed according to standards formulated by the American Standards Association and used in conjunction with a sound-level meter to take measurements in specific octave intervals (American Standard for Sound Level Meters, A.S.A. No. 244.3-1944).

ODOROUS MATTER

Solid, liquid or gaseous material which produces an olfactory response in a human being.

ODOR THRESHOLD CONCENTRATION

The lowest concentration of odorous matter which will produce an olfactory response in a human being as detected by a panel of healthy observers. Odor thresholds shall be determined in accordance with American Society for Testing and Materials Test Method D1391-57, "Standard Method for Measurement of Odor in Atmosphere (Dilution Method)" (Philadelphia: American Society of Testing and Material, 1957).

OFFICE, HOME

(See definition of "home occupation" and § 500-75G of this chapter.)

OFFICIAL LETTER OF MAP AMENDMENT

Official notification from the Federal Emergency Management Agency (FEMA), or its successor, that a Flood Hazard Boundary Map or Flood Insurance Rate Map has been amended.

OFFICIAL MAP

That document as described by § 62.23(6), Wis. Stats., as amended, which shows the location of streets, highways, historic districts, parkways, parks, playgrounds, railroad rights-of-way, waterways, and public transit facilities in the Town of Barton.

OFFICIAL ZONING MAP

(See definition of "Zoning Map.")

OPEN SALES LOT

Any land used or occupied for the purpose of buying and selling new or secondhand passenger cars or trucks, motor scooters, motorcycles, boats, trailers, aircraft, monuments, farm machinery and equipment, and for the storage of same prior to sale.

OPEN SPACE

Any site, parcel, lot, area, or outlot of land or water essentially unimproved and set aside, dedicated, designated, or reserved for the public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space. Land that is to be used primarily for resource protection, agriculture, recreational purposes, or otherwise left undisturbed and specifically excluding road rights-of-way and lots. Open space land shall not be occupied by nonrecreational buildings, roads, drives, public rights-of-way, or off-street parking areas for nonrecreational uses. Land located within the yards or lots of residential and/or nonresidential properties is not considered open space unless it is deed restricted for open space protection or natural resource features protection. Where lots or individual condominium unit site areas are above the minimum sizes required and the excess lot area or site area is deed restricted to open space uses, it may be counted as open space.

[Amended 3-3-2004 by Ord. No. 04-001]

OPEN SPACE, DEED-RESTRICTED

Deed-restricted open space on platted lots or within condominium plats is not occupied by any principal or accessory buildings or structures, roads, road rights-of-way, or parking areas. Deed-restricted open space on platted outlots is not occupied by nonrecreational principal or accessory buildings or structures, roads, road rights-of-way, or parking areas. The maintenance of deed-restricted open space located on platted outlots or condominium plats is by a homeowners' association. The maintenance of deed-restricted open space located on platted lots is by the individual lot owner.

[Amended 3-3-2004 by Ord. No. 04-001]

OPEN SPACE, PUBLIC

A. An open space area conveyed or otherwise dedicated to a municipality, municipal agency, public school district, state or county agency, or other public body for recreational or

conservational uses.

- B. Any publicly owned open area, including but not limited to the following: parks, playgrounds, forest preserves, beaches, waterways, and parkways, but not including public streets.

OPEN SPACE RATIO (OSR)

The number derived by dividing the open space of the site by the base site area. When applied to natural resource protection, the open space ratio shall include the natural resource feature(s) to be protected. Minimum requirements for open space ratios are set forth for the various zoning districts under individual zoning district requirements sections of this chapter.

OPTION, DEVELOPMENT

Alternative development types within specific residential zoning districts as set forth in this chapter.

ORDINARY HIGH-WATER MARK

The point on the bank or shore of a navigable water up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.

OWNER

Includes the plural as well as the singular and may mean either a natural person, individual, firm, association, syndicate, partnership, private corporation, public or quasi-public corporation, or combination of these having sufficient proprietary interest to seek development of land.

OWNERSHIP, ONE

For the purpose of this chapter, lots shall be considered as owned by the same person when they are owned by the same individual or corporation; an individual and another in joint tenancy, or as tenants in common, and either of said joint or common tenants owns other lots individually or as a joint tenant or tenant in common with another; an individual and other lots by his spouse, parent, grandparents, children, grandchildren, or the spouse of any child or grandchild, or a brother or sister; or when any of said lots are owned by an individual and other lots are owned by a corporation in which said individual is an officer or director or controlling stockholder.

PARKING AREA, PRIVATE

An open, hard-surfaced area, other than a street or public way, designed, arranged, and made available for the storage of private passenger automobiles only, of occupants of the building or buildings for which the parking area is developed and is accessory.

PARKING AREA, PUBLIC

An open, hard-surfaced area, other than a street or public way, intended to be used for the storage of passenger automobiles and commercial vehicles under 1 1/2 tons' capacity, and available to the public, whether for compensation, free, or as an accommodation to clients or customers.

PARKING SPACE, AUTOMOBILE

Space within a public or private parking area of not less than 180 square feet (nine feet by 20 feet), exclusive of access aisles or drives, ramps, columns, or office and work areas, for the storage of one passenger automobile or commercial vehicle under 1 1/2 tons' capacity.

PARK, PRIVATE

A privately owned outdoor recreational area.

PARK, PUBLIC

A publicly owned recreational area.

PARTICULATE MATTER

For the purposes of determining air contaminations, "particulate matter" is any material other than water which is suspended in or discharged into the atmosphere in a finely divided form as a liquid or

solid capable of being airborne or gasborne. Dust is solid particulate matter capable of being airborne or gasborne.

PASTURE

An area of grass or other vegetative cover grown for the purpose of grazing animals.

PEDESTRIANWAY

A public way that is intended for the convenience of pedestrians only; it may also provide public right-of-way for utilities.

PERFORMANCE STANDARD

A criterion to control noise, odor, smoke, toxic or noxious matter, vibration, fire and explosive hazards, or glare or heat generated by or inherent in uses of land or buildings.

PERMITTED USE

A use by right which is specifically authorized in a particular zoning district.

PERSON

Means and includes any natural person, firm, corporation, or partnership.

PLAN COMMISSION

The Town of Barton Plan Commission created by the Town Board pursuant to §§ 60.61, 60.62, 61.35, and 62.23, Wis. Stats.

PLAN, DEVELOPMENT

The Washington County Development Plan (including components thereof, including park, recreation, open space, and transportation plans) text and all accompanying maps, charts, explanatory material adopted by Washington County pursuant to § 59.69, Wis. Stats., and all amendments thereto.

POND

All bodies of water less than two acres in area as measured by the shoreline at its maximum condition rather than the permanent pool condition, if there is any difference.

POND, WATER QUALITY

A man-made pond constructed to improve the water quality of an area.

PORCH

A roofed-over structure projecting out from the wall or walls of a main structure and commonly open to the weather in part.

PRELIMINARY PLAT

A map showing the salient features of a proposed subdivision submitted to an approving authority for purposes of preliminary consideration pursuant to the requirements of both Ch. 236, Wis. Stats., as amended, as well as Chapter **340**, Land Division, of this Code.

PRINCIPAL USE

The main use of land or buildings as distinguished from a subordinate or accessory use.

PROTECTIVE COVENANTS

Contracts entered into between private parties or between private parties and public bodies which constitute a restriction on the use of all private property or platted property within a minor land division or subdivision for the benefit of the public or property owners and to provide mutual protection against undesirable aspects of development that would tend to impair stability of values.

PUBLIC WAY

Any public road, street, highway, walkway, drainageway, or part thereof.

QUARTERS, TEMPORARY

A room or rooms located on the property and intended for the temporary use of a watchman, servant, owner, etc. These quarters shall not be used as permanent living quarters.

QUEUING SPACE

That on-site area required, in terms of the number of cars that must be accommodated, while awaiting ingress or egress to specified business or service establishments.

RECREATION, ACTIVE

Recreational facilities oriented to competitive activities, including, but not necessarily limited to, baseball, softball, soccer, football, tennis, basketball, playground or play field, ice-skating area, picnicking, and swimming.

RECREATION, PASSIVE

Recreational uses, areas, or activities oriented to noncompetitive activities which require no special equipment. Passive recreation areas are generally maintained by mowing. Bicycle riding, hiking, and bird watching are examples of passive recreation activities.

REGISTER OF DEEDS

Washington County Register of Deeds.

RESTAURANT

Any land, building, or part thereof, other than a boardinghouse, where meals are provided for compensation, including a cafe, cafeteria, coffee shop, lunchroom, tearoom, and dining room, and including the serving of alcoholic beverages when served with and incidental to the serving of meals.

RESTAURANT, FAST-FOOD

- A. An establishment whose principal business is the sale of food and/or beverages in a ready-to-consume state for consumption as follows:
 - (1) Within the restaurant building;
 - (2) Within a motor vehicle parked on the premises; or
 - (3) Off the premises as either carry-out orders or orders using a drive-through facility.
- B. The principal method of operation includes the serving of food and/or beverages in paper, plastic, or other disposable containers.

REST HOME

(See definition of "nursing home.")

RINGELMANN CHART

A chart which is described in the United States Bureau of Mines Information Circular 7718, and on which are illustrated graduated shades of grey for use in estimating the light-obscuring capacity of smoke.

RINGELMANN NUMBER

The number of the area on the Ringelmann Chart that coincides most nearly with the visual density of smoke emission.

ROOFLINE

The top or bottom edge of a roof or building parapet, excluding any cupolas, pylons, chimneys, or other minor projections.

ROOMING HOUSE

A building with not more than five guest rooms where lodging is provided for compensation, pursuant to previous arrangement, but not open on a daily, overnight, or per-meal basis to transient guests.

RUNOFF

The rainfall, snowmelt, discharge pumping, or irrigation water flowing over the ground surface.

RURAL AREA

Those areas of the Town of Barton not within a Town of Barton adopted delineated public sanitary sewer service area in conformance with an adopted areawide water quality management plan.

SAND AND GRAVEL PITS

Includes the removal of sand or gravel deposits from the land for commercial purposes, regardless of whether or not such operation results in the creation of a depression in the ground.

SANITARIUM

(See definition of "hospital.")

SEAT

Furniture upon which to sit having a linear measurement not less than 24 inches across the surface used for sitting; intended for use in determining off-street parking requirements.

SERVICES, ESSENTIAL

Services provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface, or overhead gas, electrical, steam, water, sanitary sewerage, stormwater drainage, and communications systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, and hydrants, but not including buildings.^[9]

SETBACK

Those minimum street, front, rear, and/or side yards required by this chapter.

SETBACK LINE, BASE

The ultimate street line as established by the Comprehensive Plan of the Town, or component thereof, and/or a highway width ordinance of Washington County or by an Official Map of the Town. On all such streets, the base setback line shall be located at a distance from the center line equal to 1/2 of such established width. On all other streets, the base setback line shall be 30 feet from the center line of such street or 60 feet from the center point of a cul-de-sac, unless specifically designated otherwise by the Town Board of the Town. The base setback line of frontage roads shall be located at a distance from the center line equal to 1/2 of the right-of-way of said frontage road. All setback lines shall be parallel to and measured at right angles to the center line of the street or highway. All front yard building setbacks shall be measured from the base setback lines.

SETBACK LINE, BUILDING

A line parallel to the street line at a distance from it regulated by the front yard requirements set up in this chapter.

SHELTER, EMERGENCY

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

SHOPPING CENTER

A group of commercial establishments which is planned, developed, owned, and managed as a unit.

SHORELAND

Those lands lying within the following distances from the ordinary high-water mark of navigable waters: 1,000 feet from a lake, pond, or flowage; and 300 feet from a river or stream, or to the landward side of the floodplain as designated on the adopted Washington County Shoreland and/or Floodplain Zoning Map, whichever distance is greater

SIC

Standard Industrial Classification from the 1987 (or latest edition) manual published by the Executive Office of the President, Office of Management and Budget.

SITE AREA, BASE

(See Article VIII of this chapter.)

SITE AREA, NET

The entire land area within the boundaries of a site, less the area of all land required or proposed for public use, open space, or natural resource preservation or protection.

SITE CAPACITY ANALYSIS

A calculation of buildable site area, taking into account its resource protection land, open space, and other lands (see Article VIII of this chapter).

SITE PLAN

(See Article XX of this chapter.)

SLOPE

The degree of deviation of a surface from the horizontal, usually expressed in percent or degrees.

SLOPE, STEEP

Three categories of steep slopes are defined herein for use in this chapter. These categories are based upon the relative degree of the steepness of the slope as follows: 10% to 20%, 20% to 30%, and greater than 30%. No land area shall be considered a steep slope unless the steep slope area has at least a ten-foot vertical drop and has a minimum area of 5,000 square feet.

SMOKE

Small gasborne particles other than water that form a visible plume in air.

SMOKE UNITS

The number obtained by multiplying the smoke density in Ringelmann numbers by the time of emission in minutes. For the purpose of this chart, a Ringelmann density reading is made at least once every minute during the period of observation; each reading is then multiplied by the time in minutes during which it is observed, and the various products are added together to give the total number of smoke units observed during the total period under observation.

SOUND-LEVEL METER

An instrument standardized by the American Standards Association for measurement of intensity of sound.

SPECIAL USE

A use permitted by special zoning certificate in accordance with the provisions of this chapter.

STABLE, BREEDING, BOARDING, TRAINING

A use in which equines are kept primarily for breeding, boarding, training, and/or giving lessons, but in no event for rent or hire to the public.

STABLE, LIVERY

Any building, other than a private stable, designed, arranged, used, or intended to be used for the storage of horses and horse-drawn livery, or both.

STABLE, PRIVATE

Any building which is located on a lot on which a dwelling is located and which is designed, arranged, used, or intended to be used for housing horses for the private use of occupants of the dwelling.

STABLE, PUBLIC

A use on which equines are kept for sale or hire to the public. Breeding, boarding, or training of equines may also be conducted.

STAND, ROADSIDE

A farm building used or intended to be used solely by the owner or tenant of the farm on which such building is located for the sale of the farm products raised on said farm.

STORY

That portion of a building included between the surface of any floor and the surface of the floor above it, or if there is no floor above, then the space between the floor and the ceiling above it.

STORY, HALF

That portion of a building under a gable, hip, or mansard roof, the wall plates of which on at least two opposite exterior walls are not more than 4.5 feet above the finished floor of each story. In the case of one-family dwellings, two-family dwellings, and multiple-family dwellings less than three stories in height, a half story in a sloping room shall not be counted as a story.

STREAM

A course of running water, either perennial or intermittent, flowing in a channel.

STREET

A public way, other than an alley, which affords a primary means of access to abutting property.

STREET, ARTERIAL

A federal-, state-, or county-marked route normally having four lanes for traffic and some form of median marker; may also be a Town-designated arterial street in the adopted Town of Barton Comprehensive Plan or component thereof or on the Official Map. Parking may be banned. A street used, or intended to be used, primarily for fast or heavy through traffic providing for the expeditious movement of through traffic into, out of, and within the community. Arterial streets shall include freeways and expressways, as well as standard arterial streets, highways, and parkways. Arterial streets shall be located to minimize the penetration of such streets through existing and proposed residential areas. Arterial streets shall be designed to convey an average daily traffic (ADT) of 3,000 and greater.

STREET, COLLECTOR

A street used, or intended to be used, to carry traffic from minor streets to the system of arterial streets, including principal entrance streets to residential developments and/or activity/employment centers. Collector streets shall be designed to convey an average daily traffic (ADT) of between 500 and 3,000.

STREET, FRONTAGE

A minor street auxiliary to and located on the side of an arterial street for control of access and for service to the abutting development.

STREET LINE

A line separating a lot, piece, or parcel of land from a street.

STREET, MINOR

A street used, or intended to be used, primarily for access to abutting properties. Residential minor streets that are designed as either looped or through streets shall be designed so that no section conveys an average daily traffic (ADT) greater than 500. Residential minor land access streets that are designed as permanent cul-de-sac streets shall be designed so that no section conveys an average daily traffic (ADT) greater than 250.

STRUCTURAL ALTERATION

Any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams, and girders.

STRUCTURE

Anything constructed or erected which requires location on the ground, including a fence or freestanding wall. A sign, billboard, or other advertising medium, detached or projecting, shall be construed to be a structure.

STRUCTURE, NONCONFORMING

Any structure which does not conform to the regulations of this chapter prescribing the maximum floor area ratio, required yards, coverage, height and setbacks, minimum required spacing between structures on a single lot, or minimum required usable open space for the district in which such structure is located.

SUBDIVISION

The division of a lot, parcel, or tract of land by the owners thereof, or their agents, for the purpose of transfer of ownership or building development where the act of division creates five or more parcels or building sites of 10 acres each or less in area, or where the act of division creates five or more parcels or building sites of 10 acres each or less in area by successive division within a period of five years.

SUBDIVISION, CONVENTIONAL

A residential subdivision which does not provide a designated amount of open space as set forth under the requirements of Article **V** of this chapter for an open space subdivision or an open space condominium.

[Amended 3-3-2004 by Ord. No. 04-001]

SUBDIVISION, OPEN SPACE

A residential subdivision which provides a designated amount of open space as set forth under the requirements of Article **V** and § **500-72A** of this chapter.

SUBGRADE

The natural ground lying beneath the structural portion of a road.

SURETY BOND

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

TAVERN

A building where liquors are sold to be consumed on the premises, but not including restaurants, where the principal business is serving food.

TERMINAL, MOTOR FREIGHT

A building in which freight, brought to said building by motor truck, is assembled and sorted for routing in intrastate and interstate shipment by motor truck.

THEATER

(See definition of "auditorium.")

TOT-LOT

A park or recreational area less than five acres in area equipped with children's play equipment and play apparatus.

TOURIST COURT

(See definition of "motel.")

TOURIST HOME

A dwelling in which accommodations are provided or offered for transient guests.

TOWER

Any structure that is designed and constructed for the purpose of supporting one or more transmitting or receiving antennas for telephone, radio, and similar communication purposes, including self-supporting lattice towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any structural support thereto.

[Added 6-24-2009 by Ord. No. 09-03]

TOWN ATTORNEY

The Town Attorney of the Town of Barton, Washington County, Wisconsin.

TOWN BOARD

The Town Board of the Town of Barton, Washington County, Wisconsin.

TOWN CLERK

The Town Clerk of the Town of Barton, Washington County, Wisconsin. For application purposes, the term "Town Clerk" may include the Town Board's authorized agent.

TOWN ENGINEER

The Town Engineer of the Town of Barton, Washington County, Wisconsin.

TOXIC AND NOXIOUS MATTER

Any solid, liquid, or gaseous matter, including but not limited to gases, vapors, dusts, fumes, and mists, containing properties which by chemical means are inherently harmful and likely to destroy life or impair health or capable of causing injury to the well-being of persons or damage to property.

TRAILER

A vehicle without motor power used or adaptable for living, sleeping, hauling, business, or storage purposes, having no foundation other than wheels, blocks, skids, jacks, horses, or skirting, which does not meet Building Code requirements, and has been or reasonably may be equipped with wheels or other devices for transporting the structure from place to place. The term "trailer" shall include "camp car" and "house car." A permanent foundation shall not change its character unless the entire structure is erected in accordance with prevailing Town codes and ordinances.

TRAILER HOUSE

(See definition of "mobile home.")

TRAILER PARK

(See definition of "mobile home park.")

TRAILER SALES AREA

An open area, other than a street, used for the display or sale of new or used trailers, and where no repair work is done except for minor incidental repair of trailers to be displayed and sold on the premises.

TREE

Any self-supporting, woody plant, together with its root system, growing upon the earth usually with one trunk, or a multistemmed trunk system, supporting a definitely formed crown.

TREE, CANOPY

A tree whose leaves would occupy the upper level of a forest in a natural ecological situation. This type of tree is often referred to as a "shade tree."

TREE, STREET

A tree located in a public place, street, special easement, or right-of-way adjoining a street.

TREE, UNDERSTORY

A tree whose leaves would occupy the lower level of a forest in a natural ecological situation. This type of tree is often referred to as an "ornamental tree."

TRIP

A single or one-way vehicle movement to or from a property.

TRUCK PARKING AREA

Any land used or intended to be used for the storage or parking of trucks, trailers, tractors, and including commercial vehicles, while not loading or unloading, which exceed 1 1/2 tons in capacity.

TRUCK PARKING YARD

(See definition of "truck parking area.")

URBAN AREA

That portion of the Town of Barton located within a Town of Barton adopted delineated public sanitary sewer service area in conformance with an adopted areawide water quality management plan.

USE

The purpose for which land or a building thereon is designed, arranged, or intended, or for which it is occupied or maintained, let, or leased.

USE, ACCESSORY

(See definition of "accessory structure or use.")

USE, NONCONFORMING

(See definition of "nonconforming use.")

USE, PERMITTED

(See definition of "permitted use.")

USE, PRINCIPAL

(See definition of "principal use.")^[10]

UTILITY, PUBLIC

Any person, firm, corporation, or municipal department duly authorized to furnish, under public regulation, to the public electricity, gas, steam, telephone, transportation, or water.

VARIANCE, MINOR

A variance from the terms and provisions of the Building Code and this chapter which may be granted only to accessory buildings of 150 square feet or less in area, decks, and fences.

VEHICLE, COMMERCIAL

Any vehicle over 6,000 pounds' empty weight.

VETERINARY CLINIC

(See definition of "hospital, animal.")

VETERINARY HOSPITAL

(See definition of "hospital, animal.")

VIBRATION

Ground-transmitted oscillations. The periodic displacement or oscillation of the earth.

VIBRATIONS, IMPACT

Discrete impulses which do not exceed 60 per minute.

VIBRATIONS, STEADY-STATE

Vibrations which are continuous, or vibrations in discrete impulses more frequent than 60 per minute.

WATERCOURSE

A permanent or intermittent stream channel.

WETLAND

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.

WETLAND, SHORELAND

A wetland, as defined by this chapter, which is located within a shoreland area.

WISCONSIN ADMINISTRATIVE CODE

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

WOODLAND, MATURE

An area or stand of trees whose total combined canopy covers an area of one acre or more and at least 50% of which is composed of canopies of trees having a diameter at breast height (DBH) of at least 10 inches; or any grove consisting of eight or more individual trees having a DBH of at least 12 inches whose combined canopies cover at least 50% of the area encompassed by the grove. However, no trees grown for commercial purposes should be considered a mature woodland.

WOODLAND, YOUNG

An area or stand of trees whose total combined canopy covers an area of 0.50 acre or more and at least 50% of which is composed of canopies of trees having a diameter at breast height (DBH) of at least three inches. However, no trees grown for commercial purposes shall be considered a young woodland.

YARD

An open space on the same zoning lot with a principal building or group of buildings, which is unoccupied and unobstructed from its lowest level upward, except as otherwise permitted in this chapter, and which extends along a lot line and at right angles thereto to a depth or width specified in the yard regulations for the district in which the zoning lot is located.

YARD, FRONT

A yard extending along the full length of the front lot line between the side lot lines. That yard which is obviously the front by reason of the prevailing custom of the other buildings in the area or in the Town. Where such front yard is not obviously evident to the Zoning Administrator, the Zoning Administrator shall determine the front yard.

[Amended 11-1-1995 by Ord. No. 95-2]

YARD, REAR

A yard extending along the full length of the rear lot line between the side lot lines. On a corner lot, the rear yard shall be that yard directly opposite the front yard.

YARD, SHORE

A yard extending across the full width or depth of a lot, the depth of which shall be the minimum horizontal distance between a line intersecting both side lot lines at the same angle and containing the point of the one-hundred-year recurrence interval floodplain or ordinary high-water mark of a pond, stream, lake, or wetland nearest the principal structure and a line parallel thereto containing the point of the principal structure nearest the one-hundred-year recurrence interval floodplain or high-water line.

YARD, SIDE

A yard extending along a side lot line from the front yard to the rear yard.

YARD, STREET

A yard extending the full width of a lot in that area of a lot located between a lot line abutting a street right-of-way and a building line.

[Added 11-1-1995 by Ord. No. 95-2]

ZONING ADMINISTRATOR

The Zoning Administrator of the Town of Barton, Washington County, Wisconsin.

ZONING BOARD OF APPEALS

Reference to "Zoning Board of Appeals" shall refer to the Board of Zoning Appeals of the Town of Barton, Washington County, Wisconsin. The term "Zoning Board of Appeals," as used herein, is synonymous with a "Board of Adjustment" as referred to in § 60.65, Wis. Stats.

ZONING DISTRICT

As defined by this chapter and its accompanying maps, as amended.

ZONING LOT

A single tract of land located within a single block which (at the time of filing for a building permit) is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control. Therefore, a zoning lot may or may not coincide with a lot of record.

ZONING MAP

The map or maps incorporated into this chapter as a part hereof, designating and delineating boundaries of zoning districts.

ZONING PERMIT

The permit required by this chapter prior to the erection, reconstruction, enlargement, or moving of any building or structure or use of a structure, land, or water where such erection or use complies with all provisions of this chapter.

- [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- [2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- [3] *Editor's Note: The original definition of "Comprehensive Master Plan," which immediately followed this definition, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II). See now the definition of "Comprehensive Plan."*
- [4] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- [5] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- [6] *Editor's Note: The original definition of "Inspector," which immediately followed this definition, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- [7] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- [8] *Editor's Note: The original definition of "Master Plan," which immediately followed this definition, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II). See now the definition of "Comprehensive Plan."*
- [9] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- [10] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

Part 10. Enactment

Article XXXI. Adoption of Provisions

§ 500-202. Public hearings.

The Town of Barton Town Board held public hearings on this proposed chapter of zoning regulations and Zoning Map for the Town of Barton pursuant to the requirements of §§ 60.62, 61.35, and 62.23(7), Wis.

Stats., on July 10, 1995.

§ 500-203. Plan Commission recommendation.

The Plan Commission recommended to the Town Board the adoption of this chapter and Zoning Map at its meeting held on July 10, 1995.

§ 500-204. Town Board approval.

The Town Board of the Town of Barton concurred with the recommendations of the Plan Commission and proceeded to adopt this chapter at a meeting held on July 10, 1995.