

STATE OF WISCONSIN

Town of Rushford
Winnebago County

The town board of the Town of Rushford, Winnebago County, Wisconsin, does hereby ordain as follows:

The code of ordinances in book form entitled, "Town of Rushford Code of Ordinances", having been placed on file and open to public inspection in the office of the town clerk for a period of two weeks commencing, August 14, 2015, pursuant to Wis. Stat. s. 66.0103, is hereby adopted as the general code of ordinances in and for the Town of Rushford, Winnebago County, Wisconsin.

This ordinance shall take effect upon passage by Winnebago County Board and posting as required by law.

Approved by Winnebago County Board on October 20, 2015 – effective October 22, 2015.

Town Board Chairperson: Thomas J. Egan (Signature)

Town Board Supervisor: Jeremy Schoeninger (Signature)

Town Board Supervisor: Paul Kof (Signature)

Town Clerk (Attest): Rebecca L. Anderson (Signature)

Following passage by the Town Board and County Board, this ordinance shall take effect the day after the date of publication or posting as provided by sec. 60.80, Wis. Stats.

ADOPTED this 22nd day of October, 2015.

Thomas J. Egan (Town Board Chairperson)

Posted this 5th day of November, 2015.

Attest: Rebecca L. Anderson (Town Clerk)

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1.1. INTRODUCTION

1.1.1. Authority, Purpose and Intent [\(back to top\)](#)

This ordinance is adopted under the authority granted by Sections 59.97 (5)(d), 60.10 (2)(c), 60.22 (3), 60.62, 61.35 and 62.23 of the Wisconsin Statutes. The purpose is to promote the health, safety, morals, beauty, aesthetics and general welfare of the Town of Rushford. The general intent is to produce a uniform zoning format for the town.

1.1.2. Abrogation and Greater Restrictions [\(back to top\)](#)

It is not intended by this Ordinance to interfere with, abrogate or annul any existing easements, covenants, or other agreements between parties, nor is it intended by this Ordinance to repeal, abrogate, annul or in any way impair or interfere with any existing provisions of law or ordinance, or rules, regulations or permit previously adopted or issued, or which shall be adopted or issued pursuant to law relating to the use of structures or premises. However, whenever this Ordinance imposes greater restrictions, the provisions of this Ordinance shall control. In addition, the provisions of the Winnebago County, Wisconsin, Shoreland/Flood Plain Ordinance, as adopted by said County as of the date of this Ordinance and as it may later be amended, are incorporated by reference. Whenever the Winnebago County Shoreland/Flood Plain Ordinance conflicts with applicable underlying provisions of this Zoning Ordinance, the more restrictive combinations of such ordinances shall govern.

1.1.3. Interpretation [\(back to top\)](#)

The provisions of this Ordinance shall be held to be minimum requirements adopted to promote the health, safety, morals, beauty, aesthetics and general welfare of the Town of Rushford, Winnebago County, Wisconsin, and shall be liberally construed in favor of the Ordinance.

1.1.4. Severability [\(back to top\)](#)

If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a Court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

1.1.5. Effective Date [\(back to top\)](#)

This amended Ordinance shall be effective as of 12:01 A.M., on the day after its adoption by the Town Board, its approval by a special Town Meeting called for such purpose, its approval by the Winnebago County Board, and its posting and publication, and shall remain in force and effect in the Town of Rushford until amended, rewritten or abolished by the Town Board of the Town of Rushford.

1.1.6. Title [\(back to top\)](#)

This amended Ordinance may be referred to as the Town of Rushford General Zoning and Land Use Regulation Ordinance, the General Zoning Ordinance, or the Zoning Ordinance.

1.1.7. Applicability [\(back to top\)](#)

This ordinance applies to all development, structures, and land uses within the boundaries of the Town of Rushford situated outside the limits of Shoreland/Flood Plain jurisdiction of Winnebago County.

1.1.8. Map [\(back to top\)](#)

This Ordinance includes the map, dated _____, _____ 2013 indicating the boundaries of all the zoning districts established by this Ordinance for the Town of Rushford, which map is incorporated herein by reference.

1.2. DEFINITIONS [\(back to top\)](#)

For the purpose of this Ordinance, the definitions set forth in this section shall be used. Words used in the present tense include the future. The singular number includes the plural number; the plural number includes the singular. The word "shall" is mandatory and not permissive. For technical terms not defined in this section, the definitions of ASPO Report No. 322 are

incorporated by reference. Shoreland definitions set forth in Chapter NR 116 of the Wisconsin Administrative Code are incorporated by reference.

Access means a recognized point of connection providing for vehicular entry on to a local road where evidence of use has been clearly established.

Accessory building means a building, or any portion of a building that is subordinate to the main building and that is used for a purpose incidental to the permitted use of the main building or the premises.

Accessory use means any use that is subordinate to the principal use and that is incidental to the principal use.

Adult Oriented Establishment shall include but not be limited to adult bookstores, adult motion-picture theaters (indoor or outdoor), adult mini motion-picture theaters, adult motels, adult novelty shops, adult cabarets, adult bath houses, adult modeling studios, and adult body painting studios and further means any premises to which public patrons or members are regularly invited, admitted and/or allowed to view adult entertainment, whether or not such entertainment is held, conducted, operated or maintained for profit, direct or indirect. "Adult oriented establishment" further includes, without being limited to, any adult entertainment studio or any premises that are physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term or like import.

Agricultural accessory use means any of the following land uses on a farm:

- (1) A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use. This may include, for example:
 - (a) A facility used to store or process raw agricultural commodities, all of which are produced on the farm.
 - (b) A facility used to keep livestock on the farm.
 - (c) A facility used to store or process inputs primarily for agricultural uses on the farm.
 - (d) A facility used to keep or service vehicles or equipment primarily employed in agricultural uses on the farm.
 - (e) A wind turbine or solar energy facility that collects wind or solar energy on the farm, and uses or transforms it to provide energy primarily for use on the farm.
 - (f) A manure digester, biofuel facility, or other facility that produces energy primarily for use on the farm and that primarily uses materials grown or produced on the farm.
 - (g) A waste storage or processing facility used to store or process animal waste produced solely from livestock kept on the farm.
- (2) An activity or business operation that is an integral part of, or incidental to, an agricultural use.
- (3) A business, activity, or enterprise, regardless of whether it is associated with an agricultural use, which meets all of the following requirements:
 - (a) It is conducted on a farm by an owner or operator of that farm.
 - (b) It requires no building, structure, or improvement that is not an integral part of or incidental to an agricultural use or that is not a farm residence or a normal appurtenance to a farm residence.
 - (c) It employs no more than 4 full-time employees at any time.
 - (d) It does not impair or limit the current or future agricultural use of the farm or other protected farmland.
- (4) Hunting shacks or warming shacks provided that no water or sewage facilities are included.

Agricultural use means any of the following activities conducted for the purpose of producing an income or livelihood:

- (1) Aquaculture.
- (2) Beekeeping.
- (3) Crop or forage production.
- (4) Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.
- (5) Floriculture.
- (6) Forest management.
- (7) Fur farming.
- (8) Keeping livestock.
- (9) Nursery, sod, or Christmas tree production.

Agriculture-related uses means a facility, regardless of whether it is located on a farm, that has at least one of the following as a primary and not merely incidental purpose:

- (1) Marketing livestock to or from farms.
- (2) Processing agricultural by-products or wastes received directly from farms.
- (3) Providing agricultural supplies, agricultural equipment, agricultural inputs or agricultural services directly to farms.
- (4) Slaughtering livestock.
- (5) Storing, processing or handling raw agricultural commodities obtained directly from farms.

Alley means a public thoroughfare, which affords only a secondary means of access to abutting property.

Animal unit means the value used to establish the maximum number of animals permitted on a tract of land. Animal units are calculated by multiplying the number of animals of a particular type by the appropriate Animal Unit Factor for that type of animal. The Animal Unit Factor for each type of livestock is set by the Wisconsin Department of Agriculture, Trade and Consumer Protection and published at Wis. Admin. Code ch. ATCP 51, Appendix A, Worksheet 1.

Automobile wrecking yard means any premises on which more than one automotive vehicle, not in running or operating condition, is stored in the open.

Antenna means any device or equipment used for the transmission or reception of electromagnetic waves, which may include omni-directional antenna (rod), directional antenna (panel), or parabolic antenna (disc).

Basement means a story partly underground but having at least one-half of its height above the mean level of the adjoining ground. A basement shall be counted as a story for the purpose of height measurements if the vertical distance between the ceiling and the mean level of the adjoining ground is more than five feet.

Bed and breakfast means a place of lodging for transient guests that is the owner's personal residence, that is occupied by the owner at the time of rental, and in which the only meal served to guests is breakfast.

Boarding house means building, other than a hotel or motel, where lodging, meals, or both, are furnished for compensation for 4 or more persons who are not members of a family.

Building height means the vertical distance from the main elevation of the finished grade along the front of the building to the highest point.

Camp ground means a tract or parcel of land, privately or publicly owned, designated, maintained, intended, and used for the purpose of accommodating people, vehicles,

equipment, and other accessories, for living and sleeping accommodations in a recreational setting, thereby supplying a location for day to day and overnight camping.

Camping trailer means a vehicle with a collapsible or folding structure designed for human habitation and towed upon a highway by a motor vehicle and any device designed for movement from place to place which provides protection from the elements and is used for living and sleeping accommodations on a day to day basis, including overnight camping, and is primarily used in a recreational and/or sporting activity, and including optional accessories of the same nature.

Carport means a private garage not completely enclosed by walls or doors. For the purpose of this ordinance, a carport shall be subject to all the regulations prescribed for a private garage.

Cellar means a story having more than one-half of its height below the mean level of the adjoining ground. A cellar should not be occupied for living purposes, and shall not be counted as a story for purposes of height measurement.

Cluster Subdivision – In the Town of Rushford, a Cluster Subdivision is allowing the consolidation of all single family homes on 25% (can be increased up to 40% if the Town accepts incentives to relax density standards) of an entire parcel, with the remaining 75% (not less than 60% based on incentives) being left open and undeveloped, and such land has the option of becoming a conservation easement, a donation (if acceptable to the recipient) to the County, Town or other entity to create permanent open space, being rented for farming, or being conveyed to any other entity that will only use the land as open space.

Co-Location means the location of more than one antenna or set of antennas on the same tower structure.

Commercial means the use of land or a structure for the purpose of generating income.

Common ownership means ownership by the same person or persons or by a legal entity that is owned, in whole or in part, by the same person or persons. For the purposes of this ordinance, ownership by one member of a married couple is deemed to be common ownership by the married couple.

Community-based Residential Facility (CBRF) means a place where three (3) or more unrelated adults reside in which care, treatment, or services above the level of room and board, but not including nursing care, are provided in the facility. A community-based residential facility is subject to State-level licensing and operational limitations are set forth in Chapter 50 of the Wisconsin Statutes.

Community use means a structure and related premises used to provide athletic, civic, cultural, educational, medical, recreational, religious, or social programs and services to the community. Community uses include, but are not limited to such things as a church, clinic, community center, fire station, hospital, library, mausoleum, municipal hall, museum, park, playground, police station, or school.

Conditional use means a use, either public or private, which because of its unique characteristics cannot be properly classified as a permitted use in any particular district or districts. After the Town Planning & Zoning Committee gives due consideration to the impact of such use on the neighboring land and the public need for the particular use at a particular location, the Planning & Zoning Committee shall make a recommendation to the Town Board, who may or may not grant the conditional use.

Conservation Subdivision In the Town of Rushford, a Conservation Subdivision is allowing the consolidation of all single family homes on 25% (can be increased up to 40% if the Town accepts incentives to relax density standards) of an entire parcel, with the remaining 75% (not less than 60% based on incentives) being owned and maintained by a Homeowner's Association into perpetuity. (Example of Conservation/ Cluster Subdivision follows Cluster Subd. definition)

Contiguous means adjacent to or sharing a common boundary. A lot, parcel, or tract is contiguous with another lot, parcel, or tract if they have all, part, or any point of any boundary line in common. Lots, parcels, or tracts that are separated by a pipeline, private road, public

road, railroad, right-of-way, river, section line, stream, transportation easement, transmission line, or transmission right-of-way are contiguous.

Development means any activity which results in an alteration of either land or vegetation, except farming, any normal grading and filling, for purposes of changing or intensifying existing uses in residential, business, recreational, institutional or industrial property.

Driveway means a point of connection providing access to a local road, typically owned and maintained by the residents or businesses gaining access from it.

Family means one or more persons occupying a premise and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house or hotel.

Essential service means electric, gas, sewer, telephone, or water service, including the overhead, surface, or underground distribution or transmission systems necessary to supply the service. It includes the conduits, pipes, poles, towers, wires, and similar devices necessary to supply these services, but does not include any buildings necessary to supply these services. It does not include wind energy systems, wireless communications facilities, or any structure or use listed as a permitted, accessory, or conditional structure or use in any other district.

Farm access means an access point typically unimproved and with very low volume of use, which provides access to an agricultural location for farming purposes.

Farm livestock means beef cattle, dairy cattle, horses, sheep, swine, or veal calves.

Frontage means that part of a property that abuts a street or highway or that lies between the front of a building and a street or highway.

Garage, private means a building or a space for the storage of private property, vehicles, or both.

Garage, public means a building or premises where motor-driven vehicles are equipped, hired, repaired, serviced, sold, or stored. It does not include a private garage or a storage garage that is only used for the storage of motor-driven vehicles pursuant to a prior arrangement, provided that the private garage or storage garage is not used by transients and provided that the private garage or storage garage does not sell equipment, fuel, lubricants, or parts and does not equip, service, repair, hire, or sell motor-driven vehicles.

General Farming includes the raising of livestock, grazing, dairy operations, egg production, commercial feed lots, animal waste, grain, grass, mint and other seed crops, growing fruits, nuts, berries, vegetables and orchards, sod farming, greenhouses, flowers, and nurseries, and the disposition of any real estate or personal property related to general farming by auction.

Grade means the average level of the finished surface of the ground adjacent to the exterior walls of the, building or structure.

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

Height when used with respect to a building means the vertical distance from the finished grade to the highest point of the coping of a flat roof, the deck line of a mansard roof, or the highest gable of a gambrel, hip, or pitched roof.

Height, Tower means the distance measured from the original grade at the base of the tower to the highest point of the tower.

Highway means a state or county highway, and which may serve the town as a whole and areas beyond the town. A highway carries a large volume of traffic. A County Trunk Highway is designated by Winnebago County pursuant to Sec 83.025, Statutes (synonymous with County Road).

Home occupation means an occupation for gain or support conducted only by members of a family residing on the premises and incidental to residence; provided, that no special space is designed or arranged for such occupation and no substantial stock-in-trade is kept or offered for sale except such as may be produced by members of the immediate family residing on the premises.

Hotel or motel means a place where sleeping accommodations are offered for pay to transients, in 5 or more rooms, and all related areas, buildings, and rooms.

Household livestock means an animal that weighs less than 25 pounds.

Intersection means a place where two roads or a road and a highway intersect.

Junk means any material or object that is broken, deteriorated, inoperable, worn out, or in such condition as to be generally unusable in its present state for its original purpose and that has been collected or is stored for conversion to some other use or for destruction or salvage. Any material or object that can be used for its original purpose as readily as when new without being altered, changed, or reconditioned is not considered junk. Junk materials include, but are not limited to, building supplies, cardboard, fabric, glass, metal, organics, paper, plastic, rubber, synthetics, and wood. Junk objects include, but are not limited to, appliances, automobiles, batteries, furniture, implements, machinery, tools, trailers, trash, used tires (including used tires that are holding down covers over hay or straw if the sidewalls of those tires have not been cut to provide drainage), and vehicles. Junk also includes debris, garbage, refuse, trash, waste, and other material and objects commonly designated as junk. However, nothing in this ordinance is intended to prohibit the storage of idle but operable farm equipment.

Junk yard means any parcel of land or structure, or any portion of a parcel of land or structure, on or in which there is an accumulation of junk, unless the accumulation is completely contained within an enclosed structure.

Kennel means tract or parcel of land with or without improvements, privately or publicly owned, designated, maintained, intended, and used to lodge, house, service, or care for animal pets to include any facility to raise, breed, board, or medically treat animal pets.

Lattice (Self-Support) Tower means a telecommunication tower that consists of vertical and horizontal supports and crossed metal braces.

Livestock means bovine animals, camelids, equine animals, farm-raised deer, farm-raised game birds, farm-raised fish, goats, poultry, ratite, sheep, and swine.

Local Road means a publically dedicated street or road, other than a County Trunk or Federal or State Highway, primarily for access to residence, business, or other abutting property.

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

Lodging house means a building other than a hotel where lodging is provided for compensation.

Lot means a parcel of land occupied or to be occupied by one main building or use, with its accessories and including the open space accessory to it. No area shall be counted as accessory to more than one main building or use, and no area necessary for compliance with the open-space requirements for one main building or use shall be included or counted in the calculation of the open space accessory to any other main building or use.

Lot, corner means a lot abutting on 2 or more streets at their intersection, provided that the interior angle of the intersection is less than 135 degrees.

Lot depth means the horizontal distance of a straight line drawn from the midpoint of the front property line of the lot to the midpoint of the rear property line.

Lot line means a boundary line of a lot.

Lot line, adjoining means a lot line on a contiguous parcel that is not under common ownership.

Lot line, front means a lot line that is common to an access easement or a public or private road. If a lot abuts more than one road, the lot owner must designate the lot line that abuts one of the roads as the front lot line at the time the lot is developed.

Lot line, rear means the lot line that is most opposite or most distant from the designated front lot line. If the front lot line is curved, the rear property line will be determined by using a

line tangent to the front property line at its midpoint. If the property abuts a waterfront property, the rear lot line is the lot line that adjoins the ordinary high water line, unless otherwise designated by the town.

Lot line, side means a lot line that intersects a front lot line and a lot line that is not a front or rear lot line.

Lot size means the total area of a tract of land. Roads, rights of way, and open spaces that are dedicated to the public are excluded when calculating lot size.

Lot size, minimum means the smallest tract of land permitted in a zoning district. The minimum lot size depends on the zoning district in which the land is located.

Lot width means the distance between the side lot lines measured along a line that is at right angles to the lot depth line at a point which is set back the minimum required distance from the front lot line.

Manufactured Home means a structure that is designed to be used as a dwelling unit with or without a permanent foundation, built on a permanent chassis, transportable in one or more sections, and certified and labeled as a manufactured home under 42 U.S.C. §§ 5401-5426 and that includes required utilities, such as air conditioning, electrical, heating, and plumbing systems.

Mobile home means a structure that is transportable in one or more sections, built on a chassis, and designed to be used as a dwelling unit with or without permanent foundation, and that was built prior to the enactment of the Federal Manufactured Construction and Safety Standards Act of 1974, which became effective July 15, 1976. When connected to the required utilities, it includes the air conditioning, electrical, heating, and plumbing systems contained in the mobile home.

Monopole means a telecommunication tower of single pole design.

Multiple dwelling means a building or portion thereof used or designed as a residence for three or more families living independently of each other.

Nonconforming lot of record means a single nonconforming parcel that was recorded with the Register of Deeds prior to the date that the town in which the parcel is located initially adopted this ordinance. It also means one or more nonconforming parcels that were recorded with the Register of Deeds prior to the date that the town in which they are located initially adopted this ordinance and that, taken collectively with all adjacent parcels held in common ownership, do not conform to the requirements of this ordinance for the zoning district in which they are located.

Nonconforming parcel means a parcel that does not conform to the requirements of this ordinance for the zoning district in which it is located, was established prior to the date that the town in which it is located initially adopted this ordinance, and was lawful when it was established.

Nonconforming sign means a sign whose dimensions, location, or other physical characteristics do not conform to the requirements of this ordinance, but that conformed to the requirements of the ordinance in effect at the time it was constructed or placed in its current location.

Nonconforming structure means a building or other structure whose dimensions, location, or other physical characteristics do not conform to the requirements of this ordinance, but that conformed to the requirements of the ordinance in effect at the time it was constructed or placed in its current location.

Nonconforming use means a use of land or a structure that does not conform to the use regulations for the zoning district in which it is located, but that conformed to the use requirements of the ordinance in effect at the time that the current use began.

One-family dwelling means a detached building designed for or occupied exclusively by one family.

Open space area or **open space parcel** means a tract of land on which no structures, other than hunting blinds or small sheds, have been constructed or may be approved for construction.

Operation means other than nominal use; when a facility is used regularly as an integral part of an active system of telecommunications, it shall be deemed in operation.

Outdoor wood burning furnace means a device, located outside of the principal structure, that generates heat by burning wood or other solid fuel for the purpose of heating the principal or any other structure on the premises.

Parent parcel means parcels of record, as identified by individual tax parcel numbers, as of the effective date of this ordinance.

Park trailer means a travel trailer that is certified as complying with American National Standards Institute Standard A119.5 and that is designed, intended to be, or actually placed on a site for an extended period of time for the purposes of providing living quarters for camping, recreational, or seasonal use. Typically, a park trailer will not have a holding tank or dual-voltage appliances and will require electrical, water, and sewage connections in order to function.

Parking space means the off-street area required for parking one automobile.

Person means any individual and any association, cooperative, corporation, estate, firm, joint venture, limited liability company, limited liability partnership, local government unit, municipality, organization, partnership, proprietorship, service corporation, trust, or other legal entity.

Premises means a building and the grounds on which the building is located.

Principal use means the main use of land or structures as distinguished from a secondary or accessory use.

Private garage means an accessory structure or portion of the principal building designed and used for the storage of motor vehicles by the occupants of the building to which it is accessory.

Private road means a privately owned access or driveway with multiple parcels or a single owner, not formally accepted or maintained by a governmental body as a Town Road, City Street or County Road or Highway.

Public garage means a garage other than a private garage.

Public use means a structure and related premises used by a private or public entity to provide a public service. Public use includes, but is not limited to, such things as an emergency service facility, exposition space, incinerator, mechanical shop, recycling facility, sewage disposal facility, sewage treatment plant, solid waste storage or transfer station, storage yard, storm water management facility, or warehouse.

Reasonable accommodation means a deviation from the strict requirements of this ordinance which is necessary to provide equal housing opportunity for a disabled person or persons. An accommodation is reasonable if it does not cause an administrative burden, fiscal burden, or undue hardship on the town and does not undermine the basic purpose of this ordinance.

Recreational camp means an area, parcel, premises, or tract of land on which facilities are provided for overnight or short-term camping in bedrolls, camping trailers, motor homes, pick-up coaches, tents, or travel trailers, or that otherwise meets the criteria specified in Wis. Admin. Code ch. DHS 178. A recreational camp includes accessory buildings and service facilities required by the State Board of Health and a residence or living quarters for the owner or caretaker on the premises. For purposes of this ordinance, a recreational camp means the same as and is synonymous with camp and campground.

Recreation center means a facility where recreational activities or amenities are made available to the general public for a fee or are restricted to members.

Recreation vehicle means any unit other than a mobile or manufactured home, whether self-propelled, mounted on, or towed by another vehicle, that is used for recreational purposes. It includes, but is not limited to, an all-terrain vehicle, boat, camper, folding tent trailer, motor home, park trailer, snowmobile, travel trailer, or truck camper.

Roadside stand means a structure with an area of 100 square feet or less that is readily removable in its entirety, not wholly enclosed, and not permanently attached to the ground and that is used solely for the sale of farm products produced on the premises.

Satellite dish means a device incorporating a reflective surface that is solid, open mesh, or bar configured that is shallowish, cone, horn, or cornucopia shaped and is used to transmit and/or receive electromagnetic signals. This definition is meant to include, but is not limited to, what are commonly referred to as satellite earth stations, TVROs and satellite microwave antennas

Setback means the distance from a lot line or other specified line to a structure or other specified point on a lot as measured perpendicularly to the lot line or other specified line.

Sign means any artifact, device, or object that is used or intended to be used to communicate information about, direct attention to, or identify an activity, business, entity, institution, person, place, product, service, or thing.

Sign, directional means a sign that provides information about a place that is deemed by the Wisconsin Department of Transportation or the board of appeals to be of interest to the traveling public. Such places include areas of natural scenic beauty, that contain natural phenomena, or that are naturally suited for outdoor recreation; places that are owned or operated by a government authority; and public or privately owned cultural, educational, historic, and scientific sites.

Sign, electronic means any sign that displays an image or text that can be changed by a computerized, electrical, electronic, or mechanical process.

Sign, government means a sign erected by or on the order of a public official in the performance of his or her official duties, including, but not limited to, danger, directional, traffic control, notice, public safety, public utility, railroad crossing, regulatory, and warning signs.

Sign, marquee means a sign that is attached to or constructed in, on, or under a canopy or other permanent roof-like structure projecting from a wall over the entrance to a building or other structure.

Sign, vehicular means a sign that is attached to or painted on a bus, trailer, truck, or other vehicle that is primarily used for the purpose of providing a surface area for signage and that is not regularly used to provide transportation in the normal day-to-day operation of a business.

Sign, wall means a sign that is affixed to or painted on an exterior wall of a structure, projects not more than 12 inches from the structure, and does not extend more than 6 feet above the eaves, facade, parapet, or roof of the structure on which it is located.

Stable means an accessory building in which horses are kept.

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

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

Structural alteration means any change in a supporting member of a building, such as a beam, bearing partition, bearing wall, column, exterior wall, foundation, or girder and any structural change in the roof.

Structure means anything constructed or erected on the ground or any improvement built up or composed of parts joined together in some definite manner and affixed or attached to the ground, including signs and walls, but not including flowerbed frames and other such minor incidental improvements.

Telecommunication Facility means a facility, site, or location that contains one or more antennas, telecommunication towers, alternative support structures, satellite dish antennas, other similar communication devices, and support equipment which is used for transmitting, receiving, or relaying telecommunication signals, excluding those facilities exempted under Section 1.28(2).

Tower means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including guy towers, monopole towers, and self-supporting lattice towers.

Tower Accessory structure means any structure located at the base of a tower for housing, receiving or transmitting equipment.

Tower, camouflaged means any telecommunication tower that, due to design or appearance, hides, obscures, or conceals the presence of the tower and antenna.

Tower, guyed means a telecommunication tower that is supported in whole or in part by guy wires and ground anchors or other means of support besides the superstructure of the tower itself.

Trade or contractor storage means the inside storage of materials associated with a trade such as carpentry, construction, electric, remodeling, plumbing, roofing, or siding, where the principal business activity is performed off-site.

Travel trailer means a recreation vehicle that is primarily designed to provide temporary living quarters for camping, recreation, or seasonal use; that is built on a single chassis, mounted on wheels, and has gross trailer area not exceeding 400 square feet when set-up; and that is certified as complying with ANSI A119.5.

Two-family dwelling means a building designed for or occupied exclusively by two families living independently of each other.

Usable floor area means the area within the exterior wall lines of a building; provided, that the floor area shall not include attics, cellars or utility rooms, garages, breezeways and unenclosed porches, and other areas not furnished or usable as living quarters.

Utility means a building and related premises used to provide essential services, such as an electrical power substation, gas regulation station, microwave radio relay, sewage pumping station, static transformer station, telegraph and telephone exchange, water pumping station, water tower, or water well. It includes any conduit, duct, equipment, line, pipe, pipeline, pole, tank, tower, wire, or other structure located on the premises that are used to deliver the service, but does not include high-voltage transmission lines used for the transmission or distribution of electricity.

Vacation home rental means a dwelling unit that is advertised or held out to the public as a place where sleeping accommodations are furnished to the public for a period of less than 1 month at a time; that is not a bed and breakfast, hotel, motel, or resort; and that is not the owner's primary residence.

Yard means an open space on the same lot with a principal building or group of Structures which is unoccupied and unobstructed from its lowest level upward, except as otherwise permitted in this ordinance, 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 lot is located. The yard depth or width is measured as the minimum horizontal distance between the lot line and the nearest point of a building or any projection thereof, excluding uncovered steps. Ordinary projection of sills, belt courses, chimneys, flues, eaves and troughs may project into the required yard no more than one third of its minimum width or twenty four inches, whichever is smaller.

Yard, front means an open, unoccupied space on the same lot with the main building, extending the full width of the lot and situated between the front line of the lot and the front line of the building, projected to the side lines of the lot.

Yard, rear means an open space on the same lot as the main building, unoccupied except for accessory structures which may occupy the rear yard as permitted in the residence districts. The rear yard is situated between the rear line of the lot and the rear line of a principal building, projected to the side lines of the lot.

Yard, side means an open, unoccupied space on the same lot with the main building, situated between the side of the building and the adjacent side line of the lot, and extending from the rear line of the front yard to the front line of the rear yard. If there is no front yard, the front boundary of the side yard shall be the front line of the lot, and if there is no rear yard, the rear boundary of the side yard shall be the rear line of the lot.

Vision Corner means a triangular approach zone at street and/or driveway intersections intended to allow visibility of approaching vehicular traffic, pedestrians, or bicycles.

1.3. ZONING DISTRICTS

1.3.1. Establishment of Districts [\(back to top\)](#)

To regulate and restrict the location of trades, industries, residences and other uses, and the location of structures designed, erected, altered or occupied for specific purposes; to regulate and limit the size of the building hereafter erected or altered; to regulate and limit the density of population.

(1) The following zoning districts are created:

- (a) General Agriculture (GA)
- (b) Large Estate Residential (LER)
- (c) Small Estate Residential (SER)
- (d) Rural Residential (RR)
- (e) High Density Residential (HDR)
- (f) Commercial/Business (CB)
- (g) Industrial (ID)
- (h) Public Lands Institutional (PLI)

(2) Official Zoning Maps.

- (a) The Town Clerk shall keep an official zoning map and a copy of each revision to the official zoning map.
- (b) The boundaries of the districts within the Shoreland zoning overlay(s) are set forth on the Official Zoning Map(s) of Winnebago County on file in the office of the Winnebago County Zoning Department.
- (c) In addition to zoning district boundaries, any legend, notation, reference, symbol, or other information shown on the official zoning map is incorporated into this ordinance.

1.3.2. General Agriculture (GA) [\(back to top\)](#)

(1) **Purpose.** The purpose of the General Agriculture (GA) district is to provide a rural area with a mixture of agricultural, low-density residential, and rural commercial activity. The district provides for residential development at modest densities consistent with a generally rural environment and allows for nonresidential uses that require relatively large land areas or that are compatible with the surrounding rural land (minimum of 20 acres, exclusive of road right-of-way).

(2) **Principal Uses.** The following uses are allowed in the GA district:

- (a) Agricultural uses.
- (b) Dairies and cheese factories.
- (c) Essential services.
- (d) Facilities used to keep cattle, goats, poultry, sheep, or swine. (Note this use may also be subject to the requirements of Winnebago County Ch. 13 Livestock Waste Management Ordinance.)
- (e) Kennels.
- (f) Open space areas.
- (g) Park trailers.
- (h) Private garages.
- (i) Single family residences.
- (j) Undeveloped natural resource areas.

(k) Other uses that are authorized or required to be located in a specific place by state or federal law.

(3) **Accessory Uses.** The following uses are allowed in the GA district, subject to any applicable provisions contained in Part 5.

- (a) Agricultural accessory uses.
- (b) Home occupations.
- (c) Hunting shacks or warming shacks with no water or sewage facilities.
- (d) On-premise business signs of up to 32 square feet for allowable uses.
- (e) Other accessory structures and uses that are incidental to the principal use, provided that the structure or use does not include any activity commonly conducted as a business.
- (f) Roadside stand, one, which must be placed outside the right-of-way and which may not interfere with or present a hazard to any person, property, or traffic.
- (g) Small wind energy systems.
- (h) Trade or contractor storage.

(4) **Conditional Uses.** The following uses may be allowed in the GA district upon the issuance of a conditional use permit:

- (a) Agricultural related uses.
- (b) Airports, air strips, and landing fields.
- (c) Bulk storage of agricultural products, cooperatives, feed mills, fertilizer plants, and fuel used for agricultural purposes.
- (d) Camps and campgrounds.
- (e) Commercial riding stables.
- (f) Community uses.
- (g) Directional signs.
- (h) Farm implement sales and service.
- (i) Fruit and vegetable processing plants.
- (j) Infrastructure that is compatible with the district, including agricultural aeronautic facilities; communication uses, such as antennae, broadcast towers, cell towers, and transmission lines; drainage facilities; electrical transmission lines; gas, oil, and other pipelines; large wind energy systems; rail facilities; roads; solar energy facilities; and transportation uses.
- (k) Junk yards, salvage yards, or other facilities for the baling, handling, processing, reclamation, recycling, remanufacture, sale, salvage, or storage of junk or other second-hand or used materials.
- (l) Landscape businesses.
- (m) Nonmetallic mining.
- (n) Public garages.
- (o) Public uses.
- (p) Recreation vehicle parks.
- (q) Sawmills.
- (r) Utilities.
- (s) Vacation home rentals.

(5) **Yard Requirements.** The following requirements apply to the GA district:

- (a) **Land Area.** The minimum land area is 20 acres, exclusive of the road right of way, subject to the two exceptions set forth below.
 - (i) A parcel or lot that is a minimum of 20 acres may be subdivided once into two smaller parcels. The smaller parcel may not be less than one acre in size.
 - (ii) A parcel or lot that is a minimum of 20 acres may be subdivided into more than two parcels provided that, if more than two parcels are created the minimum lot size shall be five (5) acres and the new parcel or parcels are conveyed to an immediate family member. An immediate family member is defined as a parent, child, grandchild, sibling, or a

spouse of one of them. A certified survey map shall be required to divide the parcel or lot under either exception. The certified survey map shall note whether additional divisions are allowed or whether they are prohibited and shall indicate that the restriction may be removed by action of the Town. (updated 1/5/2022)

- (b) **Frontage.** The minimum lot width is 150 feet. An exception to the 150 foot standard is in a Cluster or Conservation Subdivision that has been granted an incentive density bonus, in which case the minimum lot frontage will be not less than 125 feet.
- (c) **Yard, front.**
 - i. The minimum setback distance required from a town road is 60 feet from the center line and not less than 25 feet from the right-of-way line.
 - ii. The minimum setback distance required from a county or state trunk highway is 100 feet from the center line and not less than 25 feet from the right-of-way line.
- (d) **Yard, side.**
 - i. The minimum setback for principal and conditional use structures is 25 feet.
 - ii. The minimum setback of accessory structures is 10 feet.
- (e) **Yard, rear.**
 - i. The minimum setback for principal and conditional use structures is 25 feet.
 - ii. The minimum setback of accessory structures is 10 feet.
- (f) **Building Height.** The maximum height for any structure is 60 feet except farm structures not used for human habitation.
- (g) **Vision Corner.** A vision corner is an area of a property within a triangle created by a straight line connecting points seventy-five (75) feet back from the intersecting roadways. Within this vision corner, no fences, walls, signs and maintained shrubbery shall exceed three (3) feet in height and no part of any building shall be allowed.
- (h) All residences shall have a minimum size of 1,000 square feet. (Changed 1/5/2022)

1.3.3. Large Estate Residential (LER) [\(back to top\)](#)

- (1) **Purpose.** The purpose of the Large Estate Residential (LER) district is to provide areas for single-family residential and planned residential developments on large lots while allowing for agricultural activity in mostly rural areas of the town. The low-density requirements are intended to provide for areas where the presence of vegetation and open space helps create quiet and visually attractive residential areas (minimum of 5 acres, exclusive of road right-of-way).
- (2) **Principal Uses.** The following uses are allowed in the LER district:
 - (a) Single-family residences.
 - (b) Agricultural uses, such as a garden, greenhouse, nursery, and usual farm buildings, subject to the following restrictions:
 - 1. A building in which animals are kept must be at least 25 feet from any adjoining lot line.
 - 2. No more than 1 animal unit of farm livestock and no more than 5 household livestock animals are allowed per acre within confinement area.

3. The storage or use of manure or any odor or dust-producing substance is prohibited within 25 feet of any adjoining lot line.
 4. A greenhouse heating plant must be at least 25 feet from any adjoining lot line.
- (c) Community living arrangements with a capacity for 8 or fewer persons and foster homes, subject to the provisions set forth in Wis. Stat. § 60.63.
 - (d) Essential services.
- (3) **Accessory Uses.** The following uses are allowed in the LER district, subject to any applicable provisions contained in part 5.
- (a) Contractor or trade storage.
 - (b) Home occupations.
 - (c) Private garages.
 - (d) Roadside stand, one, which must be placed outside the right-of-way and which may not interfere with or present a hazard to any person, property, or traffic.
 - (e) Small wind energy systems.
 - (f) Solar energy systems.
 - (g) Other accessory structures and uses that are incidental to the principal use, provided that the structure or use does not include any activity commonly conducted as a business.
- (4) **Conditional Uses.** The following uses may be allowed in the LER district upon the issuance of a conditional use permit:
- (a) Community living arrangements with a capacity of 9 or more persons, subject to the provisions set forth in Wis. Stat. § 60.63.
 - (b) Community uses.
 - (c) Day care.
 - (d) Kennels.
 - (e) Infrastructure that is compatible with the district, including agricultural aeronautic facilities; communication uses, such as antennae, broadcast towers, cell towers, and transmission lines; drainage facilities; electrical transmission lines; gas, oil, and other pipelines; large wind energy systems; rail facilities; roads; solar energy facilities; and transportation uses.
 - (f) Utilities.
 - (g) Vacation home rentals
- (5) **Yard Requirements.** The following requirements apply to the LER district:
- (a) **Land Area.** The minimum lot size is 5 acres, exclusive of road right-of-way.
 - (b) **Frontage.** The minimum lot width is 150 feet. An exception to the 150 foot standard is in a Cluster or Conservation Subdivision that has been granted an incentive density bonus, in which case the minimum lot frontage will be not less than 125 feet.

- (c) **Yard, front.**
 - (i) The minimum setback distance required from a town road is 60 feet from the center line and not less than 25 feet from the right-of-way line.
 - (ii) The minimum setback distance required from a county or state trunk highway is 100 feet from the center line and not less than 25 feet from the right-of-way line.
- (d) **Yard, side.**
 - (i) The minimum setback for principal and conditional use structures is 25 feet.
 - (ii) The minimum setback of accessory structures is 10 feet.
- (e) **Yard, rear.**
 - (i) The minimum setback for principal and conditional use structures is 25 feet.
 - (ii) The minimum setback of accessory structures is 10 feet.
- (f) **Building Height.** The maximum height for any structure is thirty-five (35) feet or two and one-half (2½) stories in height. Accessory structures shall not exceed eighteen (18) feet in height. Heights are determined from the main elevation of the finished grade adjoining and along the front of the building to the highest point..
- (g) **Vision Corner.** A vision corner is an area of a property within a triangle created by a straight line connecting points seventy-five (75) feet back from the intersecting roadways. Within this vision corner, no fences, walls, signs and maintained shrubbery shall exceed three (3) feet in height and no part of any building shall be allowed.
- (h) **Fencing.** All fences shall meet requirements according to the State Building Code. No fence shall exceed eight (8) feet in height. Fences must be set back from any lot line at least two (2) feet, and the fence structure and any lawn area under the fence must be maintained. The exception to the eight (8) foot maximum fence height is the first 35 feet from any public roadway, which is limited to three (3) feet in height.
- (i) All residences shall have a minimum size of 1,000 square feet. (Changed 1/5/2022)

1.3.4. Small Estate Residential (SER) [\(back to top\)](#)

- (1) **Purpose.** The purpose of the Small Estate Residential (SER) district is to provide areas for mixed residential and agricultural activity in mostly rural areas of the town. This district provides for residential development at modest densities consistent with a generally rural environment; provides for specific nonresidential uses that require relatively large land areas and that are compatible with the surrounding residential uses; and still allows for some agricultural uses (minimum of 2 acres, exclusive of road right-of-way).
- (2) **Principal Uses.** The following uses are allowed in the SER district:
 - (a) Single-family residences.

- (b) Community living arrangements with a capacity for 8 or fewer persons and foster homes, subject to the provisions set forth in Wis. Stat. § 60.63.
 - (c) Agricultural uses, such as a garden, greenhouse, nursery, and usual farm buildings, subject to the following restrictions:
 - 1. A building in which animals are kept must be at least 25 feet from any adjoining lot line.
 - 2. No more than 1 animal unit of farm livestock and no more than 5 household livestock animals are allowed per acre within confinement area.
 - 3. The storage or use of manure or any odor or dust-producing substance is prohibited within 25 feet of any adjoining lot line.
 - 4. A greenhouse heating plant must be at least 25 feet from any adjoining lot line.
 - (d) Essential services.
- (3) **Accessory Uses.** The following uses may be allowed in the SER district, subject to any applicable provisions contained in Part 5.
- (a) Contractor or trade storage.
 - (b) Home occupations.
 - (c) Private garages.
 - (d) Roadside stand, one, which must be placed outside the right-of-way and which may not interfere with or present a hazard to any person, property, or traffic.
 - (e) Small wind energy systems.
 - (f) Solar energy systems.
 - (g) Other accessory structures and uses that are incidental to the principal use, provided that the structure or use does not include any activity commonly conducted as a business.
- (4) **Conditional Uses.** The following uses may be allowed in the SER district upon the issuance of a conditional use permit:
- (a) Community living arrangements with a capacity of 9 or more persons, subject to the provisions set forth in Wis. Stat. § 60.63.
 - (b) Community uses.
 - (c) Kennels.
 - (d) Utilities.
 - (e) Vacation home rentals.
- (5) **Yard Requirements.** The following requirements apply to the SER district:
- (a) **Land Area.** The minimum lot size is 2 acres, exclusive of road right-of-way.

- (b) **Frontage.** The minimum lot width is 150 feet. An exception to the 150 foot standard is in a Cluster or Conservation Subdivision that has been granted an incentive density bonus, in which case the minimum lot frontage will be not less than 125 feet.
- (c) **Yard, front.**
 - (i) The minimum setback distance required from a town road is 60 feet from the center line and not less than 25 feet from the right-of-way line.
 - (ii) The minimum setback distance required from a county or state trunk highway is 100 feet from the center line and not less than 25 feet from the right-of-way line.
- (d) **Yard, side.**
 - (i) The minimum setback for principal and conditional use structures is 25 feet.
 - (ii) The minimum setback of accessory structures is 10 feet.
- (e) **Yard, rear.**
 - (i) The minimum setback for principal and conditional use structures is 25 feet.
 - (ii) The minimum setback of accessory structures is 10 feet.
- (f) **Building Height.** The maximum height for any structure is thirty-five (35) feet or two and one-half (2½) stories in height. Accessory structures shall not exceed eighteen (18) feet in height. Heights are determined from the main elevation of the finished grade adjoining and along the front of the building to the highest point.
- (g) **Vision Corner.** A vision corner is an area of a property within a triangle created by a straight line connecting points seventy-five (75) feet back from the intersecting roadways. Within this vision corner, no fences, walls, signs and maintained shrubbery shall exceed three (3) feet in height and no part of any building shall be allowed.
- (h) **Fencing.** All fences shall meet requirements according to the State Building Code. No fence shall exceed eight (8) feet in height. Fences must be set back from any lot line at least two (2) feet, and the fence structure and any lawn area under the fence must be maintained. The exception to the eight (8) foot maximum fence height is the first 35 feet from any public roadway, which is limited to three (3) feet in height.
- (i) All residences shall have a minimum size of 1,000 square feet. (Changed 1/5/2022)

1.3.5. Rural Residential (RR) [\(back to top\)](#)

- (1) **Purpose.** The purpose of the Rural Residential (RR) district is to provide areas for mixed residential and low-impact non-residential development on relatively small lots (minimum of 1 acre, exclusive of road right-of-way).

This zoning category is limited to "Encouragement Zones": (1 mile radius unlimited growth) as shown on the Town of Rushford's Comprehensive Plan. Creation of single-family lots in the RR zone will be allowed in conventional subdivisions or Certified Survey Mapped parcels within "Encouragement Zone" areas. It will be the developer's responsibility to review the Town's Comprehensive Plan to determine if the land to be rezoned or platted is located in "Encouragement Zones".

- (2) **Principal uses.** The following uses are allowed in the RR district:
- (a) Single-family residences.
 - (b) Community living arrangements with a capacity for 8 or fewer and foster homes, subject to the limitations set forth in Wis. Stat. § 60.63.
 - (c) Agricultural uses, such as a garden, greenhouse, nursery, and usual farm buildings, subject to the following restrictions:
 1. A building in which farm animals are kept must be at least 25 feet from any adjoining lot line.
 2. No more than 1 animal unit of farm livestock and no more than 5 household livestock animals are allowed per acre within confinement area.
 3. The storage or use of manure or any odor or dust-producing substance is prohibited within 25 feet of any adjoining lot line.
 4. A greenhouse heating plant must be at least 25 feet from any adjoining lot line.
 - (d) Essential services.
- (3) **Accessory Uses.** The following uses are allowed in the RR district, subject to any applicable provisions contained in Part 5.
- (a) Contractor or trade storage.
 - (b) Home occupations.
 - (c) Private garages.
 - (d) Roadside stand, one, which must be placed outside the right-of-way and which may not interfere with or present a hazard to any person, property, or traffic.
 - (e) Small wind energy systems.
 - (f) Solar energy systems.
 - (g) Other accessory structures and uses that are incidental to the principal use, provided that the structure or use does not include any activity commonly conducted as a business.
- (4) **Conditional Uses.** The following uses are allowed in the RR district, subject to the issuance of a conditional use permit:
- (a) Cemeteries.
 - (b) Community living arrangements with a capacity of 9 or more persons, subject to the provisions set forth in Wis. Stat. § 60.63.
 - (c) Community uses.
 - (d) Day care.
 - (e) Kennels.
 - (f) Mini-warehouses.

- (g) Two-family residences.
- (h) Utilities.
- (i) Vacation home rentals.
- (j) Veterinary clinics.
- (k) Other small businesses not specifically listed, but which are deemed by the Planning and Zoning Committee to be similar to those listed.

(5) **Yard Requirements.** The following requirements apply to the RR district:

- (a) **Land Area.** The minimum lot size is 1 acre, exclusive of road right-of-way.
- (b) **Frontage.** The minimum lot width is 150 feet. An exception to the 150 foot standard is in a Cluster or Conservation Subdivision that has been granted an incentive density bonus, in which case the minimum lot frontage will be not less than 125 feet.
- (c) **Yard, front.**
 - (i) The minimum setback distance required from a town road is 60 feet from the center line and not less than 25 feet from the right-of-way line.
 - (ii) The minimum setback distance required from a county or state trunk highway is 100 feet from the center line and not less than 25 feet from the right-of-way line.
- (d) **Yard, side.**
 - (i) The minimum setback for principal and conditional use structures is 25 feet.
 - (ii) The minimum setback of accessory structures is 10 feet.
- (e) **Yard, rear.**
 - (i) The minimum setback for principal and conditional use structures is 25 feet.
 - (ii) The minimum setback of accessory structures is 10 feet.
- (f) **Building Height.** The maximum height for any structure is thirty-five (35) feet or two and one-half (2½) stories in height. Accessory structures shall not exceed eighteen (18) feet in height. Heights are determined from the main elevation of the finished grade adjoining and along the front of the building to the highest point..
- (g) **Vision Corner.** A vision corner is an area of a property within a triangle created by a straight line connecting points seventy-five (75) feet back from the intersecting roadways. Within this vision corner, no fences, walls, signs and maintained shrubbery shall exceed three (3) feet in height and no part of any building shall be allowed.
- (h) **Fencing.** All fences shall meet requirements according to the State Building Code. No fence shall exceed eight (8) feet in height. Fences must be set back from any lot line at least two (2) feet, and the fence structure and any lawn area under the fence must be maintained. The exception to the eight (8) foot maximum fence height is the first 35 feet from any public roadway, which is limited to three (3) feet in height.

- (i) All residences shall have a minimum size of 1,000 square feet. (Changed 1/5/2022)

1.3.6. High Density Residential (HDR) [\(back to top\)](#)

- (1) **Purpose.** The purpose of the High Density Residential (HDR) district is to provide areas for a variety of residential uses, including single-family residential development at fairly high densities and multiple occupancy developments. This district will be located in areas with an existing mixture of residential types, certain regions that are served by public sewer, and other locations where high-density residential developments are appropriate (minimum of 1/2 acre, exclusive of road right-of-way).
- (2) **Principal Uses.** The following uses are allowed in the HDR district:
- (a) Single-family and two-family residences.
 - (b) Community living arrangements with a capacity for 8 or fewer and foster homes, subject to the limitations set forth in Wis. Stat. § 60.63.
 - (c) Community living arrangements with a capacity for 9 to 15 persons, subject to the limitations set forth in Wis. Stat. § 60.63.
 - (d) Essential services.
 - (e) Manufactured home parks.
 - (f) Multi-family dwellings.
- (3) **Accessory Uses.** The following uses are allowed in the HDR district, subject to any applicable provisions contained in Part 5.
- (a) Home occupations.
 - (b) Private garages.
 - (c) Roadside stand, one, which must be placed outside the right-of-way and which may not interfere with or present a hazard to any person, property, or traffic.
 - (d) Small wind energy systems.
 - (e) Solar energy systems.
 - (f) Other accessory structures and uses that are incidental to the principal use, provided that the structure or use does not include any activity commonly conducted as a business.
- (4) **Conditional Uses.** The following uses are allowed in the HDR district upon the issuance of a conditional use permit:
- (a) Community living arrangements with a capacity for serving 16 or more persons, subject to the limitations set forth in Wis. Stat. § 60.63.
 - (b) Community uses.
 - (c) Day care.
 - (d) Utilities.
 - (e) Vacation home rentals.

- (5) **Yard Requirements.** The following requirements apply to the HDR district:
- (a) **Land Area.** The minimum lot size is 21,780 ft.² (1/2 acre), exclusive of road right-of-way.
 - (b) **Frontage.** The minimum lot width is 100 feet.
 - (c) **Yard, front.**
 - (i) The minimum setback distance required from a town road is 60 feet from the center line and not less than 25 feet from the right-of-way line.
 - (ii) The minimum setback distance required from a county or state trunk highway is 100 feet from the center line and not less than 25 feet from the right-of-way line.
 - (d) **Yard, side.**
 - (i) The minimum setback for principal and conditional use structures is 7½ feet.
 - (ii) The minimum setback of accessory structures is 5 feet.
 - (e) **Yard, rear.**
 - (i) The minimum setback for principal and conditional use structures is 7½ feet.
 - (ii) The minimum setback of accessory structures is 5 feet.
 - (f) **Building Height.** The maximum height for any structure is thirty-five (35) feet or two and one-half (2½) stories in height. Accessory structures shall not exceed eighteen (18) feet in height. Heights are determined from the main elevation of the finished grade adjoining and along the front of the building to the highest point.
 - (g) **Vision Corner.** A vision corner is an area of a property within a triangle created by a straight line connecting points seventy-five (75) feet back from the intersecting roadways. Within this vision corner, no fences, walls, signs and maintained shrubbery shall exceed three (3) feet in height and no part of any building shall be allowed.
 - (h) **Fencing.** All fences shall meet requirements according to the State Building Code. No fence shall exceed eight (8) feet in height. Fences must be set back from any lot line at least two (2) feet, and the fence structure and any lawn area under the fence must be maintained. The exception to the eight (8) foot maximum fence height is the first 35 feet from any public roadway, which is limited to three (3) feet in height.
 - (i) All residences and dwelling units shall have a minimum size of 1,000 square feet. (Changed 1/5/2022)

1.3.7. Commercial/Business (CB) [\(back to top\)](#)

- (1) **Purpose.** The purpose of the Commercial/Business (CB) district is to provide areas for mixed residential and commercial use. It will encompass areas that already have this mixed use, as well as those areas where expansion of this mixed use is desired. It will typically be located within or near existing communities, but may also be used in outlying areas and to facilitate small development nodes (minimum of 10,000 ft.², exclusive of road right-of-way).
- (2) **Principal Uses.** The following uses are allowed in the CB district:

- (a) Activity and recreation centers.
- (b) Auto, truck, trailer, and other equipment sales and rentals.
- (c) Bowling alleys.
- (d) Building, electrical, heating, lumber, and plumbing supply yards.
- (e) Bulk storage of agricultural products, cooperatives, feed mills, and fertilizer plants.
- (f) Business and professional offices and services.
- (g) Cabinet making and woodworking.
- (h) Car washes.
- (i) Commercial storage.
- (j) Community uses.
- (k) Contractor or trade storage.
- (l) Dairies and dairy-processing businesses, such as cheese factories. (m) Essential services.
- (n) Farm equipment and implement sales.
- (o) Food lockers.
- (p) Fruit and vegetable stands.
- (q) Funeral homes and crematoriums.
- (r) Furniture repair, sales, and upholstery.
- (s) Gas stations and convenience stores.
- (t) Hotels.
- (u) Manufactured home sales and service.
- (v) Mini-warehouses.
- (w) Motels.
- (x) Parking areas and ramps.
- (y) Printing and duplicating shops.
- (z) Private clubs and lodges, except adult entertainment establishments.
- (aa) Public uses.
- (bb) Restaurants.
- (cc) Self-service laundromats.
- (dd) Signs and billboards.

- (ee) Single-family residences.
 - (ff) Small wind energy systems.
 - (gg) Stores for conducting retail, service, or wholesale business.
 - (hh) Taverns.
 - (ii) Theaters, except outdoor theaters.
 - (jj) Trailer and truck rentals.
 - (kk) Vehicle and equipment sales, service, and showrooms.
 - (ll) Utilities.
- (3) **Accessory Uses.** The following accessory use is allowed in the CB district:
- (a) Roadside stand, one, which must be placed outside the right-of-way and which may not interfere with or present a hazard to any person, property, or traffic.
- (4) **Conditional Uses.** The following uses may be allowed in the CB district upon the issuance of a conditional use permit:
- (a) Adult entertainment establishments, subject to any applicable provisions contained in Part 5.
 - (b) Auto salvage yards.
 - (c) Banquet and dance halls.
 - (d) Drive-in theaters.
 - (e) Outdoor amusement centers.
 - (f) Race tracks.
 - (g) Shopping centers.
 - (h) Sports arenas.
 - (i) Telecommunication towers.
 - (j) Transportation terminals.
 - (k) Truck stops.
 - (l) Water parks.
- (5) **Yard Requirements.** The following requirements apply to the CB district:
- (a) **Land Area.** The minimum lot size is 10,000 ft.², exclusive of road right-of-way.
 - (b) **Frontage.** The minimum lot width is 100 feet.
 - (c) **Yard, front.**
 - (i) The minimum setback distance required from a town road is 60 feet from the center line and not less than 25 feet from the right-of-way line.
 - (ii) The minimum setback distance required from a county or state trunk highway is 100 feet from the center line and not less than 25 feet from the right-of-

way line.

(d) **Yard, side.**

- (i) The minimum setback for principal and conditional use structures is 7½ feet.
- (ii) The minimum setback of accessory structures is 5 feet.

(e) **Yard, rear.**

- (i) The minimum setback for principal and conditional use structures is 7½ feet.
- (ii) The minimum setback of accessory structures is 5 feet.

(f) **Building Height.** The maximum height for any structure is sixty (60) feet. Heights are determined from the main elevation of the finished grade adjoining and along the front of the building to the highest point..

(g) **Vision Corner.** A vision corner is an area of a property within a triangle created by a straight line connecting points seventy-five (75) feet back from the intersecting roadways. Within this vision corner, no fences, walls, signs and maintained shrubbery shall exceed three (3) feet in height and no part of any building shall be allowed.

(h) **Fencing.** All fences shall meet requirements according to the State Building Code. No fence shall exceed eight (8) feet in height. Fences must be set back from any lot line at least two (2) feet, and the fence structure and any lawn area under the fence must be maintained. The exception to the eight (8) foot maximum fence height is the first 35 feet from any public roadway, which is limited to three (3) feet in height.

(i) All residences and dwelling units shall have a minimum size of 1,000 square feet.
(Changed 1/5/2022)

1.3.8. Industrial (ID) [\(back to top\)](#)

(1) **Purpose.** The purpose of the Industrial (ID) district is to provide areas for manufacturing, warehousing, and other light industrial operations. It may also be used for commercial storage facilities, contractor and trade establishments, and similar businesses. However, such use may not be detrimental to the surrounding area or to the town as a whole because of dust, groundwater degradation, noise, odor, physical appearance, smoke, traffic, or other nuisance factors (minimum lot size is 1 acre, exclusive of road right-of-way).

(2) **Principal Uses.** The following uses are allowed in the ID district provided that a site plan is submitted and approved by the planning and Zoning Committee:

- (a) Agricultural implement and equipment manufacture, sales, and service.
- (b) Analyzing, controlling, measuring, and recording instruments, including clocks; medical, optical, and photographic equipment; and watches.
- (c) Apparel and other finished products made from fabrics and similar materials.
- (d) Billboard manufacture.
- (e) Clay, concrete, glass, and stone products.
- (f) Coating, engraving, and allied services.

- (g) Computers and office equipment.
- (h) Contractor or construction shops, including air conditioning, building, cement, electrical, heating, refrigeration, masonry, painting, plumbing, roofing, and ventilation.
- (i) Electrical and electronic equipment and machinery.
- (j) Essential services.
- (k) Fabricated metal, wood, or plastic products, except machinery and transportation equipment.
- (l) Food and kindred products.
- (m) Furniture and fixtures.
- (n) Garages for the repair, sales, service, or storage of automobiles, tractors, trucks, and accessory equipment.
- (o) Infrastructure that is compatible with the district, including agricultural aeronautic facilities; communication uses, such as antennae, broadcast towers, cell towers, and transmission lines; drainage facilities; electrical transmission lines; gas, oil, and other pipelines; large wind energy systems; rail facilities; roads; solar energy facilities; and transportation uses.
- (p) Laboratories and research and development facilities.
- (q) Nonmetallic mining.
- (r) Printing, publishing, and allied products.
- (s) Public uses.
- (t) Radio and television offices, towers, and transmission facilities.
- (u) Research facilities.
- (v) Secondhand household equipment, store fixtures, and office furniture sales, storage, and reconditioning.
- (w) Sign painting studio.
- (x) Signs identifying the name and business of the occupant of a premises. (y) Small wind energy systems.
- (z) Substations for electrical power and light.
- (aa) Utilities.
- (bb) Warehousing.
- (cc) Other uses not specifically listed, but which are deemed by the Planning and Zoning Committee to be similar to the uses listed above.

(3) Accessory Uses.

- (a) Accessory structures and uses incidental to the principal use or to a permitted conditional use are allowed in the ID district, subject to any applicable provisions

contained in Part 5, provided that a site plan is submitted and approved by the Planning and Zoning Committee.

- (b) Roadside stand, one, which must be placed outside the right-of-way and which may not interfere with or present a hazard to any person, property, or traffic.
- (4) **Conditional Uses.** The following uses may be allowed in the ID district upon the issuance of a conditional use permit:
- (a) Chemical and allied products production or storage facilities.
 - (b) Community Uses.
 - (c) Dwelling units for caretakers or guards.
 - (d) Foundries.
 - (e) Incinerators.
 - (f) Junk yards, salvage yards, or other facilities for the baling, handling, processing, reclamation, recycling, remanufacture, sale, salvage, storage of junk or other second-hand or used materials.
 - (g) Leather and leather products.
 - (h) Lumber and wood products.
 - (i) Paper and allied products.
 - (j) Petroleum and other inflammable liquid bulk production, refining, or storage facilities.
 - (k) Plastic products.
 - (l) Quarries and gravel, sand, or stone crushing, grading, milling, mining, and washing operations.
 - (m) Rubber products.
 - (n) Textile mills and textile products.
 - (o) Machinery manufacturing.
 - (p) Mini-warehouses.
 - (q) Transportation equipment and parts.
 - (r) Truck distribution, dispatching, loading, and transfer depots.
 - (s) Solid waste facilities and transfer stations.
- (5) **Yard Requirements.** The following requirements apply to the ID district:
- (a) **Land Area.** The minimum lot size is 1 acre, exclusive of road right-of-way.
 - (b) **Frontage.** The minimum lot width is 150 feet.
 - (c) **Yard, front.**
 - (i) The minimum setback distance required from a town road is 60 feet from the center line and not less than 25 feet from the right-of-way line.

- (ii) The minimum setback distance required from a county or state trunk highway is 100 feet from the center line and not less than 25 feet from the right-of-way line.
 - (d) **Yard, side.**
 - (i) The minimum setback for principal and conditional use structures is 25 feet.
 - (ii) The minimum setback of accessory structures is 10 feet.
 - (e) **Yard, rear.**
 - (i) The minimum setback for principal and conditional use structures is 25 feet.
 - (ii) The minimum setback of accessory structures is 10 feet.
 - (f) **Building Height.** The maximum height for any structure is sixty (60).
 - (g) **Vision Corner.** A vision corner is an area of a property within a triangle created by a straight line connecting points seventy-five (75) feet back from the intersecting roadways. Within this vision corner, no fences, walls, signs and maintained shrubbery shall exceed three (3) feet in height and no part of any building shall be allowed.
 - (h) **Fencing.** All fences shall meet requirements according to the State Building Code. No fence shall exceed eight (8) feet in height. Fences must be set back from any lot line at least two (2) feet, and the fence structure and any lawn area under the fence must be maintained. The exception to the eight (8) foot maximum fence height is the first 35 feet from any public roadway, which is limited to three (3) feet in height.
- (6) **Site Plan Requirement.** A site plan must be reviewed and approved by the Planning and Zoning Committee prior to the start of any new construction or any addition or alteration that adds more the 25% to the area of an existing structure or to the total area of all existing structures on the site.
- (7) **Development Standards.** The development standards contained in this section are minimum standards and must be met by any industrial use established after the effective date of this ordinance or any applicable amendment and by any prior nonconforming use that is added to, altered, expanded, extended, or modified after the effective date of this ordinance or any applicable amendment.
- (a) **Driving Surfaces.** All driveways, parking areas, and roads must be maintained in a durable and dustless condition.
 - (b) **Enclosures.** All allowed and permitted uses must be conducted within completely enclosed buildings, unless outdoor uses have been included in a site plan that has been review and approved by the planning and park commission and subject to any conditions set by the board of adjustment.
 - (c) **Landscaping.** All landscaping shown on an approved site plan must be established and maintained in a healthy condition. Landscaping materials must be replaced when necessary.
 - (d) **Lighting.** Lighting used to illuminate any portion of the site must be shielded and arranged so that it does not directly shine on any abutting property.

- (e) **Litter.** The site must be kept free of debris and refuse.
- (f) **Loading and unloading.** Adequate space must be provided for the loading, parking, standing, and unloading of motor vehicles without undue interference with the public use of roadways. No portion of a vehicle that is loading, parked, standing, or unloading may project into a public roadway. A 12-foot by 65-foot loading space with a 15-foot clearance must be provided for each 20,000 square feet, or fraction thereof, of floor area or lot area used for other than incidental purposes.
- (g) **Noise.** The sound generated by a use may not exceed 70 decibels at the lot line.
- (h) **Odor.** No use may cause or result in the emission of any substance or combination of substances into the ambient air and produce an objectionable odor unless preventative measures satisfactory to the town are taken to abate or control the emission. An odor will be deemed objectionable when either or both of the following tests are met:
 1. If the town, upon investigation, determines that the odor is objectionable based upon the nature, intensity, frequency, and duration of the odor, taking into consideration the type of area involved and any other pertinent factor identified by the town.
 2. If 60% of a sample of persons exposed to the odor in their place of residence or employment, other than the place that is the odor's source, find the odor to be objectionable based upon its nature, intensity, frequency, and duration.
- (i) **Outdoor Storage.** Outdoor storage is permitted if the storage area is screened and the stored materials are not visible from any public road.
- (j) **Parking.** At least 2 parking spaces must be provided for every 3 employees, based on the maximum number of persons employed during any shift.
- (k) **Screening.** Required screening may be provided by use of fences, hedges or other plantings, and walls that are at least four feet in height. Any required screening must be maintained in good condition.
- (l) **Storm Water Drainage.** A storm water drainage plan must be included as part of the site plan.
- (m) **Vibration.** Ground vibrations generated by a use must not be perceptible at any point on the lot line without the use of instruments.
- (n) **Other.** No use may emit dangerous or obnoxious fumes, glare, heat, or radiation that extends beyond any lot line on which the use is located.

1.3.9. Public Lands Institutional (PLI) [\(back to top\)](#)

- (1) **Purpose.** The intent of this District is to provide an area for public and private institutional and recreational uses. The area utilized for such a District should be such that it is compatible with and is an asset to the surrounding land uses (minimum of 1 acre, exclusive of road right-of-way).
- (2) **Principal Uses.** The following public and private institutional uses are allowed in the PLI district:
 - (a) Cemeteries.
 - (b) Colleges and Universities.

- (c) Conservatories.
 - (d) Crematories.
 - (e) Funeral Homes.
 - (f) Gymnasiums.
 - (g) Hospitals.
 - (h) Parks and Playgrounds.
 - (i) Religious and Charitable Institutions.
 - (j) Sanitariums.
 - (k) Schools.
 - (l) Town Halls.
 - (m) Public and Private Wastewater Treatment Plants.
 - (n) Public and Private Landfills licensed by the State of Wisconsin.
 - (o) Essential services.
 - (p) Community living arrangements with a capacity for 8 or fewer and foster homes, subject to the limitations set forth in Wis. Stat. § 60.63.
 - (q) Community living arrangements with a capacity for 9 to 15 persons, subject to the limitations set forth in Wis. Stat. § 60.63.
- (3) **Accessory Uses.** The following uses are allowed in the PLI district, subject to any applicable provisions contained in Part 5.
- (a) Roadside stand, one, which must be placed outside the right-of-way and which may not interfere with or present a hazard to any person, property, or traffic.
 - (b) Clubs, taverns, nightclubs, restaurants, convenience goods and services when supportive of the principal use.
 - (c) Small wind energy systems.
 - (d) Solar energy systems.
 - (e) Other accessory structures and uses that are incidental to the principal use.
- (4) **Conditional Uses.** The following uses are allowed in the PLI district upon the issuance of a conditional use permit:
- (a) Airports, airstrips and landing airfields with a minimum area of twenty (20) acres.
 - (b) Golf Courses.
 - (c) Campgrounds.
 - (d) Driving Ranges.
 - (e) Archery and firearm ranges (outdoors).
 - (f) Sports fields.
 - (g) Arboretums.
 - (h) Zoological and botanical gardens.
 - (i) Race tracks.
 - (j) Exposition and fairgrounds.
 - (k) Riding academies and stables.
- (5) **Yard Requirements.** The following requirements apply to the PLI district:
- (a) **Land Area.** The minimum lot size is one acre, exclusive of road right-of-way.
 - (b) **Frontage.** The minimum lot width is 100 feet.
 - (c) **Yard, front.**
 - (i) The minimum setback distance required from a town road is 60 feet from the center line and not less than 25 feet from the right-of-way line.
 - (ii) The minimum setback distance required from a county or state trunk highway is 100 feet from the center line and not less than 25 feet from the right-of-way line.

- (d) **Yard, side.**
 - (i) The minimum setback for principal and conditional use structures is 7½ feet.
 - (ii) The minimum setback of accessory structures is 5 feet.
- (e) **Yard, rear.**
 - (i) The minimum setback for principal and conditional use structures is 7½ feet.
 - (ii) The minimum setback of accessory structures is 5 feet.
- (f) **Building Height.** The maximum height for any structure is thirty-five (35) feet or two and one-half (2½) stories in height. Accessory structures shall not exceed eighteen (18) feet in height. Heights are determined from the main elevation of the finished grade adjoining and along the front of the building to the highest point.
- (g) **Vision Corner.** A vision corner is an area of a property within a triangle created by a straight line connecting points seventy-five (75) feet back from the intersecting roadways. Within this vision corner, no fences, walls, signs and maintained shrubbery shall exceed three (3) feet in height and no part of any building shall be allowed.
- (h) **Fencing.** All fences shall meet requirements according to the State Building Code. No fence shall exceed eight (8) feet in height. Fences must be set back from any lot line at least two (2) feet, and the fence structure and any lawn area under the fence must be maintained. The exception to the eight (8) foot maximum fence height is the first 35 feet from any public roadway, which is limited to three (3) feet in height.

1.4. STANDARDS

1.4.1. Nonconforming Lots of Record [\(back to top\)](#)

- (1) Generally. A nonconforming lot may be used for an allowable use, provided such use complies with all other development standards of the zoning district in which the lot is located.
- (2) Alteration of property boundary lines. The location of a property boundary line of a nonconforming lot shall not be moved, except when the adjoining lot being made smaller and development on such lot comply with all dimensional requirements of the district in which it is located and the new property boundary line location will make the nonconforming lot to be conforming or lessen the nonconformity.

1.4.2. Nonconforming Structures [\(back to top\)](#)

- (1) **Reconstruction.** A nonconforming structure containing a conforming use may be rebuilt, in whole or in part, if the reconstructed structure is not located on more than one parcel and is identical in all respects to its size, shape, height, and footprint at the time of reconstruction. Prior to the issuance of a zoning permit, the applicant shall provide a survey, conducted by a licensed land surveyor, verifying all setbacks of the existing non-conforming structure, as well as the structure's footprint and square footage.
- (2) **Enlargement.** The structure may be enlarged provided the portion of the structure being added complies with all applicable dimensional standards, including setback and building height standards.
- (3) **Reconstruction following damage.** A nonconforming structure that is damaged by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation on or after March 2, 2006, may be restored to its condition (size, location, and use) prior to the damage, except the structure may be larger when necessary to comply with state or federal requirements (s. 59.69(10m), Wis. Stats.)

- (4) **Unsafe conditions, ordinary maintenance, and remodeling.** Nothing in this article shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof, ordinary repair and maintenance, or remodeling provided that the work conforms to the provisions in this chapter.

1.4.3. Nonconforming Uses [\(back to top\)](#)

- (1) **Generally.** A nonconforming use may continue to exist so long as it remains otherwise lawful, subject to the provisions in this section.
- (2) **Cessation of use.** If a nonconforming use ceases for any reason, whether intentional or otherwise, for more than 12 continuous months, such use shall not be reestablished (s. 59.69(10)(a), Wis. Stats.). A business of a seasonal nature shall not be deemed discontinued during periods which it is normally inactive (i.e., marinas, ski hills, campgrounds). If the zoning administrator determines that a nonconforming use has ceased to operate for more than the aforementioned time period, he or she shall initiate the process established under part 8 section 2 (1.8.2). However, if a temporary structure houses a nonconforming use, such use shall terminate upon cessation of such use (s. 59.69(10)(a), Wis. Stats.).
- (3) **Change in extent.** Except as may be provided in this article or in state law, a nonconforming use shall not be enlarged, increased, or expanded and shall not occupy a greater area than what existed on the effective date of this chapter or any amendment thereto that created the nonconforming use.
- (4) **Limitation on structural alterations.** Structural alterations to a structure housing a nonconforming use shall not be permitted; however, ordinary maintenance and repair shall be allowed.
- (5) **Damage to structure housing nonconforming use.** If a structure housing a nonconforming use is damaged beyond 50 percent of its present equalized assessed value, such use shall not be reestablished.
- (6) **Change of location.** A nonconforming use shall not be moved in whole or in part to any other portion of the lot or to another structure than what was occupied on the effective date of this chapter or any amendment thereto that created the nonconforming use.
- (7) **Casual, occasional, accessory, or incidental use.** Casual, occasional, accessory, or incidental use after the primary nonconforming use has terminated, shall not be deemed to perpetuate a nonconforming use (*Village of Menominee Falls v. Veirstahler*, 183 Wis. 2d 96, 515 N.W.2d 290 (Ct. App. 1994)).
- (8) **Change of production.** A change in the method or quantity of production and the incorporation of new technology into a nonconforming use is permitted provided the original character of the use remains the same (*Racine County v. Cape*, 2002 WI App 19, 250 Wis. 2d 44, 639 N.W.2d 782, 01-0740).
- (9) **Nonconforming use as a public nuisance.** A nonconforming use, regardless of its duration, may be prohibited or restricted if it constitutes a public nuisance or is harmful to the public health, safety, or welfare (*Town of Delafield v. Sharpley*, 212 Wis. 2d 332, 568 N.W.2d 779 (Ct. App. 1997, 96-2458)).
- (10) **Unsafe conditions.** Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof, provided that such work conforms to the provisions in this chapter.

1.4.4. Site Restrictions [\(back to top\)](#)

- (1) No structure may be constructed, erected, or moved onto land that is unsuitable by reason of adverse soil or rock formations, concentrated runoff, flooding, inadequate drainage, low percolation rate or bearing strength, susceptibility to erosion, unfavorable

topography, or any other reason deemed likely to be harmful to the aesthetics, general welfare, health, prosperity, and safety of the community.

- (2) A lot must have a minimum of 100 feet of frontage abutting upon a public street or an approved private street.
- (3) The depth, width, and overall area of a lot must be sufficient to permit the location of a conforming and legal private onsite wastewater treatment system (POWTS) if it is not serviced by a municipal wastewater treatment system.

1.4.5. Use Restrictions ([back to top](#))

- (1) No land or structure, and no part of any land or structure, may be used or occupied for any purpose unless the use or occupancy complies with the requirements of this ordinance.
- (2) No land or structure, and no part of any land or structure, may be used for any purpose if it is unsuitable for that purpose by reason of adverse soil or rock formations, concentrated runoff, flooding, inadequate drainage, low percolation rate or bearing strength, susceptibility to erosion, unfavorable topography, or any other reason deemed likely to be harmful to the aesthetics, general welfare, health, prosperity, and safety of the community.
- (3) Principal uses in a zoning district are limited to those principal uses specified for the district in this ordinance.
- (4) A principal structure must be located on a lot and only one principal structure may be constructed, erected, or moved onto a lot.
- (5) Conditional uses in a zoning district are limited to those conditional uses specified for the district in this ordinance.
- (6) Conditional uses and accessory uses to conditional uses are special uses that require an application, review, public hearing, approval by the board of adjustment, and issuance of a conditional use permit.
- (7) Temporary structures that are constructed using a frame made out of metal, pvc, wood, or a similar material; that are covered by canvas, fabric, vinyl, or a similar material are allowed, provided that, the temporary structures meet all setbacks, size and height limits and other requirements for accessory buildings. (Changed 01/05/2022)

1.4.6. Height Exceptions [\(back to top\)](#)

The height limitation specified for a zoning district may be exceeded for the following structures if the front, rear, and side setbacks for the structure are increased by one foot for each foot that the structure exceeds the district's height limitation:

- (1) Accessory farm structures, such as gas tanks, grain elevators, scenery lofts, and silos.
- (2) Architectural projections such as belfries, chimneys, cupolas, domes, flues, parapet walls, and spires.
- (3) Communication structures, such as aerials, antenna, and towers.
- (4) Electric power lines and substations.
- (5) Essential services.
- (6) Manufacturing equipment and necessary mechanical appurtenances.
- (7) Smoke stacks.
- (8) Towers, including cooling towers, fire towers, radio, microwave, and television towers, and water towers.
- (9) Utilities and utility services.

1.5. SUPPLEMENTAL REGULATIONS

1.5.1. General Standards [\(back to top\)](#)

This Part contains standards that apply to principal, accessory, and conditional structures and uses that are in addition to the applicable requirements contained in section 1.3 or in any other applicable section of the town code.

1.5.2. Accessory Structures [\(back to top\)](#)

- (1) An accessory structure is not permitted unless a principal structure exists on the same zoning lot or unless a zoning permit for a principal structure is issued at the same time that the accessory structure permit is issued.
 - (a) An accessory structure may be allowed upon the issuance of a conditional use permit.
- (2) An accessory structure may not exceed the maximum permitted height for the zoning district in which it is located.
- (3) An accessory structure may not be erected within any required front setback.
- (4) Campers, ice shanties, manufactured homes, and truck trailers may not be used as accessory structures and cannot be converted for storage or other purposes.
- (5) In all districts, except in General Agriculture district, the use of shipping or cargo containers for storage is a conditional use. A container shall not be larger than 8 feet by 20 feet wide and long. There shall be no more than one container per contiguous land area in common ownership. A contiguous land area is a land area that is composed of one lot or two or more lots that are adjacent to or abut each other. A container shall be painted in a manner that is consistent with and visually complementary to the owner's other buildings and it shall be maintained in good condition. (Updated 1/5/2022)

1.5.3. Adult Entertainment Establishments [\(back to top\)](#)

- (1) In recognition of the protection afforded to the citizens under the 1st and 14th Amendments of the Constitution of the United States, the purpose of this section is to regulate the location of specifically defined activities and materials consistent with the

town's interest in the present and future character of its development, and this section is not intended to inhibit any person's freedom of speech or the freedom of the press. For that reason, commercial establishments dealing in adult entertainment activities and materials are permitted as a conditional use in any Commercial/Business (CB) district.

- (2) The following uses are only permitted as conditional uses:
- (a) Commercial establishments that display, disseminate, give away, lease, offer for view, possess for sale, publish, rent, sell, or otherwise deal in any facsimile, film, machine, mechanical device, model, picture, printed matter, sound recording, written matter, or other material or paraphernalia depicting sexual conduct or nudity and that exclude minors by reason of age.
 - (b) Commercial establishments that display for viewing any film or pictures depicting sexual conduct or nudity and that exclude minors by reason of age.
 - (c) Commercial establishments in which any person appears or performs in a manner depicting sexual conduct or involving nudity and from which minors are excluded by reason of age.
- (3) The conditional uses allowed by this section are subject to the following provisions:
- (a) No permit may be granted where the proposed establishment is within 2,000 feet of any church, funeral parlor, historic district or site listed in the State or National Register of Historic Places, hospital, library, museum, park, playground, restaurant, school, or any other private or public building or premises likely to be utilized by persons under the age of 18 years.
 - (b) No permit may be granted if the proposed establishment is within 2,000 feet of any pre-existing establishment licensed to sell or dispense fermented malt beverages or intoxicating liquor.
 - (c) No permit may be granted where the proposed establishment is within 2,000 feet of any area zoned residential in the same or a contiguous town or municipality.
 - (d) The applicant must provide the town with detailed information regarding use of the proposed establishment. If the application is for an establishment under subpar. (2)(a) or (2)(b), the applicant must furnish representative samples of the materials that will be available at the establishment. If the application is for an establishment under subpar. (2)(c) of this subsection, the applicant must provide a detailed description of the proposed activity to be conducted at the proposed establishment.
 - (e) The applicant must provide the name and address of the owners and occupants of all property within 1,000 feet of the proposed establishment.
 - (f) Billboards, portable signs, and towers are prohibited on the premises. No flashing or traveling lights may be located on or visible from the exterior of the structure in which the establishment is located. No sign may depict specified anatomical areas or specified sexual activity.
 - (g) All access points to the establishment and all windows or other openings must be constructed, covered, located, or screened in a manner that prevents viewing the interior of the establishment from any public or semipublic area.
 - (h) Adequate parking must be provided in a lighted area.

- (i) The hours of operation for such establishments are limited to the same hours of operations for bars and taverns within the community in which the district is located.
- (j) When acting on an application for a conditional use permit for an adult entertainment establishment, the planning and zoning committee shall consider, in addition to usual factors taken into consideration for all conditional use permits, the protection of property values in the affected area; the preservation of neighborhoods; the tendency of such establishments to cause increases in noise, traffic, and other factors interfering with the quiet and peaceful enjoyment of the neighborhood; the tendency of such establishments to encourage residents and businesses to move elsewhere; the tendency of such establishments to attract an undesirable quantity or quality of transients; the tendency of such establishments to cause increases in crime, especially prostitution and sex-related crimes; the tendency of such establishments to increase the need for policing; the protection of minors from the activities conducted and materials available at such establishments; and any other factors related to the proposed use that may affect the health, safety, and general welfare of the community.
- (k) If a protest signed by 51 percent or more of the adult residents and property owners within 500 feet of the proposed establishment is filed with the town, a unanimous vote of the Town Board is required to issue a conditional use permit.

1.5.4. Airports and Landing Strips [\(back to top\)](#)

- (1) A tract of land used for an airport or landing strip must be of sufficient size and adequate in all other respects to provide for the safe operation of the facility and to prevent hazards to surrounding property.
- (2) An airport or landing strip may not interfere with the development of any thoroughfare in the area.

1.5.5. Telecommunications Towers and Antennas [\(back to top\)](#)

- (1) **Purpose.** The intent of this section is to provide a uniform and comprehensive set of standards for the development and installation of telecommunication towers, antennas, and related facilities. The regulations are designed to protect and promote public health, safety, community welfare, aesthetic quality of the Town of Rushford, and encourage managed development of telecommunication infrastructure. The section shall:
 - (a) Provide a process for obtaining necessary permits for telecommunication facilities, while at the same time protecting the interests of the citizens of the Town of Rushford.
 - (b) Ensure that a non-discriminatory, competitive, and broad range of telecommunication services and high quality telecommunications are provided to serve the community.
 - (c) Minimize conflicting uses of the land and adverse visual effects.
 - (d) Protect environmentally sensitive areas of the Town of Rushford by regulating the location, design, and operation of telecommunication towers, antennas, and related facilities.
 - (e) Encourage the use of alternative support structures, co-location of new antennas on existing telecommunication towers, camouflaged towers, and construction of towers with the ability to locate three or more providers.
- (2) **Exemptions.** This Ordinance shall not govern the installation and or use of:

- (a) Television antennas, satellite dishes, and receive-only antennas, provided that they are for personal use of the landowner, the primary use of the property is not a "telecommunication facility", and the antenna use is accessory to the primary use of the property.
 - (b) Amateur radio antenna and their supporting towers, poles, and masts that are owned and/or operated by a federally-licensed amateur radio operator or is used exclusively for receive-only antennas.
 - (c) Mobile services providing public information coverage of news events of a temporary or emergency nature.
 - (d) Any other devices not mentioned above that are exempt according to Section 704 of the Telecommunications Act of 1996.
- (3) **General Requirements.** These provisions shall apply to all telecommunications facilities located within the Town of Rushford.
- (a) All telecommunication facilities shall comply with Federal Communication Commission (FCC), Wisconsin State Bureau of Aeronautics, Occupational Safety and Health Association (OSHA), and Federal Aviation Administration (FAA) rules and regulations. If such standards and regulations are changed, then the owners of the towers and antennas governed by this article shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna by the governing authority at the expense of the tower or antenna owner, or at the expense of the property owner in the case where the owner of the tower or antenna is leasing the property upon which the tower or antenna is installed.
 - (b) All telecommunication facilities shall comply with the manufacturer's specifications as it relates to design and installation.
 - (c) To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state and local building codes, and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the governing authority concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. If the owner fails to bring such tower into compliance within said thirty (30) days, the governing authority may remove such tower at the expense of the tower or antenna owner, or at the expense of the property owner in the case where the owner of the tower or antenna is leasing the property upon which the tower or antenna is installed.
 - (d) The landowner shall provide written authorization for siting the telecommunication facilities on a leased property.
 - (e) All towers and antennas must be adequately insured for injury and property damage.
 - (f) Any required federal, state, or local agency licenses shall be provided prior to the issuance of the building permit for proposals to erect new telecommunication facilities.
 - (g) No sign, other than warning, permit number, or equipment information, shall be affixed to any telecommunication facilities.
 - (h) No telecommunication facility shall be artificially illuminated or have strobe lights attached to it unless required by FCC or FAA regulations. Light, if required, shall

- be shielded from the ground.
 - (i) Camouflaged telecommunication facilities are encouraged and may be required in historical, environmental; or other sensitive areas as determined by the Town of Rushford.
 - (j) All telecommunication towers shall be self-supporting monopoles or lattice towers except where satisfactory evidence is submitted that a guyed tower is required.
 - (k) Telecommunication facilities shall not interfere with or obstruct existing or proposed public safety or fire protection telecommunication facilities. The applicant at no cost to the Town shall correct any actual interference and/or obstruction.
 - (l) A bond with a corporate surety, duly licensed in the State of Wisconsin, in the amount of twenty thousand dollars (\$20,000) to assure that the applicant, its representatives, its agents, and its assigns will comply with all the terms, conditions, provisions, requirements, and specifications contained in this ordinance, including abandonment.
- (4) **Prohibited Areas for Telecommunication Facilities.** No telecommunication facility may be located in the following areas:
 - (a) Floodplains
 - (b) Wetlands
 - (c) Shorelands
 - (d) Residential-zoned districts

Notwithstanding the above, the Planning & Zoning Administrator shall issue a land use (building) permit in all residential, agricultural, commercial, and industrial zoning districts provided:

 - (a) The applicant requests to attach an antenna to an existing tower, structure, or utility pole, and,
 - (b) The antenna does not extend more than twenty (20) feet above the highest point of an existing tower, structure, or pole.
- (5) **Conditional Use Permit Requirements.** All applications for conditional use permits shall include the following information:
 - (a) A report from a registered professional engineer and/or other professionals which:
 - (1) Describes the facility's height and design, including a cross-section and elevation;
 - (2) Certifies the facility's compliance with electrical standards and structural standards that allow it to accommodate at least three (3) antennas;
 - (3) Describes the tower's capacity, including the potential number and type of antennas that it can accommodate;
 - (4) Describes the lighting to be placed on the facility if required by the FCC or FAA;
 - (5) Certifies that the facility will not cause destructive interference with previously established public safety communication system;
 - (6) A plat of survey showing the parcel boundaries and a legal description, support facilities, location, access, landscaping and fencing;
 - (7) Federal Communication Commission (FCC) license and registration numbers, if applicable. Also copies of Findings of No Significant Impacts statement from FCC or Environmental Impact Study, if applicable;
 - (8) Proof of liability coverage that is satisfactory to the Planning & Zoning Committee;
 - (9) An alternatives analysis shall be prepared by the applicant which identifies all reasonable, technically feasible alternative locations and/or facilities which could provide the proposed telecommunication service. The intention of the alternatives analysis is to present alternative strategies which could minimize

the number, size, and adverse environmental impacts of facilities necessary to provide the needed services to the Town. The analysis shall address the potential for co-location and the potential to locate facilities as close as possible to the intended service area. It shall also explain the rationale for selection of the proposed site in view of the relative merits of any of the feasible alternatives. The Town may require independent verification of this analysis at the applicant's expense.

- (10) A tabular and map inventory of all the applicant's existing telecommunication towers that are located within the Town of Rushford and includes all of the applicant's towers within fifteen hundred (1,500) feet of the Town's corporate boundary. The inventory shall specify the location, height, type, and design of each of the applicant's existing telecommunication towers and the ability of the tower or antenna structure to accommodate additional co-location antennas.
- (b) Each application shall include a facility plan. The Town will maintain an inventory of all existing and proposed telecommunication facility installations. All applicants shall provide the following information in each plan:
 - (1) Written description of the type of consumer services each applicant will provide to its customers (cellular, PCS, SMR, ESMR, paging, or other anticipated telecommunication services), the carrier provider, applicant, landowner, and service provider.
 - (2) Provide a list of the applicant's existing telecommunication sites, existing sites to be upgraded or replaced, and proposed facility sites as they are determined and requested within the Town and within fifteen hundred (1,500) feet of the Town's corporate boundary.
 - (3) Provide a map of the area that shows the geographic service areas for the provider of the existing and proposed facility sites as they are determined and requested by the provider.
 - (4) The name, address, and telephone number of the officer, agent, and/or employee responsible for the accuracy of the application.
- (c) Written acknowledgement by the landowner of a leased site that he/she will abide by all applicable terms and conditions of the building permit or conditional use permit.
- (d) Additional Information and Analysis
 - (1) The Code Administrator or the Planning & Zoning Committee may, at his/her or its discretion, require visual impact demonstrations, including mock-ups and/or photo montages, screening and painting plans, network maps, alternative site analysis, lists of other nearby wireless telecommunication facilities, or facility design alternatives for the proposed facilities.
 - (2) The Code Administrator or Planning & Zoning Committee may employ, on behalf of the Town, an independent technical expert to review technical materials submitted by the applicant or to prepare any technical materials required but not submitted by the applicant. The applicant shall pay the costs of such review and/or independent analysis.
- (6) **Performance Standards.** Except as provided in this subchapter, all telecommunication facilities shall meet the dimensional standards of the zoning district in which they are located. Where the facilities are the principal use on a separate parcel, the parcel shall meet the minimum lot size requirements of the respective zoning district. On a parcel of land that already has a principal use, the facilities shall be considered an accessory use and a smaller area of land may be leased provided that all requirements of this ordinance can be met.
 - (a) Setbacks and Separation
 - (1) The tower shall be set back from the nearest property line a distance equal to the height of the facility. This setback may be reduced to one-half the height of the facility if the applicant submits an engineering report from a

registered professional engineer that certifies that the facility is designed and engineered to collapse upon failure within the distance from the facility to the property line. (This requirement does not apply to the boundary of the leased parcel unless the leased parcel boundary is also a property line.)

- (2) The tower shall not be located within five hundred (500) feet of any residence other than the applicant's residence.
- (3) Towers shall be set back from the nearest road right-of-way a distance equal to the height of the tower or the setbacks established according to the Zoning Districts of this ordinance, whichever is greater.
- (4) All guy wire anchors shall be at least twenty-five (25) feet from all property lines except on leased parcels.

(b) Co-Location/Sharing of Facilities

No new facility shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the governing authority that no existing facility tower or structure can accommodate the applicant's proposed antenna. Supporting evidence may consist of any of the following conditions:

- (1) No existing facility towers or structures are located within the geographic area required to meet the applicant's engineering requirements.
- (2) Existing facility towers or structures are not of sufficient height to meet the applicant's engineering requirements.
- (3) Existing facility towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- (4) The applicant's proposed system would cause electromagnetic interference with the system on the existing tower or structure, or the system on the existing facility tower or structure would cause interference with the applicant's proposed system.
- (5) The fees, cost, or contractual provisions required by the owner to share an existing facility tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are considered unreasonable.
- (6) The applicant demonstrates that there are other limiting factors that render existing facility towers or structures unsuitable.
- (7) New facilities shall be designed structurally and electrically to accommodate the applicant's antennas and comparable antennas for at least two (2) additional users if the tower is one hundred thirty (130) feet or more in height. Towers must also be designed to allow for future rearrangement of antennas on the tower and accept antennas mounted at different heights.

(c) Screening and Landscaping

The tower location shall provide for the maximum amount of screening of the facilities. The site shall be landscaped with a buffer of plant materials that effectively screens the view of all tower accessory structures, equipment, and improvements at ground level from adjacent properties. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the area where tower accessory structures and equipment are located at ground level. In locations where the visual impact of the tower would be minimal, the landscaping requirements may be reduced or waived by the governing authority. Existing mature vegetation and natural landforms on the site shall be preserved to the maximum extent possible.

(d) Security Fencing and Lighting

- (1) All towers shall be reasonably protected against unauthorized access. The bottom of the tower shall be enclosed with a minimum of an 8-foot high fence with a locked gate.

(2) Security lighting for on-ground facilities equipment is permitted as long as it is down-shielded to keep light within the boundaries of the site.

(e) Color and Materials

(1) All towers and antennas shall use building materials, colors, textures, screening, and landscaping that blends the facilities with the surrounding natural features to the greatest extent possible. The tower shall be painted light blue or other color that is demonstrated to minimize visibility. Galvanized towers may be permitted.

(2) All metal towers shall be constructed or treated with corrosion resistant material.

(f) Parking and Access

Adequate parking spaces shall be provided on each site so that parking on public road right-of-ways will not be necessary. An all-weather driveway to the tower, with access to a public road, must be built before operations begin.

(g) Height

The applicant shall identify the height of the proposed tower and provide justification for the height chosen. The Planning & Zoning Committee can modify the height after review of the application. Satellite dishes and parabolic antennas shall be situated as close to the ground as possible to reduce the visual impact without compromising their function.

(7) **Revocation**

(a) Grounds for Revocation.

Grounds for revocation of the conditional use permit shall be limited to one of the following findings as determined by the Town of Rushford Planning & Zoning Committee:

(1) The owner of such site, service provider, and/or tower owner fails to comply with the requirements of this ordinance as it existed at the time of the issuance of the conditional use permit.

(2) The permittee has failed to comply with the conditions of approval imposed.

(3) The facility has not been properly maintained.

(4) A permit shall expire twelve (12) months after issuance if the tower and/or supporting facilities have not been erected. An extension of time may be granted by the Planning & Zoning Committee upon request.

(b) Revocation Process:

(1) If one of the findings exists, the Town shall notify the permittee of the noncompliance. The permittee will be given an opportunity to present their position to the Planning & Zoning Committee or a minimum of 30 days to comply.

(2) If compliance is not received within 30 days, the Planning & Zoning Committee shall hold a hearing to review the noncompliance. Notice shall be given, testimony received, and a written decision made by the Planning & Zoning Committee based on substantial evidence.

(8) **Abandonment**

Rushford when the facility is no longer in operation. All obsolete, damaged, unused, or abandoned towers and accompanying accessory facilities shall be removed within twelve (12) months of the cessation of operations unless the Town approves a time extension. After the facilities are removed, the site shall be restored to its original or an improved condition, and anchoring elements shall be removed from the ground to within five (5) feet of ground level. If removal and/or restoration is not completed, the Planning & Zoning Administrator may order removal utilizing a performance bond which shall be provided by the telecommunication provider to the amount of \$20,000. The Town of Rushford will be named as obligee in the bond and must approve the bonding company.

1.5.6. Automobile Wrecking Yards, Dumping Grounds, Junk Yards, Sanitary Land Fills, and Salvage Yards ([back to top](#))

- (1) Any automobile wrecking yard, dumping ground, junk yard, sanitary land fill, or salvage yard must be located so that it does not prevent or interfere with the proper development of the surrounding area.
- (2) Any automobile wrecking yard, dumping ground, junk yard, sanitary land fill, or salvage yard must be adequately fenced or otherwise screened year round with a dense shrub growth to prevent unsightliness and the blowing of materials off of the premises.
- (3) The minimum side and rear setback for any automobile wrecking yard, dumping ground, junk yard, sanitary land fill, or salvage yard is 50 feet.
- (4) The planning and zoning committee shall take into consideration the temporary nature of dumping and sanitary land fill operations and the public necessity for waste disposal in considering the application for a conditional use permit for a dumping ground or sanitary landfill operation.

1.5.7. Cemeteries ([back to top](#))

- (1) The site of a proposed cemetery must not prevent or interfere with the proper development of thoroughfares in the area.
- (2) Any burial plot or structure must be set back at least 100 feet from any street or highway right-of-way line.
- (3) It is unlawful for a person to locate a grave anywhere other than in a cemetery that has been established in accordance with Wis. Stat. § 157.065.

1.5.8. Conservation Clubs, Shooting Clubs, and Shooting Ranges ([back to top](#))

- (1) The club or range and any structure associated with the club or range must be located so that the use of a firearm on the premises does not create a nuisance or danger to any person or property on any adjacent parcel.
- (2) Accessory uses, such as a bar, dining facility, kitchen, or storage shed that is incidental to the operation of the club or range, are allowed.

1.5.9. Convalescent Homes, Hospitals, Public Buildings, Nursing Homes, Sanitariums, and Utilities ([back to top](#))

- (1) The site of a proposed convalescent home, hospital, public building, nursing home, sanitarium, or utility must not interfere with or prevent the development and use of the surrounding land in the principal uses of the district.
- (2) The minimum side and rear setback for any convalescent home, hospital, public building, nursing home, sanitarium, or utility is 50 feet.
- (3) The grounds surrounding any convalescent home, hospital, public building, nursing home, sanitarium, or utility must be appropriately landscaped.
- (4) A sufficient number of off-street parking spaces must be provided to assure that employees, visitors, or others to a convalescent home, hospital, public building, nursing home, sanitarium, or utility do not need to park on any public right-of-way during normal periods of activity.

1.5.10. Parking Spaces; and Loading, Standing, and Unloading Areas [\(back to top\)](#)

- (1) **General Requirements.** The following general requirements apply to; parking spaces; and loading, standing, and unloading areas:
- (a) **Access.** A parking space or loading, standing, or unloading area must be served by separate ingress and egress driveways or by an adequate turn-around that is always available and useable.
 - (b) **Bumper guards or wheel barriers.** Any parking space or loading, standing, and unloading area associated with a commercial use must have bumper guards or wheel barriers installed so that no portion of a vehicle will project into a public right-of-way or over adjoining property.
 - (c) **Location.** A parking space or loading, standing, or unloading area may not be located in any yard that is adjacent to a street or highway.
 - (d) **Screening.** A parking, loading, standing, or unloading area that abuts a neighboring property in a residential district must be screened by a fence, hedge, or wall.
 - (e) **Surfacing.** A driveway; parking space; and loading, standing, and unloading area must have an all-weather surface, such as asphalt, gravel, or concrete, and must be graded and drained.
 - (f) **Lighting.** Any light used to illuminate a parking; or loading, standing, and unloading area must be directed away from any adjacent public street and away from any residence on an adjacent parcel.
- (2) **Automobile Parking Spaces.**
- (a) A minimum number of off-street automobile parking spaces are required for certain uses.
 1. A bed and breakfast must provide at least 1 space for each lodging unit.
 2. A bowling alley must provide at least 5 spaces for each alley or lane.
 3. A commercial use must provide at least 1 space for every 300 square feet of floor area devoted to the primary use and 1 space for every 5,000 square feet of storage or warehouse area.
 4. A dance hall or skating rink must provide at least 1 space for every 100 square feet of floor area used for dancing or skating.
 5. A hotel must provide at least 1 space for each lodging unit.
 6. A motel must provide at least 1 space for each dwelling unit.
 7. An office must provide at least 1 space for every 3 employees.
 8. A place of public assembly, such as an auditorium, church, meeting hall, or theater, must provide at least 1 space for every 6 seats, based maximum seating capacity.

9. A private club must provide at least 1 space for every 100 square feet of floor area.
 10. A publicly owned service building must provide at least 1 space for every 400 square feet of floor area.
 11. A residential use must provide at least 2 spaces per dwelling unit.
 12. A restaurant must provide at least 1 space for every 200 square feet of floor area, plus 1 space for every 3 employees.
 13. A retail operation must provide at least 1 space for every 200 square feet of floor area, plus 1 space for every 3 employees.
 14. A tavern must provide at least 1 space for every 200 square feet of floor area, plus 1 space for every 3 employees.
 15. A wholesale operation must provide at least 1 space for every 200 square feet of floor area, plus 1 space for every 3 employees.
- (b) Each parking space must be not less than 9 feet wide and 17 feet long.
 - (c) The planning and zoning administrator may specify the number of spaces for any unlisted use based upon the nature and location of the use.
 - (d) The planning and zoning committee may require a greater number of spaces based upon the nature and location of the use when authorizing the issuance of a conditional use permit.

(3) **Loading, Standing, and Unloading Spaces.**

- (a) A parcel that is used for commercial purposes must provide adequate space for loading, standing, and unloading motor vehicles in order to avoid undue interference with the public use of roadways, and no portion of a vehicle that is loading, standing, or unloading may project into a public roadway.
- (b) A space for loading, standing, or unloading motor vehicles must be not less than 12 feet wide, 65 feet long, and 15 feet high.
- (c) One space must be provided for each 20,000 square feet, or any fraction thereof, on a parcel that is used for commercial purposes.
- (d) The loading, standing, and unloading space requirements may be modified or waived for a proposed commercial use if a site review determines that the use is of a kind that does not require the loading, standing, or unloading of motor vehicles or that adequate provisions have been made for the loading, standing, and unloading of motor vehicles associated with the proposed use. Any modification or waiver granted pursuant to this subsection becomes void if the use that was subject to the site review is changed.

1.5.11. Home Occupations ([back to top](#))

- (1) The use of a residential dwelling for a home occupation may not occupy more than 25 percent of the floor area of one floor and must be clearly incidental and subordinate to the residential use. Typical home occupations include, but are not limited to, baby sitting, barber or beauty shops, canning, crafts, dance studios, desktop publishing and other computer services, dressmaking, insurance agencies, laundering and ironing, millinery, music instruction, photographic studios, real estate agencies, telephone

marketing, and word processing. Auto body, construction trades, and engine repair are not allowable home occupations.

- (2) Only 1 person other than a member of the immediate family living on the premises may be employed to work on the premises.
- (3) Traffic generated by the home occupation must not be greater in volume than would normally be expected in a residential neighborhood. Sufficient off-street parking must be provided for any traffic generated by the home occupation, but no parking is permitted in the front yard.
- (4) On-site retail sales are limited to goods made on the premises or, with the approval of the town, to goods associated with the normal operation of the home occupation, such as beauty supplies, shampoo, and personal care products for a beauty shop.
- (5) One on-premises sign is allowed.

1.5.12. Manufactured Homes and Mobile Homes [\(back to top\)](#)

- (1) A manufactured home used for human habitation must meet the construction standards contained in Wis. Admin. Code ch. Comm 27.
- (2) A manufactured home may not be parked or used as a residence unless it is located in a manufactured home park, except as otherwise permitted in this section.
- (3) A manufactured home is considered to be single-family residence and is an allowed use in any zoning district where single family dwellings are an allowed principal use provided that:
 - (a) A site plan is submitted with the zoning permit application to the town for review and approval. The site plan must show the size of the manufactured home, its location on the lot, all yard measurements, and the location of the septic tank, filter bed, and water supply.
 - (b) The manufactured home must be set on an enclosed foundation in accordance with Wis. Stat. § 70.043(1) and Wis. Admin. Code ch. Comm 21, subchs. III, IV, and V. The town may require a plan to be certified by a registered architect or engineer to ensure proper support for the home.
 - (c) The manufactured home must be securely anchored to its foundations with tie-downs having a minimum tensile strength of 2,800 lbs. and the anchors must be embedded in concrete that is sufficient to withstand the tie-down strain. The amount of tie-downs must conform to the manufacturer's recommendations, provided that there are at least four tie-downs.
 - (d) The manufactured home must be installed in accordance with the manufacturer's instructions and is properly connected to utilities.
 - (e) The hitch and wheels must be removed.
 - (f) The roof must be double pitched so that there is at least a 3-inch vertical rise for each 12-inches of horizontal run. The roof must have a minimum 8-inch overhang on each perimeter wall and the overhang must be architecturally integrated into the design of the dwelling. The roof must be residential in appearance; must be covered with an approved material, such as wood, asphalt, composition, or fiberglass shingles; and may not be covered with corrugated aluminum or corrugated fiberglass.

- (g) The exterior siding material must be residential in appearance; may consist of clapboards, concrete, masonry, simulated clapboards such as conventional vinyl or metal siding, stucco, wood, wood shingle shakes, or a similar material; but may not include smooth, ribbed, or corrugated metal or plastic panels. The exterior siding material must extend to ground level, except that when a solid concrete or masonry perimeter foundation is used, the siding material need not extend below the top of the foundation.
- (4) A manufactured home may not be located on a lot outside of an approved and licensed manufactured home park for more than 6 months unless it meets the requirements of a permanent dwelling and is taxed accordingly.
- (5) A manufactured home may be used as a single family residence on a farm provided that the manufactured home is occupied by a family member or employee of the farm's owner. The family member must be related to the father, mother, son, daughter, brother, or sister of the farm owner. The employee must be actively employed and receive 50 percent of his or her income from the farm operation.
- (6) Skirting. Skirting specifically designed for manufactured homes, or some other material, must enclose the area between the ground and the bottom of the manufactured home. Skirting must be installed within 2 weeks of the date that the manufactured home is placed on its site.
- (7) A mobile home may not be used as a residence within the town unless it is located in a manufactured home park.

1.5.13. Manufactured Home Parks [\(back to top\)](#)

- (1) Drainage, Erosion Control, and Landscaping.
 - (a) A manufactured home park and each manufactured home within the park must be located on a well-drained area and the premises properly graded so as to prevent the accumulation of storm or other waters. No manufactured home park may be located in an area where runoff of contaminated liquids or from contaminated solids is likely to be deposited.
 - (b) A construction site erosion control plan must be submitted to and approved by the town prior to the commencement of any work on a new manufactured home park or the expansion of an existing park.
 - (c) The open areas of a manufactured home park must be seeded or sodded and properly landscaped.
- (2) Parking.
 - (a) A graveled or paved parking area of at least 350 square feet is required for each manufactured home site. Additional parking spaces must be provided within the park so that there are at least 1¼ parking spaces for each manufactured home space.
 - (b) Parking in the front yard of a manufactured home is prohibited.
 - (c) The parking area for a manufactured home site must be connected to the entrance of the manufactured home by a hard surface walkway that is at least two feet wide.

- (d) Parking areas and walkways must have adequate drainage and be maintained in good condition.
 - (e) Unlicensed vehicles, collections of debris, junk, or personal property are prohibited in any parking area or space.
- (3) Setbacks and Other Dimensional Requirements.
- (a) The minimum lot size is 3 acres.
 - (b) The maximum number of manufactured home sites per acre is 8.
 - (c) The minimum width of a manufactured home site is 30 feet.
 - (d) The maximum height of a manufactured home is 15 feet.
 - (e) The minimum distance between manufactured homes is 20 feet.
 - (f) The minimum side yard setback for each manufactured home site is 8 feet.
 - (g) The minimum rear yard setback for each manufactured home site is 25 feet.
 - (h) The minimum setback for an accessory structure is 5 feet.
 - (i) Each site in a manufactured home park must be a clearly marked or delineated area of not less than 3,600 square feet. A manufactured home may not occupy more than one-third of a site, and the manufactured home and all accessory structures may not occupy more than one-half of the site. Any modification or expansion of an existing and operating manufactured home park must conform to current regulations.
- (4) Sewage Disposal.
- (a) A manufactured home park and each unit within a manufactured home park must be connected to and use a public sewage facility if it is available to the manufactured home park.
 - (b) A private sewage system as defined in Wis. Stat. § 145.01(12) is allowed when a public sewage facility is not available. The system must be located on the premise and must be designed, constructed, and operated in accordance with Wis. Stat. § 144.245 and Wis. Admin. Code chs. Comm 82 and 83. Plans and installation details covering the design and construction, alteration, or extension of a private sewage system must be approved by the county and the Department of Commerce prior to construction. Prior to construction, sanitary permits are required for any work done to a private sewage system.
- (5) Streets.
- (a) Each site in a manufactured home park must abut upon a street.
 - (b) The maximum length of a one-way street is 500 feet.
 - (c) A one-way street must be at least 14 feet wide if parking is prohibited on the street, 18 feet wide if parking is permitted on only one side of the street, and 24 feet wide if parking is allowed on both sides of the street.
 - (d) A two-way street must be at least 18 feet wide if parking is prohibited on the street, 24 feet wide if parking is permitted on only one side of the street, and 32 feet wide if parking is allowed on both sides of the street.

- (e) Each street must be adequately graveled for year round use or be paved; have natural drainage, be adequately lighted at night, and maintained in good condition.
- (6) Plumbing. All plumbing must meet the requirements contained in Wis. Admin. Code chs. Comm 82–84 and Wis. Admin. Code ch. HSS 177.
- (7) Uses.
- (a) The operation of laundry, recreation room, and washroom facilities for benefit of the residents of the manufactured home park is allowed.
 - (b) The operation of maintenance equipment storage facilities and one business office for the management of the manufactured home park is allowed.
 - (c) The management of the manufactured home park shall not allow, and no person may conduct, any other business activity in the park.
- (8) Miscellaneous Provisions.
- (a) Pre-existing Parks. Any expansion of an existing park must comply with this and all other town ordinances. All existing parks must be licensed and comply with this ordinance, except for certain design requirements not previously in effect. All replacement manufactured homes must comply with this section of the ordinance.
 - (b) Recreation Area. Each park must contain a relatively level, well-drained recreation area. The minimum recreation area required is ½ acre for the first 50 sites. An additional ½ acre is required for every 50 sites thereafter.
 - (c) Setback Zones. No occupied or unoccupied dwelling, manufactured home, mobile home, or recreation vehicle may be located between the established setback lines for the zoning district in which it is located and a highway, lot line, stream, street, or lake.
 - (d) Screening. Each manufactured home park must be completely enclosed, except for permitted entrances and exits, by a temporary planting of fast growing material capable of reaching 15 feet or more or by a permanent evergreen planting of such a number and arrangement of individual trees that a dense screen will be formed within 10 years. Other screening that is harmonious with the surrounding area may be approved by the planning and zoning administrator.
 - (e) Small Manufactured Homes. Any manufactured home with less than 400 square feet of living space must be located within a manufactured home park.
 - (f) Collections of personal property, debris, junk, and unlicensed vehicles are prohibited outside of a building anywhere within the boundaries of any manufactured home park.

1.5.14. Outdoor Wood Burning Furnaces [\(back to top\)](#)

- (1) This section applies to detached energy systems such as an outdoor wood burning furnace or unit, but does not apply to lawfully operated barbeques, fire pits, fryers, or grills. It does not apply to the chimney attached to any structure, such as a residence or garage.
- (2) A building permit is required for any detached energy system.

- (3) Setbacks and Other Minimums.
 - (a) Must be setback at least 100 feet from any lot line.
 - (b) Must be setback at least 500 feet from any residence on an adjacent parcel.
 - (c) The minimum stack height for any detached energy system is 20 feet, except that a lesser stack height which meets the manufacturer's minimum specifications is allowed for any system that is Phase 2 Qualified under the U.S. Environmental Protection Agency's 2008 Hydronic Heater Program.

1.5.15. Recreation Vehicles [\(back to top\)](#)

- (1) A recreation vehicle other than a park trailer, a transporting device for a recreation vehicle; or a recreation vehicle on a transporting device may be parked or stored on its owner's property as an accessory use.
- (2) A recreation vehicle or a transporting device for a recreation vehicle may not have its wheels removed, except for repairs, or be altered in any way that would make it unable to be readily removed from the property.
- (3) A recreation vehicle may not be used to provide permanent habitation in any district.
- (4) A recreation vehicle other than a park trailer may be used to provide temporary living quarters or overnight accommodations subject to the following conditions:
 - (a) It may not be located in a floodplain or wetland.
 - (b) It must meet all accessory use setback requirements for the district in which it is located.
 - (c) It may not have or be attached to any structure, such as a deck, patio, shed, or other appurtenance.
 - (d) If it is located on a residential parcel, it may be used to provide living space or overnight accommodations for up to 14 days at a time, but for no more that a total of 30 days in a calendar year.
 - (e) If it is located on an open space parcel or on an improved parcel on which no structure is used for habitation, it may be used continuously or intermittently to provide living space or overnight accommodations for a period of up to 30 consecutive days at a time. On the thirty-first day following the first day of any 30-day period, it must be removed from the parcel for at least 10 days and no other recreation vehicle may be located or used on the parcel during this 10-day period.
 - (f) No more than 2 recreation vehicles may be located or used on a parcel at any one time, except that up to 5 recreation vehicles may used on a parcel for a special event, such as a family reunion, for a period of no more than a total of 7 calendar days in any calendar year.
- (5) A park trailer may be used to provide temporary living quarters or overnight accommodations subject to the following conditions:
 - (a) It may only be located in a General Agriculture (GA) District.
 - (b) It may not be located in a floodplain or wetland.

- (c) It must meet all accessory use setback requirements.
- (d) It must be connected to septic and water utilities.
- (e) A deck, patio, shed, or other appurtenance may be attached to a park trailer.
- (f) It may be used to provide living space or overnight accommodations for no more than a total of 180 days in a calendar year.
- (g) No more than 1 park trailer may be located or used on a parcel at any one time, except in a recreation vehicle park.

1.5.16. Sand, Gravel, and Rock Excavation [\(back to top\)](#)

- (1) **Purpose.** These supplemental regulations are intended to assure that sand, gravel, and rock extraction operations are properly controlled, while providing the maximum degree of flexibility in dealing with mineral deposits whose locations are not precisely known, and are in addition to any requirements contained in the Nonmetallic Minerals Mining Ordinance.
- (2) **Aerial Photograph and Map.** An application for a sand, gravel, or rock extraction conditional use permit must include an aerial photograph and map that provides the following information:
 - (a) The boundaries of the affected parcel and any adjacent parcel and the location and name of all pipelines, railroads, roads, streams, utilities, and wetlands on the affected parcel and any adjacent parcel.
 - (b) The name of the owner of each adjacent parcel and the location of all structures within 1,000 feet of the outer perimeter of the area, the purpose for which the structure is used, and the names of each structure's occupants.
 - (c) The proposed location, extent, and depth of the intended sand, gravel, and rock excavation, showing the setback distances.
 - (d) The proposed location of any ponds, sediment basins, stockpiles, and waste dumps, showing the setback distances.
 - (e) The surface drainage of the affected land and the estimated depth to groundwater.
- (3) **Operational Information.** An application for a sand, gravel, or rock extraction conditional use permit must include the following operation information:
 - (a) The duration of any applicable lease.
 - (b) The estimated date that operations will commence and terminate. (c) The anticipated hours of operation.
 - (d) The proposed primary travel routes to transport material to and from the property.
 - (e) A description of the excavation and processing equipment to be used.
 - (f) A description of measures to be taken to screen the operation from view from any residence on an adjacent parcel.

- (g) A description of measures to be taken to control dust, noise and vibrations from the operation.

(4) **Operations.**

- (a) All blasting must be done by a state licensed and certified blaster, who must have a certificate of liability or proof of liability insurance.
- (b) All excavation equipment must be constructed, maintained, and operated in such a manner as to eliminate, as far as practicable, any dust, noise, or vibration that might adversely affect or injure any person living in the vicinity of the operation.
- (c) Any excavation access road must have and be maintained with a dustless surface, and a stop sign must be placed where the access road intersects a public road.
- (d) Any part of an excavation in which water collects to a depth of 2 feet or greater for 30 consecutive days or more must be drained or filled so as to prevent such a collection of water.
- (e) Operations must be conducted in such a manner that any water runoff from operation does not adversely affect any adjacent parcel.
- (f) All equipment and temporary structures, such as an asphalt plant, conveyor, or screener, must be removed from the parcel within 90 days of the termination of extraction operations.
- (g) All rubble and other debris must be removed from the parcel within 90 days of the termination of extraction operations.

(5) **Setback Requirements.**

- (a) The excavation must be setback at least 1,000 feet from any existing residence unless the planning and zoning committee determines that it is in the public interest to permit an excavation at a distance that is less than 1,000 from an existing residence.
- (b) The excavation must be setback at least 200 feet from all right-of-way lines unless the planning and zoning committee determines that it is in the public interest to permit an excavation at a distance that is less than 200 from a right-of-way line.
- (c) The excavation must be setback at least 100 feet from any lot line, except that the planning and zoning committee may set a smaller setback or waive the setback requirement if the adjacent parcel is or will be excavated.

(6) **Options.**

- (a) The planning and zoning committee may require fencing if warranted by existing conditions.
- (b) The planning and zoning committee may restrict the hours of operation if warranted by existing conditions.
- (c) The planning and zoning committee may require the testing of wells adjacent to the proposed operation for turbidity, water levels, or other factors after the conditional use permit is granted.

1.5.17. Signs ([back to top](#))**(1) Permit Requirement.**

A building permit is required for any directional sign, business sign in a Commercial/Business CB zoning district, or on-premises business sign. A permit is not required for any other sign.

(2) General requirements. The general requirements described in this subsection apply to any sign.

(a) A sign and its supporting structure must be properly constructed, installed, and maintained.

(b) A sign must be securely anchored or otherwise fastened, suspended, or supported so as not to present a hazard to any person or property.

(c) A sign must be designed and constructed to safely withstand a wind pressure of at least 30 pounds per square foot of surface area.

(d) A sign may not be suspended by chains or other devices that allow the sign to swing due to wind action.

(e) Dimensions. The following dimensional limits, which are inclusive of border and trim, but exclusive of supports, apply to all signs:

1. The maximum width of any sign is 20 feet.
2. The maximum height of any sign is 20 feet.
3. The maximum surface area of any sign is 150 square feet.

(f) Public Decency. A sign may not display images or text that violates standards of public decency.

(g) Residential Protection. A sign that faces a residential zoning district may not be located within 25 feet of the residential zoning district boundary.

(3) Nonconforming signs.

(a) A nonconforming sign may continue to be used and the copy displayed on the sign may be changed.

(b) Normal maintenance may be performed on and repairs made to a nonconforming sign, but a nonconforming sign may not be structurally altered unless the alteration brings the sign into compliance with this ordinance.

(c) Normal maintenance may be performed on the structure supporting a nonconforming sign, but the structure supporting a nonconforming sign may not be repaired unless the sign is brought into compliance with this ordinance. If repairs are made to the supporting structure and the sign cannot be brought into compliance with this ordinance, the sign must be removed.

(d) A nonconforming sign may not be enlarged.

(e) A nonconforming sign may not be relocated.

(f) A nonconforming sign may not be replaced.

(4) **Prohibitions.** The design elements, signs, and uses of signs described in this subsection are prohibited.

(a) A sign may not advertise an activity that is illegal under any federal law, state statute, county or town ordinance that is in effect where the sign is located or where the advertised activity takes place.

(b) It is unlawful to locate a vehicular sign on private property where it is visible from a public right-of-way for the purpose of advertising or providing directions to any private activity, business, person, product or service.

(c) It is unlawful to locate a vehicular sign on any public property or public right-of-way for the purpose of advertising or providing direction to any private activity, business, person, product, or service.

(a) It is unlawful to use any character, phrase, symbol, or word, such as "DANGER," "LOOK," "STOP," or "YIELD," on a sign in such a manner as to mislead any driver or be confused with any authorized traffic device, sign, or signal.

(e) It is unlawful to locate a sign where, by reason of its color, position, or shape, it may mislead any driver or be confused with any authorized traffic device, sign, or signal.

(f) It is unlawful to locate a sign where it interferes with or obscures a driver's view of any approaching, intersecting, or merging traffic on any street or highway.

(g) It is unlawful to locate a sign where it interferes with or obscures any official device, sign, or signal.

(h) It is unlawful to place any form of optical machine-readable code on a sign that is visible from a highway or street. Optical machine-readable code includes, but is not limited to, any form of barcode or matrix barcode, such as a Quick Response (QR) code.

(i) It is unlawful to draw, paint, or place a sign on a rock, tree, or other natural feature.

(j) A sign may not move or have any moving parts.

(k) A sign may not contain reflective elements that sparkle in the sunlight.

(l) It is unlawful to locate a sign, other than a government sign, in any public park, rest area, or scenic area.

(5) **Directional signs.**

(a) Location.

1. A directional sign may not be located within 2,000 feet of any at-grade intersection, interchange, rest area, park, scenic area, or wayside on a freeway or interstate highway or within 300 feet of any at-grade intersection, interchange, rest area, park, scenic area, or wayside on any other highway.

2. A directional sign must be at least one mile from any other directional sign that describes the same place and that faces the same direction.
 3. No more than 3 directional signs pertaining to the same place may be located along a single route.
 4. A directional sign visible from an interstate highway must be located with 75 miles of the place described on the sign.
 5. A directional sign must be located so that it does not affect any agricultural operation.
- (b) Changes to Directional Signs. A directional sign may be modified as to its color, copy, lighting, shape, and size provided that the modified sign complies with the requirements of Wis. Stat. § 84.30 and this ordinance.
- (c) Illumination Restriction. A directional sign may not be illuminated. (6)

Electronic signs. The following regulations apply to electronic signs:

- (a) Amber alerts. An electronic sign must be made available for amber alerts and other emergency notifications as deemed necessary by county law enforcement or emergency management officials.
- (b) Audio. An electronic sign may not contain or use audio speakers.
- (c) Brightness. The brightness level of an electronic sign may not exceed 5,000 nits during daylight hours or 500 nits from dusk to dawn.
- (d) Display Requirements. Any image or text displayed on an electronic sign must be a static display that has a duration of at least 8 seconds. The transition time between one display and the next must be no longer than 2 seconds. A black or blank screen may not be used during the transition period.
- (e) Malfunctions. An electronic sign must be designed to freeze the display in the event of a control malfunction.
- (f) Mounting. An electronic sign that is mounted on a building or any appurtenance to a building may not project more than 18 inches from the face of the structure on which it is mounted.
- (g) Portable Signs. A portable electronic sign is not permitted.
- (h) Railroad Crossings. An electronic sign is prohibited within 200 feet of any railroad crossing.
- (i) Residential Restriction. An electronic sign may not be located with 200 feet of any residential zoning district.
- (j) Scrolling Messages. An electronic sign may not display a scrolling or traveling message.
- (k) Pyrotechnics. An electronic sign may not contain or use any form of pyrotechnics.

(7) Illuminated signs.

- (a) An illuminated sign must be effectively shielded so as to prevent light from being directed at any portion of the travelway of a controlled highway and may not glare, impair the vision of the driver of any motor vehicle, or otherwise interfere with any driver's operation of a motor vehicle.
- (b) An illuminated sign may not interfere with the effectiveness of or obscure any official traffic device, sign, or signal.
- (c) An illuminated sign must be effectively shielded so as to prevent light from being directed at any residence or habitable structure on any adjacent parcel.
- (d) Neon tubing that is exposed to view on any sign must have an opaque cover of plexiglas or another similar material.

(8) Sign-Specific Regulations.

- (a) Campaign or Ballot Initiative Signs. A sign erected on behalf of a candidate for public office or a ballot initiative may not be erected more than 30 days prior to the primary election and must be removed within 15 days following the general election. The maximum size of a campaign or ballot initiative sign, other than a billboard, is 16 square feet in a nonresidential zoning district and 8 square feet in a residential zoning district. A campaign or ballot initiative sign may not be located in or over a public right-of-way or within 15 feet of a public right-of-way at an intersection. A campaign or ballot initiative sign in a residential zoning district may not be illuminated.
- (b) Construction Signs. A sign that identifies a contractor or a construction project may be erected on the construction site. The maximum size of a construction sign is 100 square feet. No more than two signs are allowed on a construction site. The sign must be removed within 30 days of completion of construction or upon occupancy, whichever occurs first. A construction sign in a residential zoning district may not be illuminated.
- (c) Farm Signs. A sign identifying a farm may be placed on the property that it identifies. The maximum size of a farm sign is 10 square feet. A farm sign may not be illuminated.
- (d) Freestanding Signs. A freestanding sign must be entirely within the lot lines of the parcel on which it is located and must be setback from any road surface by a distance that is at least equal to or greater than the height of the sign. A freestanding sign that is located within 15 feet of a front or corner side lot line may not be more than 3 feet in height unless it has a minimum under clearance of 10 feet as measured from the grade level at the closest right-of-way line to the bottom of the sign.
- (e) Garage, Rummage, and Yard Sale Signs. A sign for a garage, rummage, yard sale, or similar event ("yard sale sign") must be entirely within the lot lines of the parcel on which the event takes place. A yard sale sign may not be displayed more than one day prior to the start of the sale and must be removed within one day after the sale ends. No more than 2 events may be held on any parcel during a calendar year. A sign or signs may not be displayed for more than 10 days per event. The maximum size of a yard sale sign is 4 square feet. One sign is permitted on a lot, except that two signs are permitted on a corner lot provided that the signs are placed on different frontages. A yard sale sign may not be illuminated.

- (f) Home Occupation Signs. A sign that displays the name and home occupation of the occupant may be placed on a property. The maximum size of the sign is 1 square foot. The sign may not be illuminated.
- (g) Marquee signs. A marquee or other projecting sign that is located closer than 15 feet of a front or corner side lot line must have a minimum under clearance of 10 feet as measured from the grade level at the nearest road surface to the bottom of the sign.
- (h) Memorial Signs. The maximum size of a memorial sign which identifies the name of a building and date of erection is 4 square feet unless the sign is cut into a masonry surface or inlaid so as to be part of the building. A memorial sign in a residential zoning district may not be illuminated.
- (i) Neighborhood Identification A sign that identifies a housing complex, neighborhood, or subdivision is permitted in any residential zoning district. The sign may only contain the name of the housing complex, neighborhood, or subdivision and may consist of a landscaping, a masonry wall, or other materials combined to form a display. The maximum height of the sign is 8 feet and the maximum size is 32 square feet. The sign may not be illuminated unless specifically authorized by the town.
- (j) No dumping signs. The maximum size of a no dumping sign is 1½ square feet.
- (k) No trespassing signs. The maximum size of a no trespassing sign is 1½ square feet.
- (l) On-premises Business Signs. The maximum size of an on-premises business sign is 32 square feet, excluding supports.
- (m) Organizational Identity Signs. A sign that consists of or displays an emblem, insignia, plaque, or symbol that identifies any association, corporation, nation, political organization, religious order, or other organized entity may be located on a person's property. The sign may not be illuminated if it is located in a residential district.
- (n) Political Signs. A political sign that pertains to a political cause or issue must be removed within 15 days following the date that the political cause or issue is resolved. The maximum size of a political sign, other than a billboard, is 16 square feet in a nonresidential zoning district and 8 square feet in a residential zoning district. A political sign may not be located in or over a public right-of-way or within 15 feet of a public right-of-way at an intersection. A political sign in a residential zoning district may not be illuminated.
- (o) Professional Office Signs. A sign that displays the name and profession of the occupant of the premises may be placed on a property. The maximum size of the sign is 3 square feet. The sign may not be illuminated.
- (p) Real Estate Signs. A real estate sign that advertises a building, property, or other real estate for lease, rent, or sale may be placed on the property that is offered for lease, rent, or sale. One sign is permitted on a lot, except that two signs are permitted on a corner lot provided that the signs are placed on different frontages. The maximum size of a real estate sign is 32 square feet in a nonresidential district and 8 square feet in a residential district. The sign must be removed within 30 days of the effective date of the lease, rental, or sale of the property. The sign may not be illuminated.
- (q) Wall Signs. A wall sign may not exceed 40 percent of the area of the wall upon which it is affixed or 4 square feet per lineal foot of wall, whichever is greater.

(9) Removal, Repair, or Compliance Orders.

- (a) The planning and zoning administrator may issue a written order to the person who owns the property on which a sign is located that directs that a sign be removed, repaired, or brought into compliance with the terms of this ordinance if:
1. The sign is abandoned.
 2. The sign advertises an activity, business, product, or service that is no longer available or provided.
 3. The sign is deteriorated, dilapidated, or in disrepair.
 4. The sign is a hazard to any person or property or is otherwise unsafe.
 5. The sign does not comply with any requirement contained in this ordinance.
- (b) If a written order is issued pursuant to sub. (a), the action specified in the order must be completed within 10 days from the date of the order, unless the town specifies a longer period of time for compliance. The action necessary to comply with the order may be taken by the person who owns the property, the person who owns the sign, or the person having the beneficial use of the property or sign.
- (c) If the action specified in the order is not taken within the time required, the town may remove or cause the sign to be removed. The cost of removing the sign will be imposed as a special charge against the real property on which the sign was located and the property owner will be billed for the special charge. If the special charge is not paid within 30 days from the date of billing, it will become a lien against the property and the delinquent special charge may be included in the next or current tax roll for collection and settlement pursuant to Wis. Stat. § 66.0627.
- (d) If the planning and zoning administrator determines that a sign or its supporting structure presents an immediate peril to any person or property, the town may summarily remove or cause the sign to be removed without notice to the property owner where the sign is located. The town shall notify the property owner of the removal action as soon as practicable. The cost of removing the sign will be imposed as a special charge against the real property on which the sign was located and the property owner will be billed for the special charge. If the special charge is not paid within 30 days from the date of billing, it will become a lien against the property and the delinquent special charge may be included in the next or current tax roll for collection and settlement pursuant to Wis. Stat. § 66.0627.

1.5.18. Vacation Home Rentals [\(back to top\)](#)

- (1) The applicant for a conditional use permit for a vacation home rental must include a site diagram, drawn to scale, showing the location and dimensions of the following:
- (a) The structure used to provide sleeping accommodations;
 - (b) All accessory structures;
 - (c) Any private on-site waste water treatment system;
 - (d) Each parking space; and
 - (e) The on-premises sign.
- (2) The application for a conditional use permit must specify:

- (a) The number of bedrooms in the unit;
 - (b) The maximum number of overnight occupants who will be permitted to stay in the unit; and
 - (c) The number of parking spaces provided.
- (3) The application for a conditional use permit must include a report showing that a compliance inspection has been conducted for any private on-site wastewater treatment system (POWTS) and that the system meets all state and local requirements.
- (4) The planning and zoning committee may impose conditions intended to reduce the impact of the proposed use on neighboring properties and nearby bodies of water. The conditions may include, but are not limited to, the installation of a fence or vegetative screening along a property line, the maintenance of native vegetation as a buffer along the shoreline, or the imposition of specified quiet hours.
- (5) An on-premises sign must be posted in a conspicuous place near the entrance to the property. The sign must have an area of at least 3 square feet. The sign must be visible from and legible without the need to come on to the property.
- (6) The on-premises sign must include the following information:
- (a) The property's advertised name, if any;
 - (b) The property's address;
 - (c) The name, address, and telephone number of the owner; and
 - (d) The name, address, and telephone number of the owner's agent or the local contact responsible for managing the property, if any.
- (7) The owner of a vacation home rental must keep a register detailing the use of the premises. The register must include, at a minimum, the name, address, and telephone number of each guest using the property and the license number of each vehicle that is parked on the property. A copy of the register must be made available to the town upon request.
- (8) Only 1 structure on a parcel may be used to provide sleeping accommodations for a vacation home rental. Accessory buildings may not be used to provide sleeping accommodations.
- (9) Occupancy is limited to no more than 2 persons per bedroom, plus 2 additional persons, per structure, and may not to exceed a total of 12 persons.
- (10) It is unlawful for any person to use or allow another person to use a camper, motor home, recreation vehicle, trailer, or any other means to provide overnight accommodations outside of the principal structure on the premises of a vacation home rental.
- (11) The owner must provide sufficient off-street parking for all day-time visitors. The owner must provide off-street parking on the parcel for each vehicle that is parked overnight. The maximum number of vehicles that may be parked on the property overnight is 6.
- (12) A vacation home rental is subject to the licensing requirements contained in Wis. Admin. Code ch. DHS 195 and the county's Public Health Ordinance.

- (13) Any prior nonconforming structure or use of a property for the purpose of providing a vacation home rental that is altered, changed, increased, replaced, or extended after the effective date this ordinance must comply with the requirements contained in this ordinance.

1.5.19. Specifications and Mounting of Address Numbers [\(back to top\)](#)

- (1) All structures and uses requiring an address and number shall have the number mounted so it is clearly visible from the abutting road way in the following manner:
- (a) Structures setback more than 75 feet from the right-of-way of the abutting roadway.
 - (b) Structures located in such a manner that the visibility of the address number is obscured or is not discernable from the abutting roadway, regardless of the structure's distance from the road right-of-way. Final determination of the sign visibility shall be within the discretion of the town Board.
- (2) The following specifications shall be followed when mounting address numbers at the driveway access point:
- (a) Numbers shall be posted on the right side of the driveway access point when viewing the property from the roadway. The sign shall be located no more than 10 feet from the abutting road right-of-way and no more than 20 feet from the edge of the driveway. In some site specific cases, numbers may be posted on the left side of the driveway when viewing the property from the roadway.
 - (b) The number shall be mounted on a post made of metal and be perpendicular to the abutting roadway, so as to be easily visible. The sign and post shall be maintained by the property owner in an acceptable manner.
- (3) Although required by the postal service for mail delivery, it shall not be acceptable to use mailboxes as the device for posting address numbers.

1.5.20. Filling, Grading, Ditching and Excavating [\(back to top\)](#)

- (1) General Standards.
- (a) The smallest amount of bare ground shall be exposed for the shortest time feasible and permanent ground cover shall be established as soon as practical.
 - (b) Shall not alter the drainage from and onto adjacent lands so as to create significant harm.
 - (c) Shall not, in any manner, alter the course of a waterway on property belonging to other than the applicant.
 - (d) Shall, where applicable, meet the requirements of federal, state or local agencies also having jurisdiction, such as the Wisconsin Department of Natural Resources, the U.S. Army Corps of Engineers, and Winnebago County.
- (2) Filling may be permitted provided the fill material:
- (a) Shall be suitable for its intended use, no fill intended for supporting structures shall consist of junk, wood, sawdust, paper, tires, solid waste, muck, peat, or any similar materials which could cause subsidence.
 - (b) Fill material is protected from erosion so as not to cause siltation of adjacent lands or navigable waters. The use of a temporary ground cover or other conservation practices such as sediment catch basin or diversion terrace may be required in order to prevent erosion.
 - (c) Shall rest on a firm bottom and be stabilized according to accepted engineering standards.
 - (d) Filling shall comply with any local floodplain zoning ordinance and shall not restrict a floodway or destroy the flood storage capacity of a floodplain.
- (3) Grading, ditching, and excavating of an area may be permitted provided that:
- (a) Channels or artificial watercourses shall be constructed with side slopes of two (2) units horizontal distance to one (1) unit vertical or flatter which shall be promptly vegetated, unless bulkheads or riprap are provided..
 - (b) Ditch banks shall be maintained in a sod cover and free of woody vegetation.

- (c) A 10 foot wide buffer strip of untilled, ungrazed sod cover shall be maintained adjacent to the ditch bank.
- (4) Exemptions
 - (a) Soil conservation practices used for erosion control shall be exempt when designed and constructed to Natural Resource Conservation Service technical standards.

1.5.21 Prohibited Residences and Dwelling Units.

Portable storage facilities (including shipping containers, cargo containers, portable on demand storage (PODS), and store and move (SAM) containers, busses, heavy duty trucks and their bodies, semi-trailers, freight containers, and similar items) shall not be used as a dwelling or residence. (updated 1/5/2022)

1.6. ADMINISTRATION and AMENDMENTS

1.6.1. Planning and Zoning Committee ([back to top](#))

- (1) **Purpose.** The purpose of this ordinance is to establish a Town of Rushford Planning and Zoning Committee and set forth its organization, powers and duties, to further the health, safety, welfare and wise use of resources for the benefit of current and future residents of the Town and affected neighboring jurisdictions, through the adoption and implementation of comprehensive planning with significant citizen involvement.
- (2) **Powers and Duties.** The Town Board of the Town of Rushford has been authorized by the Town meeting under sec. 60.11(2)(c), Wis. Stats., to exercise village powers and the Town has a population of less than 2,500, according to the most recent regular or special federal census, sec. 990.01 (29), Wis. Stats. The Town Board hereby exercises village powers under sec. 60.22(3), Wis. Stats., and establishes a five (5) member Plan Commission under secs. 60.62(4), 61.35 and 62.23, Wis. Stats. The Plan Commission shall be considered the "Town Planning and Zoning Committee" under secs. 236.02(13) and 236.45, Wis. Stats., which authorize, but do not require, Town adoption of a subdivision or other land division ordinance. Such powers and duties generally include:
 - (a) To initiate, hear, review and offer its recommendations to the Town Board on applications for amendments to this chapter.
 - (b) To hear, review and offer its recommendations to the Town Board on applications for conditional use permits, subdivisions, street vacations and name changes, and other matters.
 - (c) To prepare and recommend to the Town Board for adoption of a Comprehensive Plan for the town, and from time to time to recommend amendments as it may deem appropriate.
 - (d) To review and report on any matters referred to it by the Town Board.
- (3) **Organization.** The Planning and Zoning Committee shall be organized in the following manner:
 - (a) The Planning and Zoning Committee should consist of one (1) representative from the Town Board, who may be the Town Board Chairperson or another Town Board member, and 4 citizen members, who are not otherwise Town Officials, and who shall be persons of recognized experience and qualifications.
 - (1) One alternate member may also be nominated by The Town Chairman and confirmed by the Town Board, who shall act, with full power, only when a member of the Committee is absent.
 - (b) Members of the Planning and Zoning Committee shall be nominated by the Town Chairman and confirmed by the Town Board. The term of office for the Planning and Zoning Committee Chairperson and each Committee member shall be for a period of 3 years, ending on April 30, or until a successor is appointed and qualified, except:
 - (1) Initial Terms. The citizen members initially appointed to the Plan Commission shall be appointed for staggered terms as follows: one (1) person for a term

that expires in one (1) year; one (1) person for a term that expires in two (2) years; and two (2) persons for a term that expires in three (3) years.

- (2) Town Board Member or Chairperson. The Plan Commission member who is a Town Board member or Town Board Chairperson, shall serve for a period of two (2) years, as allowed under sec. 66.0501(2), Wis. Stats., concurrent with his or her term on the Town Board, except an initial appointment made after April 30 shall be for a term that expires two (2) years from the previous April 30.
- (c) The planning and zoning administrator will sit on the committee to provide information but will not be a voting member.
- (d) At the first scheduled meeting of the Planning and Zoning Committee following the annual town meeting, the Committee will appoint a Chairman, Vice Chairman and Recording Secretary.
- (e) A person who is appointed to fill a vacancy on the Planning and Zoning Committee shall serve for the remainder of the term.
- (f) Planning and Zoning Committee meetings shall consist of at least 3 voting members to constitute a quorum.
- (g) The Planning and Zoning Committee, under sec. 62.23(2), Wis. Stats., may adopt rules for the transaction of its business, subject to Town ordinances, and shall keep a record of its resolutions, transactions, findings and determinations, which shall be a public record under secs. 19.21-19.39, Wis. Stats.
- (h) The members of the Planning and Zoning Committee will be compensated for their time based on a set rate established annually by the Town Board. They shall be removable by the Town Chairman for a cause upon written charges and after public hearing.

1.6.2. Building Inspector; Planning & Zoning Administrator [\(back to top\)](#)

(1) Building Inspector.

- (a) A Building Inspector shall be appointed by the Town Board at a rate of compensation and for a term of office, which is established by the Town Board at the time of such appointment. The Building Inspector shall possess the necessary skill and experience to perform the duties as a building inspector.
- (b) The Building Inspector shall accept applications, issue or deny building permits, give notice of violations and enforce the provisions of any Town Building Code and other applicable town, county and state building regulations.

(2) Planning & Zoning Administrator

- (a) A Planning & Zoning Administrator shall be appointed by the Town Board at a rate of compensation and for a term of office, which is established by the Town Board at the time of such appointment.
- (b) The Planning & Zoning Administrator shall accept applications, issue or deny Zoning Permits, give notice of violations and enforce the provisions of this Zoning Ordinance.

(3) Duties of Building Inspector and Planning & Zoning Administrator:

- (a) The Planning & Zoning Administrator and Building Inspector shall have access to premises and structures during reasonable hours to make those inspections as deemed necessary by them, or either of them, to ensure compliance with this Ordinance, applicable building codes and town, county and state regulations. They each shall have the authority to procure special inspection warrants in accordance with Wisconsin Statutes.
- (b) The Planning & Zoning Administrator and Building Inspector each shall have the authority to halt any location, erection, moving, reconstruction, enlargement, extension, conversion or structural alteration of a structure, or use of land, which is not in compliance with this Ordinance or applicable building codes and town, county and state regulations. In furtherance of this authority, the Building

Inspector may revoke any building permits then issued which pertain to any conforming matter by notice in writing to the holder of such permit.

- (c) Notwithstanding any other provision of this Ordinance, where a Zoning Permit or Building Permit has been issued in accordance with law prior to the effective date of this Ordinance, and provided that construction is begun within six (6) months after such effective date and diligently pursued to completion, the subject of such permit may be completed in accordance with the approved plans on the basis on which the permit was issued. Upon completion such premises may be occupied under a Certificate of Compliance for the use designated in the permit. Thereafter, however, the premises shall be subject to all provisions of this ordinance.
- (d) Notwithstanding any other provision of this Ordinance, no inspection shall be required of any farm or agricultural outbuilding, except that setback requirements of this ordinance shall be enforced.

1.6.3. Board of Appeals ([back to top](#)).

- (1) **Establishment.** A Board of Appeals is established for the purposes of hearing appeals from actions of the Planning & Zoning Administrator and applications for variances from and exceptions to provisions of this Ordinance, and deciding the same.
- (2) **Membership.** The Board of Appeals shall consist of 5 members appointed by the Town Chairman, subject to confirmation by the Town Board. The terms of the office shall be for a period of 3 years, or until a successor is appointed and qualified. The members of the Board will be compensated for their time based on a set rate established annually by the Town Board. They shall be removable by the Town Chairman for a cause upon written charges and after public hearing. The Town Chairman shall designate one member chairman. The Board may employ a secretary and other employees. Vacancies shall be filled for the unexpired terms of members whose terms become vacant. The Town Chairman may appoint one alternate member, who shall act, with full power, only when a member of the Board refuses to vote because of interest or when a member is absent.
- (3) **Organization.** The Board of Appeals shall adopt rules in accordance with the provisions of this Ordinance. Meetings shall be held at the call of the Chairman and at such times as the Board may determine. The Chairman or acting Chairman if there be one, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public and a record of all proceedings shall be kept, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact. The board shall keep records of its examinations and other official actions. All records immediately shall be filed in the office of the Board and shall be public.
- (4) **Appeals.** Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer of the Town of Rushford affected by any decisions of any administrative officer' of the town. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken and with the Board a notice of appeal, specifying the grounds thereof. The officer from whom the appeal is taken forthwith shall transmit to the Board all the papers constituting the record upon which the action was taken from which appeal is made.
- (5) **Automatic Stay.** An appeal shall stay all legal proceedings in furtherance of the action from which appeal is made, unless the officer from whom the appeal is taken certifies to the Board that by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application, with notice to the officer from whom appeal is made, and on due cause shown.
- (6) **Hearings.** The Board shall fix a reasonable time for the hearing of appeals or other matters referred to it. Public notice shall be given of all hearings. Due notice of a hearing also shall be given to the parties in interest. Upon the hearing any party may appear in person or by agent or attorney. The Board shall decide each matter within a reasonable time after its hearing.
- (7) **Powers.** The Board shall have the following powers:

- (a) To hear and decide appeals where it is alleged there is error in any order, requirements, decision or determination made by the Planning & Zoning Administrator in the enforcement of this Ordinance.
 - (b) To hear and decide special exceptions to the terms of this Ordinance and to grant such variance from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in practical difficulty or unnecessary hardship, so that the spirit of the Ordinance shall be observed, public safety and welfare secured and substantial justice done. Use variances shall not be granted by the Board of Appeals.
 - (c) To hear and decide applications for interpretations of zoning regulations and zoning district boundaries established under this Ordinance.
 - (d) To hear and decide applications for substitution of more restrictive nonconforming uses for existing nonconforming uses where no structural alterations are to be made.
 - (e) To hear and decide applications for unclassified and unspecified uses; provided, however, that such uses shall be similar to character to the principal uses permitted in the district and the Town Planning & Zoning Committee shall have made a review and recommendation on the application.
 - (f) To hear and decide applications for temporary uses which do not involve the erection of a substantial structure and are compatible with neighboring uses; provided however, that the Town Planning & Zoning Committee shall have made a review and recommendation on the application; and further provided that a temporary use permit shall be revocable subject to conditions established by the Board and shall be issued for a period not in excess of one year. In exercising its power, the Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and to that and shall have the powers of the officer from whom appeal is taken and may issue or direct the issue of permits.
- (8) **Decisions.** The concurring vote of four (4) members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of any applicant, or to effect any variation in this Ordinance. The grounds of every such determination shall be stated in writing. Variances, substitutions and use permits shall expire within 18 months of their grant unless substantial work, under them has been commended. A decision shall be made within 30 days after the final hearing on the matter of the hearing.
- (9) **Appeals.** Any person aggrieved by any decision of the Board of Appeals or any taxpayer, or any officer of the Town of Rushford may present to the Court of record a petition, duly verified, setting forth that such decisions is illegal, in whole or in part, specifying the ground of the illegality. Such petition shall be presented to the Court within thirty (30) days after the filing of the decision in the office of the Board of Appeals.

1.6.4. Amendments [\(back to top\)](#)

- (1) **Authority.** Whenever the public necessity, convenience, general welfare or good zoning practice require, the Town Board may adopt any Ordinance, changes in the district boundaries, and may amend, change or supplement the regulations established by this Ordinance or amendments thereto. All such changes or amendments shall be adopted according to the procedures established under Section 60.62 and 62.23 (7) of the Wisconsin Statutes, upon review and recommendation by the Town Planning & Zoning Committee.
- (2) **Protest.** In case of a protest against any such change or amendment, duly signed and acknowledged, the owners of 20% or more, either of the acres of land included in such proposed change or amendment, or by the owners of 20% or more of the area of land immediately adjacent extending 100 feet there from, 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 amendment shall not become effective, except by the favorable

vote of two-thirds (2/3) of the members of the Town Board voting on the proposed change or amendment.

- (3) **Severability.** If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a Court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.
- (4) **Reapplication Time Period.** No application of a property owner or option holder for an amendment to the zoning map shall be considered by the Town of Rushford within one (1) year following a denial of the same request. An exception to this rule is if the property owner or option holder requests a different zoning district change.

1.7. APPLICATIONS and APPEALS

1.7.1. Zoning Permit [\(back to top\)](#)

- (1) Applications for a Zoning Permit shall be made in writing to the Planning & Zoning Administrator on forms, which shall include the following information:
 - (a) Names and addresses of the applicant, owner of the site, and architect, professional engineer and contractor, if any.
 - (b) Description of the subject site by its legal description according to the Winnebago County, Wisconsin Registry or land survey in accordance with the Winnebago County, Wisconsin, and Town of Rushford Subdivision Ordinances.
 - (c) Address of the subject site.
 - (d) Type of structure.
 - (e) Existing and proposed operation of the structure or site.
 - (f) Number of employees or occupants.
 - (g) Zoning district in which the subject site is located.
 - (h) Plot plan, drawn to scale, showing the location, property boundaries, and dimensions, uses and sizes of the following: subject site; existing and proposed structures; existing and proposed sanitary facilities and well; existing and proposed easements, streets and other public ways; off-street parking, loading areas and driveways; existing highway access restrictions; existing and proposed yards; and finished grades.
- (2) A Zoning Permit shall be granted or denied in writing by the Planning & Zoning Administrator within thirty (30) days after filing of the application.
- (3) A Zoning Permit shall recite the information set forth in the application and shall be displayed at the subject site and shall expire one (1) year after date of issue, unless substantial work has been commenced and diligently pursued within that period.
- (4) No permit shall be issued for any new construction, addition, reconstruction, enlargement or conversion of a principal structure that is intended to be occupied by human beings without the prior issuance of a Sanitary and Stormwater/Erosion Control Permit by the Winnebago County Zoning Department.

1.7.2. Building Permit [\(back to top\)](#)

- (1) A Building Permit shall be required for the construction, moving, reconstruction, enlargement, extension, conversion or structural alteration of a building or structure, with a value for materials and labor in excess of \$1,000.00. Applications for a Building Permit shall be made in writing to the Building Inspector on forms which shall include the following:
 - (a) Names and addresses of the applicant, owner of the site, and architect, professional engineer and contractor, if any;
 - (b) Description of the subject site by its street address or, if there is none, by its legal description according to the Winnebago County, Wisconsin, Registry or other land survey;
 - (c) Type of structure or work proposed to be done and statement of cost of work proposed to be done or, where not known, good faith estimate of such cost.
 - (d) Existing and proposed operation of the structure or site.

- (e) Plot plan, drawn to scale, showing the location, property boundaries, and dimensions, uses and sizes of the following: subject site; existing and proposed structures; existing and proposed sanitary facilities and well; existing and proposed easements, streets and other public ways; off-street parking, loading areas and driveways; existing highway access restrictions; existing and proposed yards; and finished grades.
- (2) The proposed finished grade for the principal structure shall be a grade twelve inches above the crown of any adjacent public road at the center of said structure.
- (3) Where an alternate elevation would better suit the existing or proposed use surrounding the site, the Building Inspector shall have authority to set an alternative finished grade elevation at the time of application for a building permit; provided, however, that such alternative grade shall be noted on the zoning application by the Building Inspector.
- (4) Building Permits shall recite the information set forth in the application and shall be displayed at the subject site and shall expire one (1) year after date of issue, unless substantial work has been commenced and diligently pursued within that period.
- (5) No permit shall be issued for any new construction, addition, reconstruction, enlargement or conversion of a principal structure that is intended to be occupied by human beings, without the prior issuance of a Sanitary and Stormwater/Erosion Control Permit by the Winnebago County Zoning Department. The foregoing notwithstanding, a zoning permit is required for a roadside stand.

1.7.3. Driveway and Roadway Access Permit [\(back to top\)](#)

- (1) A driveway or roadway access permit shall be required to construct or reconstruct an access or connection to a local road within the Town of Rushford. This shall include the conversion of a farm access to a private residential or business access. Application for a driveway and roadway access permit shall be made in writing to the Building Inspector on forms which shall include the following:
 - (a) Names and addresses of the applicant, owner of the site, and architect, professional engineer and contractor, if any;
 - (b) Description of the subject site by its street address or, if there is none, by its legal description according to the Winnebago County, Wisconsin, Registry or other land survey;
 - (c) Scale drawing, site engineering and other traffic safety data may be required as a condition for approval.
 - (d) Driveway or roadway access permits shall recite the information set forth in the application and shall be displayed at the subject site and shall expire one (1) year after date of issue, unless substantial work has been commenced and diligently pursued within that period.
- (2) The location, design and construction of a connection or point of access to a local road must meet the following requirements, which in no case shall be excused unless specific written authorization is obtained from the Building Inspector:
 - (a) Farm access points are exempt from width requirements.
 - (b) A driveway shall have a setback ten (10) feet from an adjacent property line, measured from the pavement or non-paved edge.
 - (c) A driveway shall have a minimum top width of twenty (20) feet and a maximum driveway top width of thirty-five (35) feet.
 - (d) A driveway must have an all-weather driving surface that is not less than fourteen (14) feet wide and six (6) inches in depth.
 - (e) All driveways and points of access shall be constructed as to provide connection to the local road at an angle of ninety (90) degrees.

- (f) An access shall not provide a direct connection to or from a local road intersection.
- (g) A driveway that exceeds five hundred (500) feet in length must have a turnout at least every five hundred (500) feet that will allow vehicles to pass. The turnout area must be at least sixty (60) feet in length, thirty (30) feet in width, and have a connecting turn radius of at least thirty (30) feet.
- (h) The surface of the access surface connecting with the local road shall slope down and away from the local road shoulder a sufficient amount and distance to preclude ordinary surface water drainage flowing from the driveway area onto the local roadbed.
- (i) No concrete approaches or aprons shall be permitted within the road right-of-way.
- (j) All points of access shall not obstruct or impair drainage in local roadside ditches or roadside areas. A culvert of an appropriate size may be required.
- (k) Any culvert or bridge associated with the driveway must be capable of handling a 30-ton vehicle.
- (l) A driveway must be located within a clear space that is free of any trees or other obstructions. The clear space must be at least 20 feet wide and 14 feet high.
- (m) The Building Inspector may impose any other standards or requirements deemed necessary regarding the construction of any access so as to promote traffic safety and protect the public investment in the local roads.

1.7.4. Conditional Use Permit [\(back to top\)](#)

- (1) **Application.** An application for a conditional use permit must be submitted to the town clerk for transmittal to the planning and zoning committee where a public hearing will be held and a recommendation will be made to the Town Board.

- (2) **General Standards.** A conditional use must not endanger the public health, safety, and welfare. A conditional use must be in harmony with the orderly development of the district in which it is located. The intensity, location, nature, and size of the use; the height, location, and nature of structures associated with the use; the relationship of the structures and the use to the site on which it is located, surrounding properties, and existing or future streets are all relevant factors for the board of adjustment to consider. A conditional use may not discourage the appropriate development and use of adjacent land and buildings or significantly impair the value of surrounding properties. A conditional use may not be more objectionable to nearby property by reason of flashing lights, fumes, noise, vibration, or other factors than the operation of any allowable principal use.
- (3) **Plan Requirement.** The applicant must submit a plan for the proposed conditional use at the time the permit application is filed. The plan must describe the nature and extent of the proposed use; the proposed hours of operation; and the location of all landscaping, parking areas, structures, and traffic access. The applicant should include all other information that the applicant would like for the board to consider when determining whether to grant a conditional use permit.
- (4) **Limitations.** A conditional use permit only authorizes the use specifically described in the permit. The use may not be changed or expanded and is strictly subject to the conditions specified in the permit.
- (5) **Expiration.** A conditional use permit expires if the conditional use is not commenced within 24 months from the date of the permit or if the conditional use is discontinued for more than 12 months.
- (6) **Modification or Revocation.** A conditional use permit may be modified or revoked by the Town Board if, after a hearing and/or recommendation from the planning and zoning committee, the board determines that the terms of the permit have been violated.

1.7.5. Reasonable Accommodation for Disabled or Handicapped Persons ([back to top](#))

- (1) The Planning & Zoning Administrator will, upon receipt of a written request, issue a zoning permit that waives one or more specific zoning requirements if it determines that all of the following conditions have been met:
 - (a) The requested waiver is necessary to afford a handicapped or disabled person equal housing opportunity or equal access to public accommodations.
 - (b) The requested waiver is the minimum deviation from the terms of this ordinance necessary to provide the handicapped or disabled person equal housing opportunity or equal access to public accommodations.
 - (c) The requested waiver will not unreasonably undermine the basic purposes this ordinance.

- (2) A building permit issued pursuant to this section must state the provisions of this ordinance that are waived and describe with reasonable particularity the deviation from the terms of this ordinance that are authorized.
- (3) A building permit issued pursuant to this section must state that the permit is issued pursuant to the requirements of the Americans with Disabilities Act, the Fair Housing Act, the Rehabilitation Act, the Wisconsin Open Housing Law, a local ordinance, or a combination of these acts, laws, and ordinances in order to provide the reasonable accommodation necessary to avoid discrimination on the basis of disability or handicap.
- (4) A building permit issued pursuant to this section must include a provision stating that the permit is valid only for so long as the waiver is necessary for a disabled or handicapped person to occupy or use the premises and that the permit holder must notify the town within 30 days of the date that the disabled or handicapped person no longer occupies or uses the premises.
- (5) A building permit issued pursuant to this section must include a provision stating that any addition or external structural change allowed by the waiver must be constructed, insofar as is practicable, in such a way that it can be removed when the disabled or handicapped person no longer occupies or uses the premises, unless the Planning & Zoning Administrator determines that removal will not be required and includes a written statement of the reason that removal is not required as part of the permit.
- (6) A building permit issued pursuant to this section which requires the removal of any addition or external structural change will not become effective until the permit holder:
 - (a) Signs an affidavit that contains the legal description of the property, acknowledges that waiver granted by permit is authorized only for so long a disabled or handicapped person uses the premises, agrees to notify the Planning & Zoning Administrator within 30 days of the date that the premises are no longer occupied or used by a disabled or handicapped person, and agrees to remove any addition or external structural change authorized by the permit within 30 days of the date that the premises are no longer occupied or used by a disabled or handicapped person; and
 - (b) Records the affidavit with the Register of Deeds and provides a copy of the recorded affidavit to the Planning & Zoning Administrator.

1.7.6. Permit Fees ([back to top](#)).

Fees are established as follows:

- (1) **Zoning Permit Fees:** The amount of a Zoning Permit is established annually and is available from the Planning & Zoning Administrator. A Zoning Permit fee must be paid when the Zoning Permit application is filed, prior to any land use changes.
- (2) **Building Permit Fees:** The amount of a Building Permit is established annually and is available from the Building Inspector. A Building Permit fee must be paid when the Building Permit application is filed, prior to any construction or structural changes to an existing building.
- (3) **Conditional Use Permit Fees:** The amount of a Conditional Use Permit is established annually and is available from the Planning & Zoning Administrator. A Conditional Use Permit fee must be paid when the Conditional Use Permit application is filed.
- (4) **Additional Fees:** The applicant shall also be responsible for any additional fees as charged by the Inspector.
- (5) **Penalty fees:** The required permit fee is doubled if the applicant submits the application after a use has commenced.

- (6) **Fee Adjustments:** Permit fees may be changed on an annual basis by a vote of the Town Board.

1.7.7. Certificate of Compliance [\(back to top\)](#)

- (1) Where a Zoning or Building Permit is required under this Ordinance, no development or structure shall be used or occupied until a Certificate of Compliance has been issued by the Planning & Zoning Administrator. Such Certificate shall state that the development or structure is in compliance with the applicable standards of this Ordinance. An application for a Zoning or Building Permit is deemed an application for a Certificate of Compliance.
- (2) A Certificate of Compliance also shall be required before the use of, or change in use of any nonconforming use. However, upon written request of the owner, the Planning & Zoning Administrator shall issue a Certificate of Compliance for any building or premises existing at the time of the adoption of this Ordinance, which Certificate shall state the extent and kind of use made of the building or premises and the manner in which it may not conform to the provisions of this Ordinance.

1.7.8. Appeals [\(back to top\)](#)

- (1) Any person aggrieved by an act or determination of the Town Planning and Zoning Administrator in the exercise of the authority granted herein, shall have the right to appeal to the Board of Appeals.
- (2) The appeal must be filed with the town clerk within 30 days of the date of the decision being appealed from. The appeal must be in writing and must specify the grounds for the appeal.
- (3) The town clerk shall promptly transmit the appeal, along with the record of the action being appealed from, to the Board of Appeals.
- (4) An appeal stays the action appealed from unless the Planning & Zoning Administrator certifies to the Board of Appeals that, for reasons stated in the certificate, a stay would cause imminent peril to life or property. If the Planning & Zoning Administrator provides such certification, the action appealed from will not be stayed except by a restraining order issued by the Board of Appeals or a court of law.
- (5) The Board of Appeals shall fix a reasonable time for hearing the appeal and give notice of the hearing to the parties in interest and the public.
- (6) The Board of Appeals shall decide the appeal within a reasonable time and shall either, in whole or in part, affirm, modify, or reverse the action appealed from or dismiss the appeal for lack of jurisdiction or prosecution.

- (7) The Boards' final disposition of an appeal shall be in a written determination, signed by the board's chairperson, stating the specific facts and reasons for the board's determination.

1.8. VIOLATIONS ENFORCEMENT and COMPLIANCE

1.8.1. Violations ([back to top](#))

- (1) It is unlawful for any person to violate any provision of this ordinance.
- (2) It is unlawful for any person to knowingly provide false information, make a false statement, and fail to provide, or misrepresent any material fact to a town agent, board, commission, committee, department, employee, official, or officer acting in an official capacity under this ordinance.
- (3) It is unlawful for a person to disobey; fail, neglect, or refuse to comply with; or otherwise resist a permit or order issued pursuant to this ordinance.
- (4) A separate offense is deemed committed on each day that a violation occurs or continues.

1.8.2. Enforcement ([back to top](#))

- (1) The Planning & Zoning Administrator shall enforce this ordinance and may conduct inspections and investigate complaints relating to compliance with this ordinance.
- (2) **Inspection Authority.** The Planning & Zoning Administrator or Building Inspector may request permission to inspect, at a reasonable time and date, any premises or structure for which a permit has been applied for or granted to determine compliance with this ordinance. Refusal to grant permission is grounds for denial or revocation of a permit. If permission is not given, the town may apply for, obtain, and execute a special inspection warrant pursuant to Wis. Stat. § 66.0119.
- (3) **Notice of Noncompliance.** If the Planning & Zoning Administrator or Building Inspector finds a violation of any provision of this ordinance, the town may issue a written notice to the owner stating the conditions of non-compliance, specifying the action required to come into compliance, and providing a reasonable amount of time within which compliance is required.
- (4) **Zoning Permit Revocation Authority.** The Planning & Zoning Administrator or Building Inspector may revoke a zoning permit for substantial noncompliance with any provision of this ordinance, refusal to permit inspection of a premises or structure for which a permit has been granted, or failure to comply with the action requirement contained in a notice of noncompliance.
- (5) **Building Permit Revocation Authority.** The Planning & Zoning Administrator or Building Inspector may revoke a building permit for substantial noncompliance with any provision of this ordinance, refusal to permit inspection of a premises or structure for which a permit has been granted, or failure to comply with the action requirement contained in a notice of noncompliance.

- (6) **Conditional Use Permit Revocation Authority.** The Planning & Zoning Administrator may refer violations of a conditional use permit to the planning and zoning committee and may conduct a hearing to determine whether to make a recommendation to the Town Board to revoke the conditional use permit.
- (7) **Citation Authority.** The Planning & Zoning Administrator or Building Inspector may issue a citation for any violation of this ordinance. The town is not required to issue a notice of noncompliance or take any other action prior to issuing a citation.
- (8) **Legal Referral.** The town board may refer a violation of this ordinance to counsel for legal action, including an action seeking injunctive relief. The town is not required to issue a notice of noncompliance or take any other action prior to referring a violation to legal counsel.
- (9) Nothing in this section may be construed to prevent the town from using any other lawful means to enforce this ordinance.

1.8.3. Penalties ([back to top](#))

- (1) A person will, upon conviction for any violation of this ordinance, forfeit not less than \$100 nor more than \$1,000 for each offense, together with the costs of prosecution for each violation, and may be ordered to take such action as is necessary to abate the offense within a specified time.
- (2) The minimum and maximum forfeitures specified in this section are doubled each time that a person is convicted for the same violation of this ordinance within any 12 month period.
- (3) A person who has the ability to pay a forfeiture entered pursuant to this ordinance, but who fails or refuses to do so may be confined in the county jail until the forfeiture and costs are paid, but the period of confinement may not exceed 30 days. In determining whether a person has the ability to pay, all items of income and all assets may be considered regardless of whether the income and assets are subject to garnishment, lien, or attachment by creditors.
- (4) A person must, within 30 days of conviction, finding of default, or stipulation of a violation of this ordinance, remove or discontinue the use of any building, structure, or part of a building or structure that violates any provision of this ordinance or the terms or conditions of any permit issued pursuant to this ordinance. If a person fails to remove such a building, structure, or part of a building or structure, the town may remove or cause the removal of the building, structure, or part of the building or structure. The cost of removal will become a lien upon the property and may be collected in the same manner as property taxes.
- (5) The failure of a town employee, official, or officer to perform an official duty imposed by a section in this code will not subject the employee, official, or officer to a penalty unless the section imposing the duty also specifies the penalty.

CHAPTER 1 APPENDIX A ([back to top](#))

Zoning Districts

A) General Agriculture	(HDR) High Density Residential
ER) Large Estate Residential	(CB) Commercial/Business
SR) Small Estate Residential	(ID) Industrial
R) Rural Residential	(PLI) Public Lands Institutional

Setback Requirements For All Zoning Districts

Minimum front yard setback requirements for all districts & High Water setbacks to be established by Wisconsin Department of Natural Resources or Oneida County Zoning staff.
Diagram is not to scale.

Diagram A

GA	<h1>General Agriculture</h1>
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General Agriculture (GA)

The purpose of the General Agriculture (GA) district is to provide a rural area with a mixture of agricultural, low-density residential, and rural commercial activity. The district provides for residential development at modest densities consistent with a generally rural environment and allows for nonresidential uses that require relatively large land areas or that are compatible with the surrounding rural land.

Principal Uses

- Agricultural uses.
- Dairies and cheese factories.
- Essential services.
- Facilities used to keep cattle, goats, poultry, sheep, or swine, may be subject to the requirements of Winnebago County Ch. 13. (LWMO)
- Kennels.
- Open space areas.
- Park trailers.
- Private garages.
- Single family residences.
- Undeveloped natural resource areas.
- Other uses that are authorized or required to be located in a specific place by state or federal law.

Conditional Uses

- Agricultural related uses.
- Airports, air strips, and landing fields.
- Bulk storage of agricultural products, cooperatives, feed mills, fertilizer plants, and fuel used for agricultural purposes.
- Camps and campgrounds.
- Commercial riding stables.
- Community uses.
- Directional signs.
- Farm implement sales and service.
- Fruit and vegetable processing plants.
- Infrastructure that is compatible with the district, including agricultural aeronautic facilities; communication uses, such as antennae, broadcast towers, cell towers, and transmission lines; drainage facilities; electrical transmission lines; gas, oil, and other pipelines; large wind energy systems; rail facilities; roads; solar energy facilities; and transportation uses.
- Junk yards, salvage yards, or other facilities for the baling, handling, processing, reclamation, recycling, remanufacture, sale, salvage, or storage of junk or other second-hand or used materials.
- Landscape businesses.
- Nonmetallic mining.
- Public garages.
- Public uses.
- Recreation vehicle parks.
- Sawmills.
- Utilities.
- Vacation home rentals.

Yard Requirements

- Minimum lot size 20 acres, exclusive of road right-of-way.
- Minimum 150' lot width.
- 25' property line setback for principal and conditional use structures.
- 10' property line setback for accessory structures.
- 60' maximum height for buildings except farm structures not used for human habitation

Accessory Uses

- Agricultural accessory uses.
- Home occupations.
- Hunting shacks or warming shacks with no water or sewage facilities.
- On-premise business signs of up to 32 square feet for allowable uses.
- Other accessory structures and uses that are incidental to the principal use, provided that the structure or use does not include any activity commonly conducted as a business.
- Roadside stand, one, which must be placed outside the right-of-way.
- Small wind energy systems.
- Trade or contractor storage.

LER	<h1>Large Estate Residential</h1>
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Large Estate Residential (LER)

The purpose of the Large Estate Residential (LER) district is to provide areas for single-family residential and planned residential developments on large lots while allowing for agricultural activity in mostly rural areas of the town. The low-density requirements are intended to provide for areas where the presence of vegetation and open space helps create quiet and visually attractive residential areas.

Principal Uses

- Single-family residences.

	<ul style="list-style-type: none"> • Agricultural uses, such as a garden, greenhouse, nursery, and usual farm buildings, subject to the following restrictions: <ol style="list-style-type: none"> 1. A building in which animals are kept must be at least 25 feet from any adjoining lot line. 2. No more than 1 animal unit of farm livestock and no more than 5 household livestock animals are allowed per acre within confined area. 3. The storage or use of manure or any odor or dust-producing substance is prohibited within 25 feet of any adjoining lot line. 4. A greenhouse heating plant must be at least 25 feet from any adjoining lot line. • Community living arrangements with a capacity for 8 or fewer persons and foster homes, subject to the provisions set forth in Wis. Stat. § 60.63. • Essential services.
<p>Yard Requirements</p> <ul style="list-style-type: none"> • Minimum lot size 5 acres, exclusive of road right-of-way. • Minimum 150 ft. lot width. • 25 ft. property line setback for principal and conditional use structures. • 10 ft. property line setback for accessory structures. • 35 ft. maximum height, unless a different maximum height is permitted. 	<p>Accessory Uses</p> <ul style="list-style-type: none"> • Contractor or trade storage. • Home occupations. • Private garages. • Roadside stand, one, which must be placed outside the right-of-way. • Small wind energy systems. • Solar energy systems. • Other accessory structures and uses that are incidental to the principal use, provided that the structure or use does not include any activity commonly conducted as a business. <p>Conditional Uses</p> <ul style="list-style-type: none"> • Community living arrangements with a capacity of 9 or more persons, subject to the provisions set forth in Wis. Stat. § 60.63. • Community uses. • Day care. • Kennels. • Infrastructure that is compatible with the district, including agricultural aeronautic facilities; communication uses, such as antennae, broadcast towers, cell towers, and transmission lines; drainage facilities; electrical transmission lines; gas, oil, and other pipelines; large wind energy systems; rail facilities; roads; solar energy facilities; and transportation uses. • Utilities. • Vacation home rentals.

SER

Small Estate Residential

Small Estate Residential (SER)

The purpose of the Small Estate Residential (SER) district is to provide areas for mixed residential and agricultural activity in mostly rural areas of the town. This district provides for residential development at modest densities consistent with a generally rural environment; provides for specific nonresidential uses that require relatively large land areas and that are compatible with the surrounding residential uses; and still allows for some agricultural uses.

Principal Uses

- Single-family residences.
- Community living arrangements with a capacity for 8 or fewer persons and foster homes, subject to the provisions set forth in Wis. Stat. § 60.63.
- Essential services.
- Agricultural uses, such as a garden, greenhouse, nursery, and usual farm buildings, subject to the following restrictions:
 1. A building in which animals are kept must be at least 25 feet from any adjoining lot line.

	<ol style="list-style-type: none"> 2. No more than 1 animal unit of farm livestock and no more than 5 household livestock animals are allowed per acre within confined area. 3. The storage or use of manure or any odor or dust-producing substance is prohibited within 25 feet of any adjoining lot line. 4. A greenhouse heating plant must be at least 25 feet from any adjoining lot line.
<p>Yard Requirements</p> <ul style="list-style-type: none"> • Minimum lot size 2 acres, exclusive of road right-of-way. • Minimum 150 ft. lot width. • 25 ft. property line setback for principal and conditional use structures. • 10 ft. property line setback for accessory structures. • 35 ft. maximum height, unless a different maximum height is permitted. 	<p>Accessory Uses</p> <ul style="list-style-type: none"> • Contractor or trade storage. • Home occupations. • Private garages. • Roadside stand, one, which must be placed outside the right-of- way. • Small wind energy systems. • Solar energy systems. • Other accessory structures and uses that are incidental to the principal use, provided that the structure or use does not include any activity commonly conducted as a business. <p>Conditional Uses</p> <ul style="list-style-type: none"> • Community living arrangements with a capacity of 9 or more persons, subject to the provisions set forth in Wis. Stat. § 60.63. • Community uses. • Kennels. • Utilities. • Vacation home rentals.

RR	<h1>Rural Residential</h1>
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Rural Residential (RR)

The purpose of the Rural Residential (RR) district is to provide areas for mixed residential and low-impact non-residential development on relatively small lots.

	<p>Principal Uses</p> <ul style="list-style-type: none"> • Single-family residences. • Community living arrangements with a capacity for 8 or fewer persons and foster homes, subject to the provisions set forth in Wis. Stat. § 60.63. • Essential services. • Agricultural uses, such as a garden, greenhouse, nursery, and usual farm buildings, subject to the following restrictions: <ol style="list-style-type: none"> 1. A building in which animals are kept must be at least 25 feet from any adjoining lot line. 2. No more than 1 animal unit of farm livestock and no more than 5 household livestock animals are allowed per acre within confined area. 3. The storage or use of manure or any odor or dust-producing substance is prohibited within 25 feet of any adjoining lot line. 4. A greenhouse heating plant must be at least 25 feet from any adjoining lot line. <p>Accessory Uses</p> <ul style="list-style-type: none"> • Contractor or trade storage. • Home occupations. • Private garages. • Roadside stand, one, which must be placed outside the right-of- way. • Small wind energy systems. • Solar energy systems.
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<p>Yard Requirements</p> <ul style="list-style-type: none"> • Minimum lot size 1 acre, exclusive of road right-of-way. • Minimum 150 ft. lot width. • 25 ft. property line setback for principal and conditional use structures. • 10 ft. property line setback for accessory structures. • 35 ft. maximum height, unless a different maximum height is permitted. 	<ul style="list-style-type: none"> • Other accessory structures and uses that are incidental to the principal use, provided that the structure or use does not include any activity commonly conducted as a business. <p>Conditional Uses</p> <ul style="list-style-type: none"> • Cemeteries. • Community living arrangements with a capacity of 9 or more persons, subject to the provisions set forth in Wis. Stat. § 60.63. • Community uses. • Day care. • Kennels. • Mini-warehouses. • Two-family residences. • Utilities. • Vacation home rentals. • Veterinary clinics. • Other small businesses not specifically listed, but which are deemed by the planning and zoning committee or Town Board to be similar to those listed.
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HDR	High Density Residential
High Density Residential (HDR)	
<p>The purpose of the High Density Residential (HDR) district is to provide areas for a variety of residential uses, including single-family residential development at fairly high densities and multiple occupancy developments. This district will be located in areas with an existing mixture of residential types, certain regions that are served by public sewer, and other locations where high-density residential developments are appropriate.</p>	
<p>Yard Requirements</p> <ul style="list-style-type: none"> • Minimum lot size 21,780 ft.² (1/2 acre), exclusive of road right-of-way. • Minimum 100 ft. lot width. • 7.5 ft. property line setback for principal and conditional use structures. 	<p>Principal Uses</p> <ul style="list-style-type: none"> • Single-family residences. • Community living arrangements with a capacity for 8 or fewer persons and foster homes, subject to the provisions set forth in Wis. Stat. § 60.63. • Community living arrangements with a capacity for 9 to 15 persons, subject to the limitations set forth in Wis. Stat. § 60.63. • Essential services. • Manufactured home parks. • Multi-family dwellings. <p>Accessory Uses</p> <ul style="list-style-type: none"> • Home occupations. • Private garages. • Roadside stand, one, which must be placed outside the right-of-way. • Small wind energy systems. • Solar energy systems. • Other accessory structures and uses that are incidental to the principal use, provided that the structure or use does not include any activity commonly conducted as a business. <p>Conditional Uses</p> <ul style="list-style-type: none"> • Community living arrangements with a capacity of 16 or more persons, subject to the provisions set forth in Wis. Stat. § 60.63. • Community uses. • Day care. • Utilities.

<ul style="list-style-type: none"> • 5 ft. property line setback for accessory structures. • 35 ft. maximum height, unless a different maximum height is permitted. 	<ul style="list-style-type: none"> • Vacation home rentals.
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CB	<h1>Commercial/Business</h1>
Commercial/Business (CB)	
<p>The purpose of the Commercial/Business (CB) district is to provide areas for mixed residential and commercial use. It will encompass areas that already have this mixed use, as well as those areas where expansion of this mixed use is desired. It will typically be located within or near existing communities, but may also be used in outlying areas and to facilitate small development nodes.</p>	
	<ul style="list-style-type: none"> • Business and professional offices and services. • Cabinet making and woodworking. • Car washes. • Commercial storage. • Community uses. • Contractor or trade storage. • Dairies and dairy-processing businesses, such as cheese factories. • Essential services. • Farm equipment and implement sales. • Food lockers. • Fruit and vegetable stands. • Funeral homes and crematoriums. • Furniture repair, sales, and upholstery. • Gas stations and convenience stores. • Hotels. • Manufactured home sales and service. • Mini-warehouses. • Motels. • Parking areas and ramps. • Printing and duplicating shops. • Private clubs and lodges, except adult entertainment establishments. • Public uses. • Restaurants. • Self-service laundromats. • Signs and billboards. • Single-family residences. • Small wind energy systems. • Stores for conducting retail, service, or wholesale business. • Taverns. • Theaters, except outdoor theaters. • Trailer and truck rentals. • Vehicle and equipment sales, service, and showrooms. • Utilities.
<p>Yard Requirements</p> <ul style="list-style-type: none"> • Minimum lot size 10,000 ft.², exclusive of road ROW. • Minimum 100 ft. lot width. • 7.5 ft. property line setback for principal and conditional use structures. • 5 ft. property line setback for accessory structures. • 60 ft. maximum height, unless a different maximum height is permitted. <p>Accessory Uses</p> <ul style="list-style-type: none"> • Roadside stand, one, which must be placed outside the right-of-way. <p>Principal Uses</p> <ul style="list-style-type: none"> • Activity and recreation centers. • Auto, truck, trailer, and other equipment sales and rentals. • Bowling alleys. • Building, electrical, heating, lumber, and plumbing supply yards. • Bulk storage of agricultural products, cooperatives, feed mills, and fertilizer plants. 	<p>Conditional Uses</p> <ul style="list-style-type: none"> • Adult entertainment establishments, subject to any applicable provisions contained in Part 5. • Auto salvage yards. • Banquet and dance halls. • Drive-in theaters. • Outdoor amusement centers. • Race tracks. • Shopping centers. • Sports arenas. • Telecommunication towers. • Transportation terminals. • Truck stops. • Water parks.

ID	Industrial
<p>The purpose of the Industrial (ID) district is to provide areas for manufacturing, warehousing, and other light industrial operations. It may also be used for commercial storage facilities, contractor and trade establishments, and similar businesses. However, such use may not be detrimental to the surrounding area or to the town as a whole because of dust, groundwater degradation, noise, odor, physical appearance, smoke, traffic, or other nuisance factors.</p>	
<p>Yard Requirements</p> <ul style="list-style-type: none"> • Minimum lot size 1 acre, exclusive of road ROW. • Minimum 150 ft. lot width. • 25 ft. property line setback for principal and conditional use structures. • 10 ft. property line setback for accessory structures. • 60 ft. maximum height, unless a different maximum height is permitted. <p>Accessory Uses</p> <ul style="list-style-type: none"> • Accessory structures and uses incidental to the principal use or to a permitted conditional use are allowed in the ID district. • Roadside stand, one, which must be placed outside the right-of-way. <p>Principal Uses</p> <ul style="list-style-type: none"> • Agricultural implement and equipment manufacture, sales, and service. • Analyzing, controlling, measuring, and recording instruments, including clocks; medical, optical, and photographic equipment; and watches. • Apparel and other finished products made from fabrics and similar materials. • Billboard manufacture. • Clay, concrete, glass, and stone products. • Coating, engraving, and allied services. • Computers and office equipment. • Contractor or construction shops, including air conditioning, building, cement, electrical, heating, refrigeration, masonry, painting, plumbing, roofing, and ventilation. • Electrical and electronic equipment and machinery. • Essential services. 	<ul style="list-style-type: none"> • Fabricated metal, wood, or plastic products, except machinery and transportation equipment. • Food and kindred products. • Furniture and fixtures. • Garages for the repair, sales, service, or storage of automobiles, tractors, trucks, and accessory equipment. • Infrastructure that is compatible with the district, including agricultural aeronautic facilities; communication uses, such as antennae, broadcast towers, cell towers, and transmission lines; drainage facilities; electrical transmission lines; gas, oil, and other pipelines; large wind energy systems; rail facilities; roads; solar energy facilities; and transportation uses. • Laboratories and research and development facilities. • Nonmetallic minerals mining. • Printing, publishing, and allied products. • Public uses. • Radio and television offices, towers, and transmission facilities. • Research facilities. • Secondhand household equipment, store fixtures, and office furniture sales, storage, and reconditioning. • Sign painting studio. • Signs identifying the name and business of the occupant of premises. • Small wind energy systems. • Substations for electrical power and light. • Utilities. • Warehousing. • Other uses not specifically listed, but which are deemed by the planning and zoning committee or Town Board to be similar to the uses listed above. <p>Conditional Uses</p> <ul style="list-style-type: none"> • Chemical and allied products production or storage facilities. • Community Uses. • Dwelling units for caretakers or guards. • Foundries. • Incinerators. • Junk yards, salvage yards, or other facilities for the baling, handling, processing, reclamation, recycling, remanufacture, sale, salvage, storage of junk or other second-hand or used materials. • Leather and leather products. • Lumber and wood products. • Paper and allied products. • Petroleum and other inflammable liquid bulk production, refining, or storage facilities. • Plastic products. • Quarries and gravel, sand, or stone crushing, grading, milling, mining, and washing operations. • Rubber products. • Textile mills and textile products. • Machinery manufacturing. • Mini-warehouses. • Transportation equipment and parts. • Truck distribution, dispatching, loading, and transfer depots. • Solid waste facilities and transfer stations.

CHAPTER 1 APPENDIX B ([back to top](#))

CHAPTER 2 TOWN OF RUSHFORD NONMETALLIC MINERALS MINING ORDINANCE			
Part I. INTRODUCTION.			
2.01	Authority, Purpose and Intent.	2.05	Effective Date.
2.02	Abrogation and Greater Restrictions.	2.06	Exemptions.
2.03	Interpretation.	2.07	Applicability.
2.04	Severability.		
Part II. DEFINITIONS.			
2.08	Definitions.		
Part III. PERMITTING.			
2.09	Permits.	2.16	Reclamation Plan.
2.10	Permit Application Process.	2.17	Reclamation Standards.
2.11	Duration.	2.18	Statement of Responsibility.
2.12	Permit Extensions.	2.19	Proof of Liability Insurance Coverage
2.13	Permit Fee.	2.20	Financial Assurances.
2.14	Operating Plan.	2.21	Permit Revisions.
2.15	Operating Standards and Design Requirements		
Part IV. ADMINISTRATION and ENFORCEMENT.			
2.22	Annual Report Requirements.	2.25	Violations and Penalties.
2.23	Public Hearings.	2.26	Appeals.
2.24	Administration and Enforcement.		

Part I. INTRODUCTION.

2.01 Authority, Purpose and Intent.

This ordinance is adopted under the authority granted by Sections 59.97 (5) (d), 60.10 (2)(c), 60.22 (3), 60.62, 61.35 and 62.23 of the Wisconsin Statutes. The purpose of this chapter is to establish a local program to ensure effective reclamation of nonmetallic mining sites in the Town of Rushford on which nonmetallic mining takes place and to adopt and implement the uniform statewide standards for nonmetallic mining reclamation required by Wis. Stat. § 295.12(1)(a) and contained in Wis. Admin. Code Ch. NR 135.

2.02 Abrogation and Greater Restrictions.

It is not intended by this Ordinance to interfere with, abrogate or annul any existing easements, covenants, or other agreements between parties, nor is it intended by this Ordinance to repeal, abrogate, annul or in any way impair or interfere with any existing provisions of law or ordinance, or rules, regulations or permit previously adopted or issued, or which shall be adopted or issued pursuant to law relating to nonmetallic mining reclamation. The provisions of this chapter shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes outside the reclamation requirements for nonmetallic mining sites required by Wis. Stat. Ch. 295, subch. I, and Wis. Admin. Code Ch. 295.

2.03 Interpretation.

The provisions of this Ordinance shall be held to be minimum requirements adopted to promote the health, safety, morals, beauty, aesthetics and general welfare of the Town of Rushford, Winnebago County, Wisconsin, and shall be liberally construed in favor of the Ordinance.

2.04 Severability.

If any section, subsection, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, it shall not affect the remaining portions of this Ordinance. In the event that Chapter NR 135, Wisconsin Administrative Code, dealing with nonmetallic mining reclamation, as finally adopted, is more restrictive than this ordinance, then the rules under Chapter NR 135, Wisconsin Administrative Code, shall be applied and are automatically incorporated herein by reference.

2.05 Effective Date.

This Ordinance shall take effect immediately upon adoption and publication.

2.06 Exemptions.

This Ordinance does not apply to the following activities:

- (1) Conventional excavations, temporary stockpiling, or grading by a person solely for domestic use at his residence or place of business.
- (2) Excavation or grading conducted for highway construction purposes within the highway right-of-way, on adjacent land subject to construction easements or access agreements, or for highway safety,

when plans have been approved by the Wisconsin Department of Transportation or other appropriate governmental units.

- (3) Excavation and removal of less than five hundred (500) cubic yards over a period of one (1) year from any single parcel of land recorded in the Winnebago County Register of Deeds Office.
- (4) Grading conducted for farming, preparing a construction site, or restoring land following a flood or natural disaster.
- (5) Excavation in conjunction with utility installation which is to be backfilled.
- (6) Pre-mining activities such as site surveying, coring, mapping and other functions necessary solely for proper preparation of the permit.
- (7) Any activities, conducted at a solid or hazardous waste disposal site, shall be required to prepare, operate, or close a solid waste disposal facility under Sections 144.435 to 144.445, Wis. Stats., or a hazardous waste disposal facility under Sections 144.144.60 to 144.74, Wis. Stats., with the exception of mineral extraction operations conducted for the purpose of lining, capping, or covering of said disposal sites.
- (8) Any nonmetallic mining site or portion of a site which is subject to permit and reclamation requirements of the Department of Natural Resources under Sections 30.19, 30.195, and 30.20, Wis. Stats.
- (9) Excavation for wetland preservation and/or alteration based on DNR permits.
- (10) Any other uses determined to be exempt by the Town.

2.07 Applicability.

- (1) This Ordinance is applicable to all existing and future nonmetallic mining sites located wholly or partially within the Town. When more than 50% of an overlapping nonmetallic mining site is proposed in an adjoining Town, said Town may be allowed enforcement of their nonmetallic mining ordinance within the Town of Rushford , but only if said Town has a more restrictive nonmetallic mining ordinance, otherwise, this ordinance shall apply.
- (2) It is the responsibility of the operator to obtain all applicable local, state, and federal permits and approvals.

Part II. DEFINITIONS.

2.08 Definitions.

For the purpose of this Ordinance, the definitions set forth in this section shall be used. Words used in the present tense include the future. The singular number includes the plural number; the plural number includes the singular. The word "shall" is mandatory and not permissive.

Enlargement. Any vertical or horizontal increase beyond dimensions of the original application for the project site.

Modification. Any vertical or horizontal decrease within the dimensions of the original application for the project site

Nonmetallic Mining or Nonmetallic Mining Operation. This definition includes the following activities:

- (1) Operations or activities for the extraction from the earth of nonmetallic minerals, including, but not limited to asbestos, beryl, ceramic or refractory materials, chemical and fertilizer minerals, clay, crushed and dimension stone, feldspar, peat, sand and gravel, and talc.
- (2) Related operations or activities, including but not limited to excavation, grading, or dredging if the purpose of those operations or activities is the extraction of nonmetallic minerals.
- (3) Related processes, including but not limited to stockpiling, screening, and blending.

Nonmetallic Mining Refuse. Waste soil, rock, mineral, liquid, vegetation and other waste material resulting from a nonmetallic mining operation. This term does not include merchantable by-products resulting directly from or displaced by the nonmetallic mining operation.

Nonmetallic Mining Site. The location where a nonmetallic mining operation is proposed or conducted, including all surface areas from which minerals are removed, related storage and processing areas, areas where nonmetallic mining refuse is deposited and areas disturbed by nonmetallic mining operation and by activities, including but not limited to the construction or improvement of roads or haulage ways.

Operator. Any person or business entity engaged in a nonmetallic mining operation or nonmetallic mining site reclamation or an applicant for a nonmetallic mining operation permit.

Permit. Any documents under this Ordinance which may be required of an operator as a condition to commence nonmetallic mining at the project site.

Reclamation. The rehabilitation of a nonmetallic mining site including but not limited to, removal of nonmetallic mining refuse and equipment, grading and reshaping of the site, replacement of topsoil, establishment of adequate erosion control methods, reestablishment of vegetative cover and reshaping of the site, control of surface water and groundwater, prevention of environmental pollution, and restoration of plant, fish, and wildlife habitat aesthetically compatible to the surrounding area.

Part III. PERMITTING.

2.09 Permits.

A Nonmetallic Mining Permit is required by anyone who desires to operate a nonmetallic mining operation in the Town of Rushford, including those who are operating an existing nonmetallic mine prior to the adoption of this Ordinance. The petitioner (from both an existing or proposed nonmetallic mine) shall adhere to the following permit requirements:

2.10 Permit Application Process.

All applications for a Nonmetallic Mining Permit shall be submitted to the Town on the Application for Nonmetallic Mining Permit form. The form shall be dated and signed by the applicant and shall include an operating plan, a reclamation plan, proposed financial assurances including an estimate of reclamation costs; a proof of liability insurance coverage, and the appropriate fee as described in the following sections. In addition, the application shall be accompanied by information that shall include, but is not limited to:

- (1) General information such as the name and address of the operator.
- (2) Ownership: If the property is owned by the operator making application, proof of ownership shall be submitted (i.e. copy of recorded deed).
- (3) Lease: If the land is leased, a signed copy of the lease or a letter signed by the owner(s) of record which authorizes the operator to enter the owner's land for the purposes of nonmetallic mining.
- (4) Legal description. A legal description, in the form of a certified survey map, for tracts of land involved and affected by the proposed operation.
- (5) General Map. A general map which shall be drawn at a reasonable scale to show property boundaries of the land; topography; locations of streams and roads; location of all structures on the site; boundaries of previous excavations; location of mining site boundary stakes.

2.11 Duration.

Permits shall be issued for a maximum duration of eight years, consisting of not more than six years for the operational phase and not more than two years for the reclamation phase. Upon expiration of the operational phase permit, the operator may request a permit extension.

2.12 Permit Extensions.

Requests for a permit extension must be submitted in writing to the Town, six (6) months prior to the expiration date of the existing permit. Permit extensions may be granted for three year periods, providing the project is in compliance with the terms of the existing permit, that a new reclamation plan is submitted if the operation is enlarged beyond

the area included in the original permit, and that changing conditions indicate that such extensions will not be detrimental to the public health, safety, or welfare.

2.13 Permit Fee.

The Town shall establish permit application and administration fees deemed necessary to cover reasonable costs to implement this ordinance, including but not limited to, processing of applications, annual nonmetallic mining report reviews, inspections, monitoring, enforcement, and compliance. These fees shall be paid by the operator at the time of permit application.

2.14 Operating Plan.

An operating plan, as described below, is required and shall be included with the permit application.

The operating plan shall include minimum requirements as follows:

- (1) A detailed description of the proposed nonmetallic mining operation.
- (2) Four copies of detailed maps showing the location of the proposed operations, equipment, stockpiles, settling ponds, interim drainage, machinery, waste dumps, and parking at the site; locations of all streams, roads, railroads, sewage disposal systems, water wells, and utility facilities within 500 feet of the site; location of all proposed access roads.
- (3) Description of mining and processing methods.
- (4) Estimated total volume of materials to be extracted based on the permit application or as amended.
- (5) Timetable for progression of all operations, indicating time frames for each phase and estimated life of the operation.
- (6) Description of the type and amount of mineral commodities to be removed, the amount of mining refuse to be retained on the site and the amount of mining refuse to be disposed of, including the method and location of disposal.
- (7) Plan view drawing, elevations, and cross-sections with a description of sequential stages of mining.
- (8) Observed or estimated depth to groundwater, verified by the DNR.
- (9) While excavation is in progress, the Town will require the operator to take effective steps to control erosion of all disturbed land surface areas. This may include quick-growing plants, mulching, screening, stabilizing or other cover.

2.15 Operating Standards and Design Requirements

- (1) Location of the operation shall be appropriate to existing development and development that may be reasonably expected for the duration of the period of operations, based on the Town of Rushford Comprehensive Plan.
- (2) No operations or activities, including berm construction, shall be conducted within 200 feet of any right of way line or within 200 feet of any exterior boundary of the site where a residence is located within 500 feet of the exterior boundary of the tract.
- (3) The Town Board, after recommendation from the Planning Commission, may authorize berm construction and related site preparation as a temporary activity, for a specific time period, to within 25 feet of any exterior boundary of the tract for sites lawfully existing before the effective date of this section. Exemptions may be authorized by the Town Board, after recommendation from the Planning Commission for berms located closer than 25 feet from the exterior boundary of the tract for sites lawfully existing before the effective date of this ordinance.
- (4) The Town Board, after recommendation from the Planning Commission, may authorize continued vertical removal of materials to within 50 feet of the exterior boundary of the site for sites lawfully existing before the effective date of this section.
- (5) In no event shall any operations or activities, except berm construction and related site preparation activities, be conducted within 50 feet of any exterior boundary. In exercising their authority under this subsection, the Town Board, after recommendation from the Planning Commission, may attach reasonable conditions including but not limited to more stringent hours of operation, landscaping, and fencing.
- (6) Town Board, after recommendation from the Planning Commission, may authorize a reduction in the 200' or 50' setback requirement where the extraction will not go below either the grade of the adjacent road, or the adjoining property line, and where no blasting is required. In applying the provisions of this section, the Town Board may reduce the setbacks as deemed appropriate, and may apply other operational requirements necessary to offset any effect of the reduced setback.
- (7) Two adjacent extraction sites may have a zero foot setback on the common lot line, or line between sites, provided both operators agree in writing.
- (8) The Town shall require berms along the edges of said mining area of sufficient height, width, and mass to screen the site from adjacent land

uses. Said berms shall be seeded with a fast growing grass to control erosion. Along the front of the berm, visible to the public, a row of evergreen type trees (4'-5' height. B&B) shall be planted every 25 feet, to create a visual buffer from existing residential homes or planned residential neighborhoods, as identified in the Town of Rushford Comprehensive Plan .

- (9) Roads, machinery, and equipment shall be located, constructed, and used in such a manner as to minimize noise, dust, and vibration. The operator shall submit a Noise and Dust Control Plan to address any excessive noise and dust generated by the operation.
- (10) No crushing shall be allowed unless otherwise specifically allowed by Law.
- (11) No operations or activities may commence before 6:00 a.m., or continue past 6:00 p.m., Monday through Friday, and commence before 6:00 a.m. or continue past Noon on Saturday. No operations shall occur on Sundays or legal holidays. The Town may authorize specific activities outside of these time restrictions on an emergency basis.
- (12) Neighbors within ¼ mile of a non-metallic mining operation must be notified, within 24 hours, that blasting will occur.
 - (a) All blasting must be done according to Wisconsin Administrative Code Chapter Comm 7 Explosive Materials.
 - (b) Neighbors within 1/4 mile of the site must be notified within 24 hours that blasting will occur. A log of calls must be maintained.
 - (c) 2 Seismographs must be placed on the site when blasting is being done.
 - (d) The Town of Rushford town board may require the blaster in charge to perform a pre blasting survey for residents or owners.
 - (e) A pre blasting survey provides a baseline record of the pre-existing condition of a structure against which the effects of blasting can be assessed.
- (13) The operator must provide a designated access route for trucks arriving and leaving the Town from the proposed nonmetallic mining operation. The Town reserves the right to implement appropriate truck routes, with limited use of Town roads, and the speed limits not to exceed 45 miles per hour.
- (14) At the primary truck entrance, the operator must provide at least eight (8) off-the-road truck stacking spaces on a hard-surface for a waiting

area prior to opening.

- (15) Nonmetallic mining reclamation shall be conducted in a manner which does not cause groundwater quality standards in chapter NR 140 to be exceeded at a point of standards application.
- (16) The Town of Rushford may charge an annual road maintenance user fee, based on wear and tear of town roads caused by the frequency and travel of heavy equipment over town roads to go to and from a non-metallic mining operation. Prior to implementing this user fee, the Town would need to conduct a Public Facilities Needs Assessment to determine an appropriate user fee charge.

2.16 Reclamation Plan.

- (1) Reclamation Permit. A copy of a reclamation permit, required by NR 135 shall be part of the submittal for a permit application. Once a Reclamation Plan is implemented, said plan shall be administered by the East Central Wisconsin Regional Plan Commission, Menasha , Wisconsin .
- (2) Definitions.

Expansions of Lawfully Existing Operation(s) means progression of mineral extraction operations onto a contiguous parcel or parcels of land purchased, owned or leased after the effective date of this section.

Lawfully Existing Mineral Extraction Operation means a mineral extraction operation existing before the effective date of this section, including any contiguous parcels purchased, owned or leased by the same operator before the effective date of this section and said operation and contiguous parcels are devoid of any present County permit violations at the time of adoption of this section.

Mineral Extraction Operation means operations or activities for the extraction from the earth for sale or use by the operator of mineral aggregates. Mineral aggregates shall include, but are not limited to, rock, stone, sand and gravel and other nonmetallic minerals such as asbestos, beryl, clay, feldspar, peat and talc. Also constituting mineral extraction operations are such related operations and activities as excavation, grading or dredging, if the purpose of those operations or activities is the extraction of mineral aggregates and nonmetallic minerals, and related processes such as crushing, screening, scalping, dewatering and blending. Additionally, storage and stockpiling of materials produced on site only, shall constitute mineral extraction operation. The definition for Mineral Extraction Operation shall not apply to the following activities:

- (a) Operations affecting less than 5 acres and for the exclusive use of the property owner, provided no material is removed from the property(s).
- (b) Pre-mining activities such as site surveying, coring, mapping and other functions necessary solely for proper preparation of the permit.

- (c) Excavation in conjunction with utility installation, which is to be back-filled.
- (d) Excavation in conjunction with road construction, within the limits of the right-of-way, when construction plans have been approved by the Wisconsin Department of Transportation and/or other governmental bodies.
- (e) Excavation which by nature is of limited duration such as graves, septic tanks, and swimming pools.
- (f) Agricultural drainage work incidental to agricultural operations and irrigation/stock watering ponds, if no material is removed from the property.
- (g) Excavation for structures, parking areas, and stripping of up to 1 1/2 feet of topsoil for the development of subdivisions, following subdivision approval.
- (h) Re-grading of property for aesthetic purposes that does not affect existing drainage, if no material is removed from the property.
- (i) Dredging operations under the jurisdiction of the U.S. Army Corps of Engineers and/or other governmental bodies.
- (j) Ponds developed for wildlife purposes in conjunction with the Soil Conservation Service or Land and Water Conservation Department.
- (k) Excavation related to sod farming.
- (l) Any mining operation, the reclamation of which is required in a permit obtained under Sections 144.80 to 144.94, Wis. Stats., pertaining to metallic mining.
- (m) Any activities conducted at a solid or hazardous waste disposal site required to prepare, operate, or close a solid waste disposal facility under ss. 144.435 to 144.445, Wis. Stats., or a hazardous waste disposal facility under ss. 144.60 to 144.74, Wis. Stats., for the exception of mineral extraction operations conducted for the purpose of lining, capping, or covering of said disposal sites.
- (n) Any other uses determined to be exempt by the Planning and Zoning Committee.

New Mineral Extraction Operation means a mineral extraction activity on one or more parcels that are separated by a public road or are not contiguous to a lawfully existing mineral extraction operation, including land purchased, owned

or leased before the effective date of this ordinance without prior extraction activity.

Operator means any person who is engaged in a mineral extraction operation or who applies for or holds a mineral extraction permit issued under this section whether individually, jointly, or through subsidiaries, agents, employees, contractors, or subcontractors.

2.17 Reclamation Standards.

- (1) All operators will commence the reclamation plan within four (4) months after operations have ceased, and will be completed within two (2) years of shut down. There shall be the presumption that normal operations have ceased (from normal operation) if the permit required in this Ordinance is not renewed by the operator or approved by the Town within 30 days from the date of expiration of the previous permit. Reclamation shall be done on an annual or interim basis in stages compatible with continuing operations.
- (2) All topsoil on a nonmetallic mining site shall be saved for future application, unless it can be proven that it is not needed for reclamation. Topsoil shall be reapplied to slopes as uniformly as possible to a minimum of the original topsoil depth. Sites that lack adequate topsoil shall have the topsoil applied preferentially to the sloped areas.
- (3) Seeding shall be done in accordance with a Soil Conservation Service Critical Area Plan or the most recent edition of the "State of Wisconsin, Department of Transportation Standard Specifications for Road and Bridge Construction", Section 630, entitled, "Seeding", except that seeding rates listed in Section 630.3.3.4.2 shall be doubled. Alternative seeding mixtures shall be considered by the Town on a case by case basis. Evidence must be provided showing that the proposed mix will be sufficient to deter erosion on the site. Planting of woody vegetation may be accepted in combination with other stabilization techniques. Tree and shrub plantings may be required by the Town as a permit condition. If the Town requires such plantings, it must explain reasons for doing so. If the applicant wishes to use only woody vegetation on part or all of a reclamation project, a complete documented explanation of measures to be used to deter erosion shall be submitted with the reclamation plan. Tree and shrub species to be used shall be adapted to the soil and climate of the area.
- (4) Drainageways, ditch checks, and other highly erodible areas shall be sodded pursuant to the "State of Wisconsin , Department of Transportation Standard Specifications for Road and Bridge Construction, Section 631, entitled "Sodding".

- (5) Riprap shall be installed for ditch outlets, culvert ends or bridge openings.
- (6) No site shall exceed three (3) feet horizontal to one (1) foot vertical incline. This slope shall extend vertically six (6) feet below the lowest seasonal groundwater level. This angle of repose may be modified to a flatter, but not a steeper angle, if it is shown that the material to be excavated or to be used in reclamation of the site will be unstable at 3:1 ratio.
- (7) Use of sediment basins, filter rock embankments and similar structures and methods that require ongoing maintenance shall not be accepted for long-term reclamation. The final reclamation shall leave the site in a maintenance-free and stable condition.
- (8) No solid or hazardous waste shall be stored, buried, or deposited in or on any nonmetallic mining site.
- (9) The operator shall comply with progressive and final reclamation plans for the site.
- (10) A nonmetallic mining site shall be reclaimed in a manner that does not cause a permanent lowering of the water table that result in adverse effects on surface waters or a significant reduction in the quantity of groundwater reasonably available for future users of groundwater.

2.18 Statement of Responsibility.

The operator shall sign a statement accepting responsibility for reclaiming the mined lands in accordance with the reclamation plan. Upon sale or transfer of the operation, the new operator shall submit a signed statement of responsibility for reclamation of the project.

2.19 Proof of Liability Insurance Coverage

- (1) The operator shall submit proof of liability insurance coverage of \$1,000,000 with the permit application.
- (2) The operator shall submit proof of Liability coverage of \$1,000,000 with the permit application with the Town of Rushford named on the policy.

2.20 Financial Assurances.

- (1) **Performance.** Following approval of the permit, and as a condition of the permit, East Central Wisconsin Regional Plan Commission shall require a bond to be filed or alternate financial assurance to be deposited with the Commission equal to the estimated cost of fulfilling reclamation. Upon notification by the Commission of bonding or deposit approval and conformance with permit conditions, the operator may commence nonmetallic mining and reclamation operations.

- (2) **Cost Estimates.** The amount of the financial assurance shall be based upon the estimated costs of reclamation stipulated in the approved Reclamation Plan.
In projecting the costs of financial assurance, it shall be assumed without prejudice or insinuation that the surface mining operation could be abandoned by the operator and consequently, the Commission may need to contract with a third party commercial company for reclamation of the site.
- (3) **Reclamation Plan Compliance.** Financial assurances will be required to ensure compliance with the approved Reclamation Plan, including but not limited to, revegetation and landscaping requirements, restoration of aquatic or wildlife habitat, restoration of water bodies and both surface water and groundwater quality, slope stability, erosion and drainage control, disposal of hazardous material, and other measures deemed necessary by the Commission and included in the approved Reclamation Plan.
- (4) **Duration.** The financial assurances shall remain in effect for the duration of the mining operation and any additional period until reclamation is completed.
- (5) **Release.** The Commission shall release the operator's bond or retained deposit if it finds, after inspection of the project site, that the operator has fully completed reclamation of the site in accordance with the operating and reclamation plans, and has otherwise complied with this Ordinance. Bonds or deposits for any site abandoned at the time a permit expires shall not be released.

2.21 Permit Revisions.

- (1) **Project Site Modification or Adjustments**
An operator may apply in writing for a modification or cancellation of a permit, or for a change in the reclamation plan for a project site.
- (2) **Transfer of Permit**
When one operator succeeds to the interest of another in an uncompleted site, the Town shall release the first operator of the responsibilities imposed by the permit only if:
- (a) Both operators are in compliance with the requirements and standards of this Ordinance.
- (b) The new operator assumes the responsibility of the former operator to complete the reclamation of the entire project site by a written, witnessed document.
- (c) A new conditional use permit was obtained by the new operator.
- (3) **Site Enlargement**
Any proposed enlargement to the Project Site may be approved by East Central Wisconsin Regional Plan Commission (ECWRPC), subject

to evaluation and approval of a revised reclamation plan by ECWRPC and the Town of Rushford .

Part IV. ADMINISTRATION and ENFORCEMENT.

2.22 Annual Report Requirements.

Nonmetallic mining operators shall forward an annual nonmetallic mining report and aerial map to the Town of Rushford. New mining operations shall file an initial nonmetallic mining report with the Town within 30 days of permit approval, then annually thereafter. The initial report shall include a copy of the reclamation bond and any conditional uses requirements associated with the initial application.

2.23 Public Hearings.

The Town will hold at least one noticed public hearing on the permit application, including the Operating Plan and Reclamation Plan.

2.24 Administration and Enforcement.

(1) Inspections

- (a) The Town Planning and Zoning Administrator, or designee, may enter the premises of a nonmetallic mining site in performance of their official duties or pursuant to a special inspection warrant issued under Section 66.122, Wis. Stats., in order to inspect those premises and to ascertain compliance with this Ordinance and permits or to investigate an alleged violation.
- (b) No person may refuse entry or access to an agent of the Town who request entry for purposes of inspection and who presents appropriate credentials. No person may obstruct, hamper or interfere with the inspection. The Town shall furnish to the operator any report prepared by the Town regarding the inspection.
- (c) The Town Planning and Zoning Administrator or designee shall inspect each active mining site at least once annually, based on the date of permit issuance, to ensure that the operation and site are in conformance with the operator's nonmetallic mining permit. Inspection shall be done annually based on the date of permit issuance.

(2) Enforcement

The Town Planning and Zoning Administrator or designee may issue a compliance order, field directive, suspension order or termination order to assure compliance with a non-metallic mining permit, any of the provisions of this Ordinance, or conditional use permit.

(3) Waiver of Liability

- (a) In carrying out the provisions of this Ordinance, it is understood that Town Planning and Zoning Administrator or designee act as

representatives of the Town and there shall be no personal liability upon them.

- (b) In performing their duties, the Town Planning and Zoning Administrator or designee shall conform to accepted safety rules governing mining sites.

2.25 Violations and Penalties.

- (1) Any person who violates the rules promulgated under §295.12(l)(a), Wis. Stats., or an order issued under §295.19(2), Wis. Stats., may be required to forfeit not less than \$100.00 nor more than \$1,000.00 for each violation. Each day of continued violation is a separate offense.
- (2) Any person who violates any provision of this ordinance, except for violations enumerated in par. (a), shall forfeit not less than \$100.00 nor more than \$5,000.00 for each violation. Each day of continued violation is a separate offense.
- (3) In addition to the penalties under (a) and (b), the court may award the town the reasonable and necessary expenses of the investigation and prosecution of the violation, including attorney fees.
- (4) In addition to the penalties and costs under (a), (b) and (c), any operator who fails to comply with any provisions of this ordinance shall be subject to the suspension or revocation of the permit to operate as follows:
 - (a) Suspension of the permit and operations until the violation is corrected.
 - (b) For a first violation of this ordinance, suspension of permit and operation for 30 to 90 days.
 - (c) For a second violation of this ordinance, committed within 12 months of a previous violation, suspension of permit and operations for not more than one year.
 - (d) For a third violation, committed within 12 months of 2 or more previous violations, revocation of permit and operation for not more than 3 years.
- (5) Notwithstanding 11. (a), suspension or revocation of a nonmetallic mining permit for the reasons set forth in NR. 135.25, Wis. Adm. Code shall be governed by that section.

2.26 Appeals.

Any person aggrieved by an act or determination of the Town Planning and Zoning Administrator in the exercise of the authority granted herein, shall have

the right to appeal to the Town Board within thirty (30) calendar days after the rendition, in writing, of the appealed decision.

**CHAPTER 3
TOWN OF RUSHFORD
PUBLIC NUISANCE ORDINANCE**

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Part I. INTRODUCTION.

3.01. Authority, Purpose and Intent.

This ordinance is adopted under the specific authority under ss. 29.038, 66.0407, 66.0413, 125.14, 169.01, and 175.25, and chapter 823, Wis. stats., and general authority under its village powers under s. 60.22, Wis. stats., to adopt this ordinance. The purpose of this ordinance is to regulate for public health and safety reasons public nuisances and certain uses and activities in the town.

3.02. Abrogation and Greater Restrictions.

It is not intended by this Ordinance to interfere with, abrogate or annul any existing easements, covenants, or other agreements between parties, nor is it intended by this Ordinance to repeal, abrogate, annul or in any way impair or interfere with any existing provisions of law or ordinance, or rules, regulations or permit previously adopted or issued, or which shall be adopted or issued pursuant to law relating to the use of structures or premises. However, whenever this Ordinance imposes greater restrictions, the provisions of this Ordinance shall control. In addition, the provisions of the Winnebago County, Wisconsin, Shoreland/Flood Plain Ordinance, as adopted by said County as of the date of this Ordinance and as it may later be amended, are incorporated by reference. Whenever the Winnebago County Shoreland/Flood Plain Ordinance conflicts with applicable underlying provisions of this Zoning Ordinance, the more restrictive combinations of such ordinances shall govern.

3.03. Interpretation.

The provisions of this Ordinance shall be held to be minimum requirements adopted to promote the health, safety, morals, beauty, aesthetics and general welfare of the Town of Rushford, Winnebago County, Wisconsin, and shall be liberally construed in favor of the Ordinance.

3.04. Severability.

If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a Court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

3.05. Effective Date.

This Ordinance shall take effect immediately upon adoption and publication.

3.06. Applicability.

This ordinance applies to all development, structures, and land uses within the boundaries of the Town of Rushford situated outside the limits of Shoreland/Flood Plain jurisdiction of Winnebago County.

Part II. DEFINITIONS.

3.07. Definitions.

For the purpose of this Ordinance, the definitions set forth in this section shall be used. Words used in the present tense include the future. The singular number includes the plural number; the plural number includes the singular. The word "shall" is mandatory and not permissive.

Agricultural use means any beekeeping, commercial feed lots, dairying, egg production, floriculture, fish or fur farming, forest and game management, grazing, livestock raising, orchards, plant greenhouses and nurseries, poultry raising, raising of grain, grass, mint, and seed crops, raising of fruits, nuts, and berries, sod farming, placing land in federal programs in return for payments in kind, owning land, at least 35 acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836, participating in the milk production termination program under 7 USC 1446 (d), and vegetable raising.

Appliance means any household or office device, instrument, utensil, apparatus, or machine that utilizes power, including, but not limited to, any stove, clothes washer or dryer, refrigerator, dish washer, freezer, water heater, water pump, furnace, television set, home entertainment device, computer or peripheral device, or other home or office electronic device.

Building includes any building or structure or any portion of a building or structure.

Debris means any litter, junk, wood, bricks, paper, cement, concrete blocks, or any other unsightly accumulation of items or materials that may tend to depreciate property values in the adjacent or near area, create a blighted condition, present a substantial threat to public health or safety, or create a public nuisance or a public safety or health hazard, except when such items are determined by the town board or town committee or other agent of the town to be stored or housed out of public view and are treated and maintained so as not to be a public nuisance.

Equipment means goods used or bought for use primarily in a business, including farming and a profession.

Hazardous waste means any solid waste identified by the State of Wisconsin, Department of Natural Resources as hazardous under s. 291.05 (2), Wis. stats.

Junk means scrap metal, metal alloy, wood, concrete, or synthetic or organic material or any junked, inoperative, unlicensed, or unregistered vehicle, structure, equipment, furniture, appliances, or machinery, or any part thereof. "Junk" includes refuse, used tires, parts of dismantled buildings, agricultural use equipment not in usable condition, parts of agricultural use equipment, and contaminated recyclable material.

Junked means dismantled for parts or scrapped.

Junked vehicle parts means parts from a junked vehicle.

Junkyard means any place that is owned, maintained, operated, or used for storing, keeping, processing, buying, or selling junk. "Junkyard" includes sanitary landfills, refuse dumps, garbage dumps, automobile graveyards, scrap metal processors, auto-wrecking yards, salvage yards, auto-recycling yards, used auto parts yards, and places for temporary storage of automobile bodies or parts awaiting disposal as a normal part of a business operation when the business will continually have like materials located on the premises. "Junkyard" does not include places where litter, trash, and other debris are scattered along or upon a highway or temporary operations and outdoor storage of limited duration.

Local zoning and land use regulation means any applicable county, town, or extraterritorial zoning, subdivision, land division, platting, official map, building code, building permit, or other ordinance adopted pursuant to general police powers that is applicable in any manner to the use of land.

Machinery means a structure or assemblage of parts that transmits forces, motion, or energy from one part to another in a predetermined way by electrical, mechanical, or chemical means. "Machinery" does not include a building.

Motor vehicle dealer has the meaning given in s. 218.0101 (23), Wis. stats.

Motor vehicle salvage dealer has the meaning given in s. 218.20 (1r), Wis. stats.

Not registered, in reference to **all-terrain vehicles** as defined in s. 340.01 (2g), Wis. stats., **snowmobiles** as defined in s. 340.01 (58a), Wis. stats., or **boats** as defined in s. 29.001 (16), Wis. stats., means those that are required to,

but do not have nor bear, required current and valid State of Wisconsin licenses or registrations.

Public nuisance means a thing, act, occupation, condition, or use of property that continues in the town for such time as to do any of the following:

- (1) Substantially annoy, injure, or endanger the comfort, health, repose, or safety of the public.
- (2) In any way render the public insecure in life or in the use of property.
- (3) Greatly offend the public morals or decency.
- (4) Unlawfully and substantially interfere with, obstruct, or attempt to obstruct or render dangerous for passage any street, alley, highway, navigable body of water, or other public way, or the use of public property.

Recyclable material means material that is suitable for recycling.

Scrap metal processor means a fixed location at which machinery and equipment are utilized for the processing and manufacturing of iron, steel, or nonferrous metallic scrap into prepared grades and whose principal product is scrap iron, scrap steel, or nonferrous metal scrap for sale for remelting purposes.

Solid waste means any garbage, refuse, sludge, ash, paper, wood, metal, glass, cloth, plastic, lumber, concrete, food waste and other organics, boxes, barrels and other containers, tires and other like materials, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and any other discarded or salvageable materials, including solid, liquid, semisolid, or contained gaseous materials resulting from industrial, commercial, mining, agricultural, and community activities, but does not include solids or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permits under chapter 283, Wis. stats., source material as defined in s. 254.31 (1), Wis. stats., special nuclear material as defined in s. 254.31 (11), Wis. stats., or by-product material as defined in s. 254.31 (1), Wis. stats.

Solid waste facility means a facility for solid waste treatment, solid waste storage, or solid waste disposal, and includes commercial, industrial, municipal, state, and federal establishments or operations such as, without limitation because of enumeration, sanitary landfills, dumps, land disposal sites, incinerators, transfer stations, storage facilities, collection and transportation services, and processing, treatment, and recovery facilities. "Solid waste facility" includes the land where the facility is located. **Solid waste facility** does not include any of the following:

- (1) A facility for the processing of scrap iron, steel, or nonferrous metal using machinery to produce a principal product of scrap metal for sale or use for remelting purposes.
- (2) A facility that uses machinery to sort, grade, compact, or bale clean wastepaper, fibers, or plastics, not mixed with other solid waste, for sale or use for recycling purposes.
- (3) An auto junkyard or scrap metal salvage yard.

Town means the Town of Rushford, Winnebago County, Wisconsin.

Town board means the board of supervisors for the Town of Rushford, Winnebago County, Wisconsin, and includes designees of the board authorized to act for the board, specifically including the town clerk and town chair.

Town chair means the chairperson of the Town of Rushford, Winnebago County, Wisconsin.

Town clerk means the clerk of the Town of Rushford, Winnebago County, Wisconsin.

Town committee means a committee established by the town board to address and aid in regulation of those uses and activities that may cause public nuisance or public health and safety threats in the town.

Unlicensed or **unregistered** in reference to vehicles, mobile homes, or manufactured homes means those that are required to be licensed or registered for operation in the state, but do not have nor bear required current and valid State of Wisconsin licenses or registration.

Vehicle means every device in, upon, or by which any person or property is or may be transported. **Vehicle** includes, but is not limited to, all of the following:

- (1) **Aircraft** as defined in s. 29.001 (16), Wis. stats.
- (2) **All-terrain vehicles** as defined in s. 340.01 (2g), Wis. stats.
- (3) **Antique vehicles** as described in s. 341.265, Wis. stats.
- (4) **Automobiles** as defined in s. 340.01 (4), Wis. stats.
- (5) **Boats** as defined in s. 29.001 (16), Wis. stats.
- (6) **Camping trailers** as defined in s. 340.01 (6m), Wis. stats.
- (7) **Farm equipment** as defined in s. 100.47 (1), Wis. stats.
- (8) **Farm tractors** as defined in s. 340.01 (16), Wis. stats.
- (9) **Hobbyist or homemade vehicles** as defined in s. 341.268, Wis. stats.
- (10) **Junk vehicles** as defined in s. 340.01 (25j), Wis. stats.
- (11) **Implements of husbandry** as defined in s. 340.01 (24), Wis. stats.
- (12) **Manufactured homes** as defined in s. 101.91 (2), Wis. stats.
- (13) **Mobile homes** as defined in s. 340.01 (29), Wis. stats.

- (14) **Mopeds** as defined in s. 340.01 (29m), Wis. stats.
- (15) **Motor bicycles** as defined in s. 340.01 (30), Wis. stats.
- (16) **Motor buses** as defined in s. 340.01 (31), Wis. stats.
- (17) **Motor homes** as defined in s. 340.01 (33m), Wis. stats.
- (18) **Motor trucks** as defined in s. 340.01 (34), Wis. stats.
- (19) **Motorcycles** as defined in s. 340.01 (32), Wis. stats.
- (20) **Railroad trains** as defined in s. 340.01 (48), Wis. stats.
- (21) **Recreational vehicles** as defined in s. 340.01 (48r), Wis. stats.
- (22) **Road machinery** as defined in s. 340.01 (52), Wis. stats.
- (23) **Road tractors** as defined in s. 340.01 (53), Wis. stats.
- (24) **Salvage vehicles** as defined in s. 340.01 (55g), Wis. stats.
- (25) **School buses** as defined in s. 340.01 (56), Wis. stats.
- (26) **Semi trailers** as defined in s. 340.01 (57), Wis. stats.
- (27) **Snowmobiles** as defined in s. 340.01 (58), Wis. stats.
- (28) **Special interest vehicles** as defined in s. 341.266, Wis. stats.
- (29) **Trailers** as defined in s. 340.01 (71), Wis. stats.
- (30) **Truck tractors** as defined in s. 340.01 (73), Wis. stats.
- (31) **Unlicensed demolition vehicles** and **unlicensed racing vehicles**.
- (32) **Golf carts, garden tractors, riding lawn mowers, and other motorized tractors, motorized carts, and motorized utility vehicles** that require no registration or licensure by the State of Wisconsin.

Wild animal means any animal of a wild nature that is normally found in the wild and that is not a farm-raised deer, a pet bird, a farm-raised game bird, or an animal that is listed as a domestic animal by rule by the State of Wisconsin, Department of Agriculture, Trade and Consumer Protection.

Wis. stats. means the Wisconsin Statutes, including successor provisions to cited statutes.

Part III. PUBLIC HEALTH OR SAFETY.

3.08. Public Nuisance.

- (1) No person may create, contrive, erect, maintain, cause, continue, install, construct, or permit to exist in the town a public nuisance associated with, causing, or likely to cause danger, disturbance, or injury to the public health or safety.
- (2) The following acts, uses, activities, things, occupations, places, or physical conditions, not properly and timely removed after written notice to remove from the town board to any owner or occupant of the land where the act, use, activity, thing, occupation, place, or physical condition exists, is located, or occurred, or to any person responsible for the creation, maintenance, or

providing of the act, use, activity, thing, occupation, place, or physical condition, are specifically declared to be a public nuisance:

3.08.1. Noxious Weed Areas

- (1) Any place in the town where noxious weeds are over one foot high, have not been cut in the current calendar year, are located on private or public land, and the noxious weeds are not timely cut or removed within thirty (30) days after posting or publication of a notice to destroy noxious weeds under s. 66.0407, Wis. stats., or within thirty (30) days after receipt of written notice to remove from the town board. This section does not apply to flower beds or gardens that are maintained and weeded, nor does it apply to areas that have been planted with wild flowers or native prairie plants provided that such areas are maintained and consist of wild flowers or prairie plants. Noxious weeds are defined in section 66.0407, Wis. Stats. (2) Any place in the Town that is zoned Large Estate Residential or Small Estate Residential an where grass is over one foot high. (Updated December 1, 2021)

3.08.2. Unburied Animal Carcass Areas

- (1) Any place in the town where unburied animal carcasses are located on private or public land and the animal carcasses are not timely removed or discarded, including by timely burial in a sanitary manner, within thirty (30) days after receipt of written notice to remove from the town board.
- (2) This section does not apply to any animal or pet cemetery approved in writing by the town.

3.08.3. Noxious or Polluted or Waste Areas

- (1) Any place in the town where noxious, nauseous, unwholesome, or polluted water and waste are located on private or public land, including town roads, highways, bridges, sidewalks, alleys, or other public lands owned or controlled by the town, and those conditions are not timely removed within thirty (30) days after receipt of written notice from the town board.

3.08.4. Noxious Emission Odor Areas

- (1) Any place in the town where noxious odor, stench, or gas escapes or is emitted into the open air from sources located on public or private land, and these conditions are not timely removed or discontinued within thirty (30) days after receipt of written notice to remove from the town board.
- (2) In this subsection, "noxious odor" means an odor that is extremely repulsive to the senses of ordinary persons in the town and that

seriously annoys or causes serious discomfort or serious injury to the health or causes serious inconvenience to the health or safety of a significant number of persons within the town, as determined by the town board.

3.08.5. Rat or Vermin Areas

- (1) Any place in the town where rats or other vermin are located or frequent on public or private land, and those conditions are not removed or destroyed within thirty (30) days after receipt of written notice to remove from the town board.

3.08.6. Unauthorized Human Burial Areas

- (1) Any place in the town where the body of a deceased person or parts of a deceased person are located and buried on private or public land in the town without written approval of the town board and are not timely removed within thirty (30) days after receipt of written notice to remove from the town board.
- (2) This section does not apply to any established cemetery or burial site grounds approved, owned, and operated in accordance with chapter 157, Wis. stats.

3.08.7. Hazardous, Toxic, or Solid Waste Facility or Site Areas

- (1) Any place or solid waste facility in the town where the discharge, disposal, storage, or treatment of hazardous, toxic, or solid waste occurs on private or public lands without approval and licensing or permitting of the discharge, disposal, storage, or treatment by all proper federal, state, county, and town governing authorities and full compliance with all applicable laws, rules, regulations, or ordinances of the federal, state, county, or town, and the activity or condition is not timely removed or discontinued within thirty (30) days after receipt of written notice to remove from the town board.
- (2) To constitute a public nuisance under this paragraph, an area, facility, or site must threaten or cause serious discomfort or serious injury to the health or cause serious inconvenience to the health or safety of a significant number of persons within the town, as determined by the town board.

3.08.8. Dangerous Wild Animal Areas

- (1) Any place in the town where live dangerous wild animals are kept, sold, or in any manner controlled or possessed on private or public land without written approval of the town board and the animals are not removed or destroyed within thirty (30) days after receipt of written notice to remove from the town board unless written approval of the town board is obtained within said time.
- (2) To constitute a dangerous wild animal, under this paragraph, the species of animal must pose a threat to the safety of persons within the town, including a keeper of the animal, as determined by the town board. It is not necessary that the town board find that a specific animal is dangerous in order to find a nuisance under this paragraph.

3.08.9. Dangerous or Dilapidated Building Areas

- (1) Any place in the town where a building or structure, the contents of a building or structure, or any associated electrical, heat, water, or sewer system located on public or private lands is so old, dilapidated, or out of repair as to be dangerous, unsafe, unsanitary, or otherwise unfit for human habitation, and the conditions that are dangerous, unsafe, unsanitary, or otherwise render the building unfit for human habitation are not timely removed or discontinued within thirty (30) days of receipt of written notice to remove from the town board.

3.08.10. Dangerous Tree Areas

- (1) Any place in the town where any trees or tree limbs located on private or public lands constitute a dangerous or unsafe condition and these dangerous or unsafe conditions have not been timely removed within thirty (30) days after receipt of written notice to remove from the town board.

3.08.11. Fire Hazard Areas

- (1) Any place in the town where combustible materials are located and stored on private or public lands and the materials are not timely removed or safely stored within thirty (30) days after receipt of written notice from the town board.

3.08.12. Improper Encroachment or Discharge Areas

- (1) Any unauthorized or improper encroachments and discharges, including solid waste, trees, limbs, vehicles, structures, equipment, signs, manure, weeds, crops, and other materials on any town roadway or on other town public lands without written permission from the town board, and the improper or unauthorized encroachment or discharge is not timely

removed or discontinued within thirty (30) days of the receipt of written notice to remove from the town board.

3.08.13. Junked Vehicle and Junked Part Areas

- (1) Any place in the town within 500 feet of the center line of a town road, or within 750 feet of the center line of any county trunk, state trunk, or federal highway where junked vehicles or junked vehicle parts are accumulated or stored or any place in the town where junked vehicles or junked vehicle parts are accumulated or stored outside of a building for a period exceeding 72 hours if upon public property, or for a period exceeding 30 days if upon private property, without obtaining a permit from the town in accordance with CHAPTER 1, TOWN OF RUSHFORD, GENERAL ZONING AND LAND USE REGULATION.

3.08.14. Junkyard and Junked Vehicle, Appliance, and Machinery Areas

- (1) Any place in the town where junked or abandoned vehicles, not otherwise subject to subsections 3.08.13 or 3.08.15, or junked or abandoned appliances, equipment, or machinery are accumulated or stored for a period exceeding 72 hours if upon public property, or for a period exceeding 30 days if upon private property, and any place otherwise within the definition of junkyard under this ordinance that is not timely removed or discontinued within thirty (30) days of receipt of written notice to remove from the town board, unless exempt under Part VII of this ordinance.

3.08.15. Unlicensed or Unregistered Vehicle Area

(1) Any parcel zoned Large Estate Residential, Small Estate Residential, or General Agriculture and that has a residence on the parcel where for a period exceeding 30 days upon private property more than three unlicensed or unregistered vehicles are parked, stored, or otherwise kept outside a building without the written permission of the town board and are not timely removed or discontinued within thirty (30) days of receipt of written notice to remove from the town board, unless exempt under Part VII of this ordinance.

(2) Any parcel in the town where for a period exceeding 30 days upon private property more than one unlicensed or unregistered vehicle is parked, stored, or otherwise kept outside a building without the written permission of the town board and is not timely removed or discontinued within thirty (30) days of receipt

of written notice to remove from the town board, unless exempt under Part VII of this ordinance. (updated 1-5-2022)

3.08.16. Improper Outdoor Lighting Areas

- (1) Any place in the town where obtrusive aspects of excessive and/or careless outdoor lighting, are located on private or public land without written approval of the town board and is not timely removed or discontinued within thirty (30) days of the written receipt of notice to remove from the town board.
- (2) Shielding and outdoor lighting standards:
 - (a) All outdoor lighting fixtures shall be fully shielded.
 - (b) All outdoor lighting fixtures shall be placed so as not to cause light trespass or glare beyond the property boundary.
 - (c) Any lamp installed on a residential property must be shielded such that glare from the lamp is not directly visible from any other residential property.
 - (d) Flood or spot lamps must be fully shielded and aimed no higher than 45 degrees above straight down (half-way between straight down and horizontal) when the source is visible from any off-site residential property or public roadway.
 - (e) All light fixtures shall be installed and maintained in such a manner that the shielding is effective.
 - (f) All light fixtures shall be located, aimed or shielded so as to minimize stray light trespassing across property boundaries.

Part IV. PUBLIC PEACE AND ORDER.

3.09. Public Nuisance.

- (1) No person may create, contrive, erect, maintain, cause, continue, install, construct, or permit to exist in the town a public nuisance associated with, causing, or likely to cause potential danger, disturbance, or injury to the public peace and order.
- (2) The following acts, uses, activities, things, occupations, places, or physical conditions, not properly and timely removed after written notice to remove from the town board to the owner or occupant of the land where the public nuisance occurred or is maintained in the town, or to any persons responsible for the creation, maintenance, or permitting of such nuisance in the town, are specifically declared to be a public nuisance:

3.09.1. Loud Noise Areas

- (1) Any place in the town where any unreasonably loud, discordant, and unnecessary sound conditions, including sounds from vehicles, equipment, machinery, guns, fireworks, or enclosed domestic or other animals, or from any human-created or -aided sounds, including alleged music, is located on private or public land without written approval of the town board and is not timely removed or discontinued within thirty (30) days of the written receipt of notice to remove from the town board.

3.09.2. Disorderly Conduct Area

- (1) Any place in the town where unpermitted, abusive, indecent, profane, or boisterous sounds, unpermitted fighting, brawling, or rioting, or other unpermitted disorderly conduct conditions, are located or occur on private or public lands and these disorderly conditions are not timely removed or discontinued within thirty (30) days of receipt of written notice to remove from the town board.

Part V. PUBLIC MORALS OR DECENCY.

3.10. Public Nuisance.

- (1) No person may create, continue, erect, maintain, cause, continue, install, construct, or permit to exist in the town a public nuisance associated with, causing, or likely to cause danger, disturbance, or injury to public morals or decency.
- (2) The following acts, uses, activities, things, occupations, places, or physical conditions not properly and timely removed by the owner or occupant of the land after written notice to remove from the town board to the owner or occupant of the land where the public nuisance occurs, or to any person responsible for the creation, maintenance, or permitting of such nuisance in the town, are specifically declared to be a public nuisance as follows:

3.10.1. Bawdyhouses

- (1) Pursuant to s. 823.09, Wis. stats., whoever erects, establishes, continues, maintains, uses, occupies, or leases any building or part of a building, erection, or place to be used for the purpose of lewdness, assignation, or prostitution, or permits the same to be so used, in the town, is guilty of a nuisance and the building, erection, or place in or upon which such lewdness, assignation, or prostitution is conducted, permitted, carried on, continued, or exists, and the furniture, fixtures, musical instruments, and contents used therewith for the same purpose, are declared a nuisance, and shall be enjoined and abated.

3.10.2. Illegal Drug Houses

- (1) Pursuant to s. 823.113 (1), Wis. stats., any building or structure that is used to facilitate the delivery, distribution, or manufacture, as defined in s. 961.01 (6), (9), and (13), Wis. stats., respectively, of a controlled substance as defined in s. 961.01 (4), Wis. stats., or a controlled substance analog as defined in s. 961.01 (4m), Wis. stats., and any building or structure where those acts take place, is a public nuisance and may be proceeded against under s. 823.113, Wis. stats.

3.10.3. Criminal Gang Houses

- (1) Pursuant to s. 823.113 (1), Wis. stats., any building or structure that is used as a meeting place of a criminal gang, as defined in s. 939.22 (9), Wis. stats., or that is used to facilitate the activities of a criminal gang, is a public nuisance and may be proceeded against under s. 823.113, Wis. stats.

3.10.4. Gambling Houses

- (1) Pursuant to s. 823.20, Wis. stats., any gambling place, as defined in s. 945.01 (4) (a), Wis. stats., is a public nuisance and may be proceeded against under chapter 823, Wis. stats.

3.10.5. Illegal Alcohol Houses

- (1) Pursuant to s. 125.14 (5), Wis. stats., any building or place where alcohol beverages or alcohol is sold, possessed, stored, brewed, bottled, manufactured, or rectified without a valid permit or license issued under chapter 125 or 139, Wis. stats., or where persons are permitted to drink alcohol beverages in violation of chapter 125, Wis. stats., is a public nuisance and may be closed until the activity in violation of chapter 125, Wis. stats., is abated.
- (2) When the activity is abated, the building or place may be used for any lawful purpose.

Part VI. ABANDONED VEHICLES, MACHINERY, EQUIPMENT, AND APPLIANCES ON PUBLIC LANDS.

3.11. General Standards.

- (1) No person shall leave unattended or stored any vehicle, regardless of the vehicle's physical condition, registration, or license held, any appliance, equipment, or machinery, or parts thereof, on any public street, public road,

public highway, or other public property in the town, including the road right-of-way, for such time and under such circumstances as to cause the vehicle, appliance, equipment, or machinery to reasonably appear to have been abandoned.

- (2) When any vehicle, machinery, appliances, or equipment has been left unattended, parked, or stored on any public street, road, highway, or other public property, including a road right-of-way, within the town for a period of more than 72 hours, the vehicle, structure, machinery, appliances, or equipment is presumed by the town to be abandoned and a public nuisance and may be removed in accordance with s. 342.40, Wis. stats., and the owner of the vehicle is subject to the imposition of forfeitures under Part X of this ordinance.
- (3) This section does not apply to a railroad train stopped at a railway crossing as defined in s. 340.01 (47), Wis. stats

Part VII. EXEMPTIONS AND PERMITS.

3.12. Exemptions.

- (1) Any storage of junked vehicles or junked vehicle parts on private lands in the town that is in conformity with local zoning and land use regulation for which the owners, operators, or persons otherwise responsible for the storage of the vehicles or parts have been issued a permit and met the permit requirements established by the town board in CHAPTER 1, TOWN OF RUSHFORD, GENERAL ZONING AND LAND USE REGULATION, is exempt from the provisions of Part III, section 3.08.13., applicable to storage of junked vehicles and junked vehicle parts. The exemption granted under this paragraph is strictly limited to the extent allowed by the permit.
- (2) Any operation of a junkyard on private lands in the town that is in conformity with local zoning and land use regulation for which the owners, operators, or persons otherwise responsible for the operation of the junkyard have obtained all the proper and necessary federal, state, county, town, and extraterritorial municipal approvals, permits, or licenses for the operation or have obtained licenses for operation of a junkyard on that privately owned premise under s. 84.31, Wis. stats., is exempt from the provisions of Part III, section 3.08.14., applicable to junked vehicles, junked machinery, junked appliances, or junked equipment and parts thereof. The exemption granted under this paragraph is strictly limited to the extent allowed by the approvals, permits, or licenses.
- (3) Any commercial motor vehicle salvage or motor vehicle retail sales business on private lands in the town that is in conformity with local zoning and land use regulation for which the owners, operators, or persons otherwise responsible for the conduct of the business hold a current motor vehicle salvage dealer license under s. 218.205, Wis. stats., authorizing storage uses, operations, and activities at property locations in the town or hold a current motor vehicle

dealer license under s. 218.0114, Wis. stats., for salvage, sale, or storage operation and activities at a property location in the town, and are actively engaged in the town, as determined in writing by the town board, in the commercial motor vehicle salvage or motor vehicle retail sales business on property in the town is exempt from the provisions of Part III, section 3.08.14., applicable to junked vehicles, junked machinery, junked appliances, or junked equipment and parts thereof. The exemption granted under this paragraph is strictly limited to the extent allowed by the applicable license.

- (4) Any business engaged in the retail sales of manufactured homes, mobile homes, camper trailers, or recreational vehicles on private lands in the town that is in conformity with local zoning and land use regulation for which the owners, operators, or persons otherwise responsible for the conduct of the business hold a current and valid manufactured home dealers license under s. 101.951, Wis. stats., or a current and valid recreational vehicle dealers license under s. 218.12, Wis. stats., issued by the State of Wisconsin, and are actively engaged in the town, as determined in writing by the town board, in the business of commercial retail sales of manufactured homes, mobile homes, camper trailers, or recreational vehicles on property in the town is exempt from Part III, section 3.08.14., applicable to junked vehicles, junked machinery, junked appliances, or junked equipment and parts thereof. The exemption granted under this paragraph is strictly limited to the extent allowed by the applicable license.
- (5) Any parking, storage, or other keeping outside of buildings in the town of one (1) or fewer unlicensed or unregistered vehicles or one (1) or fewer boats, snowmobiles, or all-terrain vehicles, not registered with the State of Wisconsin, on private lands owned or leased by the owner or leaseholder of the vehicles that is in conformity with local zoning and land use regulation, even if the vehicles are not stored for purposes of sale or repair, is exempt from the provisions of Part III, section 3.08.15., relating to the keeping and storage of unlicensed or unregistered vehicles.
- (6) Any parking, storage, or other keeping of any agricultural use vehicles in the open on private lands in the town that is in conformity with local zoning and land use regulation by the owner or leaseholder of the land, if the vehicles are and can be used by the owner or leaseholder, without repair, for normal agricultural use in the town is exempt from the provisions of Part III, section 3.08.14., applicable to junked vehicles, junked machinery, junked appliances, or junked equipment and parts thereof. Notwithstanding anything contained in this paragraph, storage of inoperable junk or other unrepaired agricultural use vehicles on private property of any person for more than one (1) year in the open shall be deemed a violation of Part III, section 3.08.14., unless the storage is at a commercial implement repair location where the equipment or implements can and will be timely repaired and removed from the premise.

3.13. Permits.

- (1) Upon proper and timely application by an owner or occupant of the premises in the town to the town clerk for transmittal to the planning and zoning committee where a public hearing will be held and a recommendation will be made to the Town Board. The town board may permit on public or private lands in the town, with or without conditions and restrictions, any of the following:
 - a. The storage in the open on private premises of vehicles, structures, machinery, appliances, or equipment in the town that are subject to Part III.
 - b. The maintenance of buildings, structures, or dwellings in the town that are subject to Part III.
 - c. The storage, disposal, treatment, or discharge of items, waste, and materials in the town that are subject to Part III.
- (2) A permit under this section 3.12. may be issued by the town board regardless of the ownership or possession rights to the vehicles, implements, machinery, structures, equipment, appliances, buildings, structures, dwellings, items, waste, or materials to be stored, maintained, disposed, treated, or discharged.
- (3) The permit shall be for a specific location, may be established for a term of months or years, and may be reissued upon application by the permit holder if the permit holder is in full compliance with this ordinance and with the permit conditions and restrictions as issued.
- (4) The conditions and restrictions, if any, in the permit established by the town board for any permitted storage, maintenance, disposal, treatment, or discharge shall be reasonable restrictions and conditions to protect the public health, safety, and welfare of persons within the town and to limit or negate potential public nuisances caused by the permitted storage, maintenance, disposal, treatment, or discharge. The conditions and restrictions shall be stated in writing and attached to the written permit upon issuance by the town board.
- (5) The owner or occupant of the permitted premises is responsible for compliance with the conditions and restrictions in the permit issued regardless of whether the owner or occupant of the premises has any legal or equitable interest in the vehicles, structures, machinery, appliances, or equipment subject to the permit.

Part VIII. ABATEMENT OF PUBLIC NUISANCES/PERMIT REVOCATION.

3.14. Inspection of Premises.

- (1) Whenever a complaint is made to the town board, town clerk, town chair, or any appropriate town committee or agent that a public nuisance under this ordinance or a violation of a permit issued under this ordinance exists within the town, the town chair, town committee, or other agents of the town board shall promptly inspect or cause to be inspected the premises complained of and shall make a written report of its findings to the town board, which report shall thereafter be filed with the town clerk and kept of record in the office of the

town clerk. Whenever practicable, the town chair, town committee, or other agents of the town board shall cause photographs to be made of the premises for inclusion in the written report to the town board.

- (2) If the person subject to complaint holds a current permit under this ordinance, or have been issued a permit and met the permit requirements established by the town board in CHAPTER 1, TOWN OF RUSHFORD, GENERAL ZONING AND LAND USE REGULATION, the town chair, the town committee or other agents of the town board may immediately request the town board to hold a public hearing to consider suspension or revocation of the permit for refusal to comply with the permit conditions and this ordinance. The town board shall hold a public hearing prior to taking any action to revoke or suspend a permit. The permit holder shall be notified of the public hearing at least 20 days before the public hearing by the mailing by U.S. mail of a First Class notice letter to the last known address of the permit holder noted on the permit or permit application.
- (3) The town board may, in the alternative to revocation, suspend any issued permit for a period up to 6 months. Any revocation shall be for a period in excess of 6 months and no reapplication can be received or acted upon by the town board for the premises or for the owner or occupant of the premises for any activity, use, or item prohibited by or requiring a permit under this ordinance during the revocation period.
- (4) For any decision regarding the revocation or suspension of any permit, the town board shall determine and state the reason or reasons for any revocation, nonrevocation, or suspension of the permit based on the lack of compliance with the permit conditions and this ordinance by the permit holder or by any employees or agents of the permit holder. The reason or reasons for the decision shall be stated in writing and sent to the permit holder within 10 days after the decision by the town board by mailing by U.S. mail of a First Class letter to the last known address of the permit holder noted on the permit or permit application.

3.15. Owner of Premises Responsibility.

Any owner or occupant of land in the town is responsible for compliance with this ordinance on the owner's or occupant's land regardless of ownership of and responsibility for the uses, activities, or things located on the land that are subject to this ordinance.

3.16. Summary Abatement.

3.16.1. Notice to Owner.

- (1) If the town chair, town committee, or other agents of the town board determine, by written notice to the town board, that a public nuisance

exists under this ordinance within the town on private or public land and that there is great, immediate, and substantial danger or threat to the public health or safety, the town board, town chair, town committee, or other agents of the town board shall serve a written order upon the person who is causing, permitting, or maintaining the public nuisance, and the owner or occupant of the premises where the public nuisance is caused, permitted, or maintained.

- (2) If immediate personal service cannot be made, one copy of the written notice shall be posted on the premises in a location likely to attract the attention of the owner or occupant of the premises or the person who is causing, permitting, or maintaining the public nuisance, and one copy of the notice shall be served by mailing by U.S. mail of a First Class letter to the last known address for the owner or occupant of the premises.
- (3) The order notice shall direct the owner or occupant to remove the public nuisance within 24 hours and shall state that unless the public nuisance is so timely abated, the town may cause, due to the emergency conditions, the public nuisance to be abated and shall charge the costs of abatement to the owner, occupant, or person causing, permitting, or maintaining the public nuisance.

3.16.2. Abatement by town.

- (1) If the public nuisance is not abated within the time provided in the notice under paragraph 1 or if the owner, occupant, or person causing the public nuisance, if known, cannot be found, the town chair, the town committee, or other agents of the town board, with approval of the town board, shall cause the abatement or removal of the public nuisance by immediately seeking for the town a court order that allows for the immediate enjoinder and abatement of the public nuisance.

3.17. Abatement By Court Action.

If the town board determines that a public nuisance exists on public or private premises but that the nature of the nuisance does not threaten great, immediate, and substantial danger to the public health or safety, the town board shall file a written report or its resolution of its findings with the town clerk who shall, after approval and filing of the report or resolution by the town board, take one or more of the following actions, as directed by the town board:

- (1) Issue and serve a written order to cease and desist the public nuisance upon the person causing, permitting, or maintaining the public nuisance and the owner or occupant of the premises where the public nuisance is located.

- (2) Issue and serve a citation for violation of this ordinance upon the person causing, permitting, or maintaining the public nuisance and the owner or occupant of the premises where the public nuisance is located.
- (3) Cause the town attorney to draft a formal civil complaint to be filed and served upon the alleged violators based upon an alleged violation of this ordinance or the conditions of any permit as issued or have drafted by the town attorney to be filed and served a formal complaint for abatement of the public nuisance under chapter 823, Wis. stats.

3.18. Other Methods Not Excluded.

Nothing in this ordinance may be construed as prohibiting the injunction and abatement of public nuisances against any person, including against a permit holder that holds a current and valid permit issued by the town under this ordinance, by the town or its officials in accordance with the laws of the State of Wisconsin or this ordinance.

Part IX. COSTS OF ABATEMENT OR DISPOSAL.

In addition to any other penalty imposed by this ordinance for the erection, contrivance, creation, continuance, or maintenance of a public nuisance and violation of this ordinance, the cost of abatement of any public nuisance by the town may be collected under this ordinance or s. 823.06, Wis. stats., as a debt or expense from the owner or occupant of the real property for causing, permitting, or maintaining the public nuisance.

If notice to abate the nuisance has been given to the owner or occupant previously, the cost of abatement may be assessed against the real property for services rendered and incurred by the town to enjoin or abate the public nuisance as a special charge under s. 66.0627, Wis. stats., unless paid earlier.

If any vehicle, structure, equipment, implement, or appliance is abandoned or remains unclaimed in violation of this ordinance, the town board may proceed to declare this personal property abandoned and proceed to dispose of this personal property under s. 66.0139, Wis. stats., by public auction or other means as determined in writing by the town board.

Part X. ENFORCEMENT PROVISIONS.

3.19. Penalties.

- (1) A person will, upon conviction for any violation of this ordinance, forfeit not less than \$100 nor more than \$1,000 for each offense, together with the

costs of prosecution for each violation, and may be ordered to take such action as is necessary to abate the offense within a specified time.

- (2) The minimum and maximum forfeitures specified in this section are doubled each time that a person is convicted for the same violation of this ordinance within any 12 month period.
- (3) A person who has the ability to pay a forfeiture entered pursuant to this ordinance, but who fails or refuses to do so may be confined in the county jail until the forfeiture and costs are paid, but the period of confinement may not exceed 30 days. In determining whether a person has the ability to pay, all items of income and all assets may be considered regardless of whether the income and assets are subject to garnishment, lien, or attachment by creditors.
- (4) A person must, within 30 days of conviction, finding of default, or stipulation of a violation of this ordinance, remove or discontinue the use of any building, structure, or part of a building or structure that violates any provision of this ordinance or the terms or conditions of any permit issued pursuant to this ordinance. If a person fails to remove such a building, structure, or part of a building or structure, the town may remove or cause the removal of the building, structure, or part of the building or structure. The cost of removal will become a lien upon the property and may be collected in the same manner as property taxes.
- (5) The failure of a town employee, official, or officer to perform an official duty imposed by a section in this code will not subject the employee, official, or officer to a penalty unless the section imposing the duty also specifies the penalty.

CHAPTER 4 TOWN OF RUSHFORD LARGE WIND ENERGY SYSTEM ORDINANCE			
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Part I. INTRODUCTION.

3.01 Title.

This ordinance may be referred to as the Large Wind Energy System Ordinance.

3.02 Authority, Purpose and Intent.

This ordinance is adopted under the authority granted by Sections 59.97 (5) (d), 60.10 (2)(c), 60.22 (3), 60.62, 61.35 and 62.23 of the Wisconsin Statutes. The purpose of this ordinance is to establish regulations for large wind energy systems that comply with the requirements of Wis. Stat. sec. 66.0401.

3.03 Abrogation and Greater Restrictions.

It is not intended by this Ordinance to interfere with, abrogate or annul any existing easements, covenants, or other agreements between parties, nor is it intended to abrogate, annul, impair, interfere with, or repeal any existing ordinance. However, whenever this Ordinance imposes greater restrictions, the provisions of this Ordinance shall control.

3.04 Severability.

If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a Court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

3.05 Effective Date.

This Ordinance shall take effect immediately upon adoption and publication.

3.06 Applicability.

This ordinance applies to all lands within the boundaries of the Town of Rushford situated outside the limits of Shoreland/Flood Plain jurisdiction of Winnebago County.

Part II. DEFINITIONS.

3.07 Definitions.

In this ordinance:

Administrator means the Planning and Zoning Administrator appointed pursuant to sec. 1.44(2), or his or her designee.

Flicker or shadow flicker means the effect that results when the shadow cast by the rotating blade of a wind energy system moves across a fixed point.

Karst means an area with surface and subsurface features that have developed as the result of the dissolution of dolomite, gypsum, limestone, or other soluble rock. Characteristic features present in karst topography include caves, closed depressions, disappearing streams, exposed bedrock, sinkholes, springs, and underground drainage through conduits enlarged by dissolution.

Landowner means the person that owns the property on which a large wind system is located. Large wind energy system means a wind energy system that includes one or more large wind systems.

Large wind system means a wind tower and turbine that has a nameplate capacity of more than 100 kilowatts or a total height of more than 170 feet, or both.

Nonparticipating property means real property on which either there is no large wind system or there is a large wind system that is in a different wind farm system than another large wind system.

Owner means the person that owns a large wind system, a wind farm system, or a large wind energy system.

Participating property means real property on which a large wind system is located and that is in the same wind farm system as another large wind system.

Total height means the vertical distance from ground level to the tip of a wind turbine blade when the tip is at its highest point.

Wind energy system means equipment that converts and then stores or transfers energy from the wind into usable forms of energy and includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, turbine, vane, wire, or other component used in the system.

Wind farm system means a wind energy system that includes more than one wind tower.

Wind Tower means the monopole, freestanding, or guyed structure than supports a wind turbine generator.

Part III. GENERAL STANDARDS

3.08 Standards.

- (1) Location.
 - (a) A large wind system may only be located in areas that are zoned General Agricultural (GA).
 - (b) A wind tower may not be located within one-quarter mile of any area that is zoned Rural Residential (RR) or within one-quarter mile of any state or county forest, hunting area, lake access, natural area, or park.
- (2) Set Backs. The wind tower in a large wind system and each wind tower in a wind farm system must be set back:
 - (a) at least 1.1 times the total height of the large wind system from the property line of a participating property.
 - (b) at least 1,000 feet from the property line of a nonparticipating property unless the owner of the nonparticipating property grants an easement for a lesser setback. The easement must be recorded with the Register of Deeds and may not provide for a setback that is less than 1.1 times the total height of the large wind system.
 - (c) at least 1.1 times the total height of the large wind system or 500 feet, whichever is greater, from any public road or power line right-of-way.
- (3) Spacing and Density. A wind tower must be separated from every other wind tower by a sufficient distance so that it does not interfere with the other wind tower.
- (4) Structure. A wind tower must be of monopole construction to the extent practicable. If monopole construction is not practicable, a wind tower must be of freestanding construction to the extent practicable. If monopole or freestanding construction is not practicable, a wind tower may be guyed.
- (5) Height. The total height of a wind energy system must be 500 feet or less.

- (6) Clearance. The vertical distance from ground level to the tip of a wind turbine blade when the blade is at its lowest point must be at least 75 feet.
- (7) Access. A wind tower, including any climbing aids, must be secured against unauthorized access by means of a locked barrier or security fence.
- (8) Electrical Wires. All electrical wires associated with a wind energy system, other than wires necessary to connect the wind turbine to its base and to overhead collection lines, must be located underground.
- (9) Code Compliance. A large wind system and a large wind energy system must comply with the National Electrical Code, the National Electrical Safety Code, and all applicable state and federal codes and regulations.
- (10) Lighting. A wind tower and turbine may not be artificially lighted unless such lighting is required by the Federal Aviation Administration. If lighting is required, the lighting must comply with FAA minimum requirements and, whenever possible, be at the lowest intensity allowed, avoid the use of strobe or other intermittent white lights, and use steady red lights. If more than one lighting alternative is available, the alternative that causes the least visual disturbance must be used.
- (11) Equipment. Any electrical equipment associated with a wind energy system must be located under the sweep area of a blade assembly.
- (12) Appearance, Color, and Finish. The exterior surface of any visible components of a wind energy system must be a nonreflective, neutral color. Wind towers and turbines in a wind farm system that are located within one mile of each other must be of uniform design, including tower type, color, number of blades, and direction of blade rotation.
- (13) Signs. No wind turbine, tower, building, or other structure associated with a wind energy system may be used to advertise or promote any product or service. No word or graphic representation, other than appropriate warning signs and owner or landowner identification, may be placed on a wind turbine, tower, building, or other structure associated with a wind energy system so as to be visible from any public road.
- (14) Noise.
 - (a) The noise generated by the operation of a large wind energy system may not exceed the ambient noise level by more than 5 dB(A) as measured at any point on property adjacent to the

parcel on which the large wind energy system is located. The noise level generated by the operation of a large wind energy system will be determined during the investigation of a noise complaint by comparing the sound level measured when the wind generator blades are rotating to the sound level measured when the wind generator blades are stopped.

- (b) Each wind tower must have a placard posted in plain view and easily readable by a person on the ground. The placard must provide a telephone number for law enforcement or other town officials to call for purposes of noise complaint investigation, sound level measurement, or administration of this ordinance. A person must be reachable through that telephone number at all times, and the owner must be able to promptly control the operation of the large wind energy system as necessary to permit noise complaint investigation and sound level measurement.
- (15) Flicker or Shadow Flicker. The owner of a large wind system must take such reasonable steps as are necessary to prevent, mitigate, and eliminate shadow flicker on any occupied structure on a nonparticipating property.

3.09 General Requirements.

- (1) A permit application must be on a form approved or provided by the Administrator.
- (2) The owner must provide a site plan and the following additional information:
 - (a) Name, corporate status, address, and telephone number of the person signing the application and certifying that the application is true and correct.
 - (b) Name, corporate status, address, and telephone number of the owner.
 - (c) Name, corporate status, address, and telephone number of the landowner.
 - (d) Legal description of the property and a description of a benchmark on the property, including its elevation expressed in feet and tenths of feet.

- (e) Number, description, and design specifications of each large wind system and met tower, including the manufacturer, model, capacity, blade length, height, lighting, and total height of any large wind system.
- (f) Blueprints or drawings that have been approved by a registered professional engineer showing a cross section, elevation, and diagram for any tower and tower foundation.
- (g) Scale diagram showing proposed location of aboveground and underground electrical wiring, access routes, landscaping, and fencing.
- (h) Statement describing any hazardous materials that will be used on the property and how those materials will be stored.
- (i) Location of any overhead utility lines adjacent to the property.
- (j) Existing buildings and structures within one-half mile of the property, including any church, hospital, public library, residence, and school.
- (k) Karst features on or within one-half mile of the property as shown on a U.S. Geological Survey topographical map with a scale of 1:24,000.
- (l) Any sewer service planning area and incorporated municipal boundary within one-half mile of the property.
- (m) Copy of a Certificate of Authority and Environmental Assessment, if applicable, from the Wisconsin Public Service Commission.
- (n) Statement that each large wind system and met tower will be installed in compliance with manufacturer's specifications, along with a copy of the manufacturer's specifications.
- (o) Statement that the owner will construct and operate the large wind system, met tower, or wind farm system in compliance with all applicable local, state, and federal codes, laws, orders, regulations, and rules.
- (p) Statement signed by the landowner acknowledging that the landowner is financially responsible if the owner fails to reclaim the site as required by sec. 3.12(4) and that any removal and reclamation costs incurred by the town will become a lien on the property and may be collected from the landowner in the same manner as property taxes.

- (3) Conditional Use Permit. A conditional use permit is required for a wind farm system and for each large wind system that is not included in a conditional use permit issued for a wind farm system.
- (4) Building Permit. A building permit is required for the installation of a large wind system, including each large wind system in a wind farm system.
- (5) Expiration. A permit issued pursuant to this ordinance expires if the wind energy system is not installed and functioning within 2 years from the date the permit is issued, but the Administrator may extend the permit in response to a written request made prior to its expiration if the Administrator determines that the request is reasonable under the circumstances.
- (6) Fees.
 - (a) The application for a conditional use permit for a large wind system that is not included in a wind farm system must be accompanied by the fee required for a conditional use permit. The application for a conditional use permit for a wind farm system must be accompanied by the fee required for a conditional use permit.
 - (b) The application for a building permit for each large wind system, including each large wind system in a wind farm system must be accompanied by the fee required for a building permit for a principal use.
- (7) Financial Assurance.
 - (a) Proof of financial assurance is a condition precedent to the issuance of any conditional use or building permit under this ordinance.
 - (b) The owner must provide a performance bond, completion bond, or other financial assurance of at least \$20,000 for each large wind system to guarantee the performance of the restoration requirement set forth in sec. 3.12.

3.10 Conditional Use Permit Procedure.

- (1) A person may submit an application to the Administrator or Town Clerk for a conditional use permit for a large wind system or a wind farm system. The application must be on a form approved by the Administrator and must be accompanied by 10 copies of a scaled

drawing, other descriptive information sufficient to enable the Town Board to determine whether the requirements of this ordinance will be satisfied, and such other information as may be specified on the application form. The Administrator will review the application materials for completeness and may request that the applicant provide additional information. When the Administrator determines that the application is complete, the Administrator will forward it to the Town Board.

- (2) The Town Board will conduct a hearing on the application after the planning and zoning committee makes a recommendation to them. The hearing will be held within 60 days after the Town Board receives the completed application.
- (3) The Town Board will grant a conditional use permit if it determines that the requirements of this ordinance are met and that granting the permit will not unreasonably interfere with the orderly land use and development plans of the town. The Town Board may include conditions in the permit if those conditions preserve or protect the public health and safety; do not significantly increase the cost of the system or significantly decrease its efficiency; or allow for an alternative system of comparable cost and efficiency. The Town Board may consider the following factors when setting conditions:
 - (a) Proposed ingress and egress.
 - (b) Proximity to transmission lines to link the system to the electric power grid.
 - (c) Number of wind turbines and their location.
 - (d) Nature of land use on adjacent and nearby properties.
 - (e) Location of other wind energy systems in the surrounding area.
 - (f) Surrounding topography.
 - (g) Proximity to residential structures, residential zoning districts, or areas identified for future residential use.
 - (h) Design characteristics that may reduce or eliminate visual obtrusiveness.
 - (i) Possible adverse effects on migratory birds, raptors, and other animals and wildlife.
 - (j) Possible adverse effects of stray voltage, interference with broadcast signals, shadow effect, and noise.

- (k) Impact on the orderly development, property values, and esthetic conditions within the town.
 - (l) Effect on public roads.
 - (m) Any other factors that are relevant to the proposed system.
- (4) The Town Board may waive or reduce the burden on the applicant of one or more of the factors in sub. (3) if it concludes that the purpose of this ordinance is met. The installation and continued operation of the large wind system or wind farm system are contingent upon compliance with any conditions that are set by the Town Board.
 - (5) The Town Board's decision, the reason for its decision, and any conditions will be recorded in the Town Board's minutes. The Administrator will issue a conditional use permit or inform the applicant the conditional use permit has been denied.
 - (6) The Town Board's decision may be appealed to the Circuit Court.

3.11 Building Permit Procedure.

- (1) A person may submit an application to the Building Inspector for a building permit for a wind tower. The application must be on a form approved or provided by the town and must include the name, address, and telephone number of the person designated by the owner as the contact for operational issues and the investigation of any complaints. The application must also be accompanied by two copies of a drawing that shows the proposed location and distance of the tower from the property lines of the parcel on which it is located; any residence, business, or public building on an adjacent parcel; the right-of-way of any public road that is within 600 feet; and such other information as may be specified on the application form.
- (2) The Building Inspector should issue a permit or deny the application within one month of the date on which the application is complete.
- (3) The Building Inspector will issue a building permit for a tower in a large wind system or a wind farm system if the application materials show that the proposed tower location meets the requirements of this ordinance and of the conditional use permit issued by the Town Board.
- (4) If the application is approved, the Building Inspector will return one copy of the drawing with the building permit and retain the other copy with the application.

- (5) If the application is rejected, the Building Inspector will notify the applicant in writing and provide a written statement of the reason why the application was rejected.
- (6) The building permit must be conspicuously posted on the premises and visible to the public at all times until construction or installation of the tower is complete.

3.12 Abandonment and Restoration.

- (1) A large wind system, met tower, or wind farm system that is out of service for a continuous 12-month period will be deemed to have been abandoned and the Planning and Zoning Administrator may issue a Notice of Abandonment to the owner. If, within 30 days of receipt of a Notice of Abandonment, the owner provides the Planning and Zoning Administrator with written information showing that the large wind system, met tower, or wind farm system has not been abandoned, the Planning and Zoning Administrator will withdraw the Notice.
- (2) An owner may provide the Planning and Zoning Administrator with a written Notice of Termination of Operations if the operation of a large wind system, met tower, or wind farm system is terminated.
- (3) A large wind system, met tower, or wind farm system must be removed within 3 months of receipt of Notice of Abandonment unless the Administrator withdraws the Notice or within 6 months of providing Notice of Termination of Operations. The owner must:
 - (a) remove all wind turbines, aboveground improvements, and outdoor storage;
 - (b) remove all foundations, pads, and underground electrical wires and reclaim the site to a depth of 4 feet below the surface of the ground; and
 - (c) remove all hazardous material from the property and dispose of the hazardous material in accordance with federal and state law.
- (4) If the owner fails to remove a large wind system, met tower, or wind farm system and reclaim the site, the town may remove or cause the removal of the large wind system, met tower, or wind farm system and the reclamation of the site. The town may recover the cost of removal and reclamation from any financial assurance provided by the owner pursuant to sec. 3.09(7)(b). Any removal or reclamation cost incurred by the town that is not recovered from the owner will become a lien on

the property where the removal or reclamation takes place and may be collected from the landowner in the same manner as property taxes.

3.13 Signal Interference.

- (1) The owner of a large wind energy system, met tower, or wind farm system must take reasonable steps to prevent and eliminate any interference with the transmission and reception of electromagnetic communications, such as microwave, radio, telephone, or television signals.
- (2) A large wind energy system or met tower may not be located within an emergency communication corridor, which is defined as the area within 500 feet of a line connecting a specified pair of communication towers. The owner must provide documentation the activity will not obstruct a protected emergency communication corridor.
- (3) A large wind energy system or met tower may not be located within one mile of any communication tower location described in sub. (2).

Part IV. ADMINISTRATION and ENFORCEMENT.

3.14 Violations.

It is unlawful for any person to construct, install, maintain, modify, or operate a large wind system, met tower, or wind farm system that is not in compliance with this ordinance or with any condition contained in a conditional use or building permit issued pursuant to this ordinance.

3.15 Administration and Enforcement.

- (1) This ordinance shall be administered by the Administrator.
- (2) The Building Inspector may enter any property for which a conditional use or building permit has been issued under this ordinance to conduct an inspection to determine whether the conditions stated in the permit have been met. The Building Inspector or Building Inspector's designee may enter any property for which a building permit has been issued under this ordinance to conduct an inspection to determine whether there is any violation of sec. 3.08(14).
- (3) The Administrator may issue orders to abate any violation of this ordinance. The Building Inspector or Building Inspector's designee may

issue an order to abate a violation of sec. 3.08 (14).

- (4) The Administrator may issue a citation for any violation of this ordinance. The Building Inspector or Building Inspector's designee may issue a citation for any violation of sec. 3.08 (14).
- (5) The Administrator may refer any violation of this ordinance to the Town Board for enforcement. The Town Board may refer a violation of sec. 3.08 (14) to legal counsel for legal action.
- (6) Nothing in this section shall be construed to prevent the town from using any other lawful means to enforce this ordinance.

3.16 Penalties.

- (1) Any person who fails to comply with any provision of this ordinance or of a conditional use permit or a building permit issued pursuant to this ordinance shall, upon conviction thereof, forfeit at least \$500 but not more than \$1,000 for each offense. A separate offense shall be deemed committed on each day during which a violation occurs or continues. Any person who is in default of payment of a forfeiture or costs may be imprisoned in the county jail until the forfeiture or costs are paid, except that the period of imprisonment may not exceed 30 days.
- (2) The failure of any employee, official, or officer of the town to perform any official duty imposed by this code will not subject the employee, official, or officer to the penalty imposed for violation of this code unless a penalty is specifically provided.

CHAPTER 5			
TOWN OF RUSHFORD			
SMALL WIND ENERGY SYSTEM ORDINANCE			
Part I. INTRODUCTION.			
4.01	Title.	4.04	Severability.
4.02	Authority, Purpose and Intent.	4.05	Effective Date.
4.03	Abrogation and Greater Restrictions.	4.06	Applicability.
Part II. DEFINITIONS.			
4.07	Definitions.		
Part III. GENERAL STANDARDS.			
4.08	Standards - Small Wind Energy System.	4.10	Building Permit.
4.09	Standards - Met Tower.	4.11	Abandonment.
Part IV. ADMINISTRATION and ENFORCEMENT.			
4.12	Violations.	4.14	Penalties.
4.13	Administration and Enforcement.		

Part I. INTRODUCTION.

4.01 Title.

This ordinance may be referred to as the Small Wind Energy System Ordinance.

4.02 Authority, Purpose and Intent.

This ordinance is adopted under the authority granted by Sections 59.97 (5) (d), 60.10 (2)(c), 60.22 (3), 60.62, 61.35 and 62.23 of the Wisconsin Statutes. The purpose of this ordinance is to establish regulations for large wind energy systems that comply with the requirements of Wis. Stat. sec. 66.0401.

4.03 Abrogation and Greater Restrictions.

It is not intended by this Ordinance to interfere with, abrogate or annul any existing easements, covenants, or other agreements between parties, nor is it intended to abrogate, annul, impair, interfere with, or repeal any existing ordinance. However, whenever this Ordinance imposes greater restrictions, the provisions of this Ordinance shall control.

4.04 Severability.

If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a Court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

4.05 Effective Date.

This Ordinance shall take effect immediately upon adoption and publication.

4.06 Applicability.

This ordinance applies to all lands within the boundaries of the Town of Rushford situated outside the limits of Shoreland/Flood Plain jurisdiction of Winnebago County.

Part II. DEFINITIONS.

4.07 Definitions.

In this ordinance:

Administrator means the Planning and Zoning Administrator appointed pursuant to sec. 1.44(2), or his or her designee.

Met tower means a tower, including any anchor, base, base plate, boom, cable, electrical or electronic equipment, guy wire, hardware, indicator, instrument, telemetry device, vane, or wiring, that is used to collect or transmit meteorological data, including wind speed and wind flow information, in order to monitor or characterize wind resources at or near a small wind energy system.

Owner means the person that owns a small wind energy system or met tower and the property on which the small wind energy system or met tower is located.

Small wind energy system means a wind energy system that has a nameplate capacity of 100 kilowatts or less, has a total height of 170 feet or less, and is primarily used to generate energy for use by its owner.

Total height means the vertical distance from ground level to the tip of a wind generator blade when the tip is at its highest point.

Tower means either the freestanding, guyed, or monopole structure that supports a wind generator or the freestanding, guyed, or monopole structure that is used as a met tower.

Wind energy system means equipment that converts and then stores or transfers energy from the wind into usable forms of energy and includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, turbine, vane, wire, or other component used in the system.

Wind generator means the mechanical and electrical conversion components mounted at the top of a tower in a wind energy system.

Part III. GENERAL STANDARDS.

4.08 Standards - Small Wind Energy System.

A small wind energy system is a permitted use in any district subject to the following requirements:

- (1) Setbacks. A tower in a small wind energy system must be set back:
 - (a) at least 1.2 times its total height from the property line of the property on which it is located;

- (b) at least 1.2 times its total height from any public road or power line right-of-way.
- (2) Noise. The noise generated by the operation of a small wind energy system may not exceed 5 dB(A) as measured at any point on property adjacent to the parcel on which the small wind energy system is located. The noise level generated by the operation of a small wind energy system will be determined during the investigation of a noise complaint by comparing the sound level measured when the wind generator blades are rotating to the sound level measured when the wind generator blades are stopped.
 - (3) Blade Clearance. The vertical distance from ground level to the tip of a wind generator blade when the blade is at its lowest point must be at least 30 feet.
 - (4) Access. All ground-mounted electrical and control equipment must be labeled and secured to prevent unauthorized access. A tower may not have step bolts or a ladder within 8 feet of the ground that is readily accessible to the public.
 - (5) Electrical Wires. All electrical wires associated with a small wind energy system, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires, must be located underground.
 - (6) Lighting. A wind tower and generator may be artificially lighted only if lighting is required by the Federal Aviation Administration.
 - (7) Appearance, Color, and Finish. The exterior surface of any visible component of a small wind energy system must be a non-reflective, neutral color.
 - (8) Signs. No sign, other than a warning sign or installer, owner, or manufacturer identification sign, may be placed on any component of a small wind energy system if the sign is visible from a public road.
 - (9) Code Compliance. A small wind energy system must comply with the National Electrical Code and all applicable state construction and electrical codes. The owner must provide certification from a state licensed inspector showing that the small wind energy system complies with all applicable codes before placing the small wind energy system into operation.
 - (10) Signal Interference.

- (a) The owner of a small wind energy system or met tower must take reasonable steps to prevent and eliminate any interference with the transmission and reception of electromagnetic communications, such as microwave, radio, telephone, or television signals.
 - (b) A small wind energy system or met tower may not be located within an emergency communication corridor, which is defined as the area within 500 feet of a line connecting a specified pair of communication towers. The owner must provide documentation the activity will not obstruct a protected emergency communication corridor.
- (11) Utility Interconnection. A small wind energy system that connects to the electric utility must comply with Wis. Admin. Code § PSC 119 Rules for Interconnecting Distributed Generation Facilities.

4.09 Standards - Met Tower.

A met tower is a permitted use in any district subject to the same standards as a small wind energy system set forth in sec. 4.08, except for the standards contained in subs. 4.08(2) and(3).

4.10 Building Permit.

- (1) Permit Requirement. A zoning permit is required for the installation of a small wind energy system or a met tower, and the owner must apply for a building permit and pay the fee for a permitted accessory use. The application will be processed following the procedures set forth in sec. 1.48.
- (2) Site Plan Review. A site plan must be submitted and provide the following additional information as part of the permit application:
 - (a) Location of any overhead utility lines on or adjacent to the property;
 - (b) Description and specifications of the components of the small wind energy system, met tower, or both, including the manufacturer, model, capacity, blade length, and total height of any small wind energy system; and
 - (c) Blueprints or drawings which have been approved by a registered professional engineer for any tower and tower foundation.

- (3) If the permit application is denied, the Administrator will notify the owner in writing and provide a written statement of the reason why the application was denied. The owner may appeal the Administrator's decision to the Board of Adjustment as provided by sec. 1.53.
- (4) Expiration. A permit expires if the small wind energy system or met tower is not installed and functioning within 12 months from the date the permit is issued.

4.11 Abandonment.

- (1) A small wind energy system or met tower that is out-of-service for a continuous period of 12 months will be deemed abandoned and the Administrator may issue a Notice of Abandonment to the owner.
- (2) If, within 30 days of receipt of a Notice of Abandonment, the owner provides the
- (3) Administrator with information showing that the small wind energy system or met tower has not been abandoned, the Administrator will withdraw the Notice.
- (4) Unless the Administrator withdraws the Notice of Abandonment, a small wind energy system or met tower must be removed within 90 days of the Notice of
- (5) Abandonment and the site must be reclaimed to a depth of 4 feet. If the owner fails to remove a small wind energy system or met tower and reclaim the site, the town may remove or cause the removal of the small wind energy system or met tower and the reclamation of the site. The cost of removal and reclamation will become a lien upon the property and may be collected in the same manner as property taxes.

Part IV. ADMINISTRATION and ENFORCEMENT.

4.12 Violations.

- (1) It is unlawful for any person to construct, install, or operate a small wind energy system or met tower that is not in compliance with this ordinance or with any condition contained in a zoning permit issued pursuant to this ordinance. A small wind energy system or met tower that was installed prior to the effective date of this ordinance is exempt from the requirements of this ordinance.

- (2) It is unlawful for a person to disobey; fail, neglect, or refuse to comply with; or otherwise resist an order issued pursuant to this ordinance.
- (3) A separate offense is deemed committed on each day that a violation occurs or continues.

4.13 Enforcement.

- (1) The Building Inspector may enter any property for which a conditional use or building permit has been issued under this ordinance to conduct an inspection to determine whether the conditions stated in the permit have been met. The Building Inspector or Building Inspector's designee may enter any property for which a building permit has been issued under this ordinance to conduct an inspection to determine whether there is any violation of sec. 3.08(14).
- (2) The Administrator may issue orders to abate any violation of this ordinance. The Building Inspector or Building Inspector's designee may issue an order to abate a violation of sec. 3.08(14).
- (3) The Administrator may issue a citation for any violation of this ordinance. The Building Inspector or Building Inspector's designee may issue a citation for any violation of sec. 3.08 (14).
- (4) The Administrator may refer any violation of this ordinance to the Town Board for enforcement. The Town Board may refer a violation of sec. 3.08 (14) to legal counsel for legal action.
- (5) Nothing in this section shall be construed to prevent the town from using any other lawful means to enforce this ordinance.

4.14 Penalties.

- (1) Any person who fails to comply with any provision of this ordinance or of a conditional use permit or a building permit issued pursuant to this ordinance shall, upon conviction thereof, forfeit at least \$500 but not more than \$1,000 for each offense. A separate offense shall be deemed committed on each day during which a violation occurs or continues. Any person who is in default of payment of a forfeiture or costs may be imprisoned in the county jail until the forfeiture or costs are paid, except that the period of imprisonment may not exceed 30 days.
- (2) The failure of any employee, official, or officer of the town to perform any official duty imposed by this code will not subject the employee,

official, or officer to the penalty imposed for violation of this code unless a penalty is specifically provided.

CHAPTER 6

Slow-No-Wake Ordinance for Fox River

Town of Rushford, Winnebago County, State of Wisconsin

SECTION I - TITLE AND PURPOSE

This ordinance is entitled the Town of Rushford Slow-No-Wake Ordinance for the Fox River. The purpose of this ordinance is to establish slow-no-wake sections of the Fox River within the jurisdiction of the Town of Rushford as designated by regulatory buoys clearly marking the Slow-No-Wake Controlled Areas. This ordinance regulates boating upon these waters and prescribes penalties for violation thereof. Adoption of this ordinance shall repeal and replace the Ordinance #4 adopted June 7th 1977.

SECTION II – APPLICABILITY AND ENFORCEMENT

- A. The provisions of this Ordinance shall apply on the main channel of the Fox River located between the following GPS coordinates:
 - 1. Controlled Area 1 - Lock Area (1,804.2 ft or 0.34 mi)
 - a. N 43° 59.760', W 88° 52.214'
 - b. N 43° 59.887', W 88° 52.108'
 - c. N 43° 59.967', W 88° 51.949'
 - 2. Controlled Area 2 - Eureka Bridge Area (1,904 ft or 0.36 mi)
 - a. N 44° 00.239', W 88° 50.785'
 - b. N 44° 00.370', W 88° 50.550'
 - c. 44° 00.448', 88° 50.469'
 - 3. Controlled Area 3 - Delhi Area (1,991.5 ft or 0.38 mi)
 - a. N 44° 01.487', W 88° 48.317'
 - b. N 44° 01.437', W 88° 47.869'
- B. This Ordinance shall be enforced by the law enforcement officers or constables of the Town of Rushford and any State or County law enforcement official.

SECTION III – INTENT AND AUTHORITY

- A. The intent of this ordinance is to provide safe and healthful conditions for the enjoyment of aquatic recreation consistent with public rights and interests, and the capability of water resources.
- B. This ordinance is adopted pursuant to §30.77(3)(a), Wis. Stats., which authorizes any Town, Village or City, to adopt, in the interests of public health, safety or welfare, local regulations not contrary or inconsistent with Chapter 30, Wis. Stats., relative to the equipment, use or operation of boats or relative to any activity regulated by §30.60 to 30.71, Wis. Stats.

SECTION IV – STATE BOATING AND SAFETY LAWS ADOPTED

State boating laws as found in §30.50 to 30.71, Wis. Stats., are adopted by reference.

SECTION V - DEFINITIONS

- A. "Slow-No-Wake" means that speed at which a boat moves as slowly as possible while still maintaining steerage control.
- B. "Person" includes an individual, partnership, corporation, the state and its agencies and subdivisions, and any other legal entity.
- C. "Operate" means to navigate or otherwise use a watercraft.
- D. "Watercraft" means any contrivance used or designed for navigation on water.
- E. "Regulatory Buoy" means a white buoy with a single orange band at the top and bottom of the exposed buoy. A control symbol is spaced between these bands and is also orange in color. Any wording or message shall be in black letters.
- F. "Controlled Area" as defined in Section II is designated by regulatory buoys. For a Controlled Area the control symbol is an open circle.

SECTION VI – HOURS OF OPERATION AND EXCEPTIONS

- A. The Town of Rushford and its designees shall be responsible for the placement and maintenance of regulatory buoys that will mark the Controlled Area.
- B. No person shall operate a watercraft faster than slow-no-wake in the waters of the Controlled Area at any time.
- C. The following shall be exempt from the provisions of this ordinance: authorized resources management personnel, emergency personnel, and enforcement personnel, when acting in the performance of their duties.

SECTION VII – POSTING REQUIREMENTS

The Town of Rushford shall place and maintain a synopsis of this Ordinance at all public access points within the jurisdiction of the Town pursuant to the requirements of NR 5.15, Wis. Adm. Code.

SECTION VIII - PENALTIES

Wisconsin state boating penalties as found in Wis. Stat. 30.80, and deposits as established in the Uniform Deposit and Bail Schedule established by the Wisconsin Judicial Conference, and hereby adopted by reference and all references to fines amended to forfeitures and all references to imprisonment deleted.

SECTION IX - SUBDIVISION AND NUMBERING OF THIS ORDINANCE

This ordinance is divided into sections designated by uppercase Roman numerals.

Sections may be divided into subsections designated by uppercase letters. Subsections may be divided into paragraphs designated by numbers. Reference to a "section," "subsection," or "paragraph" includes all divisions of the referenced section, subsection, or paragraph.

SECTION X - SEVERABILITY

The provisions of this ordinance shall be deemed severable and it is expressly declared that the Town of Rushford Board would have passed the other provisions irrespective of whether or not one or more provisions may be declared invalid. If any provision of the ordinance or the application to any person or circumstances is held invalid, the remainder of the ordinance and the application of such provisions to other persons or circumstances shall not be affected.

SECTION XI - EFFECTIVE DATE

This ordinance is effective on publication or posting. The town clerk shall properly post or publish this ordinance as required under s. 60.80, Wis. stats.

TOWN OF RUSHFORD ANIMAL ORDINANCE

Article 1. General

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Section 4-3	Cruelty to Animals
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Article 7. Penalties

Section 7-1	Penalties
Section 7-2	Penalties - Juvenile

Article 1. General

Section 1-1 Purpose

The purpose of this ordinance is the protection of health, welfare and safety of dogs, cats, livestock and residents of the Town of Rushford. This ordinance, when obeyed, will prevent serious consequences such as 1) injured, lost or stolen pets, 2) aggravated

or injured neighbors, 3) animal bites, 4) dangerous diseases such as rabies and 5) financial forfeiture from penalties.

Section 1-2 Abrogation and Greater Authority

It is not intended by this ordinance to repeal, abrogate, annul, impair or interfere with any existing rules, regulations, ordinances or permits previously adopted or issued pursuant to law. However, whenever this ordinance imposes greater restrictions, the provisions of this ordinance shall apply.

Section 1-3 Interpretation

In there interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. Where any terms or requirements of this ordinance may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this ordinance is required by Wisconsin Statutes, or by a standard in the Wisconsin Administrative Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of the Wisconsin Statutes and standards in effect on the date of adoption of this ordinance, or in effect on the date of the most recent text amendment to this ordinance.

Section 1-4 Severability

Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

Section 1-5 Applicability

The requirements of this ordinance apply to all person having a right of property in an animal and/or having such animal in his or her possession while present within the Township of Rushford.

Section 1-6 Administration

The provisions of this ordinance shall be administered by Rushford Town Board, unless a committee, person, representative, or Law Enforcement Officer is appointed or requested by said Board, to administer the provisions herein.

Section 1-7 Effective Date

The provisions of this ordinance shall take effect on May 27, 2008

Article 2. Definitions

Section 2-1 Definitions (as used in this ordinances)

- 1) Animal includes ever living:
 - a) warm blooded creature (except a human being),
 - b) reptile,
 - c) amphibian,
 - d) or bird.

- 2) Commercial Kennel shall mean an establishment wherein any person is engaged in the business of breeding, buying, letting for hire, training for a fee and/or selling of animals, with the exception of veterinary hospitals or pet shops.
- 3) Boarding Kennel shall mean an establishment wherein any person is engaged in the business of boarding of animals for a period of twelve (12) consecutive hours or longer. Boarding Kennel shall not include veterinary hospitals, pet shops or commercial kennels.
- 4) General Kennel shall mean an establishment wherein any person maintains, keeps or harbors five (5) but not more than eight (8) dogs in their possession but is not in the business of breeding, buying or selling said animals.
- 5) Grooming Salon shall mean an establishment for the purpose of grooming, bathing, brushing and or clipping of any dog, cat or other animal for a fee.
- 6) Impound or Isolation Facility shall mean the Neenah Animal Shelter, a veterinary hospital, or other place specified by a Town Board Member which is equipped with a pen or cage which isolates the animal from contact with other animals.
- 7) Officer shall mean a peace officer as defined under section 939.22 (22), Wisconsin State Statutes, a community service officer, the Town Constable or other Town Board designee.
- 8) Owner shall mean and include every person having a right of property in an animal and/or reptiles are kept or displayed for sale or free distribution.
- 9) Pet Shop shall mean any business where animals, birds, amphibians and/or reptiles are kept or displayed for sale or free distribution.
- 10) Vaccination Certificate shall mean a certificate dated and signed by a licensed veterinarian stating the brand of vaccine used, manufacturer's serial number of the vaccine used, and describing the animal, age and breed, owner and vaccination tag number indicating that the animal has been immunized against rabies.
- 11) Vicious Animal shall mean:
 - 1) Any animal that, has on two (2) or more occasions when unprovoked, bitten, injured, killed, damaged or attacked a human being or animal on either public or private property; and/or
 - 2) any animal trained or used for fighting against another animal

Notwithstanding the definition of a "vicious animal" above, no animal may be declared vicious if death, injury or damage is sustained by a person who, at the time such was sustained, was committing trespass upon premises occupied by the owner of the animal, or was teasing, tormenting, abusing or assaulting the animal or was committing or attempting to commit a crime or violating or attempting to violate a statute or ordinance which protects person or property.

No animal may be declared vicious if death, injury or damage is sustained by a domestic animal which was teasing, tormenting, abusing or assaulting the animal.

No animal may be declared vicious if the animal was protecting or defending a human being within the immediate vicinity of the animal from an unjustified attack or assault.

No animal may be declared vicious for acts committed by said animal while being utilized by a law enforcement officer.

Article 3. Licensing of Animals

Section 3-1 Wisconsin State Adopted

The rules and regulations pertaining to licensing, specifically sections 174.001 (2) (m), 174.05, 174.053, 174.054, 174.055, and 174.07, Wisconsin State Statutes, together with any future additions, deletions or supplements thereto, are herewith incorporated as part of this ordinance and shall be enforced with the same force and effect as though set forth in full herein. Providing, however, that where such rules and regulations are less stringent than other provisions found in the ordinance, the provisions of this ordinance shall apply. The rules and regulations pertaining to licensing, at this time, shall apply only to dogs within the Town of Rushford.

Section 3-2 License; Required

- 1) Every owner residing in the Town of Rushford who owns harbors or keeps a dog which is more than five (5) months old as of January 1st of each year, shall annually obtain a license therefore.
- 2) When a dog becomes five (5) months of age, the owner shall obtain a license within thirty (30) days thereof.
- 3) Each transient or seasonal owner shall maintain a license for their dog for the place of their permanent residence. Should the place of the owner's permanent residence not require licensing of dogs, the owner shall contact the Town Treasurer and provide proof of vaccination, location of temporary address and duration of temporary residence information.
- 4) Each owner obtaining a license for operating a kennel shall be excluded from this licensing procedure, but shall be required to obtain a kennel permit.

Section 3-3 License; Fees

Every owner of a dog shall purchase a license from the Town Treasurer, prior to April 1st of each year.

The Town Treasurer shall maintain a list of license fees for the Town of Rushford set by The town board of the Town of Rushford.

Article 4. General Regulations

Section 4-1 Wisconsin State Statutes Adopted

The following Wisconsin State Statutes together with any future additions, deletions or supplements thereto are herewith incorporated as part of this ordinance and shall be enforced with the same force and effect as though set forth in full herein. Providing, however, that where such rules and regulations are less stringent than other provisions found in this ordinance, the provisions of this ordinance shall apply.

174.042	Dogs running at large and untagged dogs
951.02	Mistreating animals
951.025	Decompression Prohibited
951.03	Dog napping and catnapping
951.04	Leading animal from motor vehicle
951.05	Transportation of animals
951.06	Use of poisonous and controlled substances
951.07	Use of certain devices prohibited
951.08	Instigating fights between animals
951.09	Shooting at caged or staked animals
951.11	Artificially colored animals; sale
951.13	Providing proper food and drink to confined animals
951.14	Providing proper shelter
951.15	Animals; neglected or abandoned; police powers
951.16	Investigation of cruelty complaints

Section 4-2 Animals and insect not permitted in the Town of Rushford

No person shall bring into, keep, maintain, offer for sale or barter, or release to the wild, nor shall any person permit such activities to occur on premises owned, controlled, rented or maintained by that person:

- 1) Wild animals, including but not limited to, any live monkey, or other non-human primate, raccoon, skunk, ferret, prairie dogs, wolf, panther, lynx, opossum, or any other warm blooded animal which can normally be found in the wild state. For the purposes of this ordinance, wolf-dog hybrids are considered wild animals.
- 2) Any poisonous or venomous, biting or injecting species of reptiles, amphibians, arachnids or insects.
- 3) Snakes not indigenous to Wisconsin or any snake exceeding three (3) feet in length.

This section is not intended to prohibit the live capture and holding of animals for hunting training purposes provided that the animals are unharmed and released to the wild within forty eight (48) hours following capture and after no more than two (2) training exercises. In addition, this section is not intended to prohibit the raising of indigenous species of fowl the conservation clubs.

Section 4-3 Cruelty to Animals

- 1) Every owner or person responsible shall provide animals with a sufficient supply of good/wholesome food and potable water to maintain health.
- 2) No person shall confine and/or allow animals to remain outside during adverse weather conditions constituting a health hazard to such animal.
 - a) sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight.
 - b) Natural or artificial shelter appropriate to the local climatic conditions shall be provided as necessary.
- 3) Every owner and/or person in charge or control of any animal which is kept outdoors, or in an unheated enclosure, shall provide such an animal with shelter and bedding as prescribed in this section as a minimum requirement.
 - a) The housing facilities shall be structurally sound, moisture proof and maintained in good repair.
 - b) Enclosures shall be constructed and maintained to provide sufficient space to allow each animal adequate freedom of movement of the retention of body heat.
 - c) a solid floor raised at least two (2) inches off the ground.
 - d) an entrance covered by a self-closing swinging covering, or an L-shaped entrance to prevent wind from blowing directly into the house.
 - e) A sufficient quantity of suitable clean bedding material, to provide insulation and protection against cold and dampness and promote the retention of body heat.
 - f) During the months of May through September, inclusive, paragraphs d and e above may be suspended.
- 4) Every owner that houses or confines an animals in a pen or enclosure shall keep and maintain such pen or enclosure in a clean, sanitary and odor free conditions.
- 5) No Person may abandon or neglect any animal.
- 6) No person shall kick, beat, cruelly ill treat, torment, overload, overwork or otherwise abuse any animal.
- 7) No person shall leave any animal enclosed or unattended in any type of vehicle where air temperatures inside and/ or outside will cause the animal distress, illness or loss of life.
- 8) No person may intentionally instigate, promote, aide or abet as a principal agent or employee, or participate in the earnings from, or intentionally maintain or allow any place to be used for a cockfight, dogfight, bullfight or other fight between the same or different kinds of animals or between an animal and a person (951.08)

9) No theatrical exhibit or act shall be held in which animals are forced or encouraged to perform through the use of chemical, electrical or mechanical devices (951.07)

10) The performance of any act prohibited by this section or the non-performance of any act required by it, shall be deemed cruelty to animals and subject to the provisions of sections 951.15 and 951.16 of the Wisconsin State Statutes adopted herein. Impoundment of animals under this section shall be as prescribed in section 5-6, "Impoundment" of this ordinance.

Section 4-4 Limit Number of Pets

1) Limitation- No person may own, harbor or keep in their possession, within the Township, more than three dogs over the age of (5) five months, except when they possess a Kennel license which is in full force and effect.

2) Kennel License- A person requesting and obtaining a kennel license may own, harbor or keep no more than eight (8) dogs over the age of five (5) months. Kennel licenses must be requested of, and approved by the Town Board prior to exceeding the pet number limit.

3) Exemption- The exemption being a litter of pups, or a portion of a litter may be kept for a period of time not exceeding five (5) months from birth.

4) This section shall not apply to properly licensed facilities under Article 6. Pet Stores/ Commercial Kennels of this ordinance, or veterinary hospitals.

Section 4-5 Pet Littering

No owner shall allow their animal(s) to soil, defile, defecate on or commit any nuisance on any private or public property unless the owner immediately removes and disposes of all feces so deposited in a proper receptacle located upon the owner's property or upon another's property with permission in accordance with the provisions of this ordinance.

Section 4-6 Animal Traps

Any unlicensed trap, snare, spring gun, set gun, net or other device or contrivance which might entrap, ensnare or kill game, or any trap without a metal tag attached as required by section 29.03 (5) Wisconsin State Statutes shall be prohibited, except for live traps.

Section 4-7 Prohibited Areas For Animals

1) A person owning or in charge of any animals shall have them leashed or under their control at all times to be upon Town owned or operated parks, beaches, boat landings, cemeteries, playgrounds, school or any other publicly owned properties.

2) The provisions of this ordinance are not intended to prohibit the use of dogs for hunting on public land and shall not apply to animals assisting disabled persons.

Section 4-8 Barking Dogs / Loud Animals

1) No person shall keep any dog or other animal which by loud or frequent or habitual noise shall disturb the peace or any person in the vicinity.

2) No person shall encourage an animal to make noise which would disturb the peace or any person in the vicinity.

Article 5. Animal Shelter / Impoundment of Animals / Rabies Control

The rules and regulations pertaining to impoundment and rabies control, specifically sections 174.046 and 95.21, Wisconsin State Statutes, together with any future additions, deletions or supplements thereto, are herewith incorporated as part of this ordinance and shall be enforced with the same force and effect as though set forth in full herein. Providing, however, that where such rules and regulations are less stringent than other provisions found in this ordinance, the provisions of this ordinance shall apply.

Section 5-2 Rabies Vaccination

1) Required – Dogs shall be vaccinated within thirty (30) days after having reached four (4) months of age. Unvaccinated dogs acquired or moved to the Town of Rushford must be vaccinated within thirty (30) days after purchased or arrival, unless under four (4) months of age, wherein the above applies.

2) Each dog vaccinated at under one (1) year shall be revaccinated twelve (12) months after the initial vaccination. Thereafter, every dog shall be revaccinated at not more than thirty-six (36) month intervals with a three (3) year vaccine or at not more than twelve (12) months intervals with a one (1) year vaccine.

3) Transient Dog.– The provisions of this section with respect to vaccination shall not apply to any dog owned by a person temporarily remaining within the Town for less than thirty (30) days, or any dog strict supervision by the owner. However, it shall be unlawful to bring any dog into the Town which does not comply with the animal health laws and import regulations of the State of Wisconsin, which are applicable to dogs.

Section 5-3 Rabies Control

Bites and/or Scratches – All dogs or other animal bites and/or scratches of humans shall be immediately reported to the proper authorities, by the person owning, possessing, keeping, or harboring such animal and/or by the person bitten or scratched.

1) An animal which is required to, but does not have a current rabies vaccination must be quarantined at an isolation facility, either a veterinary clinic of the owner's choice or at an animal shelter selected by the Town of Rushford for at least ten (10) days.

2) An animal which has proof of a current anti-rabies vaccination may, at the discretion of the Town Board, be quarantined in an impound facility or on the premises of the owner for a period of ten (10) days. During Quarantine, the animal shall be securely confined within the owner's home or other secure enclosure and kept on a leash at all times when outside of the home or enclosure and be kept from contact with any other animal or human. In the case of quarantine on the owner's premises, failure on the part of the owner to obey all conditions and directions of the Town Board pertaining to the quarantine period, shall result in the immediate impoundment of the animal for the remainder of the quarantine period. Charges for boarding of such animal shall be paid by the owner.

- 3) All animals under bite/scratch confinement must be examined at least three (3) times by a veterinarian during the ten (10) day confinement period. (First (1st) day of isolation, the last day of isolation, and day four (4), five (5) or six (6) of quarantine.)
- 4) If the animal has not been impounded by the Town of Rushford, the owner or person in possession of the animal must provide the Town of Rushford with a receipt for veterinary visits by the second (2nd) day of quarantine and on or before the seventh (7th) day of quarantine for the first (1st) and second (2nd) examinations as provided in sub paragraph three (3) above.
- 5) If the animal has not been impounded, the owner or person in possession of the animal must contact the Town of Rushford to arrange for the evaluation of the animal. The following items must be available at the time of evaluation:
- a) Rabies vaccination information
 - b) Current licensing information
 - c) Receipt(s) from the veterinary examinations
 - d) Veterinary certification of lack of exhibited signs or symptoms of rabies
- 6) No person other than a Peace Officer, Town Constable or a Licensed Veterinarian shall kill or cause to be killed, any animal suspected of being rabid. Any animal suspected of being rabid shall be placed in quarantine and the diagnosis of rabies made by a licensed veterinarian. If a veterinarian does diagnose rabies in an animal in quarantine, then the animal shall be humanely euthanized and the head of such animal sent to the laboratory for pathological examination and confirmation of the diagnosis.
- 7) Death of an animal while under quarantine – If an animal in quarantine is killed or dies, the death of that animal shall be reported immediately to the Town of Rushford.
- 8) Handling of animal suspected of being bitten or exposed to an animal of unknown vaccination status – Any dog or other animal suspected of having physical contact with any live skunk., bat, fox, or raccoon that is exhibiting abnormal behavior, any other animal considered to be at risk by the State Lab of Hygiene or any animal of unknown vaccination status shall be considered exposed to a rabid animal. The following shall apply:
- a) Unvaccinated Animals – suspected of being bitten or exposed to an animal of unknown vaccination status must either:
 - 1) Destroyed within twenty four (24) hours or within a period specified by the Town of Rushford.
 - 2) At the discretion of the Town Board, quarantined, leashed and/or confined, at least one hundred eighty (180) days at home of the owner. The owner shall have the animal vaccinated against rabies between one hundred fifty five (155) and one hundred sixty five (165) days after exposure to the rabid animal. Any violation of this quarantine will result in immediate quarantine of the animal in an isolation facility or the animal shall be destroyed in a humane manner which avoids damage to the animals head. The animals head shall then be processed by a licensed veterinarian and be examined by the State Lab or Hygiene for evidence of rabies. The cost of this process shall be at the expense of the animal owner.

3) Quarantined in an isolation facility for not less than one hundred eighty (180) days. The owner shall have the animal vaccinated against rabies between one hundred fifty five (155) and one hundred sixty five (165) days.

b) Vaccinated animals – Currently immunized dogs which have been bitten by or exposed to, an animal of unknown vaccination status must be either:

1) Revaccinated against rabies as soon as possible after exposure to a rabid animal. The animal shall either be quarantine in an isolation facility or at the discretion of the Town of Rushford, leashed and confined at the premises of the owner for a period of sixty (60) days, or

2) Destroyed.

Section 5-4 Vicious Animals

No person shall own, possess, harbor, keep or maintain a vicious animal contrary to the terms of this ordinance.

1) Any person who may own, possess, harbor keep or maintain a vicious animal prior to the enactment of this ordinance shall be required to notify the Town Board of the presence of said animal(s) including number, type, breed, age and sex of the animal.

2) The owner of said animal shall be required to obtain a permit from the Town Treasurer for a fee of fifty (50) dollars. The permit shall spell out additional conditions and requirements that the owner must provide in order to maintain the vicious animal.

3) Should the animal die of unforeseen circumstances or of natural causes, the animal shall not be replaced and notification of the animals passing shall be forwarded to the Town of Rushford.

Section 5-5 Animal Running at Large

No person shall permit any animal to run at large in the Township at any time. Each owner of any such animal is required to confine it within the limits of his or her premises except when it is attended to by some person, and in such cases animals shall be fastened securely to a suitable leash no more than ten (10) feet in length. For purposes of this section, the phrase running at large embraces all places within the Township except the owners premises, and includes all streets, alleys, sidewalks or other public or private property. Unrestrained animals may be taken by a Law Enforcement Officer, Community Service Officer, Town Constable or Public Official and impounded in a humane manner.

Dogs used during hunting or field training activities may run free of a leash when accompanied by the owner or person in charge of such animals care, however, this activity is restricted to public hunting grounds or private hunting areas with the property owner's permission.

Section 5-6 Impoundment

Violations of this ordinance may result in the impoundment of an animal from public or private property. Animals taken by a Law Enforcement Officer, Town Constable or Public Official shall be impounded under the provisions of this section. If by a license tag, or other means, the owner can be identified, the Town of Rushford shall, within

forty eight (48) hours, Sundays and Holidays exempted, notify the owner by telephone or mail of the impoundment of the animal.

- 1) Dogs not claimed by their owners within five (5) days of the impoundment shall be deemed as being surrendered to, and may be disposed of by the Town of Rushford or its designee, in a humane manner and the original owner shall have no further claim for such animal.
- 2) The owner of any animals which have been impounded shall pay a reclaiming fee in order to regain possession of their animal. This fee shall be set by the Town of Rushford and shall cover all costs involved with the pickup and impounding of such animal. The owner may also be proceeded against, for violation of this ordinance, and the license or permit may be revoked. The owner is responsible for the cost of the animal even if it is not reclaimed.
- 3) The Town Treasurer or duly appointed person shall collect the redemption fees and fees for animal control along with any ordinance violation penalties prior to releasing the animal to its owner.
- 4) Animals being redeemed from impoundment shall have proper Town license and a current rabies vaccination tag or the owner shall secure a proper license and rabies vaccination. If the owner cannot show proof of a current rabies vaccination, the owner shall show a receipt from a licensed veterinarian for prepayment of a rabies inoculation before the animal can be released. If the owner provides a receipt for prepayment of inoculation fees, the owner must then provide proof of inoculation within five (5) days of the animals release.

Articles 6 Pet Stores / Commercial Kennels

Sections 6-1 License / Permit Required

Applications for permits must be made in person at a regularly scheduled Town Board meeting. A public hearing shall be required to allow citizens to voice any objections to the granting of such a permit.

- 1) Pet Store Permit – No person or firm shall operate or maintain a pet store in the Town of Rushford without an operating permit issued by the Town of Rushford. The permit shall indicate additional conditions and responsibilities required in order to maintain said facility in the Town of Rushford.
- 2) Boarding Kennel Permit – No person or firm shall operate or maintain a Boarding Kennel in the Town of Rushford without an operating permit issued by the Town of Rushford. The permit shall indicate additional conditions and responsibilities required in order to maintain said facility in the Town of Rushford.
- 3) Commercial Kennel Permit – No person or firm shall operate or maintain a Boarding Kennel in the Town of Rushford without an operating permit issued by the Town of Rushford. The rules and regulations pertaining to licensing, specifically section 174.053 Wisconsin State Statutes, together with any future additions, deletions or supplements thereto, are herewith incorporated as part of this chapter and shall be enforced with the same force and effect as though set forth in full herein. Providing, however, that where such regulations are less stringent than other provisions found in this ordinance, the provisions of this ordinance shall apply. The permit shall indicate

additional conditions and responsibilities required in order to maintain said facility in the Town of Rushford.

4) General Kennel Permit – No person or firm shall operate or maintain a general kennel in the Town of Rushford without an operating permit issued by the Town of Rushford. The permit shall indicate additional conditions and responsibilities required in order to maintain said facility in the Town of Rushford.

5) Grooming Salon Permit – No person or firm shall operate or maintain a grooming salon in the Town of Rushford without an operating permit issued by the Town of Rushford. The permit shall indicate additional conditions and responsibilities required in order to maintain said facility in the Town of Rushford.

6) Multiple Licenses and/or Permits – Establishments operating a combination of two (2) or more of the licensed or permitted activities in the section shall obtain a license or permit for each type of business activity conducted on the premises.

Article 7 Penalties

Section 7-1 Penalties

Any person convicted of a violation of any of the provisions of this ordinance shall, for each offense, be punished by the forfeitures as set forth, together with the costs of prosecution and in default of payment of such forfeitures and costs, by license suspension or imprisonment in the county jail for Winnebago County for a term to be determined by the governing official.

1) **General Penalty** – Any person who violates any provision of this ordinance for which a specific penalty is not provided below shall forfeit to the Town of Rushford not less than twenty five dollars (\$25.00) nor more than one thousand dollars (\$1,000.00). Second offenses shall double the previous offense penalties.

2) A forfeiture of not less than twenty five dollars (\$25.00) nor more than five hundred dollars (\$500.00) for a violation of any of the following:

Sections: 3-2, 5-2

3) A forfeiture of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for a violation of any of the following:

Sections: 4 -1, 4 -3, 4 -4, 4 -5, 4 -6, 4 -8, 5-4, 4-4

3) A forfeiture of not less than sixty five dollars (\$65.00) nor more than five hundred dollars (\$500.00) for a violation of any of the following:

Sections: 4 -2, 4 -7

3) A forfeiture of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) for a violation of any of the following:

Sections: 6 -1

4) In addition to the penalties provided herein, any license or permit issued under this ordinance held by a person convicted of violation the provisions of this ordinance

shall be subject to revocation or suspension by the Town of Rushford Board of Supervisors or a committee designated by said Board.

Section 7-2 Penalties – Juvenile

All penalties listed above apply to any person violating any portion of this ordinance who is not 18 years of age. All penalties will be assessed to the parent or legal guardian of the individual or group of individuals.

TOWN OF RUSHFORD SUBDIVISION ORDINANCE

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SUBDIVISION ORDINANCE

INTRODUCTION

Note: To facilitate the best possible understanding by those who intend to plat and develop land within the Town of Rushford, this Subdivision Ordinance is based on the Winnebago County Subdivision Ordinance that went into effect (as amended) on March 22, 1989. The County Ordinance is being used as the basis for the Rushford Subdivision Ordinance because all platting in the Town must be consistent with County regulations. Town of Rushford references and more restrictive or additional regulations added to the base County Subdivision Ordinance will appear in **bold lettering** (amended language in coming years could be shown in italics).

14-1-1 Authority.

The provisions of this chapter are adopted by the **Town of Rushford Town Board who has adopted Village Powers** pursuant to the authority granted by **Chapters 61 & 236**, Wisconsin Statutes. **This ordinance requires either a Certified Survey Map or a Subdivision Plat to create new land parcels or lots in the Town of Rushford.**

14-1-2 Title.

This chapter shall be known as, referred to or cited as the "**Town of Rushford, Subdivision Ordinance.**"

14-1-3 Purpose and Intent.

The purpose of this chapter is to regulate and control the division of land within the unincorporated areas of the **Town of Rushford** to:

- (1) Promote the public health, safety and general welfare.
- (2) Further the orderly layout and use of land.
- (3) Prevent the overcrowding of land.
- (4) Lessen congestion in the streets and highways.
- (5) Provide for adequate light and air.
- (6) Facilitate adequate provisions for water, sewerage & other public requirements.
- (7) Provide for proper ingress and egress.
- (8) Promote proper monumenting of subdivided land and conveyancing by accurate legal description.

14-1-4 Interpretation and Application.

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

(2) 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.

14-1-5 Severability and Non-Liability.

If any section, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby. The Town does not guarantee, warrant or represent that only those areas designated as floodlands will be subject to periodic inundation and that those soils listed as being unsuited for specific uses are the only unsuited soils within the Town, and thereby asserts that there is no liability on the part of the Town Board of Supervisors, its agencies or employees for sanitation problems or structural damages that may occur as a result of reliance upon, and conformance with, this ordinance.

14-1-6 Repeal.

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

14-1-7 Effective Date.

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

GENERAL PROVISIONS

14-1-8 Jurisdiction.

The jurisdiction of this chapter shall include all **lands within the Town of Rushford**. However, in no instance shall the provisions of this chapter apply to:

- (1) Transfers of interest in land by will or pursuant to court order.
- (2) Leases for a term not to exceed 10 years, mortgages or easements.
- (3) Sale or exchange of parcels of land between owners of adjoining property if additional lots are not thereby created and the resultant lots are not reduced below the minimum size required by these regulations, the Town/County Zoning Ordinance or other applicable laws or ordinances. For the purpose of this section, an additional lot is deemed to be created if the parcel being sold or created is not combined with the adjoining parcel by means of a new legal description in accordance with Section 14-1-11.

(4) Cemetery plats (s.s. 157.07) and Assessor's Plats (s.s. 70.27), but both shall comply with 236.15 (1) (a) to (g) and 2 (a) to (e).

14-1-9 Combining Lots.

Lots shall be combined into one parcel according to 14-1-11 when one or more of the following occurs:

- (1) The requirements of 14-1-9 (3) are not met.

- (2) A use, structure, or structural addition that occupies more than one lot under the same ownership.

14-1-10 Combining Description.

Land described in 14-1-10 shall be combined into one parcel by Certified Survey Map procedures and recorded in the County Register of Deeds Office.

14-1-11 Compliance.

Any division of land within the jurisdictional limits of these regulations which results in a land division, replat or condominium plat as defined herein shall not be entitled to recording and/or improvements to the land unless it is in compliance with all the requirements of this chapter and:

- (1) Duly approved County Zoning and Private Sewage System Ordinances.
- (2) County and State Access Control Ordinances.
- (3) Applicable local ordinances.
- (4) Consistent with the provisions of Chapter 236, Wisconsin Statutes.
- (5) Provisions of the Winnebago County Land Records Ordinance as enumerated in Section 8.05 of the Winnebago County Code.
- (6) **Town of Rushford Comprehensive Plan**
- (7) **Any other Town of Rushford Ordinances, Policies or Developer Agreements.**

14-1-12 Land Suitability

No land shall be divided which is held unsuitable for any proposed use by the **Town Board** for reason of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities or any other feature likely to be harmful to the health, safety or welfare of future residents of the proposed subdivision or of the community. The **Town Board** in applying the provisions of this chapter shall in writing, cite the particular facts upon which it bases its conclusion that the land is not suitable for the proposed use and afford the applicant an opportunity to present evidence regarding such suitability at a public hearing. Thereafter, the **Town Board** may affirm, modify or withdraw its determination of unsuitability.

14-1-13 Variances.

- (1) In any particular case where it can be shown that with reason of exceptional topographic or other physical conditions, strict compliance with any requirement of this chapter would cause practical difficulty by exceptional and undue hardship, the Rushford **Board of Appeals** may relax such requirement to the extent deemed just and proper so as to relieve such difficulty or hardship, provided such relief may be granted without detriment to the public good and without impairing the intent and purpose of this chapter or the desirable general development of the **Town**.
- (2) The Rushford **Board of Appeals** at its discretion, if it determines it necessary for the public good, may conduct a public hearing to permit parties in interest to comment on the variance request.

(3) If a hearing is determined necessary, the applicant shall be responsible for payment of a hearing fee as established by the **Town of Rushford**. The Rushford **Board of Appeals** shall then fix a reasonable time and place for the hearing. Notice of the time and place of such hearing shall be given by publication as a Class 2 notice in a local newspaper according to Ch. 985, Wisconsin Statutes. All property owners within 300 feet of the subject site as listed on official tax property rolls as of the date of application shall be notified by first class mail with an Affidavit of Mailing at least 10 days prior to the date of such hearing.

(4) A four-fifths vote of the entire membership of the Rushford **Board of Appeals** shall be required to grant any modification to these regulations and any modification thus granted shall be entered in the minutes of the Rushford **Board of Appeals** setting forth the reasons which, in the opinion of the Rushford **Board of Appeals**, justified the modification.

(5) Shoreland Notice and Decision

(a) Written notice shall be given to the appropriate District Office of the Department of Natural Resources at least ten (10) days prior to consideration by the Rushford **Board of Appeals**.

(b) Written notice of the decision shall be submitted to the appropriate District Office of the Department of Natural Resources within thirty (30) days of the decision.

14-1-14 Violations.

No person shall build upon, divide, convey, record or monument any land in violation of this chapter or the Wisconsin Statutes. No permit shall be issued authorizing the building on or improvement of any subdivision, replat or condominium plat within the jurisdiction of this chapter and lot of record until the provisions and requirements of this chapter have been fully met. The **Town** may institute appropriate action or proceedings to enjoin violations of this chapter or the applicable Wisconsin Statutes.

14-1-15 Penalties.

(1) Recordation improperly made shall be subject to the provisions of Sec. 236.30, Wisconsin Statutes.

(2) Conveyance of lots in unrecorded plats shall be subject to the provisions of Sec. 236.31, Wisconsin Statutes.

(3) Monuments disturbed or not placed shall be subject to the provisions of Sec. 236.32, Wisconsin Statutes.

(4) Assessor's plat may be ordered by the **Town** when a subdivision is created by successive divisions as provided in Sec. 236.31(2), Wisconsin Statutes.

(5) Any person failing to comply with the provision of this land division ordinance shall be subject to penalties **assessed by the Town of Rushford**, as amended from time to time, for similar violations.

14-1-16 Appeals.

If the Town of Rushford's Town Board denies a plat, the petitioner may appeal the denial to the Town of Rushford's Board of Appeals committee. If the Town's Board of Appeals supports the Town Board's denial, the petitioner may then commence an action seeking the remedy available by certiorari. The court shall not stay proceedings upon the decision appealed from, but may, on application, on notice to the board of appeals and on due cause shown, grant a restraining order. The court may also reverse or affirm, wholly or partly, or may modify, the decision brought up for review.

CERTIFIED SURVEY MAP (CSM)

14-1-17 Submittal

Previous to filing a Certified Survey Map (CSM) of any parcel of land, the subdivider shall consult with the Town Planning & Zoning Administrator for advice and assistance to assure the division does not conflict with local, county, or regional plans.

The subdivider shall provide the Town with a reasonably accurate concept plan of the land being considered for division. It may be a free hand drawing but of a sufficient scale so that conditions can be determined to be reviewed for proximity to adjacent streets and schools for analysis of soil types, topography, drainage, and generally for the effect the land division would have on the development of surrounding property. Such map shall describe the entire ownership involved in the process of division, provided however, that where the division results in a residual parcel, not intended for immediate sale or other conveyance, the Town Board may waive the requirement for inclusion of the residual parcel. In this case, a supplementary map of reasonable accuracy shall be attached showing the relationship to the original ownership of the parcel or parcels being severed. In the event the division involves the dedication and development of a Town road, the subdivider shall submit an itemized estimate of the costs of required public improvements.

After tentative Town approval of a concept plan, the subdivider shall proceed to have a Certified Survey Map prepared. The Certified Survey Map shall be drawn in accordance with this ordinance and shall meet all of the requirements of Sections 236.34 and 236.21 of the State Statutes that relate to subdividing. In addition, when the map is located within a quarter section where the corners have been relocated, monumented or placed on the state plane coordinate system, the CSM shall be tied directly to such section quarter corners.

At least thirty (30) days prior to the Planning & Zoning Committee meeting, the subdivider shall file ten (10) copies of the CSM along with an application form (available from the Town Planning & Zoning Administrator or Town Clerk), accompanied by a filing fee (on record with the Town Planning & Zoning Administrator or Town Clerk). In the event the division involves the dedication and development of a Town road, the subdivider shall also file a Developer's Agreement.

14-1-18 Review and Approval.

The CSM shall be reviewed by the Town Board for conformance with this Ordinance and all ordinances, rules, regulations, and Town Comprehensive Plan. The certified survey map shall be prepared by a registered land surveyor in accordance with the provisions contained in Chapter 236.34, Wisconsin Statutes, and shall show clearly on its face the following:

- (1) All existing buildings, setbacks, water courses, drainage ditches, names of adjacent owners, setbacks to structures on adjacent property & other features pertinent to division of property, and distance from the section to the center-line of the road.**
- (2) Location of access to public road.**
- (3) Date of the map with a graphic scale.**
- (4) Name and address of the person for whom the survey was made.**
- (5) An owner's certificate and approval signature of the **Town Chairperson, Town Planning & Zoning Administrator**, and **Town** Treasurer's certificate in accordance with Chapter 236.21(3) Wisconsin Statutes, shall be the only approvals required for recording unless additional approvals are necessary for dedication purposes.**
- (6) All corners shall be monumented, as required by the State Statutes.**

(7) Prepared on durable white paper, on tracing cloth, or paper (that can be copied), 8 ½ inches wide by 14 inches long. The scale shall not be more than 500 feet to the inch.

(a) The map shall include the certificate of the surveyor, giving a clear and concise description of the land surveyed by bearings and distances, commencing with some corner marked and established in the United States public land survey. The surveyor's certificate shall state that he has complied with the requirements of Chapter 236 of the Wisconsin Statutes.

(b) The Town Board shall approve, approve conditionally, or reject such Map within sixty (60) days from the date of filing of the Map unless the time is extended by agreement with the subdivider. If the Map is rejected, the reason shall be stated in the minutes of the meeting and a written statement is forwarded to the subdivider. If the Map is approved, the Town Board shall cause the Town Planning & Zoning Administrator to so certify on the original Map and return the Map to the subdivider.

(c) If public right-of-way is being dedicated, an executed Developer's Agreement shall be required for any proposed improvements as prescribed in Section 14-1-59 of this Ordinance. The petitioner will be obligated to pay all legal and professional fees associated with the Town's review and approval of the Developer's Agreement.

(d) The certified survey map shall be recorded with the County Register of Deeds. When a certified survey map has been so recorded, the parcels of land in the map may be described by reference to the number of the survey, the volume and page where recorded, and the name of the county. Any land or improvements offered for dedication and approved by the governing agency accepting the dedication shall be deeded at the time of recording, unless otherwise arranged.

SUBDIVISION PROCEDURE

14-1-19 Preliminary Consultation.

When it is proposed to divide land into five (5) or more lots or building sites by successive division, the subdivider shall subdivide in accordance with the following procedures:

(1) The subdivider shall have an initial consultation with Town Planning & Zoning Committee and any other people deemed necessary, including a Sanitary District representative, Town Planner/Engineer, or County staff, before proceeding with platting procedures. The petitioner will be asked to submit a concept plan and meet with the Planning & Zoning Committee on the site proposed for platting. The purpose of this consultation is to review the site together with the petitioner and establish the parameters, regulations, and policies regarding the following issues:

- (a) The suitability of the site for development,**
- (b) The accessibility of the site,**
- (c) The availability of public facilities (sewer, school, parks, water, etc.) and public services (police, fire, etc.),**
- (d) Soil conditions and drainage patterns,**
- (e) The effect of the proposed development on any contemplated improvements,**
- (f) Zoning of the site and regulations that apply,**
- (g) Required public improvements.**
- (h) Consistency with the Town's Comprehensive Plan**

- (2) The subdivider shall submit a concept plan on a topographic survey map indicating the nature of the above conditions. The initial concept plan should take into account the intent of this ordinance as well as any other reviewing agencies' comments obtained in contacts with the appropriate agencies. Additional meetings may be required if the concept plan needs to be significantly altered to meet the criteria identified in this ordinance.
- (3) The concept plan will be reviewed as it relates to:
- (a) Topography, based on a U.S.G.S Quadrangle map,
 - (b) The improvements, design, dedications, or reservations required by these regulations,
 - (c) Continuity to existing development within 300 feet of all boundaries,
 - (d) Regulations as set down by Chapter 236 of the Wisconsin Statutes,
 - (e) Consistency with the Town's Comprehensive Plan and any other Town ordinances and policies,
 - (f) An appropriate amount of conservation area based upon the zone in which it is located.
 - (g) For property within a Town Sanitary District, the proposed plat must be consistent with the Sanitary District's plans for providing sanitary sewer service, as determined by the Town Sanitary District, or in areas not served by public sanitary sewer, Winnebago County will issue permits for private sanitary sewer systems.

14-1-20 Developer's Agreement.

As part of the Preliminary plat submission, the Town requires the subdivider to provide a Developer's Agreement. An example of a Developers Agreement is available from the Town Planning & Zoning Administrator. Such an agreement must be approved by the Town Board during the final plat review process. The petitioner will be obligated to pay all legal and professional fees associated with the Town's review and approval of the Developer's Agreement. An Escrow fund or irrevocable letter of credit shall be established in the name of the Town of Rushford to enable the Town to pay for any plat improvements, if the developer fails to construct such improvement or make payment for work completed. Any fees that are part of the Developer's Agreement shall be paid prior to town approval of the final plat.

14-1-21 Preliminary Plat Review.

- 1) At least thirty (30) days prior to the Planning & Zoning Committee meeting, the subdivider shall file with the Town Planning & Zoning Administrator, the following items for Preliminary Plat Review:
- (a) Three (3) full size copies of a 24" x 36" scaled Preliminary Plat, plus one (1) additional full size copy for the City of Omro, if the plat lies within one and a half miles of the City of Omro's extraterritorial jurisdiction.
 - (b) Nine (9) 11" by 17" copies of the Preliminary Plat.
 - (c) Application form (available from the Town Clerk or Planning & Zoning Administrator)
 - (d) A filing fee (on record in the Town Clerk's office)
- 2) Said filing must occur with the Town Planning & Zoning Administrator at least thirty (30) days prior to the Planning & Zoning Committee meeting. The subdivider should also file a copy with the utility companies, (Sanitary Districts, if applicable, Power Company, Telephone Company, and Cable Company),

having jurisdiction over the subject area so that required easements can be determined. A subdivision within a Sanitary Sewer Service District and Sewer Service Area must include District sanitary sewer service. A subdivision in a Sanitary District but not in the Sewer Service Area shall include a statement on the face of the plat that homeowners must connect to sanitary sewer, at their own expense, once it is installed in an abutting street right-of-way. This statement shall also be a separate recorded document and shall apply to future owners of the lots that are listed in the document.

3) Response from utility companies shall be submitted for informational purposes to the Town Planning & Zoning Administrator when the Preliminary Plat is filed.

4) Within ten (10) working days after filing, the Town Planning & Zoning Administrator shall transmit the following copies (as provided by the applicant):

- (a) Five (5) 11 inch by 17 inch copies to the Planning & Zoning Committee
- (b) One (1) full size copy to the City of Omro, if the plat lies within one and a half miles of the City of Omro's extraterritorial jurisdiction.
- (c) Three (3) 11 inch by 17 inch copies to the Town Board,
- (d) One (1) full size copy for Meeting display and Clerk's Copy
- (e) One (1) full size copy to the East Central Regional Planning Commission, and
- (f) One (1) full size copy to the Town Engineer/Planner

5) The subdivider (developer) will be responsible for submitting the required copies to Winnebago County and State Agency that is responsible for reviewing the preliminary plat according to 236.12 (6) of the Wisconsin Statutes. A copy of the transmittal letter shall be forwarded to the Town Planning & Zoning Administrator. State review comments returned to the subdivider shall be forwarded to the Town Planning & Zoning Administrator for inclusion in the Town's review. If no objections were made by State Reviewing agencies, the subdivider is supplied with a State certified copy. The subdivider must provide the Town with a copy of the State certification indicating no objections were found. If an objecting Agency fails to act within forty (40) days, it shall be deemed to have no objection to the plat.

6) The Preliminary Plat shall be reviewed by the Planning & Zoning Committee for conformance with this ordinance and all other ordinances, rules, regulations, and Town Comprehensive Plan. The Preliminary Plat shall then be forwarded to the Town Board with a recommendation for approval or rejection. The Town Board is hereby designated as approving authority for all Preliminary Plats.

7) Within ninety (90) days of the date of filing the Preliminary Plat with the Town Planning & Zoning Administrator (unless time is extended by mutual consent with the applicant), the Town Board shall approve, approve conditionally, or reject such Plat, in accordance with Section 236.11(1) of the Wisconsin Statutes. Failure of the Town Board to act within ninety (90) days shall constitute an approval. One (1) copy of the Plat shall be returned to the subdivider with the date and action endorsed thereon. If approved conditionally or rejected, a letter setting forth the conditions of approval or the reasons for rejection shall accompany the plat. A copy of the plat and letter shall be filed in the Town Planning & Zoning Administrator's office.

8) Approval or conditional approval of the Preliminary Plat by the Town Board shall be deemed an expression of approval or conditional approval of the proposed Subdivision. If the Final Plat conforms substantially to the Preliminary Plat as approved, including any conditions of that approval and to Town plans and ordinances, the Town shall approve the Final Plat if submitted within 24 months of the last required approval of the Preliminary Plat.

9) Because Winnebago County has the authority to review any subdivision within the Town, the subdivider shall comply with the most restrictive requirements of either the Town or County. If either the County or Town deem conditions to be unclear, a joint meeting could be requested by either entity to clarify the most restrictive conditions.

10) Approval or conditional approval of a preliminary plat does not constitute or bind the Town of Rushford to automatic approval of the final plat.

14-1-22 Final Plat Review.

1) At least thirty (30) days prior to the Planning & Zoning Committee meeting, the subdivider shall file with the Town Planning & Zoning Administrator, the following items for the Final Plat Review:

- (a) Three (3) full size copies of a 24" x 36" scaled Final Plat, plus one (1) additional full size copy for the City of Omro, if the plat lies within one and a half miles of the City of Omro's extraterritorial jurisdiction.**
- (b) Nine (9) 11" by 17" copies of the Final Plat**
- (c) Application form (available from the Town Clerk or Planning & Zoning Administrator)**
- (d) A filing fee (on record in the Town Clerk's office)**
- (e) A Developer's Agreement**

2) Within ten (10) working days after filing, the Town Planning & Zoning Administrator shall transmit the following copies (as provided by the applicant):

- (a) Five (5) 11 inch by 17 inch copies to the Planning & Zoning Committee**
- (b) One (1) full size copy to the City of Omro, if the plat lies within one and a half miles of the City of Omro's extraterritorial jurisdiction.**
- (c) Three (3) 11 inch by 17 inch copies to the Town Board,**
- (d) One (1) full size copy for Meeting display and Clerk's Copy**
- (e) One (1) full size copy to the East Central Regional Planning Commission, and**
- (f) One (1) full size copy to the Town Engineer/Planner**

3) The subdivider (developer) will be responsible for submitting the required copies to Winnebago County and State Agency that is responsible for reviewing the final plat according to 236.12 (6) of the Wisconsin Statutes. State review comments returned to the subdivider shall be forwarded to the Town Planning & Zoning Administrator for inclusion in the Town's review. If no objections were made by State Reviewing agencies, the subdivider is supplied with a State certified copy. The subdivider must provide the Town with a copy of the State certification indicating no objections were found. If an objecting Agency fails to act within thirty (30) days, it shall be deemed to have no objection to the plat.

The Final Plat, may, if permitted by the Town Board, constitute only that portion of the approved Preliminary Plat that the subdivider proposes to record at that time, with any conditions of approval. If the Final Plat is not submitted within twenty-four (24) months of the last required approval of the Preliminary Plat, the Town Board may refuse to approve the Final Plat and may require the subdivider to resubmit a Preliminary Plat subject to Section 14-1-22, unless the Town and Land developer can reach an agreement as to extending the approval time.

4) Following a recommendation from the Planning & Zoning Committee, the Town Board shall, within sixty (60) days of the date of filing the original Final Plat with the Clerk, approve or reject such Plat in accordance with Section 236.11(2) of the Wisconsin Statutes, unless the time is extended by agreement with the subdivider. If the Plat is rejected, the reasons shall be stated in the minutes of the meeting and a written statement of the reasons forwarded to the subdivider with a copy to the Planning & Zoning Committee. The Town Board may not approve the Final Plat unless the Clerk certifies on the face of the Plat that the copies were forwarded to objecting agencies as required herein, the date thereof, and that no objections have been filed within twenty (20) days, or, if filed, have been met.

Failure of the Town Board to act within sixty (60) days, with no time extensions, and no unsatisfied objections having been filed, shall cause the plat to be approved (SS 236.11 (2)).

14-1-23 Recordation.

Following Final Plat approval by the Town Board and required improvements either installed or a Developer's Agreement and sureties ensuring completion of installation are executed and filed, the Town Planning & Zoning Administrator shall cause the certificate inscribed upon the Plat. The plat must be recorded in the Winnebago County Register of Deeds office within 6 months after the date of the last approval of the plat and within 24 months after the first approval.

GENERAL PLAT REQUIREMENTS

14-1-24 Preliminary Plat Requirements.

A preliminary plat shall be required for all major subdivisions and shall be based upon a survey by a registered land surveyor and the plat prepared on reproducible material at a scale of not more than 100 feet to the inch and shall show correctly on its face the following information:

- (1) Title under which the proposed subdivision is to be recorded.
- (2) Legal description and general location of proposed subdivision and relative location to a nearby municipality.
- (3) Date, scale and north arrow.
- (4) Names & addresses of the owner, subdivider and land surveyor preparing the plat
- (5) Existing Parcel numbers.**
- (6) Entire area contiguous to the proposed plat owned or controlled by the applicant shall be included on the preliminary plat even though only a portion of such area is proposed for immediate development. The **Town Board** may waive this requirement where it is unnecessary to fulfill the purposes and intent of this chapter and undue hardship would result from strict application thereof.
- (7) Approximate length and bearing of the exterior boundaries of the proposed subdivision referenced to a corner established in the U. S. Public Land Survey and the total acreage encompassed thereby.
- (8) Contours at vertical intervals of not more than two feet where the slope of the ground surface is less than 10% and of not more than five feet where the slope of the surface is 10% or more. Elevations shall be marked on such contours based on mean sea level datum or, **where in the judgement and recommendation of the Planning & Zoning Committee**, undue hardship would result because of the remoteness of the parcel from a mean sea level reference elevation, another datum may be used.

- (9) Water elevations of adjoining lakes and streams at the date of survey, ordinary high water elevation, and designated floodplains, wetlands, shoreland boundaries, and surface water drainageways regulated under the

authority of the Winnebago County Town/County Zoning Ordinance and Sections 14-1-54 and 14-1-55 of this ordinance.

(10) Location, right-of-way width and names of all existing and proposed streets, alleys or other public ways, easements, railroads and utility rights-of-way and all section and quarter section lines within the exterior boundaries of the plat or immediately adjacent thereto.

(11) Location and names of any adjacent subdivisions, parks, schools, and cemeteries and owners of record of abutting unplatted lands.

(12) Type, width and elevation of any existing street pavements within the exterior boundaries of the plat or immediately adjacent thereto, together with any legally established centerline elevations, all to the datum used for the contours.

(13) Location, size and invert elevation of any existing sanitary or storm sewers, culverts and drainpipes, the location of manholes, catch-basins, hydrants, power and telephone poles and the location and size of any existing water and gas mains within the exterior boundaries of the plat or immediately adjacent thereto. If no sewers or water mains are located on or immediately adjacent to the tract, the nearest such sewers or water mains which might be extended to serve the tract shall be indicated by their directions and distance from the tract, size and invert elevations.

(14) The soil types and their boundaries, and the location and results of soil evaluations on plats served by on-site system

(15) Locations of all existing property boundary lines, structures, drives, streams and water courses, marshes, rock outcrops, wooded areas, railroad tracks and other similar significant features within the tract being subdivided or immediately adjacent thereto.

(16) Dimensions of all lots, together with proposed lot and block numbers.

(17) **In the preliminary plat stage, show the location & dimensions of sites to be reserved or dedicated for parks, playgrounds, pedestrian walkways, drainageways or other public use, or which are to be used for group housing, shopping centers, church sites or other non-public uses not requiring platting. In Cluster Subdivisions, conservation areas must be identified**

(18) Approximate radii of all curves.

(19) Existing zoning and proposed use on and adjacent to the proposed subdivision.

(20) Corporate limit lines.

(21) Any proposed lake and stream access with a small drawing clearly indicating the location of the proposed subdivision in relation to the access.

(22) Any proposed lake and stream improvement or relocation and proposed filling, grading, lagooning and dredging and the notice of application for the State Department of Natural Resources, and **Corps of Engineers**, approval, when applicable.

(23) Seasonally wet areas.

(24) Any additional information required by the **Planning & Zoning Committee**, Town Planning & Zoning Administrator Town Engineer, or Town Board, to complete the review

14-1-25 Street Plans and Profiles.

The **subdivider** shall provide street plans and profiles showing existing ground surface, proposed and established street grades, including extensions for a reasonable distance beyond the limits of the proposed subdivision, when requested by the **Town**, and all elevations, plans and profiles shall meet the approval of the **Town designated Engineer**.

14-1-26 Testing.

The **Town designated Engineer** may require that borings and soundings be made in designated areas to ascertain subsurface soil, rock and water conditions including the depth to bedrock and the depth to groundwater table.

14-1-27 Covenants.

The **Planning & Zoning Committee** shall require submission of a draft of protective covenants whereby the applicant intends to regulate land use in the proposed subdivision and otherwise protect the proposed development.

14-1-28 Affidavit.

The surveyor preparing the preliminary plat shall certify on the face of the plat that it is a correct representation of all existing land divisions and features and that he has fully complied with the provisions of this chapter.

FINAL PLAT REQUIREMENTS

14-1-29 General Requirements.

A final plat prepared by a registered land surveyor shall be required for all subdivisions. It shall comply in all respects with the requirements of Sec. 236.20, Wisconsin Statutes. The final plat shall comply in all respects with the requirements of Sec. 236.20, Wisconsin Statutes, along with the following:

- (1) All building setback lines based on Table 1 of this Ordinance, **which is the Town of Rushford's Zoning Setback requirements.**
- (2) All lands reserved for future public acquisition or reserved for the common use of property owners within the plat. If common property is located within the plat, then provisions for its use and maintenance must also be provided with the plat.
- (3) Exact street width along the line of any obliquely intersecting street.
- (4) Railroad rights-of-way within and abutting the plat.
- (5) Additional setback lines or yards required by the subdivider which are more restrictive than the zoning district in which the plat is located are to be included in recorded covenants.
- (6) Location of soil percolation and soil boring tests shall be shown on all plats to be served by on-site sanitary systems.
- (7) Floodplain and shoreland boundaries and the contour line lying a vertical distance of two feet above the elevation of the 100 year recurrence interval flood or, where such data is not available, five (5) feet above the elevation of the maximum flood of recorded within the exterior boundaries of the plat or located within 100 feet therefrom.
- (8) All lands reserved for future public acquisition, dedication or reserved for the common use of property owners within the plat. If property reserved for common use is located within the subdivision, provisions and plans for its use and maintenance shall be submitted with the plat.

- (9) Special restrictions required by the Town Board and any other approving or objecting agency relating to access control along public ways, the provision of planting strips or the treatment of shoreland and floodplains.
- (10) Consistency with the State Plane Coordinate System.
- (11) Any covenants that will be filed with or separate from the final plat.
- (12) When residential subdivisions, including CSM's, are platted adjacent to a non-residential use, i.e. agricultural (such as a farm operation), nonmetallic mining (such as a quarry operation), or commercial/industrial operation, the subdivider shall include a statement on the face of the plat that future owners of homes need to be aware of and understand the implications of living next to the specific non-residential use. The disclosure language shall be subject to the review and approval of the town.

14-1-30 Surveying and Monumenting.

All final plats shall meet all the surveying and monumenting requirements of Sec. 236.15, Wisconsin Statutes.

14-1-31 Certificates.

All final plats shall provide all the certificates required by Sec. 236.21, Wisconsin Statutes, and in addition, the surveyor shall certify that he has fully complied with all the provisions of this chapter and shall provide a certificate for **Town Board** approval.

CONDOMINIUM PLATS

14-1-32 General.

It is the intent of this section to regulate condominiums as it is related to zoning and for the division of land for the purpose of establishing a condominium plat.

14-1-33 Preliminary Consultation.

Prior to submitting an application for approval of a **condominium** plat the **subdivider** shall consult with **the Town** to become informed of the purpose and objectives of these regulations.

In order to facilitate the consultation the **subdivider** shall provide a plat plan drawn to reasonable scale depicting the general lot layout, exterior property boundary, roadways, known easements and unique natural features.

MINOR CONDOMINIUM PLATS

14-1-34 Submittal.

Creation of a minor condominium plat shall be by certified survey map **of less than 5 lots**. The certified survey map shall be submitted to the Town following procedures as set forth under Minor Land Divisions, 14-1-18 of this ordinance and shall be prepared according to 236.34 and 703.11, Wis. Stats.

MAJOR CONDOMINIUM PLAT

14-1-35 Preliminary Plat Submittal.

(1) The **subdivider** shall prepare a preliminary plat in accordance with this chapter. The applicant shall **file a copy directly to the County and** provide the **Town** eight copies of the preliminary plat, and the **required**

number of copies for the County Zoning Department and any adjoining city or village, if in the extraterritorial plat approval jurisdiction.

(2) In addition, condominium plats shall comply with the jurisdictional authority granted to Winnebago County Town/County Zoning Ordinance.

14-1-36 Fee.

(1) An application fee as set forth by the **Town of Rushford** fee schedule shall be paid in full at the time of submittal of the preliminary plat.

(2) Plats must be submitted simultaneously to all approving agencies and fees paid accordingly.

14-1-37 Preliminary Plat Requirements.

Refer to the provisions of the **typical Preliminary Plat requirements as found in** Sections 14-1-25 through 14-1-29 of this chapter.

14-1-38 Preliminary Plat Review and Approval.

(1) In order to facilitate public comment, the **Town Board** shall notify all property owners within 300 feet of the subject site with a meeting agenda concerning the subject site utilizing first class mail with an affidavit of mailing at least **10 (ten)** days prior to the date of such meeting. The **Town Board** shall conduct a meeting to review the Plat for conformance with this chapter and all other ordinances, rules, regulations that affect the Plat. At this meeting, the **Town Board** shall permit the public to comment on the proposed plat. The **Town Board** shall either approve, approve conditionally, or reject the Preliminary Plat within ninety (90) days of submittal. **If the Town Board takes no actions within 90 days, the Condominium Plat is approved.**

(2) Exception. Condominium plats which are located within the jurisdictional authority of the Winnebago County Town/County Zoning Ordinance.

14-1-39 Surveying.

All final plats shall meet all the surveying requirements of Sec. 703.11 Wisconsin Statutes.

14-1-40 Certificates.

All final plats shall provide the surveyor's certificate required by Sec. 703.11(4) Wisconsin Statutes, and in addition, the surveyor shall certify that he has fully complied with all the provisions of this chapter and shall provide a certificate for **Town** approval.

14-1-41 Fee.

(1) An application fee as set forth by the **Town** shall be paid in full at the time of submittal of the final plat.

(2) Conditional Use Permit. Condominium plats which are located within the jurisdictional authority of the Winnebago County Town/County Zoning Ordinance requiring conditional use permit according to Sec. 17.08 and Sec. 17.25 for planned unit developments will be required to pay a separate fee to the County.

14-1-42 Recordation.

After the final plat has been approved by the **Town**, Winnebago County and any other approving agencies, the **subdivider** shall record the plat with the County Register of Deeds in accordance with Sec. 703.11 Wisconsin Statutes.

14-1-43 Modifications.

Modifications to either a condominium plat or declaration shall require review and approval by the **Town**. If the **Town** determines the modification to substantially modify the original approval, it may require resubmittal for review and approval as if it were a new submittal according to the provisions of this section.

REPLAT

14-1-44 Replat.

In accordance with Section 236.36, Wisconsin Statutes, a replat of all or any part of a recorded subdivision which does not alter areas previously dedicated to the public may be made by complying with Section 14-1-20 through 14-1-24 of this Ordinance. When a proposed replat involves alteration or vacation of areas previously dedicated to the public, the subdivider shall vacate or alter the recorded plat in accordance to Chapter 80 of the Wisconsin Statutes

DESIGN STANDARDS

14-1-45 Street Arrangement.

The **subdivider** shall dedicate land for and improve streets as provided herein.

(1) Streets shall be **consistent with the general location of collector and arterial streets from Official Mapped street maps (City of Omro, or future Town Official Maps)**. In areas for which an official map has not been completed, the street layout shall recognize the functional classification of various street types and shall be developed and located in proper relation to existing and proposed streets, with due regard to topographical conditions, natural features, utilities, land uses and public convenience and safety.

(2) All land divisions shall be designed so as to provide each lot with satisfactory access to a public street as provided herein.

(3) The following conditions shall apply for street arrangement in all proposed land divisions:

(a) Arterial Streets. Arterial streets shall be arranged so as to provide ready access to centers of employment, high-density residential areas, centers of government activity, community shopping areas, community recreation and points beyond the boundaries of the community. They shall also be properly integrated with and related to the existing and proposed system of major streets and highways and shall be, insofar practicable, continuous and in alignment with existing or planned streets with which they are to connect.

(b) Collector Streets. Collector streets shall be arranged so as to provide ready collection of traffic from residential areas and conveyance of this traffic to the major street and highway system and shall be properly related to special traffic generators such as schools, churches and shopping centers and other concentrations of population; and to the major streets into which they feed.

(c) Minor Streets. Minor streets shall be arranged to conform to the topography, to discourage use by through traffic, to permit the design of efficient storm and sanitary sewerage systems and to require the minimum street area necessary to provide safe and convenient access to abutting property.

(d) Street Intersections.

- 1 Streets shall intersect each other as nearly as possible at right angles and not more than two streets shall intersect at one point unless approved by the **Town Board**.
- 2 The number of intersections along major streets and highways shall be held to a minimum. **Access to county roads shall be administered by the Winnebago County Highway**

Department. Otherwise, wherever practicable, the distance between such intersections should not be less than **600** feet.

3 Street jogs with centerline offsets of less than 125 feet shall not be approved.

(e) Proposed Streets. Proposed streets shall extend to the boundary lines of the tract being divided, unless prevented by topography or other physical conditions or unless, in the opinion of the Town Board, such extension is not necessary or desirable for the coordination of the layout of the subdivision or for the advantageous development of adjacent land tracts. Such streets shall terminate with a temporary turnaround of 120 feet right-of-way diameter and a roadway of not less than 90 feet in diameter.

(f) Arterial Street and Highway Protection. Whenever the proposed land division contains or is adjacent to a major street or highway, adequate protection of residential properties is required. Adequate protection is met by limiting access and separating through and local traffic and shall be provided by reversed frontage, with screen planting contained in a non-access reservation along the rear property line or by the use of frontage streets.

(g) Reserve Strips. Reserve strips controlling access to streets or alleys shall be prohibited except where their control is definitely placed with the Town or County.

(h) Alleys. Alleys may be required in commercial and industrial districts to provide for off-street loading and service access, but shall not be approved in residential districts unless required by unusual topography or other exceptional conditions. Dead-end alleys shall not be approved and alleys shall not connect to a Federal, State or County Trunk Highway.

(i) Street Names. Street names shall not be duplicated or be similar to existing street names and existing street names shall be projected or continued wherever possible.

14-1-46 Street Design Standards.

(1) The minimum right-of-way of all proposed streets shall be as specified on **the adopted Town Road Construction Ordinance, available in the Town Clerk's office.**

(2) Minimum roadway width and surface width of all new land division roads shall comply with the **Developer's Agreement or Section 86.26, Wisconsin Statutes, whichever is more restrictive.**

(3) Cul-de-sac streets designed to have one end permanently closed should not normally exceed 600 feet in length, **but can be up to 1,000 feet in length provided density is not more than 15 housing units being served by said street. The Town may require an Official Mapped Street Stub or future connection to an existing road to decrease the permanent length of a cul-de-sac street.** Such streets shall terminate in a circular turnaround having a minimum right-of-way **diameter** of **130** feet and a minimum roadway **pavement diameter** of **100** feet.

(4) Street grades shall comply with **the Developer's Agreement, supplemented by Sec. 86.26, Wisconsin Statutes.** Street grades shall be established wherever practicable so as to avoid excessive grading, the promiscuous removal of ground cover and tree growth and general leveling of the topography.

(5) Radii of curvature - When a continuous street centerline deflects at any one point by more than 10 degrees, a circular curve shall be introduced having a radius of curvature on such centerline of not less than 100 feet on minor streets. In general, arterial streets should have a flatter horizontal and vertical curve than minor streets.

(6) Half streets shall be prohibited except where:

(a) The other half has already been dedicated.

(b) Its alignment is shown on an officially adopted street plan.

(c) Vision corner easements shall be required along State Highways. The petitioner shall contact The Department of Transportation's District Office in Green Bay to obtain current standards for vision corner requirements on a State Highway.

(d) Any new or rebuilt bridges, culverts or roadways, built within a Floodplain District, shall meet all of the requirements established under the County's Floodplain Ordinance, and other Town/County Ordinances.

14-1-47 Ingress and Egress on Limited Access Highways.

Where a tract, lot or parcel of land abuts a County controlled limited access highway, defined in Chapter 7 of the Winnebago County General Code, access shall be provided by one of the following:

- (1) Access control permit issued by the County Highway Department. **The Road access permit shall be issued and the number shall be shown on the face of the CSM or Plat before said documents are recorded.**
- (2) Easement to use an existing access.
- (3) Frontage road dedicated to the public having an approved access.
- (4) Variance approved by the Winnebago County Board of Adjustment.

If access is provided by an easement to use an existing access, then the following provisions shall apply:

- (a) The parent parcel having an existing access shall allow access to each subsequent parcel; and
- (b) Each subsequent parcel shall allow access to each additional subdivided parcel, not to exceed the maximum spacing requirements of Chapter 7, Winnebago County General Code.
- (c) Setback requirements will be applicable to the **Town of Rushford's Zoning Setback requirements as shown on Table 1.**
- (d) Easement right-of-way shall be a minimum of **66** feet in width, and shall not include public right-of-way (overlap) within the easement width.

14-1-48 Limited Access Highway and Railroad Right-of-Way

Whenever the proposed land division contains or is adjacent to a limited access highway or railroad right-of-way, the design shall provide the following treatment:

- (1) When residential lots within the proposed land division back upon the right-of-way of an existing or proposed limited access highway or railroad, the following restriction shall be lettered on the face of the plat: "Direct vehicular access to (Name of Road) from lots abutting such road is prohibited".
- (2) Commercial and industrial districts should provide, on each side of the limited access highway or railroad **right-of-way**, streets approximately parallel to and at a suitable distance from such highway or railroad for the appropriate use of the land between such street and highway or railroad **right of ways**, but not less than 150 feet.
- (3) Streets parallel to a limited access highway or railroad right-of-way, when intersecting a major street, highway or collector street which crosses such railroad or highway, shall be located at a minimum distance of 250 feet from such highway or railroad right-of-way. Such distance, where desirable and practicable, shall be

determined with due consideration of the minimum distance required for the future separation of grades by means of appropriate approach gradients.

(4). Minor streets immediately adjacent and parallel to railroad right-of-way should be avoided.

(5). State of Wisconsin setback requirements from a state highway

14-1-49 Blocks.

The widths, lengths and shapes of blocks shall be suited to the planned use of the land, zoning requirements, need for convenient access, control and safety of street traffic and the limitations and opportunities of the topography.

(1) LENGTH - Blocks in residential areas should not as a general rule be less than 500 feet nor more than 1,500 feet in length unless otherwise dictated.

(2) WIDTH - Blocks shall have sufficient width to provide for two tiers of lots of appropriate depth, except where otherwise required to separate residential development from through traffic or where lots abut a lake or stream. Width of lots or parcels reserved or laid out for commercial or industrial use shall be adequate to provide for off-street service and parking required by the use contemplated and the area zoning provisions for such use.

14-1-50 Utility Easements.

All utility lines for electric power and telephone service shall be placed on mid-block easements along rear lot lines whenever carried on overhead poles, except where lots abut a lake or stream or where such location is deemed engineeringly unfeasible by the utility company involved. **At the discretion of the Town, all utility lines may be required to be buried.**

14-1-51 Lots and Land Area.

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

(1) Side lot lines should be at **approximate** right angles to straight street lines or radial to curved street lines on which the lots face. Lot lines shall follow **Town** boundary lines rather than cross them.

(2) Double frontage and reversed frontage lots shall be prohibited, except where necessary to provide separation of residential development from through traffic or to overcome specific disadvantages of topography and orientation.

(3) Lot frontage.

(a) **Lot Frontage requirements are identified by Zoning Category in the Town of Rushford Zoning Code (Table 1).**

(b) A CSM or Plat creating a new parcel without frontage on a public street shall contain the following statement:

- 1 **Applicable Town Requirements:** Applications for **Town** zoning permits for residential structures (principal or accessory) and all other principal structures, except agricultural, shall not be considered for approval until the parcel meets the public street frontage and lot width requirements of the applicable non-agricultural zoning district (as noted in Table 1).

- 2 Area and dimensions of lots shall conform to the requirements of Table 1 of this Ordinance **and 14-1-8 for the town's lot size restrictions based on geographic zones.**

(4) Whenever a tract is subdivided into parcels with area in excess of the zoning requirements, such parcels should be arranged and dimensioned so as to allow re-division of any such parcels into normal lots in accordance with the provisions of this chapter.

(5) Lots should be designed and a suitable proportion between width and depth. Lots that are long, narrow, wide, or shallow are normally desirable. Normal depth should not exceed 2 1/2 times the width nor be less than 150 feet.

(6) Width of lots shall conform to the requirements of Table 1

(7) Corner lots shall be designed with extra width to permit adequate building setback from both streets.

14-1-52 Building Setback Lines.

Building setback lines shall conform to the requirements established in the **Town of Rushford's Zoning requirements (Table 1), and shall be shown on the preliminary plat for determination of buildable area..**

14-1-53 Surface Water Drainage

A subdivision in the Town of Rushford shall comply with provisions of Section 17.31 (Storm Water and Erosion Control) of the Winnebago County Town/County Zoning Ordinance.

14-1-54 Creation or Enhancement of Water Features.

A Homeowners Association is encouraged to be established to own and maintain a privately created pond or lake, or enhancement of a quarry or other body of standing water, within the boundary of any subdivision. The Homeowners Association document may specify that all lot owners within the Subdivision shall have equal rights to said water feature.

14-1-55 DEDICATIONS AND IMPROVEMENTS

Dedication and Reservation Of Lands.

Whenever a tract of land to be divided by certified survey or subdivision includes all or any part of land designated in an adopted regional, county, or town trails plan or plan component, the location and dimensions of such public land shall be identified on the certified survey map or plat and either be dedicated to the public or be reserved for acquisition by the county, the town, or the other public entity for a period not to exceed three years from the date the certified survey map or plat is recorded with the Winnebago County Register of Deeds, unless the time period is extended by the agreement of the subdivider, subsequent owner of the property, or other authorized party, with the county, town, or other public entity

If the Town of Rushford Comprehensive Plan requires a dedication of less trail area than is required by Section 14-1-56 (2), then the subdivider shall pay the in-lieu-of amount for the difference. If the Town of Rushford Comprehensive Plan requires a dedication of more town or County owned public land than is required by Section 14-1-57 (2), the subdivider will be reimbursed for the undeveloped land value of the additional trail area.

(1) Dedication of Open Space.

- (a) Each subdivider, whether by subdivision or by certified survey map, shall provide public trail area as required by this section.
- (b) Each subdivider shall dedicate 1,500 square feet of land to the town for each housing unit, provided land in the subdivision is shown on the Town's Comprehensive Plan as a trail. This dedication shall be at no cost to the town.
- (c) The town board shall determine the number, size, and location of all dedications after considering the recommendation of the Town Planning & Zoning Committee. The Town Board has the right to refuse any dedication of land it determines is unsuitable for trails.

(2) Payment in Lieu of Dedication

- (a) If the Town, in its sole discretion, determines that the land proposed to be dedicated is not suitable, because said land is not shown as a potential park or Trail, or has unexpected contamination, or upon the mutual agreement of the subdivider and the Town, the subdivider shall pay in lieu of said dedication. These fees shall be paid prior to recording the CSM or Plat in the Winnebago County Register of Deeds office.
- (b) Trail fees (based upon the market value of undeveloped land just prior to development, and upon projected public land development costs and projected adjacent street and utility costs) shall be updated periodically by the Town Board and become effective upon approval by Resolution of the Town Board. The proportion of such costs to be covered by these fees and by projected property taxes from the new development shall also be updated by said Resolution.
- (c) In-lieu-of payments received by the Town shall be deposited in a segregated, non-lapsing fund to be used for new trail development, including site acquisition and related capital improvements. Disbursement from such funds shall be made only upon specific approval of the Town Board upon considering the recommendation of the Town Planning & Zoning Committee.
- (d) The development of public land facilities shall be located in the vicinity of the land from which the funds are based. Such facilities shall be owned, operated and maintained by either the County or the town.

(3) Unimproved Land

- (a) The average value hereby established for the amount of undeveloped land, at the time of division (whether by platting or CSM) upon which trails are to be located as set forth in (2)(b) above, shall be \$200 per lot or dwelling unit potential, whichever is greater, or as updated by resolution per (3) above. This lot/unit value is based upon \$15,000.00 per acre average for developable lands, and \$1,000.00 per acre for wetlands.
- (b) Whenever the divider or the Town feels said average value unfairly represents the value of the specific tract being considered for dedication or for public purchase in lieu of dedication, the Town Assessor shall determine a fair value for the tract at the expense of the Town. If the Assessor's determination is not satisfactory to one of the parties, the Town shall contract an appraiser acceptable to both parties. The cost of this appraiser's services shall be divided equally between the parties. If the parties still cannot reach agreement on value, either party may appeal the matter to the Circuit Court of Winnebago County for resolution by the Court.

(4) Public Land Development Fees.

The average cost for public use space set forth in (2)(b) above shall be \$150 per lot or dwelling unit potential in the development.

(5) Appraisal Requirements.

If such lands or facilities have been acquired in whole or in part with Town funds, not totally from the nonlapsing fund established in subparagraph (c) of this section, then an appraisal of the land or facilities shall be prepared and the Town Board may acquire said land for an amount not to exceed the appraised value less the amount of funds applied from the nonlapsing fund established in this section.

14-1-56 Improvements.

No construction or installation of improvements shall commence in a proposed subdivision until the Final Plat and a Town Developer's Agreement (as specified in 14-1-21) has been approved and executed by the Town of Rushford. The subdivider shall file, along with the Town Developer's Agreement, a surety bond or other satisfactory security meeting the approval of the Town Board as a guarantee that such improvements will be completed by the subdivider or his subcontractors within the time limit established by the Town Board. The subdivider must have a Town approved Road or other Developer's Agreement at the time of Final Plat Approval.

Building permits for any type of structure will not be issued in an approved subdivision until the roads have met the requirements for issuance of building permits as set forth in the Town of Rushford Roads and Highways Ordinance.

14-1-57 Plans

Plans and accompanying construction specifications are required in the Town of Rushford Developer's Agreement before authorization of construction or installation of improvements can be made.

The subdivider is strongly urged to obtain a sample copy of the Town of Rushford Developer's Agreement from the Town Planning & Zoning Administrator during Rushford Town Hall hours prior to commencing any platting activity in the Town of Rushford. The developer will be required to provide information as called for in the Developer's Agreement and file a copy for review of a Certified Survey Map (section 14-1-18, if roadway is being created) and final plat application (section 14-1-30)

14-1-58 Inspection.

The applicant, prior to commencement of any work within the land division, shall make arrangements with the Town Board to provide for adequate inspection. The Town Board shall inspect and approve all completed work prior to release of the sureties, **6 months after completion of work and at the request of the subdivider.**

14-1-59 Public Sanitary & Private Sewage Disposal Systems.

Any Sanitary District within the Town shall determine the feasibility of service and the procedures to be followed by the owner of a proposed subdivision within said District. Also the following shall apply:

(1) MAJOR LAND DIVISIONS and MAJOR CONDOMINIUM PLATS shall be served by a public sanitary sewage in a sanitary district as part of a public sewer system, or a **private sewer system, approved by Winnebago County.** Private holding tanks are expressly prohibited.

(2) MINOR LAND DIVISIONS and MINOR CONDOMINIUM PLATS may be served by a **private sewer system, approved by Winnebago County.**

CLUSTER/CONSERVATION SUBDIVISIONS

14-1-60 Purpose.

Grouping of residences in clusters will permit individual minimum lot sizes (as zoned) to be reduced, provided that overall density within the subdivision is maintained. The remaining undeveloped area within the subdivision can be used to provide common conservation area and preserve the scenic qualities of an applicable environmentally sensitive area. Grouping of residences will facilitate common water and sewage disposal systems and encourage the improved use of the land respecting the preservation of natural resources.

14-1-61 Review.

Cluster subdivisions shall be submitted for review according to 14-1-20 to 14-1-24 of this chapter. The petitioner will be asked to submit an “existing features map” and meet with the Planning & Zoning Committee on the site proposed for platting. The “existing features map” should include the following:

- (1) A topography map, based on a U.S.G.S. Quadrangle map;**
- (2) The location of environmentally sensitive elements such as steep slopes (over 25%), wetlands, watercourses, intermittent streams and 100-year floodplains, and all rights-of-way and easements;**
- (3) Soil boundaries as shown on the Winnebago County Soil Survey maps published by the Soil Conservation Service; and**
- (4) The location of significant features such as woodlands, treelines, open fields or meadows, scenic views into or out from the property, watershed divides and drainage ways, fences or stone walls, rock outcrops, and existing structures, roads, floodplains, wetlands, and steep slopes. The Existing Features Map shall form the basis for the concept plan, which shall also show the tentative location of houses, streets, lot lines, and conservation areas.**

14-1-62 Requirements

A Cluster or Conservation Subdivision limits single family home development to 25% of the land (can be increased to 40% if the Town accepts incentives to relax density standards), with each residential lot being on at least one-acre. The Town of Rushford shall be given legal assurance that at least seventy-five percent (75%) (or not less than 60% based on accepted incentives) of a Cluster or Conservation Subdivision will remain undeveloped and not subdivided. This means that the minimum land area on an 80 acre Cluster or Conservation Subdivision in the A-2 District (without approved incentives) would need to have 60 acres remaining open and undeveloped and the developable 20 acres could have up to 20 housing sites. If this same 80-acre Cluster or Conservation Subdivision was granted the full incentives option, 48 acres would need to be involved and 32-acres with a maximum of 32 housing sites could be developed.

The land area set aside for open space or conservation areas seventy-five percent (75%) may consist of wetlands, lands that are generally inundated (under ponds, lakes, creeks, etc.), detention or retention ponds, land within the 100-year floodplain, slopes exceeding 25%, and soils subject to slumping and other lands that are not part of the platted lots or public right-of-way.

All lands within conservation areas are required to be protected by a permanent conservation easement, prohibiting further development, and setting other standards safeguarding the site's special resources from negative changes. This may be accomplished by the following means:

- ❖ In a CSM or Cluster Subdivision, open space that is required to be left undeveloped can become a conservation easement, a donation (if acceptable to the recipient) to the County, Town or other entity to create permanent open space, can be rented for farming, or can be conveyed to any other entity or person that will only use the land as undeveloped open space.**

- ❖ **In a Conservation Subdivision, the vacant land must be owned and maintained by a Homeowners Association.**

Conveyance to owners of lots in the development. If the land is to be reserved for use by owners of lots in the development, the land shall be conveyed for use to a homeowners association or similar legally constituted body, which shall also maintain the conservation easement.

Dedication to the Town of Rushford or other governmental body or a recognized land trust or conservancy. Lands dedicated to the public must be accepted by appropriate action of the governing body of the accepting unit of government. Lands dedicated to the Town of Rushford shall be clearly noted on the face of the Final Plat as dedicated to the Town of Rushford. Public street dedication shall meet the conditions of a Town of Rushford Developer's Agreement.

Conservation areas shall be designated as undivided open space, to facilitate easement or land dedication monitoring and enforcement, and to promote appropriate management by a single entity according to approved land management standards.

Water supply and sewage disposal shall meet the minimum standards of all State, County, Sanitary District, or Town regulations.

The Design Standards, as outlined within this Ordinance, may, at the discretion of the Town Board, be relaxed as an incentive in developing Cluster Subdivisions. Standards that can be relaxed in order to permit more creative land division design include, but are not limited to, lot size, width, depth and shape, length of cul-de-sac roads, and road right-of-way width.

Pedestrian trails within a Cluster Subdivision may be required to be connected to any regional pedestrian trails wherever established or proposed by the Town of Rushford, Winnebago County, or the State of Wisconsin.

14-1-63 Conservation Area Percentage Adjustments

The seventy-five (75) percent requirement for permanent open space may be decreased for each of the following elements shown in the subdivision (maximum of fifteen (15) percent reduction):

- (a) Community Well system (7.5%)**
- (b) Community cluster septic system (7.5%)**
- (c) Coordinated subdivision theme that includes subdivision identification signage, street name signs and lighting (2.5%)**
- (d) Other aesthetics not necessarily required by this ordinance, such as "fitness trails", docks with seating areas in ponds, or other features considered unique and imaginative that will add a distinctive feature and benefit to future residents and the Town (2.5%)**
- (e) Hard surfacing a pedestrian circulation system (2.5%)**

All undivided conservation area and any lot capable of further subdivision shall be restricted from further subdivision through a permanent conservation easement, in a form acceptable to the Town of Rushford and duly recorded with the Winnebago County Register of Deeds.

The required conservation area may be used for underground drainage fields for individual or community septic systems.

Stormwater management ponds or basins and land within the rights-of-way for underground pipelines may be included as part of the minimum conservation area.

14-1-64 Location of Conservation Areas.

The location of the conservation area that is conserved through compact residential development shall be consistent with the policies contained in the Town's Comprehensive Plan Implementation section regarding open space and multi-purpose trails, and with the recommendations contained in this section and the following section ("14-1-66:Evaluation Criteria").

A conservation area can include a 75-foot deep greenway buffer along all water bodies and watercourses, and a 50-foot greenway buffer alongside wetlands soils classified as "very poorly drained" in the medium-intensity county soil survey.

Cluster Subdivisions shall be designed around conservation areas. The design process should therefore commence with the delineation of all potential conservation areas, after which potential house sites are located, the road alignments identified, and lot lines drawn in as the final step.

Undivided conservation area shall be directly accessible to the largest practical number of lots. To achieve this, the majority of lots should abut undivided conservation areas in order to provide direct views and access. Safe and convenient pedestrian access to the conservation areas from all lots not adjoining the conservation area should be provided.

14-1-65 Evaluation Criteria.

The Zoning Committee and Town Board shall evaluate Cluster Subdivisions to determine whether the proposed conceptual preliminary plan:

(1)Protects and serves all floodplains, wetlands, and steep slopes from clearing, grading, filling, or construction (except as may be approved by the Town for essential infrastructure or active or passive recreation amenities).

(2)Preserves and maintains mature woodlands, existing fields, pastures, meadows, and orchards, and creates sufficient buffer areas to minimize conflicts between residential and agricultural uses.

(3)If development must be located on open fields or pastures because of greater constraints in all other parts of the site, dwellings should be sited on the least prime agricultural soils, or in locations at the far edge of a field, as seen from existing public roads. Other considerations include whether the development will be visually buffered from existing public roads, such as by a planting screen consisting of a variety of trees, shrubs, and wildflowers.

(4)Maintains or creates an upland buffer of natural native species vegetation of at least 75 feet in depth adjacent to wetlands and surface waters, including creeks, streams, springs, lakes and ponds.

(5)Designs around existing hedgerows and treelines between fields or meadows, and minimizes impacts on large woodlands (greater than five acres), especially those containing many mature trees or a significant wildlife habitat. Also, woodlands of any size on highly erodible soils with slopes greater than 10% should be avoided. However, woodlands in poor condition with limited management potential can provide suitable locations for residential development. When any woodland is developed, great care shall be taken to design all disturbed areas (for buildings, roads, yards, septic disposal fields, etc.) in locations where there are no large trees or obvious wildlife areas, to the fullest extent practicable.

(6)Leaves scenic views and vistas unblocked or uninterrupted, particularly as seen from public thoroughfares. In wooded areas where the sense of enclosure is a feature that should be maintained, a deep "no-build, no-cut" buffer should be respected, to preserve existing vegetation.

- (7)Protects wildlife habitat areas of species listed as endangered, threatened, or of special concern by the U.S. Environmental Protection Agency.**
- (8)Designs around and preserves sites of historic, archaeological, or cultural significance, and their environs, insofar as needed to safeguard the character of the feature, including stone walls, barn foundations, cellar holes, earthworks, and burial grounds.**
- (9)Protects rural roadside character and improves public safety and roadway carrying capacity by avoiding development fronting directly onto existing public roads.**
- (10) Provides mature Landscape plantings equal to at least five (five) trees (mixture of ornamental and shade tree) per each residential unit, interspersed throughout the subdivision in areas void of trees, cul-de-sac islands, and in visually strategic locations that will add aesthetic appeal to the overall development.**
- (11) Provides open space that is in a reasonably contiguous configuration. Fragmentation of open space should be minimized and not divided into numerous small parcels located in various parts of the development. To the greatest extent practicable, open space shall be designed as a single block with logical, straightforward boundaries. Long thin strips of conservation land shall be avoided, unless the conservation feature is linear or unless such configuration is necessary to connect with other streams or trails. The open space should generally abut existing or potential open space land on adjacent parcels (such as in other subdivisions, public parks, or properties owned by or leased to private land conservation organizations). Such subdivision open space shall be designed as part of larger contiguous and integrated greenway systems, as per the policies in the Parks and Open Space and Multi-Purpose Trails Implementation section of the Town's Comprehensive Plan.**

14-1-66 Ownership And Maintenance Of Open Space

Different ownership and management options apply to the permanently protected conservation areas created through the development process. The conservation areas shall remain undivided and shall be owned and maintained by a homeowners' association, the Town, County, or a recognized land trust or conservancy.

A public land dedication, not exceeding 10% of the total parcel size, may be required by the Town, through designated conservation areas, to facilitate public trail connections. A narrative describing ownership, use and maintenance responsibilities shall be submitted for all common space and public improvements, utilities, and conservation areas.

Conservation areas within a development shall be owned, administered, and maintained by any of the following methods, either individually or in combination, and subject to approval by the Town:

(1) Offer of Dedication. The Town or other governmental agencies shall have the first and last offer of dedication of undivided conservation areas in the event said land is to be conveyed. Dedication shall take the form of a fee simple ownership. The Town may, but shall not be required, to accept undivided conservation areas provided: (a) such land is accessible to the residents of the Town; (b) there is no cost of acquisition other than any costs incidental to the transfer of ownership such as title insurance; and (c) the Town agrees to and has access to maintain such lands. Where the Town accepts dedication of common conservation areas that contains improvements, the Town may require the posting of financial security to ensure structural integrity of said improvements as well as the functioning of said improvements for a term not to exceed eighteen (18) months from the date of acceptance of dedication. The amount of financial security shall not exceed fifteen percent (15%) of the actual cost of installation of said improvements.

(2) Homeowners' Association: The undivided conservation areas and associated facilities may be held in common ownership through a homeowners association. The association shall be formed and operated under the following provisions:

- (a) The subdivider shall provide a description of the association, including its bylaws and methods for maintaining a conservation area easement.
- (b) The association shall be organized by the subdivider and shall be operated with a financial subsidy from the subdivider, before the sale of any lots within the development.
- (c) Membership in the association is mandatory for all lot owners and their successors. The conditions and timing of transferring control of the association from Subdivider to lot owners shall be identified.
- (d) The association shall be responsible for maintenance of insurance and payment of taxes on undivided conservation area, enforceable by liens placed by the Town on the association. The association may place liens on the lots of its members who fail to pay their association dues in a timely manner. Such liens may provide for the imposition of penalty interest charges.
- (e) The members of the association shall share equitably the costs of maintaining and developing such undivided conservation areas. Shares shall be defined within the association bylaws.
- (f) In the event of a proposed transfer, within the methods here permitted of undivided conservation area land by the homeowners' association, or of the assumption of maintenance of undivided conservation area land by the Town, notice of such action shall be given to all property owners within the development.
- (g) The association shall have or hire adequate personnel to administer common facilities and properly and continually maintain undivided conservation areas.
- (h) The homeowners' association may lease conservation area lands to any other qualified person, or corporation, for operation and maintenance of conservation area lands, but such a lease agreement shall provide:
1. that the lot owners of the development shall at all times have access to the conservation area land contained therein (except croplands during the growing season);
 2. that the undivided conservation area to be leased shall be maintained for the purposes set forth in this ordinance; and
 3. that the operation of conservation area facilities may be for the benefit of the residents only, or may be open to the residents of the Town, at the election of the Developer and/or homeowners' association, as the case may be.
 4. The lease shall be subject to the approval of the Town of Rushford and any transfer or assignment of the lease shall be further subject to the approval of the Town Board. Lease agreements so entered upon shall be recorded with the Winnebago County Register of Deeds within thirty (30) days of their execution and a copy of the recorded lease shall be filed with the Town.
- (i) Dedication of Easements. The Town may, but shall not be required to accept easements for public use of any portion or portions of undivided conservation area land, title of which is to remain in ownership by condominium or homeowners' association, provided: (1) such land is accessible to town residents; (2) there is no cost of acquisition other than any costs incidental to the transfer of ownership, such as title insurance; and (3) a satisfactory maintenance agreement is reached between the developer, condominium or homeowners' association, and the Town.

(ii) Transfer of Easements to a Private Conservation Organization. With the permission of the Town, an easement may be transferred to a private, nonprofit organization, among whose purposes it is to conserve conservation areas and/or natural resources, provided that:

- (1) The organization is acceptable to the Town, and is a bona fide conservation organization with perpetual existence;**
- (2) The conveyance contains appropriate provisions for proper reverter or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its functions; and a maintenance agreement acceptable to the board is entered into by the Developer and the organization.**

14-1-67 Maintenance Standards

The ultimate owner of conservation areas (typically a homeownership association) shall be responsible for raising all monies required for operations, maintenance, or physical improvements to conservation areas through annual dues, special assessments, etc. The homeowners' association shall be authorized under its bylaws to place liens on the property of residents who fall delinquent in payment of such dues, assessments, etc.

In the event that the association or any successor organization shall, at any time after establishment of a development containing an undivided conservation area, fail to maintain the undivided conservation area in reasonable order and condition in accordance with the development plan, the Town may serve written notice upon the owner of record, setting forth the manner in which the owner of record has failed to maintain the undivided conservation area in reasonable condition.

Failure to adequately maintain the undivided conservation areas in reasonable order and condition constitutes a violation of this ordinance. The Town is hereby authorized to give notice, by personal service or by United States mail, to the owner or occupant, as the case may be, of any violation, directing the owner to remedy the same within twenty (20) days.

Should any bill or bills for maintenance of undivided conservation areas by the Town be unpaid by November 1 of each year, a late fee of fifteen percent (15%) shall be added to such bills and a lien shall be filed against the premises in the same manner as other municipal claims.

DEFINITIONS

Definitions 14-1-68

In the construction of this chapter, the definitions contained in this section shall be observed and applied except when the context clearly indicates otherwise.

- (1) ALLEY** - A public or private right-of-way which provides secondary access to abutting properties.
- (2) ARTERIAL STREET** - A street used, or intended to be used, primarily for fast or heavy through traffic. Arterial streets shall include freeways and expressways, as well as standard arterial streets, highways, and parkways.
- (3) ASSESSOR'S PLAT** - An Assessor's Plat may be ordered by the Town Board at the expense of the subdivider when a subdivision is defined herein as created by successive division as provided in Section 236.31(2) of the Wisconsin Statutes.

- (4) **BLOCK** - A group of lots existing within well-defined and fixed boundaries, usually being an area surrounded by streets or other physical barriers and having an assigned number, letter or other name through which it may be identified.
- (5) **BUILDING** - A structure having a roof supported by columns or wall. When separated by division walls from the ground up and without openings, each portion of each building shall be deemed a separate building.
- (6) CERTIFIED SURVEY MAP (CSM)–Means a division of up to four (4) lots. A CSM may be used to change the boundaries of lots or outlots within a recorded plat or recorded certified survey map if the redivision does not result in subdivision or violates the Town’s Subdivision Ordinance. A CSM may not alter the exterior boundary of a recorded plat, areas previously dedicated to the public, or restriction placed on the platted land by covenant, by grant of an easement, or by any other manner.**
- (7) CLUSTER SUBDIVISION – In the Town of Rushford, a Cluster Subdivision is allowing the consolidation of all single family homes on 25% (can be increased up to 40% if the Town accepts incentives to relax density standards) of an entire parcel, with the remaining 75% (not less than 60% based on incentives) being left open and undeveloped, and such land has the option of becoming a conservation easement, a donation (if acceptable to the recipient) to the County, Town or other entity to create permanent open space, being rented for farming, or being conveyed to any other entity that will only use the land as open space.**
- (8) **COLLECTOR STREET** - A street used, or intended to be used, to carry traffic from minor streets to the major system or arterial streets, including principal entrance streets to residential developments.
- (9) **COMMUNITY SEPTIC AND WELL SYSTEM – Means a singular sanitary system and/or well that is capable of treating or providing water to multiple housing units, and is located in a central location to strategically serve a number of residents, the costs of which are split through agreement or homeowners association.**
- (10) **CONSERVATION AREA**-Means any combination of land area within a subdivision that may consist of floodplains, wetlands, steep slopes, woodlands, treelines, open fields or meadows, watershed divides and drainage ways, fences or stone walls and rock outcrops.
- (11) CONSERVATION SUBDIVISION-** In the Town of Rushford, a Conservation Subdivision is allowing the consolidation of all single family homes on 25% (can be increased up to 40% if the Town accepts incentives to relax density standards) of an entire parcel, with the remaining 75% (not less than 60% based on incentives) being owned and maintained by a Homeowner’s Association into perpetuity.
- (12) **COUNTY** - Reference to County shall mean Winnebago County and shall include any Agency, department or committee thereof.
- (13) **COUNTY PLANNING AND ZONING COMMITTEE** - The County Planning and Zoning Committee, as authorized by Sec. 59.97, Wisconsin Statutes, or any other committee created by the County Board and authorized to plan land use.
- (14) **COUNTY PRIVATE SEWAGE SYSTEM ORDINANCE** - The County Private Sewage System Ordinance which is included as Chapter 18 of the Winnebago County Code.
- (15) **COUNTY ZONING ORDINANCE** - The Winnebago County Town/County Zoning Ordinance which is included as Chapter 17 of the Winnebago County Code.

- (16) CUL-DE-SAC STREET** - A minor street with only one outlet and having a turn around for the safe and convenient reversal of traffic movement.
- (17) DOUBLE FRONTAGE LOTS** – An interior lot having road frontage on the front and on the rear of the lot.
- (18) EXTRATERRITORIAL PLAT APPROVAL JURISDICTION** -The unincorporated area within 1 1/2 miles of a fourth-class city or village and within 3 miles of all other cities over which cities and villages may exercise plat approval, provided they have enacted an official map ordinance or subdivision control ordinance in accordance with Sec. 236.10, Wisconsin Statutes.
- (19) FINAL PLAT** - The map of a subdivision and any accompanying material as described in Sec. 14-1-30 of this chapter.
- (20) FLOODPLAIN** –Land that has been or may be hereafter covered by floodwater during the regional flood. The floodplain includes the floodway and the flood fringe.
- (21) FRONTAGE** - The length of the front property line of the lot, lots or tract of land abutting the right-of-way of a public street road or highway.
- (22) FRONTAGE STREET** - 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.
- (23) GRADE** - The slope of a road, street or other public way, specified in percent.
- (24) IMPROVEMENT, PUBLIC** - Any sanitary sewer, storm sewer, drainage ditch, water main, roadway, park, parkway, public access, sidewalk, pedestrian way, planting strip, off-street parking area or other facility for which the County or Town may ultimately assume the responsibility for maintenance and operation.
- (25) LAND DIVISION** - The act or process of dividing land into two or more parcels.
- (26) COMPREHENSIVE PLAN** - Means the "Town of Rushford Comprehensive Plan", adopted in 2004, and including any amendment to such plan.
- (27) LOT** - Designated parcel tract or area of land established by plat, subdivision or as otherwise permitted by law to be used, developed or built upon as a unit, and containing the minimum frontage, width, and area sufficient to meet building, parking, setback, conservation areas, sanitary, or other requirements.
- (28) LOT AREA** - The total square footage lying within the peripheral boundaries of a parcel of land. In any zoning jurisdiction, the area of a lot specifically excludes:
- (29)** the right-of-way of a public or private street;
- (30)** areas of navigable water.
- (31) 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 degrees or less measured on the lot side.
- (32) LOT, LEGAL** - A unit of land existing under a single ownership which complies with the applicable basic district standards for the Zoning District in which such lot is situated or meets the definition of a "lot of record" of this Ordinance, which is provided with the minimum frontage upon a public road, and which complies with all applicable Subdivision and Laws and Ordinances.
- (33) LOT LINES** - The peripheral boundaries of a parcel of land.

- (34) LOT OF RECORD** - A legal lot of record shall mean a lot legally created and recorded in the Winnebago County Register of Deeds Office prior to or according to the Winnebago County Subdivision Ordinance of May 1, 1969, meeting applicable State County Zoning and Subdivision Laws and Ordinances.
- (35) LOT, THROUGH** - A lot which has a pair of opposite lot lines among two parallel streets and which is not a corner lot. On a through lot both street lines shall be deemed front lot lines.
- (36) LOT, WIDTH** - The mean horizontal distance between the side lot lines of a lot measured at right angles to the depth. On irregularly (non-perpendicular) shaped lots, the width shall be the average width of the lot computed according to Table 1 of this ordinance. Lot width shall be measured at the street setback line applicable to the zoning district the parcel is located within. In the shoreland jurisdiction, the lot width shall also be measured at the shore yard setback line applicable to the zoning district the parcel is located within. At least 50% of the lot shall be greater than or equal to the required lot width.
- (37) MAJOR CONDOMINIUM PLAT** - Condominiums in which land is allocated into parcels or building sites, whether the individual portions of land are defined as "units" or "limited common elements", are subject to review and approval of this Ordinance if five (5) or more parcels or building sites of five (5) acres or smaller in size and created within any five (5) year period from a lot parcel or tract which existed on the effective date of this chapter.
- (38) MAJOR STREET** - Arterial and collector roads primarily intended for through traffic with a secondary function for direct access.
- (39) MINOR STREET** - A street used or intended to be used primarily for access to abutting properties.
- (40) OBSTRUCTION, DRAINAGEWAY** - This Ordinance refers to two different types of obstructions:
- (41) ARTIFICIAL OBSTRUCTION** - Any obstruction other than a natural obstruction that is capable of reducing the carrying capacity of a stream or drainageway or may accumulate debris and thereby reduce the carrying capacity of a stream; such as fences, dams, planted trees and shrubs, and any other obstructions instituted as a result of human activity.
- (42) NATURAL OBSTRUCTION** - Includes any rock, tree, gravel or analogous natural matter that is an obstruction and has been located within the stream or drainageway by a non-human cause.
- (43) OFFICIAL MAP** - **Refers to any future Official Map adopted by the Town of Rushford, consistent with the Town's Comprehensive Plan, which includes and sets forth the identification, location, alignment, dimensions and classification of existing and proposed public streets, highways, drainage ways, parkways, and park and recreation sites.**
- (44) OUTLOT** - A remnant parcel of land not to be used for building purposes so designated on the plat.
- (45) PARCEL** - Lot created by a division of land. A parcel(s) that is owned, controlled or managed as a single entity shall be treated as a single tract, unless separated by a public road and navigable and non-navigable waters. A parcel is created as of the date the deed, land contract, lease, etc., is recorded with the Register of Deeds Office.
- (46) PLANNING & ZONING ADMINISTRATOR** – **Refers to the Town of Rushford Planning & Zoning Administrator**
- (47) PLANNING & ZONING COMMITTEE** - **Refers to the Town of Rushford Planning & Zoning Committee**

- (48) PRELIMINARY PLAT** - A map showing the salient features of a proposed subdivision submitted to the Town of Rushford for purposes of preliminary consideration as described in 14-1-21 of this chapter.
- (49) PUBLIC WAY** - Any public road, street highway, walkway, drainageway or part thereof.
- (50) SHORELAND JURISDICTION** - The area within 1,000' of the ordinary high water mark of a navigable lake, pond or flowage; or within 300' of the ordinary high water mark of a river or stream; or to the landward side of a floodplain, whichever distance is greater.
- (51) STREET (Public)** - The right-of-way of any street, road, highway, lane, etc., dedicated to the public which generally provides access to abutting properties.
- (52) STREET (Private)** - The right-of-way of any private road, highway, lane, street, access easement, easement, etc., where the defined street or easement provides access to more than one parcel or principal structure.
- (53) SUBDIVISION** – in the Town of Rushford means a division of land into five (5) or more lots, parcels, tracts or building areas.
- (54) TOWN** - Refers to the **Town of Rushford**
- (55) TOWN CLERK** - Refers to the **Town of Rushford Town Clerk**
- (56) TRACT** - A contiguous area of land which exists or has existed in single ownership.

Table 1 Area Regulations

Zoning Category	Front-Yard Setback	Front-Yard Corner L. S.	Side-Yard Setback	Rear-Yard Setback	Frontage Width	Minimum Area Req.
R-1: Single Family Residential	30' 50'/75' CRD	50' from each street	10'	30'	85'*	1 acre
R-2: Multi-Family Residential	30' 50'/75' CRD	50' from each street	10'	30'	85'*	1 acre
A-2: Agricultural	50'/75' CRD		50'	30'	200'***	20 acres***
A-3: Rural Residential	50'/75' CRD		30'	30'	200'	1 acre
C: Commercial	50'/75' CRD		10'/50' to Res. zoning	50'	100'	1 acre
I: Industrial	50'/75' CRD		10'/50' to Res. zoning	50'	100'	1 acre

*Width of lot measured at the front setback line

**Frontage in Cluster/Conservation Subdivision lots can be a minimum of 125'

***The density in a Cluster/Conservation Subdivision can be 1 acre per unit on 25% of the total land area.

Chapter 9

ORDINANCE RELATING TO SPECIAL ASSESSMENT PROCEDURES IN THE TOWN OF RUSHFORD, WISCONSIN.

The Town Board of the Town of Rushford, Wisconsin, do ordain as follows:

Section 1. In addition to other methods provided by law, special assessments for any public work or improvement or any current service may be levied in accordance with the provisions of this ordinance.

Section 2. Whenever the governing body shall determine that any public work or improvement or any current service shall be financed in whole or in part by special assessments levied under this ordinance, it shall adopt a resolution specifying this intention and the time, either before or after completion of the work or improvement, when the amount of the assessments will be determined and levied, the number of annual installments, if any, in which assessments may be paid, the rate of interest to be charged on the unpaid balance and the terms on which any of the assessments may be deferred while no use of the improvement is made in connection with the property.

Section 3. The provisions of §66.0703, Stats., shall apply to special assessments levied under this ordinance except that, when the governing body determines by resolution that the hearing on the assessments be held subsequent to the completion of the work or improvement or the rendering of the service, the report required by §66.0703(4), Stats., shall contain a statement of the final cost of the work, service or improvement in lieu of an estimate of the cost.

Section 4. Notice of the time and place of the public hearing on any special assessment proposed to be levied and notice of the final assessment and terms of payment thereof shall be given in the manner prescribed by §66.0703(7) and (8)(d), Stats.


Section 5. Any special assessment levied under this ordinance shall be a lien against the property assessed from the date of the final resolution of the governing body determining the amount of the levy.

Section 6. Any person against whose property a special assessment is levied under this ordinance may appeal therefrom in the manner prescribed by §66.0703(12), Stats., within 90 days of the date of the final determination of the governing body.

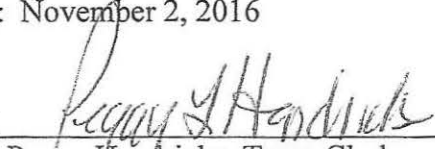
Section 7. This ordinance shall take effect upon passage and publication as required by law.

Dated: November 2, 2016

Signed


Thomas Egan, Town Chairman

Attest


Peggy Hendricks, Town Clerk

ORDINANCE # 08-2019
ALL-TERRAIN/ UTILITY VEHICLE ROUTE ORDINANCE
TOWN OF RUSHFORD, WINNEBAGO COUNTY, WISCONSIN

1-1 AUTHORITY:

This ordinance is established to create all-terrain vehicle and utility terrain vehicle routes pursuant to the authority granted to towns by section 23.33 (8)(b) and section 23.33 of the Wisconsin Statutes.

1-2 PURPOSE:

The purpose of this ordinance is to establish an all-terrain vehicle and utility terrain vehicle route and provide safe and enjoyable all-terrain vehicle and utility terrain vehicle recreation consistent with public rights and interests. The town board finds that the ATV/UTV route will provide recreational opportunities to members of the public and will provide economic opportunities for town businesses. The town board further finds that public safety on town roads is unlikely to be negatively impacted and the use of ATV/UTVs on town roads is unlikely to create wear and tear which would require maintenance earlier than would be necessary if ATV/UTVs were not allowed.

1-3 ROUTES:

All township roads and alleyways within the Town of Rushford are hereby designated as ATV/UTV routes. All county and state roadways located in the Town of Rushford where the posted speed limit is 35 miles per hour or less are hereby declared as ATV/UTV routes. All county roadways where the posted speed limit is greater than 35 miles per hour but which have been allowed by county ordinance shall be considered to be ATV/UTV routes. Bridges of 1,000 feet or less on state and county highways located in the Town of Rushford are hereby routes. The Town of Rushford shall have the authority to suspend operation in any of the above areas due to hazard, construction, or emergency conditions in any segment.

1-4 LIMITATIONS:

The following limitations apply on all areas designated in this ordinance.

- (a) ATV/UTV operators shall obey the speed limits posted on the route which they are riding. No ATV/UTV shall exceed 35 MPH in the Town of Rushford.
- (b) No ATV/UTV may be operated on any designated route without fully functional headlights and tail-lights. Lights shall be used during the hours of darkness and when conditions require it.

- (c) ATV/UTVs may be operated on paved roadway surfaces only, if operating on an ATV/UTV Route. ATV/UTV trails may be off-road or a hard-packed surface, as designated by the Town of Rushford.
- (d) No ATV/UTV may be operated on any designated route between the hours of 10:00 P.M. to 6:00 A.M. daily.
- (e) No person under the age of sixteen (16) may operate an ATV/UTV on any designated route without a safety certification.
- (f) No person under the age of twelve (12) may operate an ATV/UTV on a road or route under any circumstance.
- (g) No person under the age of eighteen (18) may operate an ATV/UTV on any designated route unless wearing approved protective head gear.
- (h) No ATV/UTV may be operated on any designated route which ATV/UTV does not meet all applicable Federal noise and air pollution standards.
- (i) ATV/UTV operators shall obey all other applicable laws.

1-5 ROUTE SIGNS:

- (a) The Town of Rushford or its designee shall maintain all route signs within the township. All ATV/UTV routes shall be signed in accordance with NR 64.12, and NR 64.12 (7) (c). All required designated route signs shall be paid for and installed by an ATV/UTV club or association, as funds become available, under the direction of the Town of Rushford.
- (b) The Town of Rushford, or its designee, shall maintain a route map.

1-6 PENALTIES AND ENFORCEMENT:

- (a) The penalty provision set forth in 23.33(13) shall apply to violations of this ordinance.
- (b) This ordinance may be enforced by any of the following: an officer of the state patrol, an inspector under section 110.07 (3), a conservation warden or the county sheriff.
- (c) Adoption of this ordinance shall not prohibit any law enforcement officer or DNR warden from proceeding under any other ordinance, regulation, statute, law or order that pertains to the subject matter addressed under this section.

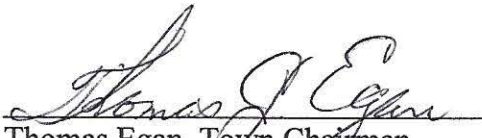
1-7 SEVERABILITY:

The provision of this ordinance shall be deemed severable and it is expressly declared that the Town of Rushford would have passed the other provisions of this ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provision of this ordinance or the application to any person or circumstances is held invalid, the remainder of the ordinance and the application of such provisions to other persons or circumstances shall not be deemed affected.

1-8 EFFECTIVE DATE:

This ordinance becomes effective upon passage and publication. The clerk shall send a copy of the ordinance to the Winnebago County Sheriff, the state traffic patrol and the Department of Natural Resources.

Dated this 7th day of August 2019.


Thomas Egan, Town Chairman

ATTEST:

Peggy Hendricks, Town Clerk

AYES 2 NAYES 1
PASSED THIS 7th DAY OF August 2019
PUBLISHED THIS 12 DAY OF AUGUST 2019

ALL Town roads in the Town of Rushford are open for ATV/UTV routes.

County Roads in the Town of Rushford that are open:

CTH E River Road to 2nd Street

CTH K Eureka Lock Rd. to STH 116

CTH M STH 91 to Hiwela Trail 10/21/2019

CONDITIONS: As a condition for the use of certain roadways, the following conditions shall apply to all operators (and passengers where applicable):

- (a) ATV/UTV operators shall observe all posted speed limits and shall not exceed 35 miles per hour.
- (b) You must have fully functional headlights and tail-lights. Lights must be used during hours of darkness and when conditions require it.
- (c) ATV/UTV operators must possess a valid motor vehicle driver's license on the COUNTY HWYS (Age restrictions for Town routes are below)
- (d) Routes shall remain open during daylight hours only on County Hwys (CTY E, CTY K & Cty M). On Town roads, no ATV/UTV may be operated between the hours of 10:00 PM and 6:00 AM daily.
- (e) No person under the age of 16 may operate an ATV/UTV on a road or route without a safety certification on Town routes
- (f) No person under the age of 12 can operate an ATV/UTV under any circumstance on Town Routes.
- (g) You must wear approved protective headgear if you are under the age of 18.
- (h) Your ATV/UTV must meet all applicable Federal noise and air pollution standards.

REMEMBER: This is ONLY for the Town of Rushford roads – not the neighboring Townships you might be entering.

Please review the Town Ordinance for more information and if you have any questions, please contact your Town Chairman or Supervisors.

Town of Rushford

Official Zoning Map

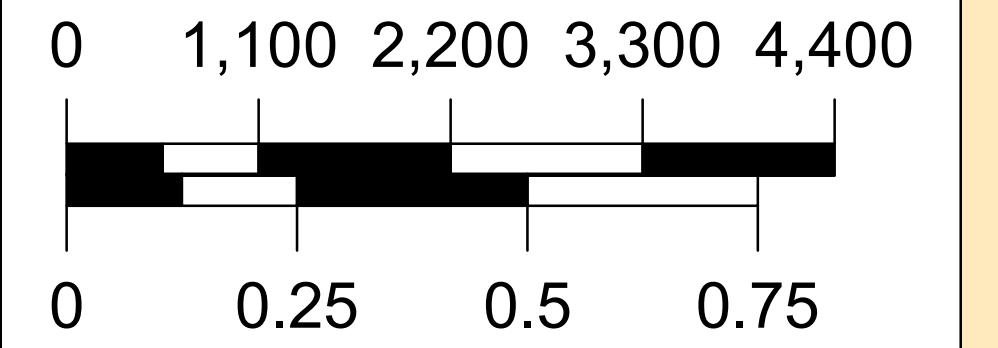


Winnebago County, Wisconsin

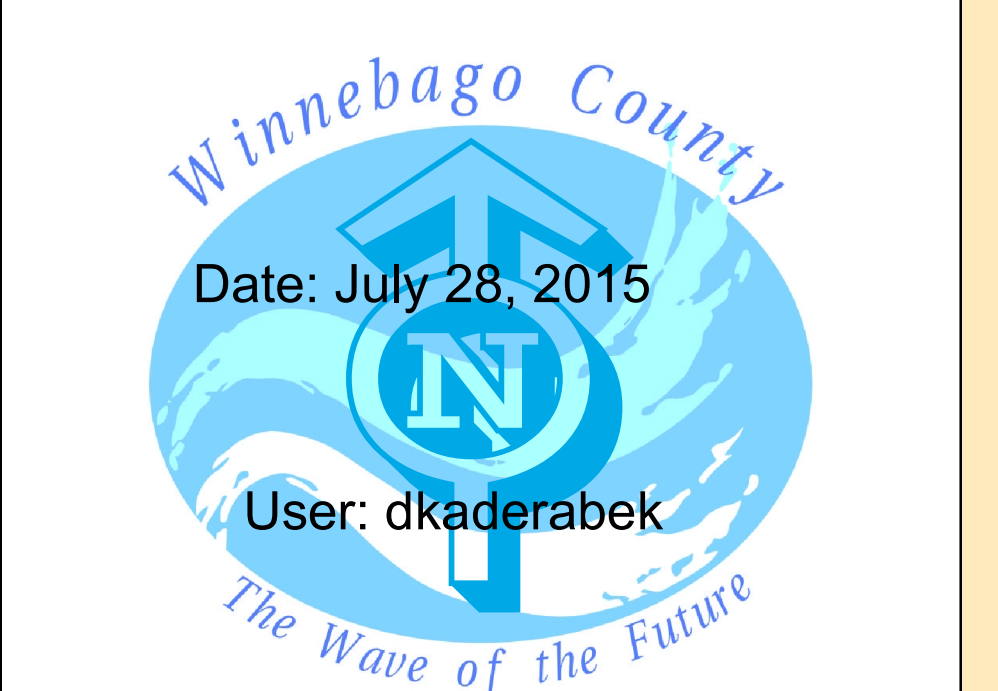
Legend

- Road Right-of-Way
- County Shoreland Zoning Boundary (Jurisdiction)
- Town Boundary
- Parcel Boundary
- Section Line
- Open Water
- Navigable Water
- Future Land Use Zones:**
- Encouragement Zone
- Transition Zone
- Rural Zone
- Zoning District - Description:**
- GA - General Agriculture (>= 20 Acres)
- LER - Large Estate Residential (>= 5 and < 20 Acres)
- SER - Small Estate Residential (>= 2 and < 5 Acres)
- RR - Rural Residential (>= 1 and < 2 Acres)
- HDR - High Density Residential (>= 0.5 and < 1 Acre)
- PLI - Public Lands Institutional (>= 1 Acre)
- CB - Commercial/Business (>= 10,000 sq. ft.)
- ID - Industrial (>= 1 Acre)

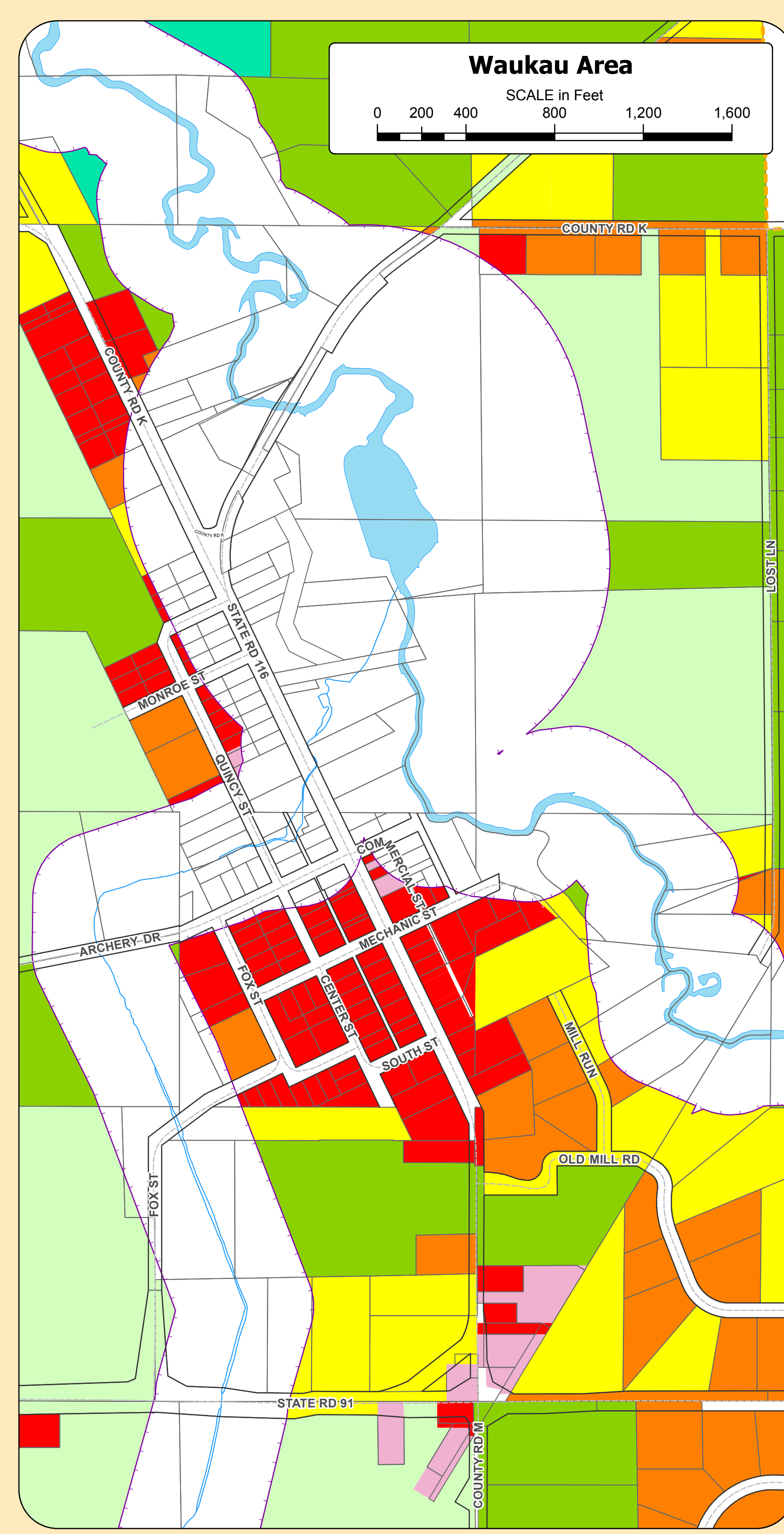
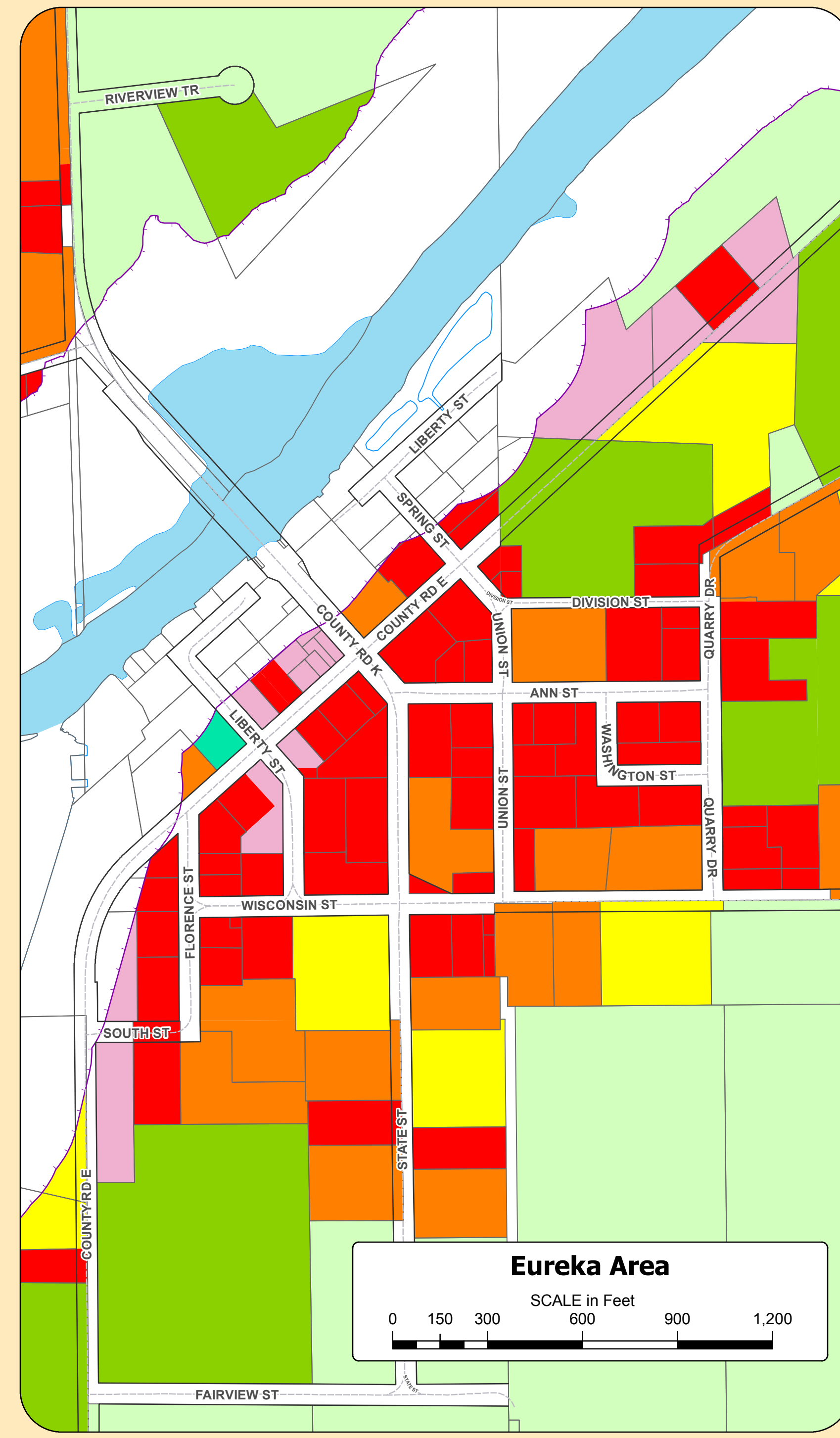
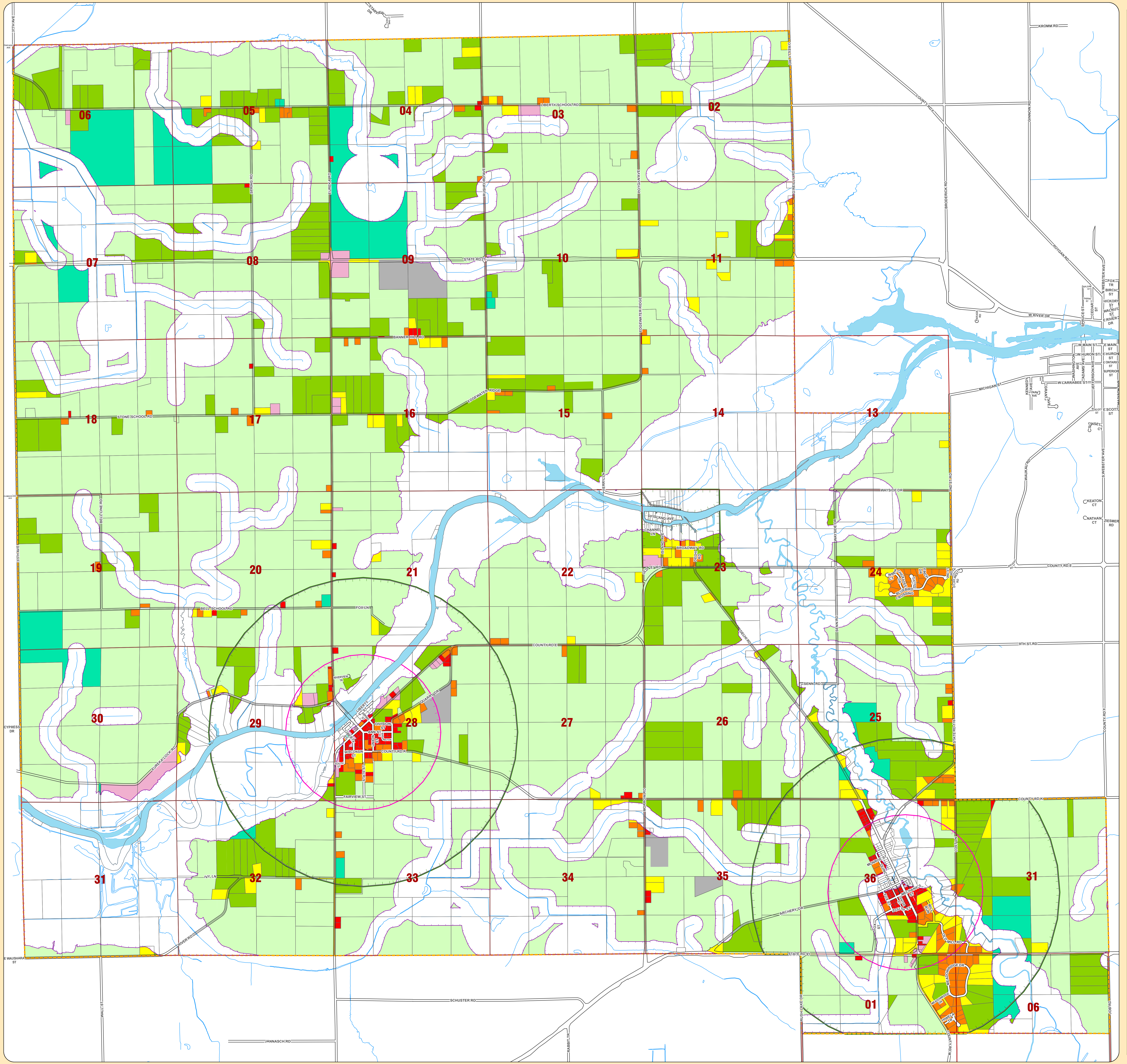
SCALE in Feet



SCALE in Miles



W.I.N.G.S. Project Disclaimer
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Animal Unit Calculations: Current Number of AUs on Operation

Animal Type		I. Mixed Animal Units			II. Non-mixed Animal Units		
		b. Equiv. factor	c. Current Number	d. No. of AUs	e. Equiv. factor	f. Current Number	g. No. of AUs
<i>Example - Broilers (non-liquid manure):</i>		0.005 x	150,000	= 750	0.008 x	150,000	= 1200
Dairy/Beef Calves (under 400 lbs)		0.20 x		=	<i>Fed. numbers in this column comply with 40 CFRs. 122.23</i>		
Dairy Cattle	Milking & Dry Cows	1.40 x		=	1.43 x		=
	Heifers (800 lbs to 1200 lbs)	1.10 x		=			
	Heifers (400 lbs to 800 lbs)	0.60 x		=	1.00 x		=
Beef	Steers or Cows (400 lbs to market)	1.00 x		=			
	Bulls (each)	1.40 x		=	1.00 x		=
Veal Calves		0.50 x		=	1.00 x		=
Swine	Pigs (up to 55 lbs)	0.10 x		=	0.10 x		=
	Pigs (55 lbs to market)	0.40 x		=			
	Sows (each)	0.40 x		=			
	Boars (each)	0.50 x		=	0.40 x		=
Chickens	Layers (each) -non-liquid manure system	0.01 x		=	0.0123 x		=
	Broilers/Pullets (each) -non-liquid manure system	0.005 x		=	0.008 x		=
	Per Bird -liquid manure system	0.033 x		=	0.0333 x		=
Ducks	Ducks (each) -liquid manure system	0.2 x		=	0.2 x		=
	Ducks (each) -non-liquid manure system	0.01 x		=	0.0333 x		=
Turkeys (each)		0.018 x		=	0.018 x		=
Sheep (each)		0.1 x		=	0.1 x		=
Horses (each)		2 x		=	2 x		=
Total Animal Units:		Total Mixed Animal Units =			Total Non-Mixed Animal Units =		
		(add all rows above)			(Enter the single highest number from any row above; DO NOT add the totals)		

Does operation need a WPDES permit? _____