

Town of Winneconne, WI  
星期二, 八月 1, 2023

## Chapter 1. General Provisions

[HISTORY: Adopted by the Town Board of the Town of Winneconne as indicated in article histories. Amendments noted where applicable.]

### Article I. Construction and Penalties

[Adopted 10-20-1994 as §§ 25.01, 25.02(1), 25.03, 25.04 and 25.05 of the 1994 Code]

#### § 1-1. Rules of construction.

In the construction of this Code, the following rules shall be observed unless such construction would be inconsistent with the manifest intent of the ordinance:

- A. Wisconsin Statutes. All references to "Wisconsin Statutes" or "Wis. Stats." shall mean the Wisconsin Statutes as of the adoption of this Code and as they may be amended.  
[Amended 4-21-2005]
- B. Gender; singular and plural. Every word in this Code and in any ordinance imparting the masculine gender may extend and be applied to females as well as males, and every word imparting the singular number only may extend and be applied to several persons or things as well as to one person or thing, provided that these rules of construction shall not be applied to any provision which contains any express language excluding such construction or when the subject matter or context of such provision may be repugnant thereto.
- C. Person. The word "person" extends and applies to natural persons, firms, corporations, associations, partnerships or other bodies politic and to all entities capable of being sued, unless plainly inapplicable.
- D. Acts of agents. When a provision requires an act to be done which may by law as well be done by an agent as by the principal, such requirement shall be construed to include all such acts when done by an authorized agent.

#### § 1-2. Conflicts between chapters.

If the provisions of the different chapters of this Code conflict with or contravene each other, the provisions of each chapter shall prevail as to all matters and questions arising out of the subject matter of such chapter.

#### § 1-3. Clerk to file documents incorporated by reference.

Whenever in this Code any standard, code, rule, regulation or other written or printed matter is adopted by reference, it shall be deemed incorporated in this Code as if fully set forth herein, and the Clerk shall file, deposit and keep in his office a copy of the Code, standard, rule, regulation or other written or printed matter as adopted. Materials so filed, deposited and kept shall be public records open for

examination with proper care by any person during the Clerk's office hours, subject to such orders or regulations which the Clerk may prescribe for their preservation.

## § 1-4. General penalty.

- A. Except as otherwise provided, any person who shall violate any of the provisions of this Code shall, upon conviction of such violation, be subject to a penalty which shall be as follows:  
[Amended 4-21-2005]
- (1) First offense. Any person who shall violate any provision of this Code shall, upon conviction thereof, forfeit not less than \$10 nor more than \$500, together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding 90 days.
  - (2) Second offense. Any person found guilty of violating any ordinance or part of an ordinance of this Code who has previously been convicted of a violation of the same ordinance within one year shall, upon conviction thereof, forfeit not less than \$25 nor more than \$500 for each such offense, together with the costs of prosecution, and in default of payment of such forfeiture and costs shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding six months.
- B. Continued violations. Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Code shall preclude the Town from maintaining any appropriate action to prevent or remove a violation of any provision of this Code.
- C. Execution against defendant's property. Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of any court for violation of any ordinance of the Town, the court may, in lieu of ordering imprisonment of the defendant, or after the defendant has been released from custody, issue an execution against the property of the defendant for such forfeiture and costs.

## § 1-5. Citations.

- A. Statutory authorization. Pursuant to § 66.0113, Wis. Stats., the Town elects to use the citation method of enforcement of ordinances, including those for which a statutory counterpart exists.
- B. Contents of citation. The citation shall contain the following:
- (1) Name and address of the alleged violator.
  - (2) Factual allegations describing the alleged violation.
  - (3) Time and place of the offense.
  - (4) Number and section of the ordinance violated.
  - (5) A designation of the offense in such a manner as can readily be understood by a person making a reasonable effort to do so.
  - (6) Time and date in which the violator may appear in court.
  - (7) A statement which informs the violator that:
    - (a) A cash deposit based on the established schedule<sup>[1]</sup> may be delivered or mailed to the Clerk of Circuit Court, or Clerk of Municipal Court depending on the type of citation, prior to the time of the scheduled court appearance.  
[Amended 4-21-2005]

[1] *Editor's Note: The current cash deposit schedule is on file at the Town Clerk's office.*

- (b) If a deposit is made no appearance in court is necessary unless he is subsequently summoned.
  - (c) If a cash deposit is made and the alleged violator does not appear in court, he will be deemed to have entered a plea of no contest, or, if the court does not accept the plea of no contest, a summons will be issued commanding him to appear in court to answer the complaint.
  - (d) If no cash deposit is made and the alleged violator does not appear in court at the time specified, an action may be commenced to collect the forfeiture.
  - (e) If the court finds that the violation involves an ordinance that prohibits conduct that is the same as or similar to conduct prohibited by state statute punishable by fine or imprisonment or both, and that the violation resulted in damage to the property of or physical injury to a person other than the alleged violator, the court may summon the alleged violator into court to determine if restitution shall be ordered under § 800.093, Wis. Stats.  
[Added 4-21-2005]
- C. A direction that if the alleged violator elects to make a cash deposit, the statement which accompanies the citation shall be signed to indicate that the required statement has been read. Such statement shall be sent or brought with the cash deposit.
- D. Deposits shall be made in cash, money order or certified check to the Clerk of Circuit Court, or Clerk of Municipal Court depending on the type of citation, who shall provide a receipt therefor.  
[Amended 4-21-2005]
- E. Issuance of citations. Any Town law enforcement officer and the Town Fire Chief and Building Inspector/Zoning Administrator are authorized to issue citations for violations of those ordinances they are empowered to enforce.  
[Amended 4-21-2005]
- F. Procedure. Section 66.0113(3), Wis. Stats., relating to a violator's options and procedures on default, is hereby adopted and incorporated by reference.
- G. Nonexclusivity.
- (1) Other ordinance. Adoption of this section does not preclude the Town Board from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or other matter.
  - (2) Other remedies. The issuance of a citation hereunder shall not preclude the Town Board or any authorized officer from proceeding under any other ordinance or law or by any other enforcement method to enforce any ordinance, regulation or order.

## Article II. Adoption of Code

[Adopted 4-21-2005]

### § 1-6. Adoption of Code.

Pursuant to § 66.0103, Wis. Stats., the ordinances of the Town of Winneconne of a general and permanent nature adopted by the Town Board of the Town of Winneconne, as revised, codified and consolidated into chapters and sections by General Code Publishers Corp., and consisting of Chapters **1** through **310**, are hereby approved, adopted, ordained and enacted as the "Code of the Town of Winneconne," hereinafter referred to as the "Code."

### § 1-7. Code supersedes prior ordinances.

This ordinance and the Code shall supersede all other general and permanent ordinances enacted prior to the enactment of this Code, except such ordinances as are hereinafter expressly saved from repeal or continued in force.

## § 1-8. Continuation of existing provisions.

The provisions of the Code, insofar as they are substantively the same as those of the ordinances in force immediately prior to the enactment of the Code by this ordinance, are intended as a continuation of such ordinances and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior ordinances.

## § 1-9. Copy of Code on file.

A copy of the Code, in loose-leaf form, has been filed in the office of the Town Clerk and shall remain there for use and examination by the public for at least two weeks, in accordance with § 66.0103, Wis. Stats., and until final action is taken on this ordinance, and, if this ordinance shall be adopted, such copy shall be certified to by the Town Clerk, and such certified copy shall remain on file in the office of said Town Clerk to be made available to persons desiring to examine the same during all times while said Code is in effect.

## § 1-10. Amendments to Code.

Any and all additions, deletions, amendments or supplements to the Code, when adopted in such form as to indicate the intention of the Town Board to make them a part thereof, shall be deemed to be incorporated into such Code so that reference to the "Code of the Town of Winneconne" shall be understood and intended to include such additions, deletions, amendments or supplements. Whenever such additions, deletions, amendments or supplements to the Code shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing said Code as amendments and supplements thereto.

## § 1-11. Publication; filing.

The Clerk of the Town of Winneconne, pursuant to law, shall cause to be published, in the manner required by law, a copy of this Adoption Ordinance. Sufficient copies of the Code shall be maintained in the office of the Clerk for inspection by the public at all times during regular office hours. The enactment and publication of this ordinance, coupled with the availability of a copy of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

## § 1-12. Code book to be kept up-to-date.

It shall be the duty of the Town Clerk, or someone authorized and directed by the Clerk, to keep up-to-date the certified copy of the book containing the Code required to be filed in the Clerk's office for use by the public. All changes in said Code and all ordinances adopted subsequent to the effective date of this codification which shall be adopted specifically as part of the Code shall, when finally adopted, be included therein by reference until such changes or new ordinances are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

## § 1-13. Sale of Code book.

Copies of the Code, or any chapter or portion of it, may be purchased from the Clerk or an authorized agent of the Clerk upon the payment of a fee to be set by the Town Board. The Clerk may also arrange for procedures for the periodic supplementation of the Code.

## § 1-14. Altering or tampering with Code; penalties for violation.

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, any part or portion of the Code or to alter or tamper with such Code in any manner whatsoever which will cause the law of the Town of Winneconne to be misrepresented thereby. Anyone violating this section or any part of this ordinance shall be subject, upon conviction, to a fine of not more than \$500, in the discretion of the Judge imposing the same.

## § 1-15. Severability of Code provisions.

Each section of the Code and every part of each section is an independent section or part of a section, and the holding of any section or a part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

## § 1-16. Severability of ordinance provisions.

Each section of this ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

## § 1-17. Repealer.

All ordinances or parts of ordinances of a general and permanent nature adopted and in force on the date of the adoption of this ordinance and not contained in the Code are hereby repealed as of the effective date of this Adoption Ordinance, except as hereinafter provided.

## § 1-18. Ordinances saved from repeal.

The adoption of this Code and the repeal of ordinances provided for in § 1-17 of this ordinance shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal:

- A. Any ordinance adopted subsequent to June 17, 2004.
- B. Any right or liability established, accrued or incurred under any legislative provision prior to the effective date of this ordinance or any action or proceeding brought for the enforcement of such right or liability.
- C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision or any penalty, punishment or forfeiture which may result therefrom.
- D. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this ordinance brought pursuant to any legislative provision.
- E. Any franchise, license, right, easement or privilege heretofore granted or conferred.
- F. Any ordinance providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place or any portion thereof.

- G. Any ordinance appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond or other instruments or evidence of the town's indebtedness.
- H. Ordinances authorizing the purchase, sale, lease or transfer of property or any lawful contract or obligation.
- I. The levy or imposition of taxes, assessments or charges.
- J. The annexation or dedication of property or approval of preliminary or final subdivision plats.
- K. Ordinances providing for local improvements or assessing taxes or special assessments therefor.
- L. All currently effective ordinances pertaining to the rate and manner of payment of salaries and compensation of officers and employees.
- M. Any legislation relating to or establishing a pension plan or pension fund for municipal employees.
- N. Any ordinance adopting or amending a cash deposit schedule for use with municipal citations.

## § 1-19. Changes in previously adopted ordinances.

- A. In compiling and preparing the ordinances for publication as the Code of the Town of Winneconne, no changes in the meaning or intent of such ordinances have been made, except as provided for in Subsections **B** and **C** hereof. Certain grammatical changes and other minor nonsubstantive changes were made in one or more of said pieces of legislation. It is the intention of the Town Board that all such changes be adopted as part of the Code as if the ordinances had been previously formally amended to read as such.
- B. The following changes are made throughout the Code:
  - (1) References to specific chapters and sections of the Wisconsin Statutes are revised to reflect the numbering of the statutes as of the publication of this Code.
  - (2) References to the "Department of Health and Social Services" are amended to read "Department of Health and Family Services."
  - (3) References to the "Department of Industry, Labor and Human Relations" (ILHR) are amended to read "Department of Safety and Professional Services."  
[Amended 12-19-2019 by Ord. No. 2019-6]
  - (4) Specific fee amounts are removed and replaced with the following wording: "as set by the Town Board," except in § **165-4**, False alarms, and Chapter 178, Impact Fees.
  - (5) References to the "Highway Superintendent" are amended to read "Superintendent of Highways."  
[Amended 6-20-2013]
  - (6) References to the "Planning Commission" and "Planning Committee" are amended to read "Plan Commission."
- C. In addition, the amendments and/or additions as set forth in Schedule A attached hereto and made a part hereof are made herewith, to become effective upon the effective date of this ordinance. (Chapter and section number references are to the ordinances as they have been renumbered and appear in the Code.)<sup>[1]</sup>

[1] *Editor's Note: In accordance with §1-19C, the chapters, parts and sections which were added, amended, adopted or deleted by this ordinance are indicated throughout the Code by a footnote referring to Chapter 1, General Provisions, Article II. During routine supplementation, footnotes indicating amendments, additions or deletions will be replaced with the following history: "*

*Amended (added, deleted) 4-21-2005." Schedule A, which contains a complete description of all changes, is on file in the Town offices.*

## § 1-20. When effective.

This ordinance shall take effect upon passage and publication as required by law.

## Chapter 9. Boards, Committees and Commissions

[HISTORY: Adopted by the Town Board of the Town of Winneconne 10-20-1994 as §§ 1.26, 1.27 and 1.28 of the 1994 Code. Amendments noted where applicable.]

### § 9-1. Board of Appeals.

The Board of Appeals shall consist of five members, not more than two of whom shall be a Town Board Supervisor. See §§ 60.62, 61.35 and 62.23, Wis. Stats.

[1] *Editor's Note: See also Ch. 310, Zoning, Art. VI, Board of Appeals.*

### § 9-2. Board of Review.

[Amended 4-21-2005; 3-15-2012]

- A. Regular membership. Under § 70.46, Wis. Stats., the Board of Review shall consist of six members who shall be the Town Supervisors and the Town Clerk.
- B. Alternate membership.
  - (1) The Town Treasurer shall serve as first alternate member of the Board of Review and shall serve as a member of such Board in the event of absence or disqualification of one of the regular members designated in Subsection **A**.
  - (2) The Town Deputy Clerk shall serve as a second alternate member of the Board of Review and shall serve as a member of such Board in the following events:
    - (a) More than one of the regular members designated in Subsection **A** is absent or disqualified.
    - (b) One of the regular members designated in Subsection **A** is absent or disqualified and the first alternate is also absent or disqualified.
- C. Clerk of the Board of Review.
  - (1) The Town Clerk, when serving on the Board of Review, or any person on the Clerk's staff and designated by the Town Clerk, shall be the Clerk of the Board of Review and shall keep an accurate record of all of its proceedings as well as perform all other duties of such Clerk as are prescribed by law or directed by the Board of Review.
  - (2) In the absence of a Clerk as designated by Subsection **C(1)**, the Board of Review shall select one of its members as Acting Clerk of its proceedings who shall perform all of the duties of Clerk of the Board of Review.
- D. Compensation. Members of the Board of Review shall be compensated at the rate as set by the Town Board.

### § 9-3. Police and Fire Committee.

There shall be appointed by the Town Board a Police and Fire Committee, which shall consist of two members, through which the Police Chief's and Fire Chief's suggestions and information may be brought to the Board.

## § 9-4. Plan Commission.

[Added 7-20-2000]

A. Membership. Pursuant to §§ 60.62, 61.35 and 62.23, Wis. Stats., the Plan Commission shall consist of two Town of Winneconne Board members and three citizens, for a total of five members. Citizen members shall be appointed for a three-year term by the Town Chairman, subject to confirmation by the Town of Winneconne Board. Two alternates, one Town Board member and one citizen, may also be appointed by the Town Chairman, subject to confirmation by the Town of Winneconne Board.

[Amended 7-15-2021 by Ord. No. 2021-2]

B. Powers and duties. A Plan Commissioner shall have such powers and duties as provided in §§ 62.23, 236.02 and 236.45 Wis. Stats., plus any other additional powers and duties established by the Town Board of the Town of Winneconne.

C. Removal. The Town Board of Winneconne may, by majority vote, remove any member of the Town of Winneconne Plan Commission without cause.

D. Reimbursement. The Town Board of the Town of Winneconne shall establish a method for reimbursement of costs and expenses.

[Amended 4-21-2005]

## Chapter 18. Court, Municipal

[HISTORY: Adopted by the Town Board of the Town of Winneconne 9-17-2020 by Ord. No. 2020-8.

[<sup>1</sup>]Amendments noted where applicable.]

[1] *Editor's Note: This ordinance also repealed former Ch. 18, Court, Municipal, adopted 3-19-2020 by Ord. No. 2020-4.*

### § 18-1. Joint Municipal Court created.

Pursuant to the authority granted by Chapter 755 of the Wisconsin Statutes, there is hereby created and established a Joint Municipal Court to be designated "Winneconne Municipal Court" and having jurisdiction over the Village of Winneconne, Town of Winneconne, Town of Vinland, the Town of Clayton, the Town of Neenah and the Town of Winchester said Court to become operative and function on November 1, 2020 or at such time as certification has been received from the Chief Judge of the Judicial Administrative District and notification has been provided to the director of state courts of the adoption of this chapter, whichever is later.

### § 18-2. Municipal Judge.

A. Qualifications. The Winneconne Municipal Court shall be under the jurisdiction of and presided over by a Municipal Judge who resides in one of the municipalities that is a party to the agreement forming the joint Court.

B. Oath and bond. The Judge shall, after election or appointment to fill a vacancy, take and file the official oath as prescribed in § 757.02(1), Wis. Stats., and at the same time execute and file an official bond in the amount of \$20,000. The Judge shall not act until the oath and bond have been



filed as required by § 19.01(4) Wis. Stats., and the requirements of § 755.03(2) have been complied with.

- C. Salary. The salary of the Municipal Judge shall be determined and paid for by the Village Board of the Village of Winneconne. No salary shall be paid for any time during the term during which such Judge has not executed the official bond or official oath, as required by § 755.03, Wis. Stats., and filed pursuant to § 19.01(4) Wis. Stats. The municipalities may by separate ordinance allocate funds for the administration of the Winneconne Municipal Court pursuant to § 66.0302 Wis. Stats.

## § 18-3. Elections.

- A. Term. Municipal Judges shall be elected at large and serve for a term of four years commencing on May 1 succeeding his or her election. The Municipal Judge currently serving the Winneconne Municipal Court at the time of passage of this chapter is an interim Judge who will serve until a special election is held in the spring of 2021 to elect a judge to complete the current four-year term. All candidates for the position of Municipal Judge shall be nominated by nomination papers as provided in § 8.10, Wis. Stats., and selection at a primary election if such is held as provided in § 8.11, Wis. Stats. The County Clerk's office shall serve as filing officer for the candidates.
- B. Electors. Electors in all municipalities that are parties to the agreement shall vote for judge.

## § 18-4. Jurisdiction.

- A. The Winneconne Municipal Court shall have jurisdiction over incidents occurring on or after the establishment of the Winneconne Municipal Court as provided in Article VII, § 14 of the Wisconsin Constitution, §§ 755.045 and 755.05, Wis. Stats., and as otherwise provided by state law. In addition, it shall have exclusive jurisdiction over actions in the municipalities that are parties to the agreement seeking to impose forfeitures for violations of municipal ordinances, resolutions and bylaws.
- B. The Municipal Judge may issue civil warrants to enforce matters under the jurisdiction of the Winneconne Municipal Court under §§ 755.045(2) and 66.0119, Wis. Stats.
- C. The Winneconne Municipal Court has jurisdiction over juvenile offenders when a municipality that is party to the agreement enacts an ordinance under the authority of § 938.17(2)(cm), Wis. Stats.

## § 18-5. Winneconne Municipal Court.

- A. Hours. The Winneconne Municipal Court shall be open at such location and at such times as determined by the governing bodies of the municipalities that are parties to the agreement and the Municipal Judge.
- B. Employees. The Judge shall, in writing, appoint such clerks and deputy clerks as are determined and paid for by the Village Board of the Village of Winneconne. The Clerk of the Winneconne Municipal Court, shall, before entering upon the duties of office, take the oath provided in § 19.01, Wis. Stats., and give a bond if required by the Village Board. Oaths and bonds for such Clerks shall be filed with the Village Clerk-Treasurer. The cost of the bond shall be paid by the Village of Winneconne.
- C. Duties. The Clerk of the Winneconne Municipal Court shall perform all duties as required by law and such other duties as are requested by the Municipal Judge.

## § 18-6. Collection of forfeitures and costs.

The Municipal Judge may impose punishment and sentences as provided by Chapters 800 and 938 Wis. Stats., and as provided in the ordinances of the municipalities that are parties to the agreement. All forfeitures, fees, assessments, surcharges and costs shall be paid to the Winneconne Municipal Court. Within 60 days after receipt of the money by the Winneconne Municipal Court, the forfeiture amount shall be paid to the treasurer of the municipality within which the case arose. The Winneconne Municipal Court shall pay all other fees, assessments, surcharges and costs to the appropriate governmental entity or agency. At the time of the payment, the Winneconne Municipal Court shall report to the treasurer the title of the action, the nature of the offenses and total amount of judgments imposed in actions and proceedings in which such monies were collected.

## § 18-7. Contempt of Court.

The Municipal Judge, after affording an opportunity to the person accused to be heard in defense, may impose a sanction authorized under § 800.12, Wis. Stats., and may impose a forfeiture therefor not to exceed \$200 plus costs, or upon nonpayment of the forfeiture and the assessments thereon, a jail sentence not to exceed seven days.

## § 18-8. Abolition.

The Winneconne Municipal Court hereby established shall not be abolished while the Joint Municipal Court Agreement under Wis. Stats. § 755.01(4) is in effect.

# Chapter 25. Departments

[HISTORY: Adopted by the Town Board of the Town of Winneconne as indicated in article histories. Amendments noted where applicable.]

## Article I. Police Department

[Adopted 10-20-1994 as Ch. 4 of the 1994 Code]

### § 25-1. Membership; compensation; deposit of fees.

- A. **Membership.** The Police Department shall consist of a Chief of Police, who shall be appointed by the Town Board, and such police officers as the Town Board may prescribe by ordinance or resolution, who shall be appointed by the Chief, subject to approval by the Town Board. The compensation and term of office of the Chief of Police and other police officers shall be set by the Town Board.
- B. **Salary; collection of fees.** The Chief and the police officers shall receive a salary fixed by the Town Board and shall not be entitled to any other compensation. All fees, bail deposits and other special remuneration or funds collected or received by the Department or any officers thereof shall be deposited with the clerk of court or the Clerk of the Municipal Court, depending upon the citation issued.<sup>[1]</sup>

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

### § 25-2. Powers and duties of Chief.

- A. **Statutory authority.** Under § 60.56, Wis. Stats., the Town Board hereby establishes the jurisdiction and duties of the Chief of Police as described herein.

- B. Powers and duties. The Chief shall possess the power, enjoy the privileges and be subject to the liabilities conferred and imposed by law on marshals and constables. The Chief shall have full power and authority and it shall be his duty to:
- (1) Familiarize himself with the ordinances of the Town and attend to the enforcement of such ordinances by all lawful means.
  - (2) Obey all lawful written orders of the Chairman or Town Board.
  - (3) Cause the public peace to be preserved and see that all laws and ordinances of the Town and state are enforced, and, whenever any violation thereof comes to his knowledge, he shall cause the requisite complaint to be made and see that the evidence is procured for the successful prosecution of the offender.
  - (4) Assist the Winneconne Poygan Fire District in maintaining order at the scene of a fire.
  - (5) Exercise supervisory control over all Department personnel and adopt, subject to the approval of the Board, rules, regulations and policies for the government, discipline, equipment and uniforms of police officers.
  - (6) Be solely responsible for the care and condition of the equipment used by his Department.
  - (7) Keep an accurate and complete record of all complaints, arrests, traffic violations, convictions and dispositions of the Department.
  - (8) Keep an accurate and complete record of all fees, bail deposits and any other special remuneration or funds received by the Department.
  - (9) See that the necessary permits and licenses issued by the proper authority of the state or Town are in the possession of or properly displayed by any person engaged in an activity or business within the Town for which such permit or license is required and that the terms of such permits or licenses are complied with.
  - (10) Report all street and sidewalk obstructions, unlighted streetlamps, unlawful street signs or signals and defective or dangerous streets and sidewalks.
  - (11) Submit a budget to the Town Board by October 1 of each year.
  - (12) Keep and preserve the peace within the Town and have the full peace powers to arrest and apprehend any person for felony or breach of peace under § 59.28, Wis. Stats., and for purposes of carrying out such duties the Chief shall be considered a peace officer as defined in § 939.22(22), Wis. Stats.
  - (13) Suppress unlawful assemblies within the Town under § 947.06, Wis. Stats.
  - (14) Direct and regulate traffic and make arrests for violation of traffic crimes and regulations of Chs. 194 and 341 to 349, Wis. Stats., and for purposes of carrying out such duties the Chief shall be considered a traffic officer as defined in § 340.01(70), Wis. Stats.
  - (15) Serve within his county any writ, process, order or notice and execute any order, warrant or execution lawfully directed to or required to be executed by him by any court or officer.
  - (16) Attend upon sessions of the Circuit Court in his county when required by the Sheriff.
  - (17) Inform the District Attorney of all trespasses on public lands of which he has knowledge or information.
  - (18) Impound cattle, horses, sheep, swine and other animals at large on the highways in violation of any published order or ordinance adopted by the Town Board.
  - (19) Cause to be prosecuted all violations of law of which he has knowledge or information.

(20) Cause to be enforced and prosecuted all violations of Town ordinances of which he has knowledge or information.

(21) Act on behalf of the Town Board as directed to:

- (a) See that Town orders and ordinances are obeyed.
- (b) See that peace and order are maintained in the Town.
- (c) Obtain necessary assistance, if available, in case of emergency, except as provided under Ch. 166, Wis. Stats., for emergency government.

(22) Perform all other duties required by any law.

C. Nonexclusivity.

- (1) Other ordinance. Adoption of this section does not preclude the Town Board from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or another matter.
- (2) Other remedies. The jurisdiction and duties of the Chief of Police as stated herein shall not preclude the Town Board or any other Town officer from proceeding under any ordinance or law or by any other enforcement method to enforce any ordinance, regulation or order.

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

## § 25-3. Police officers.

A. Powers and duties.

- (1) Each officer of the Department shall possess the powers conferred on marshals and constables by law and shall preserve the public peace and enforce the laws and ordinances of the state and Town, subject to the orders, rules and regulations of the Chief, the Chairman and the Board.
- (2) Each member of the Police Department shall be responsible for all Town equipment issued to or used by him, and any member who shall lose or destroy such equipment shall be required to pay the cost of the replacement.
- (3) Whenever any member shall terminate his membership in the Department, he shall deliver all Town equipment and property and his badge to the Chief of Police. All sums of money due such member for services rendered shall be withheld pending such final settlement.

B. Officers on call. All members of the Police Department, both full- and part-time, shall be considered on duty at all times and subject to call by the Town Chairman or Chief of Police.

## § 25-4. Civilians to assist.

All persons in the Town, when called upon by any police officer or peace officer, shall promptly aid and assist him in the execution of his duties, and whoever shall neglect or refuse to give such aid or assistance shall be subject to a penalty as provided in Chapter 1, § 1-4 of this Code.

## § 25-5. Operating procedure.

- A. The Police Chief may obtain certified police personnel to work on his behalf to enforce Town ordinances.
- B. The Chief shall set up assignment of personnel and at no time have more than one person in the field, including the Chief.

- C. The Chief will set the hourly wage of the personnel, not to exceed the hourly wage set by the Town Board. No other benefits will be paid to the personnel.
- D. At no time will the total cost of salary exceed the amount set for police personnel in the budget.
- E. Personnel accepting the position will be required to furnish proof of certification, clothing and personal supplies, except badge and patch.
- F. Personnel will be accountable to the Chief and Town Board while on duty for the Town.

## § 25-6. Violations and penalties.

Except as otherwise provided, any person who shall violate any provision of this chapter or any regulation, rule or order made hereunder shall be subject to a penalty as provided in Chapter 1, § 1-4 of this Code.

## Chapter 32. Elections

[HISTORY: Adopted by the Town Board of the Town of Winneconne as indicated in article histories. Amendments noted where applicable.]

### Article I. General Provisions

[Adopted 10-20-1994 as §§ 1.35 to 1.38 of the 1994 Code]

#### § 32-1. Registration of electors.

- A. Registration shall be required of all electors residing in the Town as a condition of qualification to vote in any election.
- B. The Town Clerk shall keep and maintain a registry of electors of the Town in accordance with the requirements of the Wisconsin Statutes and shall register therein the names of qualified electors upon valid application therefor.

#### § 32-2. Nomination papers.

The use of nomination papers as provided in § 8.05(3)(a), Wis. Stats., to nominate candidates for Town offices is required.

#### § 32-3. Official polling place and hours.

- A. Place. The official polling place shall be the designated Town Hall.
- B. Hours. Polling hours for the Town shall be from 7:00 a.m. until 8:00 p.m.

#### § 32-4. Wages for poll workers.

[Amended 4-21-2005]

The wages for poll workers shall be set by the Town Board.

### Article II. Split Shifts for Election Officials

[Adopted 4-19-2012]

## § 32-5. Legislative authority.

The Town Board of the Town of Winneconne, Winnebago County, Wisconsin, has the specific authority under § 7.30(1), Wis. Stats., to adopt this article.

## § 32-6. Split shifts permitted.

This article, adopted by a majority of the Town Board on a roll call vote with a quorum present and voting and proper notice having been given, provides that two or more sets of election officials may work split shifts on any election day, at the discretion of the Town Clerk.

## Chapter 36. Emergency Government

[HISTORY: Adopted by the Town Board of the Town of Winneconne 10-20-1994 as Ch. 6 of the 1994 Code. Amendments noted where applicable.]

### § 36-1. Ordinance adopted by reference.

The Emergency Government Ordinance between Winnebago County and the Town of Winneconne is hereby adopted by reference and made a part of this Code as if fully set forth herein.<sup>[1]</sup>

[1] *Editor's Note: The Emergency Government Ordinance is on file at the Town Clerk's office.*

## Chapter 44. Finance and Taxation

[HISTORY: Adopted by the Town Board of the Town of Winneconne 10-20-1994 as Ch. 3 of the 1994 Code. Amendments noted where applicable.]

### § 44-1. Preparation of tax roll and tax receipts.

- A. Aggregate tax stated on roll. Under § 70.65(2), Wis. Stats., the Clerk shall, in computing the tax roll, insert only the aggregate amount of state, county, school and other general property taxes minus credits applied under § 79.10(9), Wis. Stats., except credits determined under § 79.10(7m), in a single column on the roll opposite the parcel or tract of land against which the tax is levied or, in the case of personal property, in a single column opposite the name of the person against whom the tax is levied. Each tax bill or receipt shall show the purpose for which the taxes are to be used, giving the breakdown for state, county, local, school and other general property taxes. The tax roll shall indicate all corrections made under §§ 70.43 and 70.44, Wis. Stats.
- B. Tax receipts. The Treasurer shall enter in each receipt for the payment of taxes the name of the person paying the taxes, the date of payment, and the aggregate amount of taxes paid.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- C. Collection date. The last tax collection date shall be the last day of January.<sup>[2]</sup>

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

### § 44-2. Fiscal year.

The calendar year shall be the fiscal year.

## § 44-3. Budget.

- A. Departmental estimates. Annually, at a time specified by the Town Chairman, each officer and department shall file with the Town Board an itemized statement of disbursements made to carry out the powers and duties of such office or department during the preceding fiscal year; a detailed statement of the receipts and disbursements on account of any special fund under the supervision of such officer or department during such year and of the conditions and management of such fund; and detailed estimates of the same matters for the current and ensuing fiscal years.
- B. Preparation of proposed budget.
- (1) Town Board to prepare. The Town Board, with the assistance of the Clerk, shall annually prepare a proposed budget presenting a financial plan for conducting the affairs of the Town for the coming fiscal year.
  - (2) Information required. The budget shall include the following information:
    - (a) The expense of conducting each department and activity of the Town for the coming fiscal year and corresponding items for the current year and last preceding fiscal year, with reasons for increase and decrease recommended as compared with appropriations for the current year.
    - (b) An itemization of all anticipated income of the Town from sources other than general property taxes and bonds issued, with a statement comparing the amounts received by the Town from each of the same or similar sources for the last preceding and current fiscal year.
    - (c) An itemization of the amount of money to be raised from general property taxes which, with income from other sources, will be necessary to meet the proposed expenditures.
    - (d) Such other information as may be required by the Board and by state law.
  - (3) Copies required. The Town shall provide a reasonable number of copies of the budget thus prepared for distribution to citizens.
- C. Hearing. The Board shall hold a public hearing on the budget as required by law.
- D. Action by Board. Following the public hearing, the proposed budget may be changed or amended and shall take the same course in the Board as ordinances.

## § 44-4. Changes in budget.

- A. The amount of the tax to be levied or certified and the amounts of the various appropriations, and the purposes thereof, shall not be changed after approval of the budget except by affirmative vote of at least three members of the Town Board. Notice of such change shall be given by publication within 15 days thereafter in the official Town newspaper.
- B. After the budget is adopted, the electors of the Town, at a regular or special meeting, shall set the tax rate of the Town as provided in § 60.10(1)(a), Wis. Stats., except if such authority has been delegated to the Town Board as provided in § 60.10(2)(a), Wis. Stats.

## § 44-5. Town funds to be spent in accordance with appropriations.

No money shall be drawn from the Town treasury nor shall any obligation for the expenditure of money be incurred except in pursuance of the annual appropriation in the adopted budget or when changed as authorized by § 44-4. At the close of each fiscal year, any unencumbered balance of an appropriation shall revert to the general fund and shall be subject to reappropriation, but appropriations may be made

by the Board, to be paid out of the income of the current year, for improvements or other objects or works which will not be completed within such year, and any such appropriation shall continue in force until the purpose for which it was made has been accomplished or abandoned.

## § 44-6. Claims procedure.

- A. The Town, having adopted a resolution to direct the Town Board to exercise village board powers under § 60.10(2)(c), Wis. Stats., does now enact an alternative system of approving certain financial claims against the Town by virtue of the provisions of § 66.0609, Wis. Stats.
- B. Audit and approval by Clerk.
  - (1) Payments may be made from the Town treasury after the Clerk audits and approves each claim as a proper charge and endorses his approval on the claim after having determined that the following conditions have been met:
    - (a) The funds are available therefor under the budget approved by the Town Board.
    - (b) The service covered by such claim has been authorized by the proper official, department head, board or commission.
    - (c) The service has been actually rendered in conformity with such authorization.
    - (d) The claim is just and valid according to law.
  - (2) The Clerk may require the submission of such proof and evidence to support the above as he may deem necessary.
- C. The authority extended to the Town Clerk above shall apply only to the regular payroll checks of Town employees and the salaries of elected Town officials. All other claims against the Town will be examined and approved in accordance with the applicable law.
- D. The Clerk shall file with the Town Board, not less than monthly, a list of the claims approved showing the date paid, name of claimant, purpose and amount.
- E. The Town Board shall authorize an annual detailed audit of its financial transactions and accounts by a public accountant licensed under Ch. 442, Wis. Stats., and designated by the Town Board.
- F. The Town Clerk shall be covered by a fidelity bond of not less than \$5,000.

## § 44-7. Duplicate Treasurer's bond.

- A. The Town elects to give the bond on the Treasurer provided for by § 70.67(1), Wis. Stats. [Amended 4-21-2005]
- B. Town liable for default of Treasurer. Pursuant to § 70.67(2), Wis. Stats., the Town shall pay, if the Treasurer fails to do so, all state and county taxes required by law to be paid by the Treasurer to the County Treasurer.

## § 44-8. Temporary investment of funds not immediately needed.

The Treasurer may invest any Town funds not immediately needed pursuant to §§ 66.0603(1m), Wis. Stats.

## § 44-9. Official depository and newspaper.



[Amended 4-21-2005; 8-21-2008; 7-19-2018 by Ord. No. 2018-3]

The Town Board will determine the Town's official depositories and newspaper for printing legal notices by resolution.

## § 44-10. Mileage compensation.

[Amended 7-20-2000]

No mileage compensation shall be allowed without approval of the Board. Mileage shall be reimbursed at the same rate as is established by Internal Revenue Service regulations for employee deductions for business mileage.

## § 44-11. Alternative claim procedure for tax refunds.

[Added 3-18-1999]

- A. Purpose and intent. It is the declared intent of this section that tax payments made in excess of the tax bill amounts shall be refunded pursuant to the procedure established under this section within 15 business days of the payment. Further, it is the declared intent that this policy shall be in full force and effect upon adoption by the Town Board, with the purpose of complying with § 74.03(2), Wis. Stats., as adopted by 1997 Act 315.
- B. Authority. This section is adopted pursuant to the authority granted to town boards under § 60.44(2), Wis. Stats., to adopt an alternative claim procedure for approving financial claims against the town which are in the nature of bills and vouchers.
- C. Required procedure of Treasurer upon payment of excess amount over tax bill amount. Pursuant to § 60.34, Wis. Stats., upon receipt of tax payments in excess of the tax bill, the Town Treasurer shall deposit as soon as practicable all payments in the name of the Town in public depositories designated by the Town Board. Upon verification by the Town Treasurer that the payment as deposited has cleared and not been returned as insufficient funds, but no later than 10 days after depositing, the Treasurer shall notify the Town Clerk in writing of the following:
  - (1) The name and mailing address of the taxpayer for whom a refund in excess of the tax bill amount is due.
  - (2) The amount of the refund in excess of the tax bill.
  - (3) The date payment was received.
  - (4) A statement that the payment as made has cleared and not been returned as insufficient funds.
- D. Required procedure of Clerk upon notification from Treasurer of excess payment of tax bill amount.
  - (1) Upon written notification from the Town Treasurer that a taxpayer has made a tax payment in excess of the tax bill amount, the Town Clerk shall issue the normal voucher or authorization for payment of the refund of the excess amount over the tax bill amount upon finding the following:
    - (a) Funds are available to pay the bill, assuming the tax payment has cleared and not been returned as is evidenced by the Treasurer's notice.
    - (b) The Town Board has authorized the refund of excess tax payments as established by the adoption of this section.
    - (c) The refund is due in the amount noticed by the Town Treasurer as a tax payment in excess of the amount of the tax bill.
    - (d) The refund is a valid claim against the Town, being a payment in excess of the tax bill amount.

- (2) Further, the Town Clerk shall prepare monthly, to be submitted to the Town Board at each monthly Board meeting, a list of claims paid under this procedure, listing the amount of the claims, the date paid, the name of the taxpayer/claimant, and that the payment was a refund for excess tax payment.
- E. Issuance of disbursement from local treasury. Upon proper authorization by the Town Clerk under the procedures listed in Subsection **D** of this section, a refund check payable to the taxpayer/claimant named in the voucher or authorization and in the amount approved shall be written by the Town Treasurer and countersigned by the Town Clerk and the Town Chairperson pursuant to § 66.0607, Wis. Stats., and shall be issued not later than 15 business days from the date that the tax payment was received by the Town Treasurer as noticed by the Town Treasurer in Subsection **C** of this section.
- F. Mailing or delivery of refund check to taxpayer/claimant. Upon issuance of the proper countersigned refund check pursuant to the procedures in this section, the refund check shall be delivered to the taxpayer/claimant or mailed to the last known mailing address of the taxpayer/claimant by the Town Treasurer.

## Chapter 70. Officers and Employees

[HISTORY: Adopted by the Town Board of the Town of Winneconne 10-20-1994 as §§ 1.02 to 1.07, 1.10 to 1.15 and 1.33 of the 1994 Code. Amendments noted where applicable.]

### GENERAL REFERENCES

Boards, committees and commissions — See Ch. **9**.  
 Departments — See Ch. **25**.  
 Elections — See Ch. **32**.  
 Emergency government — See Ch. **46**.  
 Town Board — See Ch. **94**.

### § 70-1. Appointed officials.

[Amended 5-16-2019 by Ord. No. 2019-1]

The following Town officials shall be appointed in the manner and for the term indicated:

<b>Official</b>	<b>How Appointed</b>	<b>Term</b>
Assessor	Town Board	2 years
Attorney	Town Board	Indefinite
Building Inspector	Town Board	Indefinite
Highway Superintendent	Town Board	Indefinite
Fire Chief	Town Board	Indefinite
Police Chief	Town Board	Indefinite
Weed Commissioner	Town Board	1 year
Zoning Administrator	Town Board	Indefinite

### § 70-2. Oaths and bonds.

Elected and appointed officials shall take and file the official oath within five days after notice of their election or appointment and shall execute and file the official bond as required by state statutes and this Code.

### § 70-3. Removals.

- A. Elected officials. Elected officials may be removed by the Town Board as provided in § 17.13(2), Wis. Stats., by the Judge of the Circuit Court for cause under § 17.13(3), Wis. Stats., or as provided by § 17.16, Wis. Stats.
- B. Appointed officials. Appointed officials may be removed as provided in §§ 17.13(1) and (3) and 17.16, Wis. Stats.

## § 70-4. Vacancies.

- A. How occurring. Vacancies in elective and appointive positions are caused as provided in §§ 17.03 and 17.035, Wis. Stats.
- B. How filled. Vacancies in elective and appointive offices shall be filled as provided in § 17.25, Wis. Stats.

## § 70-5. Compensation.

- A. The salaries of all elected and appointed officials, including members of boards and commissions, shall be as determined by the Annual Town Meeting or Town Board, where applicable, when authorized under § 60.10(2)(k), Wis. Stats., provided that salaries and compensation rates of elected officials shall not be increased or reduced during their terms of office. (See § 60.32, Wis. Stats.)
- B. Except for offices combined under § 60.305, Wis. Stats., no Town officer shall be compensated for acting in more than one official capacity or office of the Town at the same time.

## § 70-6. Village powers adopted.

At the Annual Town Meeting on April 7, 1959, a motion was adopted granting the Town village powers.

## § 70-7. Powers of Town Board.

- A. Authority. The Town Board shall have all powers of the Town not specifically given to some other body or officer. Except as otherwise provided by law, the Town Board has power over property, finances, highways, streets, utilities and the public service; may act for the government and good order of the Town for its commercial benefit and for the health, safety, welfare and convenience of the public; and may carry its powers into effect by license, regulation, suppression, borrowing, taxation, special assessment, appropriation, imposition of forfeitures and other necessary or convenient means. The Town Board may appoint such officials from time to time as may be deemed necessary for the benefit of the community. In addition, the Board shall have the powers enumerated in § 60.22, Wis. Stats., and may exercise the powers enumerated in § 60.23, Wis. Stats. The powers hereby conferred shall be in addition to all other grants and shall be limited only by express language.
- B. Other provisions. See also Chapter **94**, Town Board, of this Code.

## § 70-8. Assessor.

- A. Appointment and term. See § **70-1**.
- B. Powers and duties.
  - (1) Applicable statute. See § 60.307, Wis. Stats.

- (2) Other duties prescribed by law. He shall perform such other duties as shall be prescribed by state law, supervisory personnel of the State Department of Revenue and the Town Board, including attendance at all meetings of the Board of Review.
- C. Confidentiality of income and expense information provided to Assessor for assessment purposes. [Added 4-20-2000]
- (1) Adoption. This subsection adopts by reference § 70.47(7)(af), Wis. Stats. Income and expense information provided by a property owner to the Assessor for the purposes of establishing the valuation for assessment purposes by the income method of valuation shall be confidential and not a public record open to inspection or copying under § 19.35(1), Wis. Stats.
- (2) Exceptions. An officer may make disclosure of such information under the following circumstances:
- The Assessor has access to such information in the performance of his/her duties.
  - The Board of Review may review such information when needed, in its opinion, to decide upon a contested assessment.
  - Another person or body has the right to review such information due to the intimate relationship to the duties of an office or as set by law.
  - The officer is complying with a court order.
  - The person providing the income and expense information has contested the assessment level at either the Board of Review or by filing a claim for excessive assessment under § 74.37, Wis. Stats., in which case the base records are open and public.

## § 70-9. Attorney.

- A. Appointment and term. See § 70-1 of this chapter.
- B. Powers and duties. The Town Attorney shall perform such duties as directed by the Town Board.

## § 70-10. Clerk.

The Town Clerk shall have such powers and perform such duties as prescribed by state law and directed by the Town Board. See § 60.33, Wis. Stats.

## § 70-11. Treasurer.

The Town Treasurer shall have such powers and perform such duties as prescribed by state law and directed by the Town Board. See § 60.34, Wis. Stats.

## § 70-12. Chief of Police.

- A. Appointment and term. See § 70-1 of this chapter.
- B. Jurisdiction and duties. See Chapter 25, § 25-2 of this Code.  
 [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Chapter 82. Records

[HISTORY: Adopted by the Town Board of the Town of Winneconne 10-20-1994 as §§ 1.30 and 1.31 of the 1994 Code. Amendments noted where applicable.]

## § 82-1. Authority.

This chapter is adopted under authority granted under § 19.35, Wis. Stats.

## § 82-2. Definitions.

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

### **AUTHORITY**

Any of the following having custody of a record: an elected official, agency, board, commission, committee, council or department or public body corporate and politic of the Town, created by constitution, law, ordinance, rule or order, or a formally constituted subunit of the foregoing.

### **RECORD**

Any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority of the Town. "Record" includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, film, recordings, tapes (including computer tapes), computer printouts and optical disks. "Record" does not include drafts, notes, preliminary computations and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working; materials which are purely the personal property of the custodian and have no relation to his office; materials to which access is limited by copyright, patent or bequest; and published materials in the possession of an authority other than a public library which are available for sale or which are available for inspection at a public library.

[Amended 4-21-2005]

## § 82-3. Legal custodian.

The Town Board does hereby designate the Town Clerk to be the legal custodian of all records kept in the Town, except those kept by the Treasurer and Assessor, and accordingly such Clerk is the authority under § 82-2 of such records. The Town Assessor is designated to be the legal custodian of his records and the authority under § 82-2, and the Town Treasurer is designated to be the legal custodian of his records and the authority.

## § 82-4. Access to records.

Access to records for the purpose of either inspection or copying may be had by giving an oral or written notice to the legal custodian of the records, and it is further provided that the legal custodian shall have at least 48 hours to locate and make available the requested record.

## § 82-5. Fees.

- A. Each authority shall impose a fee upon the requester of a copy of a record which may not exceed the actual necessary and direct cost of reproduction and transcription of the record, unless a fee is otherwise specifically established or authorized to be established by law.
- B. Each authority shall impose a fee upon the requester of a copy of a record for the actual, necessary and direct cost of photographing and photographic processing if the authority provides a

photograph of a record the form of which does not permit copying.

- C. Each authority shall impose a fee upon the requester of a record not in printed form on paper, such as films, computer printouts and audio or video tapes, which may not exceed the actual, necessary and direct cost of a copy of such record.
- D. Except as otherwise provided by law or as authorized to be prescribed by law, an authority may impose a fee upon a requester for locating a record, not exceeding the actual, necessary and direct cost of location, if the cost is \$50 or more.  
[Amended 4-21-2005]
- E. A fee for the actual cost of mailing or shipping of copies of documents will be charged.
- F. A prepayment will be required of any expenses which exceed \$5.
- G. An authority may provide copies of a record without charge or at a reduced charge where the authority determines that waiving or reducing the fee is in the public interest.

## § 82-6. Destruction of obsolete records.

[Added 9-18-2014]

- A. Title and purpose. This section is entitled the "Town of Winneconne Destruction of Obsolete Records Ordinance." The purpose of this section is to provide the Town officers of the Town of Winneconne with the authority to destroy certain obsolete public records in possession of the Town of Winneconne.
- B. Authority. The Town Board of the Town of Winneconne, Winnebago County, Wisconsin, has the specific authority under § 19.21(4), Wis. Stats., to manage and destroy obsolete public records in possession of the Town of Winneconne.
- C. Adoption of section. This section, adopted by a majority of the Town Board on a roll call vote with a quorum present and voting and proper notice having been given, authorizes the powers and establishes the duties of the Town officers of the Town of Winneconne to manage and destroy obsolete public records in the possession of the Town of Winneconne.
- D. Financial records. The Town of Winneconne Town officers, pursuant to § 19.21(5), Wis. Stats., may destroy the financial records, except utility records, of which they are the legal custodians and that are considered obsolete as provided below:
  - (1) Tax bills;
  - (2) Bank statements;
  - (3) Dog licenses;
  - (4) Accounts payable/accounts receivable;
  - (5) Tax settlements;
  - (6) Payroll ledgers;
  - (7) Audits; and
  - (8) Budgets from the years 1948 to 1999.
- E. Other records. The Town of Winneconne Town officers, pursuant to § 19.21(5), Wis. Stats., may destroy the following records of which they are the legal custodians and that are considered obsolete: poll lists from the years 1975 to 1979.
- F. Historical Society notification . Prior to the destruction of any public record described in Subsection **D** or Subsection **E**, at least 60 days' notice, in writing, shall be given to the State Historical Society

of Wisconsin.

## Chapter 94. Town Board

[HISTORY: Adopted by the Town Board of the Town of Winneconne 10-20-1994 as Ch. 2 of the 1994 Code. Amendments noted where applicable.]

### GENERAL REFERENCES

Powers of Town Board — See Ch. 70, § 70-7.

### § 94-1. Membership; election.

- A. The Town Board shall consist of five Supervisors, one of whom shall be designated Town Chairman.
- B. Two Supervisors shall be elected in even-numbered years and three, including the Chairman, shall be elected in odd-numbered years.  
[Amended 4-21-2005]
- C. The terms of office for any elected officers in the Town of Winneconne will commence on the third Tuesday in April.  
[Added 3-15-2012]

### § 94-2. Meetings.

- A. Annual Town Meeting and special Town elections. The Annual Town Meeting and special Town elections shall be held at the Town Hall.
- B. Regular meetings. Regular meetings of the Town Board shall be held on the third Thursday of each month at a time determined by Town Board action.  
[Amended 1-21-2016 by Ord. No. 2016-1]
- C. Special meetings.
  - (1) Special meetings of the Town Board may be called by the Chairman or any two members of the Town Board upon written notice of the time, purpose and place thereof to each member of the Board delivered to him personally or left at his usual place of abode at least six hours before the meeting.
  - (2) A special meeting may be held without notice when all members of the Board consent in writing to the holding of such meeting. Such consents must be filed with the Town Clerk prior to the meeting. Attendance at a meeting and participation therein without objection to the holding of the meeting shall constitute waiver of notice.
  - (3) At a special meeting no business shall be transacted other than that for which the meeting was called, except by unanimous consent of all members of the Board.
- D. Place of meetings. Unless otherwise specified in the notice of the meeting, all meetings of the Town Board shall be held at the Town Hall. If specified in the notice of the meeting, Town Board meetings may be held at another location in the Town or in any town, city or village within or adjoining the Town.
- E. Open Meeting Law. All meetings of the Town Board, its committees, boards and commissions shall be open to the public and preceded by public notice as provided in § 19.84, Wis. Stats.
- F. Adjournments. The Board may, by a majority vote of those present, but not fewer than three affirmative votes, adjourn from time to time to a specific date and hour.

## § 94-3. Order of business.

The business of the Board is to be conducted as determined by the Town Board.

## § 94-4. Presiding officer.

- A. Designated. The Chairman, at the stated hour, shall call the meeting to order. If the Chairman is absent at the designated time of any meeting, the Clerk or, in his absence, the senior Supervisor present, based on date of original election, shall call the meeting to order and the Supervisors present shall elect one of their number Acting Chairman for that meeting.
- B. Duties. The presiding officer shall preserve order and decorum, decide all questions of order and conduct the proceedings of the meeting. The presiding officer shall not vacate the Chair to speak on any question or make any motion.

## § 94-5. Quorum.

Three members of the Town Board shall constitute a quorum.

## § 94-6. Conduct of deliberations.

Deliberations of the Town Board shall be conducted in the following manner:

- A. No Supervisor shall address the Board until he has been recognized by the presiding officer. He shall then address himself to the Chairman and confine his remarks to the question under discussion and avoid all personalities.
- B. When two or more members simultaneously seek recognition, the presiding officer shall name the member who is to speak first.
- C. No person other than a member shall address the Board, unless recognized by the Chairman.
- D. No motion shall be discussed or acted upon until it has been seconded, unless the rules permit one Supervisor to initiate action. No motion shall be withdrawn without the consent of the person making the same and the person seconding it.
- E. When a question is under discussion, no action shall be in order except the following motions, which shall have precedence in the order listed:
  - (1) To adjourn;
  - (2) To lay on the table;
  - (3) To move the previous question;
  - (4) To postpone to a certain day;
  - (5) To refer to a committee;
  - (6) To amend; or
  - (7) To postpone indefinitely.
- F. Any Supervisor may demand an aye and nay vote on any matter, and such vote shall be entered in the proceedings. A majority vote of all members of the Board in favor of any proposed ordinance, resolution or appointment shall be necessary for passage or approval unless a larger number is



required by statute. Except as otherwise provided by these rules, a majority vote of those present shall prevail in other cases.

- G. A motion to adjourn shall always be in order, and a motion to adjourn or to lay on the table and a call for the previous question shall be decided without debate.

## § 94-7. Appropriations and accounts.

All ordinances or resolutions appropriating money or creating any charge against the Town, other than the payment of claims for purchases or work previously authorized by the Board, shall only be acted upon by the Board at the next regular meeting. This provision may be suspended by affirmative vote of two members of the Board. A roll call vote shall be taken and recorded on all appropriations.

## § 94-8. Reconsideration of question.

Any member voting with the majority may move for a reconsideration of the vote on any question at that meeting. A motion to reconsider being put and lost shall not be renewed. A Supervisor may not change his vote on any question after the result has been announced.

## § 94-9. Permission to leave required.

No Board member shall leave any meeting of the Town Board while in session without first asking permission of the presiding officer.

## § 94-10. Publication and effect of ordinances.

All ordinances and bylaws shall be signed by the Town Board and countersigned by the Clerk and, if any penalty or forfeiture is thereby imposed, shall be published as a Class 1 notice under Ch. 985, Wis. Stats., and shall take effect on the day after their publication or a later date if expressly prescribed. If there is no newspaper published in the Town, the Town Board may, in lieu of newspaper publication, have copies of ordinances and bylaws posted in at least three public places in the Town and proof thereof filed and recorded by the Town Clerk, and the same shall take effect the day after the proof of posting has been filed and recorded, or at a later date if expressly provided in the ordinance or bylaw.

## § 94-11. Amendment of rules.

These rules shall not be rescinded or amended unless the proposed amendment or motion to rescind has laid over from a regular meeting, and then it shall require a vote of three members of the Board.

## § 94-12. Suspension of rules.

These rules, or any part thereof, may be temporarily suspended in connection with any matter under consideration by affirmative vote of three members of the Board.

# Chapter 109. Adult Entertainment

[HISTORY: Adopted by the Town Board of the Town of Winneconne 8-21-2008. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Peace and good order — See Ch. 237.

Signs — See Ch. **256**.

Zoning — See Ch. **310**.

## § 109-1. Title.

The title of this chapter is the "Town of Winneconne Adult Entertainment Ordinance Chapter 109."

## § 109-2. Statutory authority.

The Town Board of the Town of Winneconne, Winnebago County, Wisconsin has the authority under its Village Powers under § 60.22(3), Wis. Stats., and the specific authority under § 61.34(1), Wis. Stats., to adopt this chapter.

## § 109-3. Authority to regulate and license.

The Town Board of the Town of Winneconne, Winnebago County, Wisconsin by this chapter, adopted on proper notice with a quorum and by a roll call vote by a majority of the Town Board present and voting, provides the authority of the Town of Winneconne to regulate and license adult entertainment in the Town of Winneconne. The Town Board of the Town of Winneconne, Winnebago County, Wisconsin, does hereby ordain as follows.

## § 109-4. Determinations.

Whereas, the Town of Winneconne finds that the adult entertainment businesses are frequently used for unlawful sexual activities, including prostitution and sexual liaisons of a causal nature; and whereas, the concern over sexually transmitted diseases is a legitimate health concern to the Town of Winneconne, which demands reasonable regulation of adult entertainment businesses in order to protect the health and well-being of the citizens; and whereas, there is convincing documented evidence that adult entertainment businesses have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime and the downgrading of property values; and whereas, the Town of Winneconne desires to minimize and control these adverse secondary effects and thereby protect the health, safety and welfare of the citizenry, protect the citizens from increased crime, preserve the quality of life, preserve the property values and character of surrounding neighborhoods, and deter the spread of urban blight; and whereas, it is not the intent of this chapter to suppress any speech activities protected by the First Amendment but to enact a regulation that addresses the negative secondary effects of adult entertainment businesses; and whereas, it is not the intent of the Town of Winneconne to condone or legitimize the distribution of obscene material; now, therefore, the Town of Winneconne ordains as follows.

## § 109-5. Purpose; findings.

- A. It is the purpose of this chapter to regulate adult entertainment businesses in order to promote the health, safety, and general welfare of citizens of the Town of Winneconne, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of adult entertainment businesses within the Town of Winneconne. The provisions of this chapter have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of adult entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material.

B. Findings. Findings are as follows:

(1) That the Town of Winneconne has done the following in the development of this chapter:

(a) Conducted a workshop presented by their legal counsel regarding the state of law regulating adult entertainment business and the concerns that adult entertainment businesses bring to the community.

(b) Read and utilized the following:

[1] A study entitled "Everything You Always Wanted To Know About Regulating Sex Businesses," by Eric Damian Kelly and Connie Cooper.

[2] Review of the following cases: *Young v. American Mini Theaters, Inc.*, 427 U.S. 50 (1976); *City of Renton v. Playtime Theaters, Inc.*, 475 U.S. 41 (1986); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *Kramer v. Schofield*, 342 F.Supp 2d 807 (Wd Wis 2004); *Ben's Bar Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003); *Heideman v. South Salt Lake City*, 165 Fed. App. 627 (2006).

[3] Village of Grafton, Wisconsin, Ordinance 9.35.

[4] Winnebago County, Wisconsin, Adult Entertainment Ordinance.

[5] Adult Entertainment, a 40-Acre Study, Development of Planning and Economic Development for the City of St. Paul.

(2) That the existence of adult entertainment businesses may increase the occurrence of unlawful sexual activities, this having a deleterious effect on the existing and surrounding commercial and residential areas, thus resulting in a downgrading of property values as well as causing an increase in criminal activity.

(3) That it is in the best interests of the Town of Winneconne to minimize and control any adverse secondary effects of adult entertainment establishments within the Town of Winneconne while preserving the right of free speech and protecting First Amendment rights to all citizens and recognizing the rights of citizens to patronize and operate adult entertainment establishments.

## § 109-6. Definitions.

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

### **ADULT ESTABLISHMENTS**

Includes adult bookstores, adult motion-picture theaters, adult bath houses, adult massage parlors, modeling studios, body painting studios, and adult cabarets, and are more specifically defined as:

#### **A. ADULT BOOKSTORE**

A commercial establishment that has a significant or substantial portion of its stock-in-trade, or derives a significant or substantial portion of its revenues, from books, magazines and other periodicals, videos, streaming videos, DVDs, tapes, and other similar items which are distinguished or characterized by their emphasis upon the exhibition or display of specific sexual activities or specified anatomical areas as defined herein. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as an adult bookstore, so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials that depict or describe "specified sexual activities" or specified anatomical areas. A principal business purpose need not be a primary use of an establishment so long as it is a significant use based upon the visible inventory or commercial activity of the establishment. This definition shall expressly exclude films, motion pictures, video cassettes, streaming videos, DVDs, slides or other similar

photographic reproductions given an R or NC-17 rating by the Motion Picture Association of America.

**B. ADULT MOTION-PICTURE THEATER**

A commercial establishment, held either indoors or outdoors, where, for any form of consideration, films, motion pictures, video cassettes, streaming videos, DVDs, slides, or similar photographic reproductions are regularly shown which are distinguished or characterized by the depiction or description of specified sexual activities or specified anatomical areas as defined herein. This definition shall expressly exclude films, motion pictures, videocassettes, streaming videos, DVDs, slides or other similar photographic given an R or NC-17 rating by the Motion Picture Association of America.

**C. ADULT BATH HOUSE**

A commercial establishment which provides the service of baths of all kinds, including all forms and methods of hydrotherapy, that is not operated by a medical practitioner or a professional physical therapist licensed by the State of Wisconsin and which establishment provides to its patrons an opportunity for engaging in specified sexual activities as defined in this chapter.

**D. ADULT MASSAGE PARLOR**

A commercial establishment or business with or without sleeping accommodations which provides the services of massage and body manipulation, including exercises, heat and light treatments of the body, and all forms and methods of physiotherapy, not operated by a medical practitioner or professional physical therapist licensed by the State of Wisconsin and which establishment provides for its patrons the opportunity to engage in specified sexual activity as defined in this chapter.

**E. ADULT MODELING STUDIO**

A commercial establishment or business which provides the service of modeling for the purpose of reproducing the human body, wholly or partially in the nude, by means of photography, painting, sketching, drawing or otherwise.

**F. ADULT BODY PAINTING STUDIO**

A commercial establishment or business wherein patrons are afforded an opportunity to paint images on a body which is wholly or partially nude. For purposes of this chapter, the adult body painting studio shall not be deemed a tattoo parlor.

**G. ADULT CABARET**

(1) A nightclub, dance hall, bar, restaurant, or similar commercial establishment which regularly features:

- (a) Persons who appear seminude; or
- (b) Live performances that are characterized by the exposure of specified sexual activities or specified anatomical areas; or
- (c) Films, motion pictures, video cassettes, streaming videos, DVDs, slides or other photographic reproductions which are characterized by the exhibition or display of specified sexual activities or specified anatomical areas.

(2) This definition shall expressly exclude films, motion pictures, video cassettes, slides or other similar photographic reproductions given an R rating or NC-17 rating by the Motion Picture Association of America.

**SPECIFIED SEXUAL ACTIVITIES**

- A. The fondling of another persons genitals, pubic region, anus or female breasts;
- B. Actual sex acts, normal or perverted, including intercourse, oral copulation, masturbation, or sodomy; or

- C. Excretory functions as part of or in connection with any of the activities set forth in Subsections **A** and **B** above.

### **SPECIFIED ANATOMICAL AREAS**

- A. The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
- B. Less than completely and opaquely covered human genitals, pubic region, vulva, anus or the nipple and areola area of the human female breast.

### **DIRECTLY**

To require physical contact. For instance, when this chapter prohibits an employee receiving a gratuity directly from a patron, it prohibits the direct touching of skin, other body parts or clothing.

### **DISTINGUISHED or CHARACTERIZED BY**

The dominant or principal object referenced. For instance when the phrase refers to films which are distinguished or characterized by an emphasis upon the exhibition or display of specified sexual activities or specified anatomical areas, the films so described are those whose dominant or principal character and theme are the exhibition or display of specified sexual activities or specified anatomical areas.

### **EMPLOYEE, EMPLOY and EMPLOYMENT**

Describe and pertain to any person who performs any service on the premises of an adult establishment on a full-time, part-time, or contract basis, regardless of whether the person is denominated as an employee, independent contractor, agent, or by another status. Employee does not include a person exclusively on the premises for the repair or maintenance of the premises, or for the delivery of goods to the premises.

### **OWNER or OPERATOR**

Any person on the premises of an adult entertainment business who is authorized to exercise operational control of the business, or who causes to function or who puts or keeps in operation the business. A person may be found to be operating or causing to be operated an adult entertainment business regardless of whether that person is an owner, part owner, or licensee of the business.

### **PREMISES**

The real property upon which the adult establishment is located and all appurtenance thereto and buildings thereon, including but not limited to the adult establishment, the grounds, the private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control or supervision of the owner or operator of the business.

### **REGULARLY FEATURES or REGULARLY SHOWS**

A consistent or substantial course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered as part of the ongoing business of the adult establishment.

### **SEMINUDE or SEMINUDE CONDITION**

The showing of the human male or female genitals, pubic area, vulva or anus, with not more than a complete opaque covering, or the showing of the female breast with not more than a complete opaque covering of any part of the nipple or areola.

## **§ 109-7. General standards and regulations for adult establishments.**

- A. Adult establishments shall only be permitted by a conditional use permit in C-1 Commercial zoning.

- B. No person, employee, entertainer or patron shall be permitted to have any physical contact with any entertainer on the premises of an adult entertainment business during any performance. To prevent actual physical contact between the entertainer and any other person, employee or patron, all performances shall only occur on a stage or on a table that is elevated at least eight inches above the immediate floor level and shall not be less than three feet from any areas occupied by a patron. Patrons shall not have any physical contact with and shall not be less than five feet from any entertainer during any performance, including, but not limited to, during the payment of a tip or gratuity. Any adult entertainment establishment deemed a legal nonconforming use when this chapter is enacted shall not have to reconstruct existing stages and tables but shall adhere to the prohibition against physical contact.
- C. No more than one of the above adult uses may be established on any one parcel, and the establishment of any one of the above adult uses shall be at least 600 feet from the establishment of any other adult use.
- D. No adult use shall be permitted within 600 feet of any land zoned residential or within 600 feet of a residential planned unit development or farm dwelling.
- E. No adult use shall be permitted within 600 feet from any public or private educational facility or church, including but not limited to any child day care establishments, nursery schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges and universities. "School" includes the school grounds, but does not include facilities used primarily for another purpose and only incidental at a school.
- F. No adult use shall be permitted within 600 feet from any municipally owned public park or recreational area which has been designated for park or recreational activities, including but not limited to a park, playground, nature trail, swimming pool, reservoir, athletic field, basketball or tennis court, pedestrian/bicycle path, wilderness area or other similar public land within the Town of Winneconne which is under the control, operation or management of the Town of Winneconne and recreational authorities.
- G. No adult use shall be permitted within 600 feet of any premises that in any manner sells or disperses alcohol or is licensed pursuant to the alcoholic beverage control regulations of the state.
- H. For purposes of this chapter, distances are to be measured in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where an adult entertainment business is conducted, to the nearest property line of the premises of a use listed in Subsections **C** through **G**. The presence of a city, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this chapter.
- I. The sale, use or consumption of any intoxicating or alcoholic beverage on the premises is prohibited.
- J. Signs advertising any of the aforementioned adult uses shall conform to Chapter **256** of the Code of the Town of Winneconne<sup>[1]</sup> with the exception, however, that no tower or portable signs or billboards shall be permitted on the premises, and with the further exception that signs will not depict specified sexual activities and/or specified anatomical areas as defined in the chapter, and provided further that there shall be no flashing or traveling lights located outside the building.
- [1] *Editor's Note: See Ch. 256. Signs.*
- K. Adequate parking shall be provided in a lighted area.
- L. There shall be no display windows on the premises.
- M. The owner and/or operator of the adult entertainment establishment shall agree to comply with all applicable state, federal and local laws, health regulations, ordinances and applicable licensing requirements, including obscenity, liquor and cabaret laws, and shall further ensure that minors are not permitted on the premises. Solicitation for purposes of prostitution shall be strictly prohibited.

- N. In the case of adult cabarets, there shall be compliance with Chapter **237** of the Code of the Town of Winneconne<sup>[2]</sup> for such establishments shall be limited to the same hours of operations for bars and taverns within that community within which the district is located.  
*[2] Editor's Note: See Ch. 237, Peace and Good Order.*
- O. In the case of adult motion-picture theaters held outdoors, the establishment shall comply with the same conditional use standards set forth for drive-in theaters in the C-1 District and shall furthermore comply with the standards set forth in Chapter **237** of the Town of Winneconne.<sup>[3]</sup> Furthermore, outdoor adult motion-picture theaters shall confine their hours of operation to those hours of operation established for bars and taverns within the community within which the establishment is located. Outdoor adult motion-picture theaters shall also have the viewing screen located in such a fashion as not to be visible from any road, street, highway or residence, and the premises shall be surrounded by solid fencing at least eight feet in height. All theaters shall be in compliance with § 134.46, Wis. Stats.  
*[3] Editor's Note: See Ch. 237, Peace and Good Order.*
- P. Prior to the establishment of an adult establishment, an inventory of the surrounding area and population shall be made by a registered land surveyor or planner, along with a study of the proposed development plans for the area so as to enable the Town of Winneconne Plan Commission to make appropriate findings relating to the effect of the establishment of such a district in that area.
- Q. The owner of the parcel of land upon which the adult entertainment use is to be established and the operator of the establishment and owner of the establishment shall appear in person before the Town of Winneconne Plan Commission.

## § 109-8. Principal uses.

No principal uses shall be permitted as a matter of right in the Town of Winneconne. All uses shall be conditional uses.

## § 109-9. Conditional uses.

Conditional uses shall be as follows:

- A. Adult bath houses.
- B. Adult body painting studios.
- C. Adult bookstores.
- D. Adult cabarets.
- E. Adult massage parlors.
- F. Adult motion-picture theaters.
- G. Adult modeling studios.
- H. All accessory, conditional, and principal uses of the adult establishments.

## § 109-10. Other applicable standards.

All applicable Town of Winneconne standards and ordinances shall be complied with, including lot area and width, setback requirements, building height requirements, and sanitary disposal systems.

## § 109-11. Application for conditional use permit.

An application for the issuance of a conditional use permit shall be made in accordance with Chapter **310** and must comply with Chapter **310**,<sup>[1]</sup> with the following findings:

- A. That all the standards and requirements of this chapter have been met.
- B. That the proposed zoning is consistent with the general intent of any comprehensive plan in existence.
- C. That the existing streets and utility services are adequate for the proposed use.

[1] *Editor's Note: See Ch. 310, Zoning.*

## § 109-12. Exclusions.

The provisions of this chapter do not apply to the following establishments: theaters, performing arts centers, civic centers, and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis; and in which the predominant business or attraction of the offering of entertainment which is intended for sexual interests or attraction of customers; and where the establishment is not distinguished by an emphasis on or the advertising or promotion of nude or seminude performances. While expressive live nudity may occur within these establishments, this chapter seeks only to minimize and prevent the secondary effects of adult entertainment businesses on the community. Negative secondary effects have not been associated with the establishments referenced in this section.

## § 109-13. Nonconforming uses.

Any adult entertainment establishment lawfully operating as of August 22, 2008, which is in violation of this chapter shall be deemed a nonconforming use. The nonconforming use shall be permitted to continue in substantially the same manner for a period not to exceed one year from the enactment of this chapter unless sooner terminated for any reason, voluntarily discontinued or brought into compliance with this chapter. After one year, the owner or operator of any adult entertainment business must comply with the provisions of this chapter. The existing structure(s) and the use contained herein, shall be exempt from the six-hundred-foot setback requirements of this chapter. Any expansion of the existing structure(s) and the use contained therein, shall adhere to the six-hundred-foot setback requirements of this chapter.

## § 109-14. Severability.

Any provisions stated in this chapter are hereby declared to be independent divisions and subdivisions, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this chapter, or the application thereof to any person or circumstance, is held to be invalid, the remaining ordinances or provisions, and the application of such remaining ordinances and provisions to any person or circumstances whatsoever, shall not be affected thereby, and it is hereby declared that such remaining ordinances and provisions would have been passed independently of the ordinance or provision so held to be invalid.

## § 109-15. When effective.

This chapter is effective on publication or posting.

## Chapter 112. Animals



[HISTORY: Adopted by the Town Board of the Town of Winneconne as indicated in article histories. Amendments noted where applicable.]

## Article I. Keeping of Animals

[Adopted 10-20-1994 as §§ 11.02 and 11.10 of the 1994 Code]

### § 112-1. Definitions.

Whenever any of the following terms are used in this article, such terms shall be deemed and construed to have the meaning ascribed to them as follows:

#### **CAT KENNEL**

A place where two or more cats are kept for purposes of sale, resale or boarding.

#### **DENSELY POPULATED AREA**

Any area within the Town where, on either side of any public highway, street or alley, within 1,000 feet along such highway, the buildings in use for residential purposes fronting thereon average not more than 250 feet apart.

#### **DOG KENNEL**

A place where two or more dogs are kept for purposes of sale, resale or boarding.

### § 112-2. Keeping of certain livestock prohibited.

No person, other than a person operating a farm of five acres or more in area, shall keep, maintain or harbor within the limits of any densely populated area within the Town as defined in § 112-1 any horse, cow, bull, steer, heifer, calf, sheep, goat, hog, captive wild animal, poultry, fowl, wild fowl in captivity, chickens, rabbits, mink or any other fur-bearing animal, except cats and dogs.

### § 112-3. Keeping of dogs and cats.

Nothing contained in this article shall prohibit the keeping of dogs and cats as pets in a densely populated area; provided, however, that no dog or cat kennel shall be permitted in densely populated areas as provided in § 112-4.

### § 112-4. Kennels prohibited.

No person shall keep a dog kennel or raise cats or dogs for sale within a densely populated area.

### § 112-5. Declaration of nuisance.

The keeping of any horse, cow, bull, steer, heifer, calf, sheep, goat, hog, captive wild animal, poultry, fowl, wild fowl in captivity, chickens, rabbits, mink or any other fur-bearing animal, except cats and dogs, in any densely populated area in the Town contrary to the provisions of this article and the maintaining of any dog or cat kennel in violation of § 112-4 above is hereby declared to be a nuisance and may be enjoined in an appropriate action by any resident of the Town.

### § 112-6. Violations and penalties.

Except as otherwise provided, any person who shall violate any provision of this article or any regulation, rule or order made hereunder shall be subject to a penalty as provided in Chapter 1, § 1-4 of this Code.

## Article II. Dogs

[Adopted 10-20-1994 as § 12.06 of the 1994 Code]

### § 112-7. License required; fees.

Every person, pursuant to Ch. 174, Wis. Stats., and this article, residing in the Town who owns a dog that on January 1 is at least five months old shall annually seek and obtain a dog license for his dog from the Town. The fee for the license shall be established annually by the Town Board, prior to January 1. The license year shall be from January 1 through December 31. Late fees shall be charged by the Town if the license is not purchased by April 1 or is not purchased within 30 days of bringing the dog into the Town or acquiring ownership of a licensable dog or if the owner failed to obtain a license on or before the dog reached licensable age.

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

### § 112-8. Application for license.

The application for the dog license shall include:

- A. A certificate of inoculation from a qualified veterinarian showing that the dog has been inoculated for rabies and distemper within two years of the application.
- B. The name of the owner.
- C. The address of the owner.
- D. The business and residential telephone number of the owner, if any.
- E. The current records of the owners.
- F. The name of the dog.
- G. The sex of the dog.
- H. Whether the dog is spayed or neutered.

### § 112-9. Dogs trained to lead blind or deaf persons.

Every dog specifically trained to lead blind or deaf persons is exempt from the dog license tax, and every person owning such a dog shall receive annually a free dog license from the Treasurer upon application.

### § 112-10. Compliance with laws required.

Every owner of a dog in the Town shall comply with Ch. 174, Wis. Stats., and this article.

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

### § 112-11. Dogs running at large.

No person shall allow his dog to run at large in the Town beyond the property owned or leased by him, unless the dog is accompanied by and is under his control or the control of another person.

## § 112-12. Untagged dogs.

No person shall own or keep any dog in the Town unless the dog is wearing a valid Town license tag attached to its collar.

## § 112-13. Control of dogs.

No person shall own or keep any dog in the Town that:

- A. Habitually pursues vehicles on highways, roads, streets and alleys in the Town.
- B. Physically assaults or attacks persons in the Town.
- C. Bites persons in the Town.
- D. Habitually barks or howls to the disturbance and annoyance of at least two persons residing in the Town.

## § 112-14. Impoundment.

Any officer may and a Town police officer shall attempt to capture and restrain any dog running at large and any untagged dog. The officer shall deliver dogs impounded by him to the facility contracted with by the Town to be held and disposed of. Possession of dogs impounded under this article may be obtained by contacting that facility and paying their required redemption fee. In addition, the owner or keeper shall reimburse the Town for any out-of-pocket costs reasonably incurred by the Town, including fees charged to the Town by the contracted facility.

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

## § 112-15. Listing and collection officials.

The Town Board has by this article and pursuant to §§ 174.06 and 174.065, Wis. Stats., named the Town Treasurer the listing official and collection official to list the dogs of the Town and collect the tax.

## § 112-16. Access to Town parks and recreation areas.

The Town Board does not permit access to or use of any Town public building and Town public parks and recreation areas by any dog or other domestic animal, except seeing eye dogs or other animals used to assist the visually handicapped.

## § 112-17. Rabies control program.

Section 95.21, Wis. Stats., is hereby incorporated by reference and made a part of this article. Any provisions of this article shall be read in conjunction with § 95.21, Wis. Stats.; however, it is the intent to make this article more restrictive pursuant to § 95.21(9).

## § 112-18. Number of dogs.

No person shall keep more than five domestic dogs over six months of age in any household in any area of the Town zoned for agricultural purposes. In all other areas of the Town no more than two dogs shall be kept in any household, unless a kennel permit has been issued by both the County of Winnebago and the Town under this article.

## § 112-19. Kennel permits.

The Town Board may grant kennel permits after a public hearing before the Town Board.

## § 112-20. Maintenance of dog pens.

Any person owning, keeping, possessing or harboring a dog who houses or confines the animal in a pen or enclosure shall keep and maintain the pen or enclosure in a clean, sanitary and odor-free condition. The Town Police shall be responsible for the enforcement of this section.

## § 112-21. Inhumane treatment.

No person shall be cruel or inhumane to any animal by beating, torturing, mutilating, cruelly killing, failing to provide adequate food, drink and shelter or by abandonment.

## § 112-22. State laws adopted.

The provisions of Ch. 174, Wis. Stats., are adopted by reference and made a part of this article to the extent applicable and not inconsistent with this article.

## § 112-23. Violations and penalties.

- A. If the owner of a dog negligently or otherwise violates §§ **112-11** and **112-12** of this article, the owner shall forfeit not less than \$25 nor more than \$100 for the first offense and not less than \$50 nor more than \$200 for subsequent offenses. These penalties are in addition to the charges set forth in § **112-14**.
- B. A first violation of any provision of sections other than §§ **112-11** and **112-12**, except where a specific penalty is otherwise set forth herein, shall be subject to a forfeiture of not less than \$25 nor more than \$200, together with the costs of prosecution, and in default of the payment of any such forfeiture and costs of prosecution such person shall be committed to the county jail until such forfeiture and costs are paid, but not exceeding 90 days.
- C. Any person violating this article who shall previously have been convicted of a violation of the same nature shall, upon proof and conviction thereof, be subject to a forfeiture of not less than \$50 nor more than \$300, together with the costs of prosecution, and in default of the payment of any such forfeiture and costs of prosecution shall be committed to the county jail until such forfeiture and costs of prosecution are paid, but not to exceed 90 days. These penalties are in addition to the charge set forth in § **112-14**.

## Chapter 117. Boating

[HISTORY: Adopted by the Town Board of the Town of Winneconne as indicated in article histories. Amendments noted where applicable.]

### GENERAL REFERENCES

Boating and waterskiing — See Ch. **232**, Art. **I**.

Zoning — See Ch. **310**.

## Article I. Motorboat Operation in Sensitive Wetland Areas

[Adopted 9-24-2009]

### § 117-1. Intent.

The intent of this article is to protect the fragile aquatic vegetation in the sensitive wetland areas.

### § 117-2. State boating and safety laws adopted.

Any state boating laws applicable to this article as found in §§ 30.50 to 30.71, Wis. Stats., are adopted by reference.

### § 117-3. Applicability and enforcement.

The provisions of this article shall apply to the areas hereinafter designated "sensitive wetland areas." The provisions of this article shall be enforced as provided in Wisconsin Statutes applicable under §§ 30.66, 30.68, 30.74, 30.745 and 30.77, Wis. Stats., by any law enforcement officer as defined under § 23.51(3) or § 939.22(22), Wis. Stats. The primary law enforcement agency shall be the Winnebago County Sheriff's Department.

### § 117-4. Definitions.

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

#### **BOAT**

Every description of watercraft used or capable of being used as a means of transportation on water.

#### **MOTORBOAT**

Any boat equipped with propulsion machinery, whether or not the machinery is the principal source of propulsion.

#### **OPERATION OF MOTORBOAT**

Controlling the speed or direction of the motorboat.

### § 117-5. Motorboats prohibited in certain areas.

No person shall operate a motorboat from July 1 to December 1 of each year within the following described portions of the waters of the Town of Winneconne designated as sensitive wetland areas.

- A. The following described lands are hereby designated as sensitive wetland areas: the northwest quarter and the southwest quarter of the southwest quarter of Section 27 Township 19 North, of Range 15 East, and the northwest quarter of the northwest quarter of Section 34 Township 19 North, of Range 15 East, in the Town of Winneconne, Winnebago County, Wisconsin.
- B. Additional sensitive wetland areas may be designated by resolution of the Town Board.

### § 117-6. Posting requirements.

The Town of Winneconne or any citizen who has been granted written permission by the Town Board shall place and maintain a synopsis of this article at all public access points to the sensitive wetland areas within the jurisdiction of the Town pursuant to the requirements of NR 5.15, Wis. Admin. Code.

## § 117-7. Violations and penalties.

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

## Chapter 120. Building Construction

[HISTORY: Adopted by the Town Board of the Town of Winneconne 10-21-2010.<sup>[1]</sup> Amendments noted where applicable.]

### GENERAL REFERENCES

Numbering of buildings — See Ch. **124**.

Fire prevention — See Ch. **165**.

Official Road Map — See Ch. **225**.

Sewers — See Ch. **252**.

Site plan review — See Ch. **258**.

Subdivision of land — See Ch. **275**.

Zoning — See Ch. **310**.

[1] *Editor's Note: This ordinance also repealed former Ch. 120, Building Construction, adopted 6-15-2000.*

## § 120-1. Statutory authority.

This chapter is adopted under the authority granted by § 101.65, Wis. Stats.

## § 120-2. Purpose; intent.

- A. The purpose of this chapter is to protect the public health, welfare and safety of the citizens of the Town of Winneconne through proper inspection of buildings and structures that are constructed and maintained within the Town of Winneconne by the issuance of an occupancy permit that certifies as to the ability and right to occupy such buildings and structures as being safe for human habitation and occupation.
- B. This chapter requires and regulates the issuance of occupancy permits for all classes of buildings and structures erected within the Town and for use in human habitation, human occupation, businesses of a commercial, industrial or other nature and all other structures that may be used or frequented by human beings.

## § 120-3. Dwelling and building codes adopted.

[Amended 12-19-2019 by Ord. No. 2019-6]

The Wisconsin Uniform Dwelling Code, Ch. SPS 316 and Chs. SPS 320 to 325, Wis. Adm. Code, the International Building Code and the National Electrical Code, and all amendments thereto, are adopted and incorporated by reference and shall apply as appropriate to all buildings within the scope of this chapter.

## § 120-4. Building Inspector.

There is hereby created the position of Building Inspector, who shall administer and enforce this chapter and shall be certified by the Division of Safety and Buildings, as specified by § 101.66(2), Wis. Stats., in the category of Uniform Dwelling Code Construction Inspector. Additionally, this or other assistant inspectors shall possess the certification categories of UDC HVAC, UDC Electrical, and UDC Plumbing.

## § 120-5. Building permit required.

No person shall alter, build, modify or add onto or alter any building within the scope of this chapter without first obtaining a building permit for such work from the Building Inspector. Any structural changes or major changes to mechanical systems that involve extensions shall require permits. Restoration or repair of an installation to its previous code-compliant condition as determined by the Building Inspector is exempted from permit requirements. Finishing of interior surfaces and installation of cabinetry shall be exempted from permit requirements.

## § 120-6. Occupancy permit required.

- A. No person, firm, business, association, partnership, company or other entity shall occupy or use any buildings or structures erected within the Town until an occupancy permit certifying as to its safety for human habitation, use or occupancy has been issued by the Building Inspector.
- B. An occupancy permit is required to better ensure that a building or structure will not be occupied prior to compliance with all applicable codes, laws, regulations and ordinances and that the project is completed as per the plans submitted with the building permit application.
- C. Application for an occupancy permit shall be concurrent with the application for a building permit. Payment of the building permit fee does not constitute approval for an occupancy permit.
- D. No occupancy permit shall be granted nor shall any permit escrow money be returned until the project is completed as per the plans submitted with the building permit application, with the exception of decks for dwelling units.
- E. The exterior items that shall be completed before occupancy include exterior wall finishes, exterior wall penetrations sealed; weathertight roofing, soffit, fascia, any porch and/or stoops shown on the plan, and the yard shall have the rough grade pitched away from the building.
- F. No occupancy permit shall be granted until the structure is connected to the approved sanitary sewer system, if applicable.

## § 120-7. Occupancy inspections.

The Building Inspector shall cause the building(s) or structure(s) for which a building permit has been issued to be completely and thoroughly inspected, including its structural, nonstructural, electrical, plumbing, life safety, mechanical and other components before an occupancy permit is issued. Inspections and approvals for the issuance of an occupancy permit shall include, in addition thereto, such systems as are required by the State of Wisconsin and Winnebago County before such occupancy permit is issued.

## § 120-8. Building permit escrow fee forfeiture and refund.

The building permit escrow fee shall be forfeited if the project is occupied or put into use prior to the granting of an occupancy permit. The building permit escrow fee shall otherwise be refunded upon final

inspection by the Building Inspector and upon issuance of an occupancy permit.

## § 120-9. Appeal of denial of occupancy permit; notice of violation.

- A. A person denied an occupancy permit by the Building Inspector may appeal such decision to the Town Board. Such appeals shall be made within 30 days of the date of such denial.
- B. When a violation has been identified, the Building Inspector shall give written notice indicating the code violation. If the violation is not remedied immediately, the Building Inspector shall report such violation to the Town Chairman, whose duty it shall be to bring the matter before the Town Board.

## § 120-10. Building permit fees.

The building permit fees shall be determined by resolution.

## § 120-11. Enforcement.

The enforcement of this chapter and all other laws and ordinances relating to building shall be by means of the withholding of building permits, imposition of forfeitures and injunctive action. The amount of the forfeiture assessed shall be twice the amount of the building permit fee at the time said forfeiture is assessed.

# Chapter 122. Buildings, Moving of

[HISTORY: Adopted by the Town Board of the Town of Winneconne 7-16-2015 by Ord. No. 2015-1.<sup>[1]</sup> Amendments noted where applicable.]

### **GENERAL REFERENCES**

Building construction — See Ch. **120**.

Numbering of buildings — See Ch. **124**.

Unsafe buildings — See Ch. **126**.

Mobile home parks and trailer camps — See Ch. **210**.

Streets and sidewalks — See Ch. **270**.

[1] *Editor's Note: This ordinance superseded former Ch. 122, Buildings, Moving of, adopted 8-15-2013.*

## § 122-1. Permit required.

No building shall be moved over the streets or roads of the Town unless a permit has been granted by the Town Building Inspector.

## § 122-2. Permit application procedure.

Any person wishing to move a building over the streets or roads of the Town shall apply on a form provided by the Building Inspector. Such application shall be signed by the owner of the property to where the building is being moved. The applicant shall include a site plan which includes plans for the foundation. The Building Inspector shall issue a building moving permit for relocation of the building in accordance with the application and in accordance with all Town ordinances and state law.

## § 122-3. Permit to state requirements; buildings on streets or roads.



- A. Permit to state requirements. Every permit issued shall state all conditions to be complied with and designate the route to be taken, and the limit of time for removal.
- B. Buildings on streets or roads.
  - (1) The moving of the building shall be continuous during all hours of the day and day by day until the moving is completed, to cause the least possible obstruction to streets or roads.
  - (2) No building shall be allowed to remain stationary overnight on any street or road, crossing or intersection.
  - (3) Flashing red warning lights shall be placed conspicuously at both ends of the building during night travel.
  - (4) If a building being moved must remain stationary on a street or road for any period time, permission for such shall be obtained from jurisdictional law enforcement and the Building Inspector.

## § 122-4. Conditions for grant of permit.

No permit shall be granted for the moving of buildings over the streets or roads of the Town without certain conditions being met as follows:

- A. The building shall be of such length, height and width that, in the opinion of the Building Inspector, it will not interfere with power lines, trees, and other structures along the route to be traveled.
- B. The applicant shall deposit with the Town Clerk a bond of \$10,000 with acceptable surety running to the Town conditioned that he will save and indemnify the Town against any costs, expenses, or damages which may in any way accrue against the Town by reason of moving and will hold the Town harmless against all liabilities, judgments, costs and expenses as a consequence of the granting of a permit.

## § 122-5. Notification of beginning of move.

- A. The mover of any building to whom a permit has been granted shall notify the Building Inspector of the time when moving is to begin.

## § 122-6. Buildings moved within Town.

- A. The Building Inspector shall issue a building moving permit for the relocation of said building in compliance with all building and zoning regulations.
- B. A relocation shall not be made if there is a protest of the relocation duly signed and acknowledged by the owners of 20% or more of the land immediately adjacent extending 100 feet therefrom or by the owners of 20% or more of the land directly opposite thereto extending 100 feet from the street or road frontage of such opposite land, unless so granted by a three-fourths vote of the Town Board.
- C. No building shall be moved from one location to another location within the Town if said building has been in existence more than 50% of its estimated life expectancy as set forth in Boeckh's Manual of Appraisals Depreciation Table for Buildings.
- D. No building shall be moved from outside the corporate limits of the Town to within the corporate limits of the Town, unless approved by the Building Inspector under Subsection **B** above.
- E. No building shall be moved from within the Town to outside the Town unless approved by the Building Inspector.

- F. Conformance with Building Ordinance. No permit shall be issued to move a building within or into the Town and to establish it upon a location within the said Town until the Building Inspector has made an investigation of such building at the location from which it is to be moved and is satisfied from such investigation that said building is in a sound and stable condition and of such construction that it will meet the requirements of the Building Ordinance in all respects. A complete plan of all further repairs, improvements and remodeling with reference to such building shall be submitted to the Building Inspector, and he shall make a finding of fact to the effect that all such repairs, improvements and remodeling are in conformity with the requirements of the Building Ordinance and that, when the same are completed, the building as such will so comply with said Building Ordinance. In the event a building is to be moved from the municipality to some point outside the boundaries thereof, the provisions with respect to the furnishing of plans and specifications for proposed alterations to such building may be disregarded.
- G. Insurance. The Building Inspector shall require, in addition to said bond above indicated, public liability insurance covering injury to one person in the sum of not less than \$100,000 and for one accident in a sum not less than \$200,000, together with property damage insurance in a sum not less than \$50,000 or such other coverage as deemed necessary.
- H. Street repair. The Town Highway Superintendent shall inspect the route over which the building will travel prior to the date of the move. Every person receiving a permit to move a building shall, within one day after said building reaches its destination, report that fact to the Building Inspector, who shall thereupon, in the company of the Town Highway Superintendent, inspect the streets and highways over which said building has been moved and ascertain their condition. If the move of said building has caused any damage to any street or highway, the person to whom the permit was issued shall forthwith place it in good repair as it was before the permit was granted. On the failure of said permittee to do so within 10 days thereafter to the satisfaction of the governing body, said body shall repair the damage done to such streets and hold the person obtaining such permit and the sureties on his bond responsible for the payment of the same.
- I. Stop-work order. Whenever the provisions of this chapter or of the plans approved thereunder are not complied with, a stop-work order shall be served on the owner or his representative and a copy thereof shall be posted at the site of the construction. Such stop-work order shall not be removed except by written notice of the Building Inspector after satisfactory evidence has been supplied.

## § 122-7. Moving of small buildings on trucks or trailers.

- A. Smaller buildings of one story in height and not more than 16 feet wide, including cornice, may be moved on a truck or trailer equipped with pneumatic tires.
- B. All conditions required for the moving of buildings shall be met except for § 122-4B. The following will replace it:
- (1) A police escort shall be required if a bridge will be crossed.

## § 122-8. Time limitations and special provisions.

All sites which have either a hole or a basement located on the lot for the purpose of moving a building to the site or from the site shall have a protective fence surrounding the hole or basement foundation. The protective fence shall be at least four feet tall and shall not allow for a six-inch sphere to pass through the fence. The fence shall be in good condition and shall prevent entry onto the hole site. The protective fence as described herein shall remain at the site during all times the hole or basement foundation remains open. However, no protective fence shall be allowed for a period of time to exceed 12 months from the date the hole or open basement foundation is established. Prior to the end of the twelve-month time frame, a building shall be placed upon the hole or open basement foundation site. In the event the hole or open basement foundation is not covered with a building as provided herein, then the Town shall provide notice to the owner of the land that, pursuant to the police powers of the Town, if

the open hole or open basement foundation is not covered with a building within 30 days, then the Town, at the Town's discretion, may remove any basement foundation and restore the site to grade. Any costs incurred by the Town's action as set forth herein shall be billed to the owner of the property and placed as a special lien against the property.

## § 122-9. Removal or relocation of buildings or mobile or manufactured homes.

Before a building, mobile home or manufactured home can be moved or relocated, the owner or agent shall notify all utilities having service connections within the building, such as water, electric, gas, sewer and other connections. A permit to remove or relocate a building, mobile home or manufactured home shall not be issued until a release is obtained from the utilities stating that their respective service connections and appurtenant equipment, such as meters and regulators, have been removed or sealed and plugged in a safe manner.

## § 122-10. Lot regulation.

Whenever a building, mobile home or manufactured home is moved or relocated, the premises shall be maintained free from all unsafe or hazardous conditions by the proper regulation of the lot, restoration of established grades and the erection of the necessary retaining walls and fences in accordance with the ordinances. The Building Inspector is hereby authorized to act for the municipality under the provisions of § 66.05, Wis. Stats., relating to the razing of buildings, and all acts amendatory thereof and supplementary thereto. The Town Treasurer is authorized to place the assessment and collect the special tax as therein provided.

## § 122-11. Fees.

- A. No permit to begin work for new construction, alteration, removal, moving or other building operation shall be issued until the fees prescribed in this chapter shall have been paid to the Building Inspector, nor shall an amendment to a permit, necessitating an additional fee because of an increase in the estimated cost of the work involved, be approved until the additional fee shall have been paid.
- B. Special fees. The payment of the fee for the construction, alteration, moving or removal and for all work done in connection with or concurrently with the work contemplated by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees that may be prescribed by law or ordinances for water taps, sewer connections, electrical permits, erection of signs and display structures, marquees or other appurtenant structures, or fees for inspections, certificates of use and occupancy or other privileges or requirements, both within and without the jurisdiction of the Building Inspector or his/her designees.
- C. Moving of buildings. The fee for a building permit for the removal or moving of a building or structure from one lot to another or to a new location on the same lot shall be per the Town of Winneconne fee schedule and shall be paid to the Town Clerk.
- D. Refunds. In the case of a revocation of a permit or abandonment or discontinuance of a building project, refunds shall be at the discretion of the Building Inspector. Refunds, if granted, shall only include fees that are refundable, and they shall be based on the amount of work completed.

## § 122-12. Violations and penalties.

- A. Except as otherwise provided in this chapter, any person who shall violate any provision of this chapter shall be subject to a penalty as provided in Chapter 1, § 1-4, of this Code.

- B. In addition to any penalty imposed for violations of this chapter, any person who shall cause physical damage to or destroy any public property shall be liable for costs of replacing or repairing such damage or destroyed property.

## Chapter 124. Buildings, Numbering of

[HISTORY: Adopted by the Town Board of the Town of Winneconne 6-19-2008.<sup>[1]</sup> Amendments noted where applicable.]

### GENERAL REFERENCES

Building construction — See Ch. 120.

Moving of buildings — See Ch. 122.

Unsafe buildings — See Ch. 126.

Subdivision of land — See Ch. 275.

[1] *Editor's Note: This ordinance also repealed former Ch. 124, Buildings, Numbering of, adopted 5-16-2002 (§ 8.03 of the 1994 Code), as amended.*

### § 124-1. Numbering system.

All building structures for residential, commercial, industrial or other uses in the Town of Winneconne, Winnebago County shall be assigned an E-911 number.

### § 124-2. Assignment of numbers.

The E-911 numbers shall be requested by the property owner from the Winnebago County GIS Department. Winnebago County will notify the Town of Winneconne of the newly assigned E-911 number.

### § 124-3. Responsibility of owner to procure numbers.

Whenever any house building or structure shall be erected in the Town of Winneconne, in order to preserve the continuity of numbers of all houses, buildings or structures, the owner shall procure the correct number as designated from the Town for the property and immediately install the number so assigned as provided in this chapter. No building permit shall be issued for any house, building or structure until the owner has procured the official E-911 number sign for the premises.

### § 124-4. Costs.

After the initial installation of the E-911 signs in the summer of 2008, the cost of the sign, hardware and post shall be borne by the property owner and shall be included in the charge for a building permit. Replacement signs, hardware and posts shall be charged to the property owners and such fees will be paid to the Town Clerk.

### § 124-5. Installation.

Each property is required to display the Town of Winneconne adopted, standardized E-911 number sign. The Town of Winneconne will obtain and install the initial set of E-911 signs throughout the Town. New or replacement signs installed after the initial install has been completed shall be installed as follows: six-and-one-half-foot posts are to be installed approximately 24 inches in the ground, approximately 15 feet from the edge of the left side of the driveway facing the building from the road, and on the back

edge of the right-of-way. The alternate location would be the right side of the driveway with the same measurements. Alternate locations may be necessary due to foliage, lot line boundaries or other obstructions that would compromise the effectiveness of the sign if installed in the primary location.

## § 124-6. Maintenance.

Property owners are responsible to maintain their E-911 number sign in a fashion that meets the requirements of this chapter and subsequent amendments. Failure to maintain their E-911 number sign and post or failure to install E-911 number signs after notification from the Town will cause property owners to be subject to the penalties as provided in Chapter 1, § 1-4 of this Code.

## § 124-7. Violations and penalties.

Any person found in violation of this chapter shall be subject to penalties as provided in Chapter 1, § 1-4 of this Code.

# Chapter 126. Buildings, Unsafe

[HISTORY: Adopted by the of the by Town Board of the Town of Winneconne 4-21-2005. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Building construction — See Ch. 120.

Moving of buildings — See Ch. 122.

Numbering of buildings — See Ch. 124.

Nuisances — See Ch. 219.

## § 126-1. Right of condemnation.

All buildings or structures that are or hereafter shall become unsafe, unsanitary, or deficient in adequate exit facilities, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or which by reason of illegal or improper use, occupancy or maintenance, shall be deemed unsafe buildings or structures. All unsafe buildings shall be taken down and removed or made safe and secure, as the Building Inspector or designees may deem necessary and as provided in this section. A vacant building, unguarded or open at door or window, shall be deemed a fire hazard and unsafe within the meaning of the Town Building Code.

## § 126-2. Examination and record of damaged building.

The Building Inspector or designees shall examine every building or structure reported as dangerous, unsafe structurally or constituting a fire hazard and shall prepare a report for unsafe structures and premises, stating the use of the building, and the nature of damages, if any, caused by collapse or failure.

## § 126-3. Notice of unsafe building.

- A. If an unsafe condition is found in a building or structure, the Building Inspector or designees shall give notice of such findings to the owner, agent or person in control of the building or structure and order compliance with the ordinance as hereinafter provided. Such notice shall describe the building or structure deemed unsafe and shall require repairs or improvement to be made to render the building or structures safe and secure, or require the unsafe building or structure or portion thereof

to be demolished. Such notice and order shall be in writing on an appropriate form and shall include:

- (1) A list of the violation(s), with reference to the code sections violated.
- (2) Specification of a reasonable time for compliance.

- B. Such notice and order shall be served upon the owner, agent or person in control of the building or structure; however, the notice and order shall be deemed to be properly served if such owner, agent or person in control of the building or structure is sent a copy thereof by U.S. Postal Service to his last known address and a copy is posted in a conspicuous place in or on the building or structure affected.

## § 126-4. Restoration of unsafe building.

A building or structure condemned by the Building Inspector or designees may be restored to a safe condition; except that if the damage or cost of reconstruction or restoration is in excess of 50% of its replacement value, exclusive of foundations, such building shall be made to comply in all respects with the requirements for materials and methods of construction of buildings hereafter erected.

## § 126-5. Service connections.

Before a building can be demolished or removed or a mobile or manufactured home can be moved or relocated, the owner or agent shall notify all utilities having service connections within the building such as water, electric, gas, sewer and other connections. A permit to demolish, remove or relocate a building shall not be issued until a release is obtained from the utilities stating that their respective service connections and appurtenant equipment such as meters and regulators have been removed or sealed and plugged in a safe manner.

## § 126-6. Fees.

- A. No permit to begin work for new construction, alteration, removal, moving or other building operation shall be issued until the fees prescribed in this chapter shall have been paid to the Building Inspector or designees, nor shall an amendment to a permit, necessitating an additional fee because of an increase in the estimated cost of the work involved, be approved until the additional fee shall have been paid.
- B. Special fees. The payment of the fee for the construction, alteration, removal or demolition and for all work done in connection with or concurrently with the work contemplated by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees that may be prescribed by law or ordinances for water taps, sewer connections, electrical permits, erection of signs and display structures, marquees or other appurtenant structures, or fees for inspections, certificates of use and occupancy or other privileges or requirements, both within and without the jurisdiction of the Building Inspector or designees
- C. Demolition. The fee for a permit for the demolition of a building or structure shall be per the Town of Winneconne fee schedule.
- D. Refunds. In the case of a revocation of a permit or abandonment or discontinuance of a building project, refunds shall be at the discretion of the Building Inspector. Refunds, if granted, shall only include fees that are refundable and they shall be based on the amount of work completed.

## § 126-7. Violations and penalties.

Upon refusal or neglect of the person served with an unsafe notice to comply with the requirements of the order to abate the unsafe condition, the following remedies and penalties shall apply:

- A. Except as otherwise provided in this chapter, any person who shall violate any provision of this chapter shall be subject to a penalty as provided in Chapter 1, § 1-4, of this General Code.
- B. In addition to any other penalty imposed in this General Code, the Town shall have the right to abate the unsafe condition, and the cost of abating the unsafe condition by the Town shall be collected as a debt from the owner, occupant, or person causing, permitting, or maintaining the unsafe condition; and if notice to abate the unsafe condition has been given to the owner, such costs shall be assessed against the real estate as a special charge.
- C. The Town shall have the right to seek injunctive relief.

## Chapter 129. Burning, Outdoor

[HISTORY: Adopted by the Town Board of the Town of Winneconne 12-21-2000 (§ 9.04 of the 1994 Code). Amendments noted where applicable.]

### **GENERAL REFERENCES**

Fire prevention — See Ch. 165.

### § 129-1. Definitions.

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

#### **DESIGNATED AREA**

An open pit with a minimum size of nine square feet with a surface that does not contain any yard waste.

#### **GARBAGE**

Discarded materials resulting from the handling, processing, preparation, storage, cooking and consumption of food, and discarded animal feces.

#### **OPEN BURNING**

Burning from which the products of combustion are emitted directly into the air without passing through a stack or chimney.

#### **REFUSE**

All matters produced from industrial or community life subject to decomposition.

#### **SOLID WASTE**

Garbage, refuse, recyclable materials and all other discarded or salvageable solid materials, including solid waste materials resulting from industrial, commercial, and agricultural operations and from domestic use and public service activities.

#### **YARD WASTE**

Leaves, grass clippings, yard and garden debris and brush, including clean woody vegetative material no greater than three inches in diameter.

### § 129-2. Open burning prohibited.

Except as provided in § 129-3 below, no person shall engage in the open burning of any garbage, solid waste, or other refuse of any kind on any public property or private property located within the Town of Winneconne.

## § 129-3. Exceptions.

Section **129-2** shall not apply to the following:

- A. Leaf burning and yard waste. Dry leaves and yard waste, provided that the fire and smoke resulting therefrom are supervised by an adult and that the fire is within view of the adult at all times. No wet leaves or wet, fresh cut grass may be burned. The first time a person is informed by Town authorities that he is engaged in the open burning of wet leaves or wet, fresh cut grass, the person shall be advised as to the provisions of this chapter and will be requested to extinguish the fire. Any violation of this chapter occurring thereafter on the same property shall result in a penalty being imposed as herein provided.  
[Amended 8-19-2010]
- B. Food preparation. The open burning of fuel for cooking food, such as a barbecue or other similar outdoor activity, if confined to a proper cooking device, such as a grill or open pit, and if the flame of such fire does not exceed four feet in height.
- C. Campfire. The open burning of branches and sticks for a campfire, provided that such burning takes place in a designated area and the flame of such fire does not exceed four feet in height.

## § 129-4. Special burning permits.

[Amended 4-21-2005]

The Town Board shall have the authority to issue special burning permits, subject to the approval of the Fire Chief of the Winneconne Poygan Fire District, allowing open burning in circumstances not listed in § **129-3** of this chapter as deemed appropriate.

## § 129-5. Burning materials on public roadway.

Under no circumstances shall there be burning of any materials on any public roadway.

## § 129-6. Authority of Fire Chief to ban open burning.

[Amended 4-21-2005]

The Fire Chief of the Winneconne Poygan Fire District shall have the authority to ban all open burning, except open burning used in food preparation, when weather conditions are such that open burning would threaten life and/or property. Notice of a ban on all open burning shall be posted at the Town Hall and published in the official Town newspaper.

## § 129-7. Violations and penalties.

Any person, firm, or corporation violating the provisions of this chapter shall, upon conviction thereof, be subject to the penalty provisions of Chapter **1**, § **1-4** of this Code. Each violation and each day a violation continues or occurs shall constitute a separate offense. The imposition of a penalty under this chapter shall not prohibit the Town from maintaining a separate action against the violator to secure monetary damage for any damage caused by the burning.

## Chapter 135. Cable Television

[HISTORY: Adopted by the Town Board of the Town of Winneconne 10-20-1994 as Ch. 23 of the 1994 Code. Amendments noted where applicable.]



## § 135-1. Word usage and definitions.

For the purpose of this chapter the following terms, phrases, words and their derivation shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular number; and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

### **ANNUAL GROSS SUBSCRIBER REVENUES**

Those revenues derived from the supplying of regular subscriber service, that is, the installation fees, disconnect and reconnect fees and fees for regular cable benefits, including the transmission of broadcast signals and access and origination channels, and revenues derived from per-program or per-channel charges, if any. It does not include revenues derived from leased channel revenues, advertising revenues or any other income derived from the system.

### **CABLE TELEVISION SYSTEM, CABLE SYSTEM or SYSTEM**

A system of coaxial cables or other electrical conductors and transmission equipment used or to be used primarily to receive television or radio signals directly or indirectly off the air and transmit them and other related services to subscribers for various fees.

### **COMPANY**

Anyone granted the franchise in accordance with the provisions of this chapter.

### **TOWN**

The Town of Winneconne.

## § 135-2. Grant of nonexclusive franchise.

The Town hereby grants to the company a nonexclusive franchise for a period of 15 years, unless sooner terminated pursuant to the provisions of this chapter, to install, operate and maintain throughout the Town in, upon, along, across, above, over and under the streets, alleys, easements (including utility easements), public ways and public places as now laid out or dedicated, and all extensions thereof and additions thereto, a system of wires, cables, underground conduits, ducts, trenches, conductors, amplifying equipment, manholes, fittings and any and all other fixtures, appliances and appurtenances necessary for the installation, ownership, maintenance and operation in the Town of a cable television system for the purpose of distribution of cable television and related services to inhabitants within the limits of the Town. The rights are granted herein by the Town after due consideration and approval by the Town of the legal, character, financial, technical and other qualifications of the company and the adequacy and feasibility of its construction arrangements, as part of a full public proceeding affording due process, which includes specific notice of the consideration of the company's construction policy.

## § 135-3. Compliance with applicable laws and ordinances.

The company shall at all times during the period of this franchise and any renewal thereof be subject to all lawful exercise of the police power by the Town and to such reasonable regulations by the Town as the Town shall provide pursuant to § 138-18 of this chapter. The company shall comply with all laws, statutes, codes, ordinances, rules or regulations applicable to its business, including those of the Federal Communications Commission, and will comply with the Equal Employment Opportunity Act.

## § 135-4. Applicable area.

- A. This chapter shall apply to the present territorial limits of the Town and to any area henceforth added thereto during the period of a franchise. Nothing herein contained is intended to preclude the company from extending its cables and equipment to other portions of the Town or outside the

Village of Winneconne for the purpose of serving other areas, provided that the company is legally authorized to service the other areas.

- B. The company shall be required to build in those sections of the Town that meet a density standard of 60 homes per cable mile, including interconnecting trunk.

## § 135-5. Liability and indemnification.

- A. Damages and penalties. The company shall pay all damages and penalties which the Town, its officers, boards, commissions, agents and employees may legally be required to pay as a result of the grant of authority to it under the terms of this chapter. These damages or penalties shall be for all damages arising out of the installation, operation and maintenance of the cable system authorized herein, whether or not any act or omission complained of is authorized, allowed or prohibited by this chapter.
- B. Expenses. The company shall pay all expenses incurred by the Town, its officers, boards, commissions, agents and employees in defending itself with regard to all damages and penalties mentioned in Subsection **A** above. These expenses shall include all out-of-pocket expenses, such as attorney fees.
- C. Insurance.
- (1) The company shall maintain throughout the period of this chapter liability insurance insuring the Town, its officers, boards, commissions, agents and employees and the company in the minimum amount as follows:
    - (a) For personal injury or death resulting from any one occurrence: \$1,000,000.
    - (b) For property damage resulting from any one occurrence: \$500,000.
  - (2) The insurance policies mentioned above shall contain an endorsement stating that the policies are intended to cover the liability assumed by the grantee under the terms of this chapter and shall contain the following endorsement: "It is hereby understood and agreed that this policy may not be canceled nor the amount of coverage thereof reduced until 30 days after receipt by the Town Clerk by registered mail of two copies of a written notice of such intent to cancel or reduce the coverage."
  - (3) All policies of insurance or certified copies thereof and written evidence of payment of required premiums shall be filed and maintained with the Town Clerk during the term of any franchise granted hereunder or any renewal hereof.
- D. Application. The company shall apply for the license and permits necessary for the construction and operation of the cable television system herein described within 60 days of the filing of the company's unconditional acceptance of this permit.

## § 135-6. Service standards and requirements.

- A. The company shall provide and maintain its services in accordance with the best accepted standards of the industry so as to provide its subscribers with the highest possible level of quality and reliability. The company's service shall include same-day service response seven days a week for all complaints and requests for repair or adjustments received prior to 2:00 p.m. each day. In no event shall the response time for calls received subsequent to 2:00 p.m. exceed 24 hours.
- B. Whenever it shall be necessary to shut off or interrupt service for the purpose of making repairs, adjustments or installations, the company shall do so at such times as will cause the least amount of inconvenience to its subscribers, if reasonably practical, and unless such interruption is unforeseen and immediately necessary, the company shall give reasonable notice thereof to its subscribers.

- C. In the event of any interruption of service, whether planned or unforeseen, the company shall proceed with due diligence and restore service as quickly as possible under the circumstances.
- D. The company shall be responsible for adopting procedures for the investigation and resolution of complaints relating to the operation of the company's cable television system, and the Town shall have no responsibility for the administration and implementation of such procedures. Notice of the procedures for reporting and resolving complaints will be given to each subscriber at the time of initial subscription to the cable system. The company shall maintain an office (customer service center) in Omro, Wisconsin, which is staffed during regular business hours, Monday through Friday, of each week.
- E. The community antenna, television and audio communication system will be so designed, engineered and maintained by the company as not to interfere with the television reception of the residents of the Town who do not subscribe to its service. Neither the Town nor the company shall require the removal, offer to remove or provide any inducement for removal of any potential or existing subscriber's antenna as a condition of provision of service.

## § 135-7. Rates and charges.

- A. The company shall establish initial rates and charges for basic service. With the granting of any franchise hereunder, the company may fix all rates and charges for the basic service herein defined, such as:
  - (1) Charges for installation.
  - (2) Subscriber rates.
  - (3) Service charges for separate classification of service (e.g., additional connections, etc.)
- B. Once established, such rates or charges shall not be changed for a period of two years. Thereafter, rates and charges may be reestablished after due notice.
- C. Rates and charges for any service, other than the basic service, shall also be filed with the Town Clerk at least 30 days prior to their effective date.
- D. All rates or charges shall be fair and reasonable and calculated to offset all necessary costs for provision of the services, including a fair rate of return on the company's investment devoted thereto under efficient and economical management.
- E. Should the company after two years or at any other time during the period that this chapter is in force decide to change its rates, it will, in addition to the notification to the Town Board of the proposed change, agree to appear before the Town Board and make a presentation of the reasons which occasion the change in rates. The company shall make late charges only that are fair and reasonable, and in case such rates are found to be unreasonable and unjust by the Town Board, the Town Board shall have the authority to accept or reject the rate increase. The information supplied by the company to the Town Board in connection with the supervision of rates shall be adequate to fully inform the Town Board as to the income, costs and other factors which must be ascertained on the question of reasonableness of rates.
- F. Neither the Board nor the company shall, as to rates, charges, service, service facilities, rules, regulations or in any other respect, make or grant any preference or advantage to any person or subject any person to prejudice or disadvantage.

## § 135-8. Additional service.

- A. Company to provide one connection without charge. The company shall provide without charge and upon request within the Town one connection, together with monthly basic service, to such public, parochial, nonprofit, private schools, Town buildings and agency locations as the Town may

hereafter designate within 200 feet of the cable system. The Town reserves the right, at its expense, to extend service to as many areas within such school buildings and agencies as it deems desirable without payment of any additional fee to the company.

- B. Company to provide closed-loop system or equivalent service. The company will provide either a closed-loop system or equivalent service capable of doing the following:
- (1) Transmission to all educational buildings on a channel not normally received by cable subscribers.
  - (2) Providing input to this system per the school's choice.

## § 135-9. Safety requirements.

- A. The company shall at all times employ reasonable care in conducting its operations and shall install and use generally accepted methods and devices for preventing failure and accidents which are likely to cause damage, injuries or nuisances to the public.
- B. The company shall install and maintain its wires, cables, fixtures and other equipment in accordance with the applicable requirements of the National Safety Code and local ordinances.
- C. The company shall maintain at all times its structures, lines, equipment and connections in, over, under or upon the streets, sidewalks, alleys and public ways or places of the Town, wherever situated or located, in a safe, suitable, substantial condition and in good order and repair.

## § 135-10. New developments.

It shall be the policy of the Town to amend this chapter liberally, upon application of the company, to take advantage of any developments in the field of transmission of television signals and related services which will afford the company an opportunity more effectively, efficiently or economically to serve its customers. The Town shall amend this chapter upon application of the company, when necessary, to enable the company to respond to changes in Federal Communications Commission regulations or other applicable governmental rules or requirements. Such amendments shall be made by the Town within one year from the date of any such changes in such rules, regulations or requirements or at the time of permit renewal, whichever occurs first.

## § 135-11. Conditions on street occupancy.

- A. All transmission and distribution structures, lines and equipment erected by the company within the Town shall be located so as to cause minimum interference with the proper use of streets, alleys and other public ways and places and to cause minimum interference with the rights and reasonable convenience of property owners whose land may adjoin any of the streets, alleys or other public ways and places.
- B. In case disturbance of any street, sidewalk, alley, public way or paved area is caused by the company's construction or operations, the company shall, at its own cost and expense and in a manner approved by the Town's appropriate authority, replace and restore such street, sidewalk, alley, public way or paved area to a condition as good as its condition before the work causing such disturbance was performed.
- C. The company shall have the right under the supervision of the Town's appropriate authority to trim trees overhanging streets, alleys, sidewalks and public ways and places of the Town so as to prevent the branches of such trees from coming in contact with the wires and cable of the company or otherwise interfering with the operations of the company, provided that such authority shall be within the Town's legal powers.

- D. The company shall, at the request of any person holding a building moving permit issued by the Town, temporarily raise or lower its wires to permit the moving of the building. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same, and the company shall have authority to require such payment in advance. The company shall be given not less than 72 hours' advance notice to arrange for such temporary wire changes.

## § 135-12. Joint use of public utility facilities.

It is the policy of the Town to minimize the number of utility poles, support structures and conduits within the Town to promote the safety, health, convenience and general welfare of the Town and its inhabitants. Any franchise granted hereunder shall not relieve the grantee of any obligation involved in obtaining pole or conduit use agreements from the gas, electric and telephone companies or others maintaining poles or conduits in the streets or roads of the Town, whenever the company finds it necessary to make use of such poles or conduits. In areas where either telephone or electric utility facilities are aboveground at the time of installation, the company may install its service aboveground, provided that at such time as those facilities are required to be placed underground by the Town or are placed underground, the company shall likewise place its services underground without additional cost to the residents of the Town.

## § 135-13. Subscriber deposits.

- A. The company may, in its discretion, require from any subscriber a deposit to guarantee payment of subscriber fees or to secure the safe return in good working order of any equipment provided to the subscriber by the company. Such deposit shall not exceed an amount equivalent to the greater of the maximum bill for subscriber service for 90 days or the replacement value of the equipment. The company shall keep records to show:
- (1) The name of the subscriber making the deposit.
  - (2) The account number or other identification of the premises occupied by the subscriber when the deposit was made.
  - (3) The amount and date of the deposit.
  - (4) A record of each transaction concerning the deposit.
- B. Such deposits may be retained by the company as long as required to insure payment of subscriber fees or the return of the equipment. Upon final discontinuance of service, the company may apply such deposit to any amount due from the subscriber for service or damage to or loss of the equipment. Any balance due the subscriber shall be promptly refunded. Prior to final discontinuance of service, deposits guaranteeing payment of subscriber fees may be returned to the subscriber when his credit has been established to the satisfaction of the company.

## § 135-14. Removal of facilities upon request.

Upon termination of service to any subscriber, the company shall promptly remove all its facilities and equipment from the premises of such subscriber upon his request.

## § 135-15. Transfer or assignment.

Any transfer or assignment of the company's rights and obligations under this chapter to a subsidiary of the company shall be made only by an instrument in writing, an executed copy of which shall be filed with the Town within 30 days after such transfer or assignment. Any other transfer or assignment of the company's rights or obligations shall be made only upon written approval of the Town, which approval

shall not be unreasonably withheld. No consent shall be required for a transfer in trust, mortgage or other hypothecation, in whole or in part, to secure an indebtedness.

## § 135-16. Gross revenue report.

Within 90 days after the end of the company's fiscal year, the company shall file with the Town a report showing the gross subscriber revenues received by the company from subscribers in the Town since the preceding report.

## § 135-17. Franchise fee.

The company shall pay to the Town an annual fee in an amount as set by the Town Board. This payment shall be in addition to any other payment owed to the Town by the company and shall not be construed as a payment in lieu of municipal or Town property taxes or other state, county or local taxes. The company shall also pay an application fee as set by the Town Board upon accepting the franchise. The annual fee shall be paid to the Town Clerk on or before March 31 of each year.

## § 135-18. Rights reserved by Town.

- A. The right is hereby reserved to the Town to adopt, in addition to the provisions contained herein and in existing applicable agreements, such additional regulations as it shall find necessary in the lawful exercise of its police power, provided that such regulations, by ordinance or otherwise, shall be reasonable and not in conflict with the rights herein granted.
- B. The Town shall have the right to inspect the maps, plans and other like material of the company's cable system at any time during normal business hours.
- C. The Town shall have the right to supervise all construction or installation work performed subject to the provisions of this chapter and make such inspections as it shall find necessary to ensure compliance with the terms of this chapter and other pertinent provisions of law.

## § 135-19. Revocation of franchise.

The franchise is revocable by the Town for substantial breach by the company of a material term of the franchise. The Town shall provide written notice to the company of any such breach. If the company fails within 60 days after receipt of such notice to correct such breach, then the Town shall have the right, after a full and complete public hearing, to revoke any or all rights and privileges granted herein; provided, however, that such breach did not result from factors beyond the reasonable control of the company.

## § 135-20. Unauthorized connections; tampering with equipment.

- A. Unauthorized connections prohibited. No person, firm, group, company, corporation or governmental body or agency shall, without the expressed consent of the company, make or possess any connection, extension or division, whether physically, acoustically, inductively, electronically or otherwise, with or to any segment of a franchised community antenna television and audio communications system for any purpose whatsoever.
- B. Removal or destruction prohibited. No person, firm, group, company, corporation or government body or agency shall willfully interfere or tamper with, remove, obstruct or damage any part, segment or content of a franchised community antenna television and audio communication system.

## § 135-21. Pay television.

The company shall have the right to provide service for which a per-program or per-channel charge is made.

## § 135-22. Violations and penalties.

A. Any firm, person, group, company, corporation or governmental body or agency convicted of a violation of § 135-20 shall, for each offense, forfeit a sum of not less than \$10 nor more than \$500, together with costs of such prosecution.<sup>[1]</sup>

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

B. The company shall have the right at all times to take such legal action as it deems necessary to preserve the security of its cable television system and to assure only authorized use thereof by its subscribers or other persons. Any person who willfully or maliciously damages or causes to be damaged any wire, cable, apparatus or equipment of the company with intent to obtain a signal or impulse therefrom without authorization of the company shall be liable to the company in an amount of \$200 per occurrence or actual damage to the equipment, whichever is greater.

## Chapter 137. Broadband Network Projects

[HISTORY: Adopted by the Town Board of the Town of Winneconne 1-16-2020 by Ord. No. 2020-1. Amendments noted where applicable.]

### § 137-1. Purpose and policy.

The purpose of this chapter is to encourage the development of broadband access in the Town of Winneconne by reducing administrative obstacles to broadband service providers and coordinating the review of applications to ensure such applications are timely processed. This chapter shall at all times be construed consistent with the aforesaid purpose.

### § 137-2. Definitions.

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

#### **APPLICANT**

A person applying for a permit for a broadband network project.

#### **BROADBAND NETWORK PROJECT**

The construction or deployment of wireline or wireless communications facilities to provide broadband communications services in the Town of Winneconne.

#### **PERMIT**

Any local permit, license, certificate approval registration or similar form of approval required by policy, administrative rule, regulation, ordinance or resolution with respect to a broadband network project.

#### **WRITTEN or IN WRITING**

Information that is inscribed on a tangible medium or that is stored in an electronic or other intangible medium and is retrievable in perceivable form.

### § 137-3. Point of contact.

The Town of Winneconne shall appoint a single point of contact for all matters related to a broadband network project. The Town of Winneconne shall provide on its public website the contact information, including the email address, for the point of contact authorized to receive a broadband network project application.

## § 137-4. Electronic submission of applications.

Any applicant may sign and file all forms, applications and documentation related to a broadband network project electronically.

## § 137-5. Review of applications.

Notwithstanding any other provision in the Town of Winneconne's ordinances, resolutions, regulations, policies or practices to the contrary, the following process shall apply exclusively upon receiving a broadband network project application.

## § 137-6. Completeness review.

Upon receiving a broadband network project application, the Town of Winneconne shall:

- A. Determine whether an application is complete and notify the applicant of the determination by the Town of Winneconne in writing within 10 calendar days of receiving an application. If the Town of Winneconne does not notify the applicant in writing of its completeness determination within 10 calendar days of receiving the application will be considered complete.
- B. If the Town of Winneconne determines that an application is not complete the written notification to the applicant shall specify in detail the required information that is not complete. The applicant may resubmit an application as often as necessary until the application is complete.

## § 137-7. Approval or denial of complete applications.

- A. Within 60 calendar days of receiving an application that is complete or considered complete under § 137-6 the Town of Winneconne shall approve or deny the application and provide the applicant written notification of the approval or denial. If the Town of Winneconne does not notify the applicant of its approval or denial within 60 calendar days of receiving a complete application, the application shall be considered approved and any required permit shall be considered issued.
- B. If the Town of Winneconne denies an application the written notification of the denial under § 137-6 shall include evidence that the denial is not arbitrary and capricious.

## § 137-8. Fees.

Any fee imposed by the Town of Winneconne to review an application, issue a permit, or perform any other activity related to a broadband network project shall be reasonable. An application fee that exceeds \$100 is unreasonable.

## § 137-9. Initial applicability.

The treatment of this chapter first applies to applications received by the Town of Winneconne on or after the date of this chapter.



## Chapter 140. Cemeteries

[HISTORY: Adopted by the Town Board of the Town of Winneconne 4-17-2003. Amendments noted where applicable.]

### § 140-1. Place of burial.

No human body or part thereof shall be buried or interred anywhere in the Town except in an established and licensed cemetery.

### § 140-2. Burial vault regulations.

- A. No person shall construct, keep, maintain or cause to be constructed, kept, or maintained any structure or vault for the temporary keeping of corpses within the Town, except sites or locations first approved by the Town Plan Commission and also the Town Board, and on written permit duly issued.
- B. This section shall not restrict maintenance of any such receiving vault or structure within the boundaries of any legally established cemetery within the Town and shall not be construed to deprive any person who now has or maintains any established receiving vaults within the Town now used for the purpose from continuing such use.
- C. This section shall not restrict any undertaking establishment legally operating with the Town from keeping corpses in such undertaking establishments while awaiting interment services at a location duly approved and conforming with all other Town ordinances.

### § 140-3. Violations and penalties.

- A. Penalties for violating this chapter are contained in Chapter 1, § 1-4 of the Town of Winneconne Code.
- B. Any person who violates a provision of this chapter shall be subject to injunctive relief as applied for by the Town of Winneconne.

## Chapter 146. Comprehensive Plan

[HISTORY: Adopted by the Town Board of the Town of Winneconne 4-17-2003. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Building construction — See Ch. 120.

Official Road Map — See Ch. 225.

Subdivision of land — See Ch. 275.

Zoning — See Ch. 310.

### § 146-1. Authority.

Pursuant to § 62.23(2) and (3), Wis. Stats., the Town of Winneconne is authorized to prepare and adopt a Comprehensive Plan as defined in § 66.1001(1)(a) and (2), Wis. Stats.

### § 146-2. Public participation.

The Town Board of the Town of Winneconne, Wisconsin, has adopted written procedures designed to foster public participation in every stage of the preparation of a Comprehensive Plan as required by § 66.1001(4)(a), Wis. Stats.

### § 146-3. Plan Commission recommendation.

The Plan Commission of the Town of Winneconne, by a majority vote of the entire Commission recorded in its official minutes, has adopted a resolution recommending to the Town Board the adoption of the document titled "Comprehensive Plan of the Town of Winneconne" containing all of the elements specified in § 66.1001(2), Wis. Stats.

### § 146-4. Public hearing.

The Town of Winneconne has held at least one public hearing on this chapter, in compliance with the requirements of § 66.1001(4)(d), Wis. Stats.

### § 146-5. Adoption.

The Town Board of the Town of Winneconne, Wisconsin, does, by enactment of this chapter, formally adopt the document titled "Comprehensive Plan of the Town of Winneconne" pursuant to § 66.1001(4)(c), Wis. Stats.<sup>[1]</sup>

[1] *Editor's Note: The Comprehensive Plan is on file at the Town Clerk's office.*

## Chapter 165. Fire Prevention

[HISTORY: Adopted by the Town Board of the Town of Winneconne 2-18-1999 (Ch. 5 of the 1994 Code). Amendments noted where applicable.]

### GENERAL REFERENCES

Building construction — See Ch. **120**.

Numbering of buildings — See Ch. **124**.

Outdoor burning — See Ch. **129**.

Fire District impact fees — See Ch. 178.

Nuisances — See Ch. **219**.

### § 165-1. Fire protection agreement.

The Town of Winneconne has entered into an agreement to obtain fire protection and all other related services with the Winneconne Poygan Fire District. The Town of Winneconne shall provide one of its Board members to be on the Winneconne Poygan Fire District Board. The agreement shall be part of this chapter. The Winneconne Poygan Fire District shall submit a budget for approval by the Boards of the Town of Winneconne, Village of Winneconne and the Town of Poygan. All capital investments must also be approved by the above-stated Boards. Any amendments to the agreement shall be adopted in the same manner.

### § 165-2. Fire Prevention Division; adoption of standards.

- A. Creation. The Fire Chief shall create a Fire Prevention Division within the Winneconne Poygan Fire District.
- B. Organization.

- (1) The Fire Chief shall appoint the Assistant Fire Chief, Captains, etc., to supervise the activities and functions of the Fire Prevention Division.
- (2) The Fire Chief shall appoint additional members of the District, as he deems necessary, to perform the functions of Fire Inspector.

C. Adoption of Fire Prevention Codes.

- (1) Purpose. It is the purpose of this code to protect the public, employees, fire fighters, and property from the hazards of fire and explosion by establishing minimum standards, consistent with nationally recognized practice, for the use, operation, maintenance and inspection of new and existing buildings, structures and premises.

[Amended 6-20-2002]

- (2) Adoption of codes and standards.

[Amended 6-20-2002]

- (a) The state codes listed in this subsection are hereby adopted by reference and made a part of the Town of Winneconne Fire Prevention Code:

[1] Fire Prevention, Ch. COMM 14, Wis. Adm. Code.

[2] General Orders on Existing Buildings, Chs. COMM 75 to 79, Wis. Adm. Code.

[3] Electrical Code, Ch. COMM 16, Wis. Adm. Code.

[4] Commercial Building Code, Chs. COMM 61 to 65 and Appendices A and B, Wis. Adm. Code.

[5] Flammable and Combustible Liquids, Ch. COMM 10, Wis. Adm. Code.

- (b) The International Fire Code, hereinafter "IFC," as from time to time may be amended, is hereby adopted as though fully set forth herein, with the following exceptions:

[1] Chapter 1, Administration, of the IFC is not included as part of the adoption of the IFC.

[2] Chapter 3, Section 307, Open Burning, of the IFC is not included as part of the adoption of the IFC.

- (c) The National Fire Protection Association codes and standards are hereby adopted as though fully set forth herein.

- (d) Any fire prevention problem not herein addressed by code or adopted standards will be addressed on the basis of current accepted International Fire Code standards.

- (3) Fireworks.

- (a) Section 167.10, Wis. Stats., pertaining to regulation of fireworks, together with any future additions, deletions, or supplements thereto, is herewith incorporated as part of this chapter and shall be enforced with the same force and effect as though set forth in full herein; provided, however, that where such rules and regulations are less stringent than other provisions found in this chapter, the provisions of this chapter shall apply.

- (b) Notwithstanding any provisions of this chapter to the contrary, no person may sell, possess or use fireworks, as that term is defined by § 167.10(1), Wis. Stats., as may be amended from time to time, within the Town of Winneconne, except that the use of fireworks may be allowed by appropriate permit issued by the Fire Chief.

## § 165-3. Smoke detectors.

- A. All dwelling units, vacant or occupied, shall be provided with working, approved, listed and labeled smoke detectors. Smoke detectors shall be installed in accordance with the appropriate Wisconsin Administrative Code that governs the dwelling building and in accordance with the manufacturer's instructions.  
[Amended 12-19-2019 by Ord. No. 2019-6]
- B. The owner of the building shall be solely responsible for the installation and maintenance of the smoke detectors, to include battery replacement as required.
- C. The tenant shall be responsible for informing the owner in writing of any smoke detector malfunction, to include the need for a new battery.
- D. The owner shall immediately, upon receipt of this written notice from the tenant, repair/replace the smoke detector or replace the battery as needed.
- E. Neither the owner nor the tenant shall remove or disconnect the battery from a smoke detector at any time except for battery replacement.
- F. The owner shall install new batteries in all smoke detectors at the beginning of a new lease or new tenancy and shall install new batteries annually.
- G. The owner shall furnish to the tenant at the beginning of a new lease or new tenancy written notice of the responsibilities of the tenant and the obligations of the owner regarding smoke detectors, their batteries and their maintenance.

## § 165-4. False alarms.

- A. The user of any private alarm system which, upon activation, elicits a response from the Winneconne Poygan Fire District shall be subject to the following fee schedule for each false alarm in the calendar year. A false alarm shall be defined as an alarm which was discharged falsely, accidentally, through mechanical failure, malfunction, improper installation, lack of maintenance, or by negligence of the owner or lessee of the alarm system or of his and/or her employees or agents.
- B. Fee schedule. There is hereby imposed a fee for each Fire District response to any false alarm. The owner of the property shall be subject to the fee schedule below. The fee schedule for each premises shall be as follows in any calendar year:<sup>[1]</sup>
  - (1) First and second false alarms: \$25 each.
  - (2) Third and fourth false alarms: \$50 each.
  - (3) Fifth through 10th false alarms: \$100 each.
  - (4) Eleventh and subsequent false alarms: \$500 each.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- C. Exclusion. False alarms shall not include:
  - (1) Alarms that occur during electrical storms, tornadoes, blizzards, or other natural disasters or acts of God.
  - (2) Disruption of the telephone circuits beyond the control of the alarm company and/or the alarm user.
  - (3) Electrical power or disruption or failure not caused by the user.
  - (4) Alarms caused by failure of equipment at the Winnebago County Communications Center (911).
- D. This fee shall be imposed whether the Fire District received the alarm by direct connection or through an intermediary, such as an answering service or modified central station. If the Fire Chief is

notified in writing prior to the day of installation of a new alarm system, the fee imposed by this section shall be waived for a ninety-day period beginning with the date of the installation.

- E. The alarm user shall provide the Fire District with the names and telephone numbers of at least two persons who can be reached at any time, day or night, who are authorized to respond to an emergency signal transmitted by the automatic alarm system or device and who are trained in the operation and functioning of the alarm system and who can open the premises wherein the alarm system is installed. It shall be a violation of this section if any of these persons cannot be contacted, or if they refuse to cooperate with and respond at the request of Fire District officials, and they and/or the alarm user may be subject to a forfeiture under the penalty section of this chapter.
- F. No alarm system designated to transmit emergency messages directly to the Fire District/911 or through an intermediary service shall be tested or demonstrated without first notifying the Fire District and the Fire Dispatcher prior to the start of such test or demonstration.
- G. It shall be unlawful for any persons to give or cause to be given a false alarm, or to pull the lever of any signal box, except in the case of fire, or tamper, meddle or interfere in any way with said boxes, or any of the wires or supports thereof connected with any part of the fire alarm system, or to make any connection or communication therewith so as to interrupt or interfere with the proper working of said system, or injure, break or destroy machinery or fixtures connected to said system.
- H. Liability. Neither the Town of Winneconne nor the Winneconne Poygan Fire District shall be under any duty or obligation to a subscriber or to any other person concerning any provisions of this chapter, including but not limited to any defects in an alarm system or any delays in transmission or response to any alarm.
- I. Those subject to fees for false alarms shall be notified in writing of such fees by the Fire District. Failure to pay the fee within 30 days of invoice shall be grounds to subject the user to the penalties contained within § 165-11. In addition to any other methods provided by law, false alarm fees under Subsection B above shall be allocated to the property served as a special charge under § 66.0703, Wis. Stats.
- J. Any person may appeal issuance of an invoice to the Fire Chief. The appeal shall be filed with the Town Clerk upon a form provided by the Town Clerk's office. The appeal shall be in writing and specify the reason for the appeal. The Fire Chief shall determine whether to sustain or revoke the invoice in whole or in part and shall notify the appellant of this decision in writing within 15 days of the receipt of the appeal.
- K. Any person feeling aggrieved by a decision of the Fire Chief may appeal such decision to the Town Board within 15 days of the written notification made by the Fire Chief. The date of the written notice shall be the date of mailing or the date of personal service of the notice. The appeal shall be filed with the Town Clerk upon a form provided by the Town Clerk's office. The appeal shall be in writing and specify the reasons for the appeal. The Town Board may reverse or affirm, wholly or in part, or may modify the decision of the Fire Chief. The vote of the majority of the members of the Town Board present shall be necessary to reverse or modify the decision of the Fire Chief.

## § 165-5. Posting of occupancy load.

- A. Every building and/or structure subject to the provisions of Chs. COMM 50 through 64, Wis. Adm. Code, shall have determined the maximum occupancy load for each area and/or floor thereof. This limit shall be inscribed upon a sign constructed of "gravipl" or an equivalent material and having dimensions of at least 12 inches in length and four inches in height. The lettering shall be white on a dark background. The lettering shall be 1 1/2 inches in height and the number shall be three inches in height. The sign shall contain the following language: "Limit (number) Persons" and shall be posted up and at all times be displayed in a conspicuous place near the main entrance to the area/floor/structure, so that all persons visiting such place may readily see the same.

- B. It shall be unlawful for any person to knowingly deface or destroy such sign or to remove it without the consent of the Fire District Inspector.

## § 165-6. Prohibited discharges; recovery of costs.

- A. Prohibited discharges. No person, firm or corporation shall discharge or cause to be discharged, leaked or spilled upon any public or private street, alley, public or private property, or onto the ground, surface waters, subsurface waters, or aquifers within the Town, except those areas specifically licensed for waste disposal or landfill activities and to receive such materials, any explosive, flammable or combustible solid, liquid, or gas, any radioactive materials at or above Nuclear Regulatory Restriction levels, etiologic agents, or any solid, liquid or gas creating a hazard, potential hazard, or public nuisance or any solid, liquid or gas having a deleterious effect on the environment.
- B. Containment, cleanup and restoration. Any person, firm or corporation in violation of the above subsection shall, upon direction of any Fire District officer, begin immediate actions to contain, cleanup and remove to an approved repository the offending material(s) and restore the site to its original condition, with the offending person, firm or corporation being responsible for all expenses incurred. Should any person, firm or corporation fail to engage the necessary person and equipment to comply with or to complete the requirements of this section, the Fire Chief or Police Chief or designees may order the required actions to be taken by public or private sources and allow the recovery of any and all costs incurred by the Town as an action imposed by Subsection C below.
- C. Emergency services response. Emergency services response includes but is not limited to fire service, emergency medical services, and law enforcement. A person, firm or corporation who or which possesses or controls a hazardous substance which is discharged or who causes the discharge of a hazardous substance shall be responsible for reimbursement to the responding agencies for actual and necessary expenses incurred in carrying out their duties under this chapter. Actual and necessary expenses may include but not be limited to replacement of equipment damaged by the hazardous material, cleaning, decontamination and maintenance of the equipment specific to the incident, costs incurred in the procurement and use of specialized equipment specific to the incident, specific laboratory expenses incurred in the recognition and decontamination, cleanup and medical surveillance, and incurred costs in future medical surveillance of response personnel as required by the responding agency's medical advisor.
- D. Site access. Access to any site, public or private, where a prohibited discharge is indicated or suspected shall be provided to Fire District officers and staff and to the Police Department personnel for the purpose of evaluating the threat to the public and monitoring containment, cleanup and restoration activities.
- E. Public protection. Should any prohibited discharge occur which threatens the life, safety or health of the public at, near or around the site of a prohibited discharge, and the situation is so critical that immediate steps must be taken to protect life and limb, the Fire Chief, his assistant, or the senior police official on the scene of the emergency may order an evacuation of the area or take other appropriate steps for a period of time until the person, firm or corporation in violation of this section can take appropriate action.
- F. Civil liability. Any person, firm or corporation in violation of this section shall be liable to the Town of Winneconne and/or the Winneconne Poygan Fire District for any expense incurred by the Town of Winneconne and/or the Winneconne Poygan Fire District or loss or damage sustained by the Town of Winneconne and/or the Winneconne Poygan Fire District by reason of such violation.

## § 165-7. Rendering assistance to Fire District officers.

No person shall neglect or refuse to render assistance when lawfully called upon to do so by any Fire District officer, nor shall any person refuse to obey lawful order given to him to assist in the extinguishment of a fire or to maintain order in the vicinity thereof.

## § 165-8. Resisting officer or member of Fire District.

No person shall offer any resistance to any officer or member of the Fire District when in the performance of his duty.

## § 165-9. Damaging fire hose or apparatus.

No person shall wantonly or maliciously cut or otherwise injure or damage any hose or apparatus belonging to or used by the Fire District, nor shall any person drive any vehicle over any unprotected hose of the Fire District which may be laid in the streets or any other place without the consent of an officer of the Fire District

## § 165-10. Unauthorized use or obstruction of fire hydrants.

No unauthorized person shall open any fire hydrants, nor shall any person obstruct or interfere with the use of any fire hydrant, by piles of lumber, building materials, articles of merchandise, waste materials, or in any other way or manner.

## § 165-11. Violations and penalties.

- A. Any person who shall violate any of the provisions of this chapter or any section other than § 165-4, False alarms, shall, upon conviction thereof, be punished by a forfeiture of not less than \$50 nor more than \$500, together with the costs of prosecution, and in default of payment thereof by imprisonment in the county jail for a period not to exceed 60 days. Each day of violation shall constitute a separate offense. This subsection is not to include § 165-4, False alarms.
- B. Any person convicted of violating any of the provisions of § 165-3A through G shall forfeit not less than \$150 for the first offense and not less than \$300 for the second or subsequent offense within 12 months of conviction, and not more than \$500, together with the cost of prosecution, and in default of payment thereof shall be imprisoned in the county jail for a period not to exceed 60 days. Each day shall constitute a separate and distinct offense.
- C. Except as otherwise provided, any person found to be in violation of any provisions of this chapter shall be subject to a penalty as provided in Chapter 1, § 1-4 of this Code.

## Chapter 178. (Reserved)

[Former Ch. 178, Impact Fees, adopted 6-19-2003, as amended, was repealed 9-21-2006.]

## Chapter 182. Intoxicating Liquor and Fermented Malt Beverages

[HISTORY: Adopted by the Town Board of the Town of Winneconne 10-20-1994 as §§ 12.03 and 12.07 of the 1994 Code. Amendments noted where applicable.]

### GENERAL REFERENCES

Nuisances — See Ch. 219.

Peace and good order — See Ch. 237.

## § 182-1. State statutes adopted.

The provisions of Ch. 125, Wis. Stats., defining and regulating the sale, procurement, dispensing, consumption and transfer of alcohol beverages, including provisions relating to persons under the legal drinking age, are adopted and made a part of this chapter by reference. A violation of any of such provisions shall constitute a violation of this chapter.

## § 182-2. Authorization.

- A. When required. Except as provided by § 125.06, Wis. Stats., no person shall, within the Town, serve, sell, manufacture, rectify, brew or engage in any other activity for which this chapter or Ch. 125, Wis. Stats., requires a license, permit or other authorization without holding the appropriate license, permit or other authorization as provided in this chapter. See § 125.04(1), Wis. Stats.
- B. Separate license required for each place of sale. Except for licensed public warehouses, a license shall be required for each location or premises where alcohol beverages are stored, sold or offered for sale. See § 125.04(9), Wis. Stats.

## § 182-3. Classes of licenses and fees.

The following classes and denominations of licenses may be issued by the Town Clerk, under the authority of the Town Board, upon compliance with law and payment of the fee herein specified, which, when so issued, shall permit the holder to sell, deal or traffic in alcohol beverages as provided in the referenced state statute.

- A. Class "A" fermented malt beverage retailer's license. See § 125.25, Wis. Stats.
- B. Class "B" fermented malt beverage retailer's license. See § 125.26, Wis. Stats.
  - (1) Six months. A Class "B" license may be issued at any time for six months in any calendar year for 1/2 of the applicable license fee. Such license shall not be renewable during the calendar year in which issued. See § 125.26(5), Wis. Stats.  
[Amended 4-21-2005]
  - (2) Special event. See § 125.26(6), Wis. Stats. No organization shall receive more than three licenses in any one calendar year for the sale of fermented malt beverages. There shall be at least two licensed operators at all licensed special events.
- C. Wholesaler's fermented malt beverage license. The fee may not exceed \$25 per year or fraction thereof. See § 125.28, Wis. Stats.
- D. Retail "Class A" liquor license. See § 125.51(2), Wis. Stats.
- E. Retail "Class B" liquor license. A retail "Class B" liquor license shall permit its holder to sell liquor in original packages or containers in multiples not to exceed four liters at any one time to be consumed off the licensed premises. See § 125.51(3), Wis. Stats.
- F. Operator's license. See § 125.17, Wis. Stats.
  - (1) Operators' licenses may be granted to individuals by the Town Board for the purposes of complying with §§ 125.32(2) and 125.68(2), Wis. Stats.
  - (2) Operators' licenses may be issued only on written application on forms provided by the Town.
  - (3) Operators' licenses shall be valid for one year and shall expire on June 30 of each year.  
[Amended 4-21-2005]



## § 182-4. License application.

- A. Form. Application for a license to sell or deal in intoxicating liquor or fermented malt beverages shall be made in writing on forms prescribed by the Wisconsin Department of Revenue and filed with the Town Clerk at least 15 days prior to issuance. The premises shall be physically described, including every room and storage space to be covered by the license, and including all rooms joined by connecting entrances or not separated by a solid wall.
- B. Application to be notarized. The application shall be signed and sworn to by the applicant as provided by § 887.01, Wis. Stats.
- C. Publication. Prior to issuance of a license under this chapter, the Town Clerk shall publish notice of the application in the official Town newspaper.
- D. Duplicate. Upon approval, a duplicate copy of each application shall be forwarded by the Town Clerk to the State Department of Revenue.

## § 182-5. License restrictions.

- A. Statutory requirements. Licenses shall be issued only to persons eligible therefor under § 125.04, Wis. Stats.
- B. Location.
  - (1) No retail Class "A," "Class A," Class "B" or "Class B" license shall be issued for premises, the main entrance of which is less than 300 feet from the main entrance of any established public school, parochial school, hospital or church. Such distance shall be measured by the shortest route along the highway from the closest point of the main entrance of such school, church or hospital to the main entrance of the premises covered by the license.
  - (2) This subsection shall not apply to premises licensed as such on June 30, 1947, nor shall it apply to any premises licensed as such prior to the occupation of real property within 300 feet thereof by any school building, hospital building or church building.
- C. Violators of liquor or beer laws or ordinances. No retail Class "A," "Class A," Class "B" or "Class B" license shall be issued to any person who has been convicted of a violation of any federal or state liquor or fermented malt beverage law or the provisions of this chapter or whose license has been revoked under § 125.12, Wis. Stats., during one year prior to such application. A conviction of a member of a partnership or the partnership itself shall make the partnership or any member thereof ineligible for such license for one year.
- D. Health and sanitation requirements. No retail "Class B" or Class "B" license shall be issued for any premises which does not conform to the sanitary, safety and health requirements of the Department of Safety and Professional Services pertaining to buildings and plumbing, to the rules and regulations of the State Department of Health and Family Services applicable to restaurants and to all such ordinances and regulations adopted by the Town Board.  
[Amended 12-19-2019 by Ord. No. 2019-6]
- E. License quota. The number of persons and places that may be granted a retail "Class B" liquor license under this chapter is limited as provided in § 125.51(4), Wis. Stats.
- F. Corporations. No corporation organized under the laws of this state or of any other state or foreign country may be issued any alcohol beverage license or permit unless such corporation meets the requirements of § 125.04(6), Wis. Stats.
- G. Age requirement. No license hereunder, except an operator's license, shall be granted to any person who has not attained the legal drinking age. Operators' licenses may be issued only to applicants who have attained the age of 18.

- H. Effect of revocation of license. Twelve months shall elapse before another license shall be granted to the person whose license was revoked.
- I. Delinquent taxes, assessments and claims. No initial or renewal license shall be granted for any premises for which taxes, assessments or other claims of the Town are delinquent and unpaid or to any person delinquent in payment of such claims, including unpaid forfeiture judgments, to the Town.
- J. Issuance for sales in dwellings prohibited. No license shall be issued to any person for the purpose of possessing, selling or offering for sale any alcohol beverages in any dwelling house, flat or residential apartment.
- K. Fencing may be required for special events. No special event license shall be issued for any outdoor area which is not fenced and posted with notice that fermented malt beverages may not be carried or consumed outside the fenced area. Every special event licensee shall provide for the services of a certified uniformed officer to enforce the provisions of this subsection.
- L. Active use required.
  - (1) As a minimum requirement, each holder of a Class "A," "Class A," Class "B" or "Class B" liquor or fermented malt beverage license shall place the same in active use for a period of not less than 90 days during each and every licensing period, such licensing period running from the date of July 1 up through the date of June 30 of the subsequent year.
  - (2) The term "active use" as used in this subsection is hereby defined to be the normal, day-to-day use of the same in a business operation.
  - (3) The Town Board, any member of the Town Board or any resident within the Town may petition the Town Board alleging that a violation of this subsection has been committed by a particular license holder, and the Town Board shall then schedule, within 30 days, a hearing to determine whether or not this subsection has been so violated. Notice of hearing shall be given in writing to the alleged violator pursuant to § 125.12, Wis. Stats.
  - (4) The Town Board, in determining whether or not active use of such license exists, shall consider the following information which it shall be the obligation of the license holder to furnish:
    - (a) Specific dates and hours of operation for the period in question.
    - (b) Type of advertising, if any, during the period in question.
    - (c) Weekly wages paid to employees during operation of the licensed premises for the period in question.
    - (d) Gross liquor and beer purchase and sales during the period in question.
    - (e) Sales tax paid to the State of Wisconsin during the period in question.
    - (f) An approved release from the Department of Health and Family Services for the period in question.
    - (g) Any other pertinent testimony which may lead to the conclusion that the subject premises was or was not in active operation.
  - (5) The Town Board, after hearing all testimony of all interested parties, shall determine by majority vote whether or not such license has been in active use, pursuant to the requirements of this subsection above.
  - (6) If it is determined that the holder of such license is in violation of this subsection, the Town Board may revoke such license.

## § 182-6. Form and expiration of licenses.

[Amended 4-21-2005]

All licenses shall be numbered in the order in which they are issued and shall state clearly the specific premises for which granted, the date of issuance, the fee paid and the name of the licensee and, unless sooner revoked, shall expire on June 30 thereafter except as otherwise provided by law. The Town Clerk shall affix his affidavit.

## § 182-7. Transfer of licenses.

- A. As to person. No license shall be transferable as to licensee except as provided by § 125.04(12), Wis. Stats.
- B. As to place. Licenses issued pursuant to this chapter may be transferred to another premises once during any license year as provided in § 125.04(12), Wis. Stats. Application for such transfer shall be made on blanks furnished by the State Department of Revenue. Proceedings for transfer shall be had in the same manner and form as the original application. The fee for such transfer shall be as set by the Town Board.

## § 182-8. Posting and care of licenses.

Every license or permit required under this chapter shall be framed and posted and at all times displayed as provided in § 125.04(10) Wis. Stats. No person shall post such license or permit any other person to post it upon premises other than those mentioned in the application or knowingly deface or destroy such license.

## § 182-9. Regulation of licensed premises and licensees.

- A. Gambling and disorderly conduct prohibited. Each licensed premises shall at all times be conducted in an orderly manner, and no disorderly, riotous or indecent conduct or gambling shall be allowed at any time on any such premises.
- B. Employment of underage person. No licensee shall employ any underage person who does not have a valid operator's license to serve, sell, dispense or give away any alcohol beverage.
- C. Sales by clubs. No club shall sell intoxicating liquors or fermented malt beverages except to members and guests invited by members.
- D. Safety and sanitation requirements. Each licensed premises shall be maintained and conducted in a sanitary manner and shall be a safe and proper place for the purpose for which used.

## § 182-10. Closing hours.

No premises for which an alcohol beverage license has been issued shall remain open for the sale of alcohol beverages:

- A. If a retail Class "A" fermented malt beverage license, between 12:00 midnight and 6:00 a.m.  
[Amended 3-15-2012]
- B. If a retail "Class A" intoxicating liquor license, between 9:00 p.m. and 6:00 a.m.  
[Amended 3-15-2012]
- C. If a retail Class "B" or "Class B" license, between 2:00 a.m. and 6:00 a.m. on weekdays and between 2:30 a.m. and 6:00 a.m. on Saturdays and Sundays. No licensed premises shall be required to close on January 1. No package, container or bottle sales shall be made after 12:00 midnight.

- D. Hotels and restaurants whose principal business is the furnishing of food or lodging to patrons, bowling alleys, indoor horseshoe-pitching facilities, curling clubs and golf courses may remain open for the conduct of their regular business, but no intoxicating liquors or fermented malt beverages shall be sold during prohibited hours.

## § 182-11. Revocation and suspension of licenses.

- A. Procedure. Whenever the holder of any license under this chapter violates any portion of this chapter, proceedings for the revocation or suspension of such license may be instituted in the manner and under the procedure established by § 125.12, Wis. Stats., and the provisions therein relating to granting a new license shall likewise be applicable.
- B. Effect of revocation. See § **182-5H** of this chapter.

## § 182-12. Nonrenewal of licenses.

Before renewal of any license issued under this chapter is refused, the licensee shall be given written notice of any charges or violations or the reasons proposed for nonrenewal and a copy of any proposed motion for nonrenewal and shall have an opportunity to be heard before the Town Board.

## § 182-13. Violations by agents and employees.

A violation of this chapter by an authorized agent or employee of a licensee shall constitute a violation by the licensee.

## § 182-14. (Reserved)

- [1] *Editor's Note: Former § 82-14, Adult-oriented establishments, as amended, was repealed 8-21-2008. See now Ch. 109, Adult Entertainment.*

## § 182-15. Provisional licenses.

[Added 7-16-1998]

- A. Provisional retail licenses.
- (1) Pursuant to § 125.185(1), Wis. Stats., provisional retail licenses shall be issued by a municipal governing body that issues licenses authorizing the retail sale of fermented malt beverages, intoxicating liquor, or wine.
  - (2) The Town of Winneconne, Winnebago County, Wisconsin, does hereby ordain that the Town Clerk or Deputy Town Clerk shall be the designated municipal official having the authority to issue provisional retail licenses.
  - (3) The Town of Winneconne further ordains that the following standards be established for issuance of a provisional retail license:
    - (a) A provisional retail license may be issued only to a person who has applied for a Class "A," Class "B," "Class A," "Class B" or "Class C" license and authorizes only the activities that the type of retail license applied for authorizes.
    - (b) The Town of Winneconne Town Board will establish the fee for a provisional retail license which shall be paid at the time of application.

- (c) A provisional retail license expires 60 days after its issuance or when the Class "A," Class "B," "Class A," "Class B" or "Class C" license is issued to the holder, whichever is sooner. The official who issued the provisional retail license may revoke the license if he or she discovers that the holder of the license made a false statement on the application.
- (d) Notwithstanding § 125.17(1), Wis. Stats., a municipal official may not issue a provisional "Class B" license if the municipality's quota under § 125.51(4), Wis. Stats., prohibits the municipality from issuing a "Class B" license.
- (e) No person may hold more than one provisional retail license for each type of license applied for by the holder per year.

#### B. Provisional operators' licenses.

- (1) Pursuant to § 125.17(5)(a), Operator's provisional license, Wis. Stats., a municipal governing body that issues operators' licenses shall issue provisional operators' licenses.
- (2) The Town of Winneconne, Winnebago County, Wisconsin, does hereby ordain that the Town Clerk or Deputy Town Clerk shall be the designated municipal official having the authority to issue a provisional operator's license
- (3) The Town of Winneconne, Winnebago County, Wisconsin, further ordains that the following standards be established for issuance of a provisional operator's license:
  - (a) A provisional license may be issued only to a person who has applied for an operator's license under § 125.17(1), Wis. Stats. A provisional license may not be issued to any person who has been denied a license under § 125.17(1), Wis. Stats., by the Town of Winneconne.
  - (b) Fee. A fee as set by the Town Board shall be paid upon filing of the application.
  - (c) Expiration of the provisional operator's license shall be 60 days after its issuance or when a license under § 125.17(1), Wis. Stats., is issued to the holder, whichever is sooner.
  - (d) The official who issued the provisional license may revoke the license if he or she discovers that the holder of the license made a false statement on the application.

## § 182-16. Violations and penalties.

[Added 4-21-2005]

Except as otherwise provided herein, violations of this chapter shall be subject to a penalty as provided in Chapter 1, § 1-4 of this Code.

## Chapter 189. Junk Dealers

[HISTORY: Adopted by the Town Board of the Town of Winneconne 10-20-1994 as § 12.04 of the 1994 Code. Amendments noted where applicable.]

### § 189-1. License required.

No person shall hereafter in the Town keep, conduct or maintain any building, structure, yard or place for keeping, storing or piling, in commercial quantities, whether temporarily, irregularly or continually, or for the buying or selling of any old, used or secondhand material of any kind, including cloth, rags, clothing, paper, rubbish, bottles, rubber, iron, brass, copper or other metal, furniture, used motor vehicles or the parts thereof or other articles, which from its worn condition renders it practically useless for the purpose for which it was made and which is commonly classed as junk, whether with a fixed place of business or

as an itinerant peddler, without first having obtained and paid for a license as hereinafter provided. One carrying on the aforesaid business shall be referred to herein as "junk dealer."

## § 189-2. Application for license.

- A. Every applicant for a license to engage in the business of junk dealer shall file with the Building Inspector a written application upon a form prepared and provided by the Town and signed by the applicant. Such application shall state:
- (1) The name and residence of the applicant, if an individual, partnership or firm, or the names of the principal officers and their residence, if the applicant is an association or corporation.
  - (2) The detailed nature of the business to be conducted and the kinds of material to be collected, bought, sold or otherwise handled.
  - (3) The premises where such business is to be located or carried on.
- B. Each application shall contain an agreement that the applicant accepts the license, if granted, upon the condition that it may be suspended for cause at any time by the Town Board.

## § 189-3. Inspection of premises.

The Building Inspector shall report such application to the Town Board, which shall inspect or cause to be inspected such premises to determine whether it complies with all laws, ordinances, rules and regulations. Such premises and all structures thereon shall be so situated and constructed that the business of junk dealer may be carried on in a sanitary manner, shall contain no fire hazards and shall be arranged so that there can be a thorough inspection at any time by proper authorities.

## § 189-4. Enclosure required.

Each of the premises upon which the business of junk dealer is to be carried on shall be enclosed by a solid, painted fence or other structure not less than seven feet in height and constructed so that no dust or other material may pass through. Such enclosure shall be maintained in good condition at all times. No articles shall be piled so as to protrude above such enclosure.

## § 189-5. Location restrictions.

No premises shall be used for carrying on the business of junk dealing when more than two buildings situated within a distance of 300 feet are used solely for residence purposes. The enclosure shall be located 25 feet from the street line and nine feet from the side lot line. Two or more adjoining junkyards may be constructed wall to wall if approved by the Town Board, the Building Inspector and property owners.

## § 189-6. Issuance of license.

Upon the filing of the application and the payment to the Building Inspector of the license fee as set by the Town Board, the Building Inspector shall issue to the applicant a license to engage in business as provided in § 189-1. No license shall be refused except for a specified reason. All licenses shall be numbered in the order in which they are issued and shall clearly state the location of the junk business, the date of issuance and expiration of the license and the name and address of the licensee. No applicant to whom a license has been refused shall make further application until a period of at least six months shall have elapsed since the last previous rejection, unless he can show that the reason for such rejection no longer exists.

## § 189-7. Fee; term of license.

Every junk dealer shall pay an annual license fee as set by the Town Board. All licenses shall be issued as of July 1 and shall continue in force until June 30 next succeeding the date of issuance thereof, unless revoked sooner.

## § 189-8. Location to be designated on license.

- A. Every junk dealer's license shall designate the place of business in or from which the junk dealer receiving such license shall be authorized to carry on such business. No licensee shall remove his place of business from the place designated in the license until a written permit has been secured from the Town Board and the same shall have been endorsed upon the license.
- B. No junk dealer shall carry on the business at or from any other place than the one designated in the license therefor, nor shall such business be carried on after such license has been revoked or has expired.

## § 189-9. Rules and regulations.

The Town Board may formulate reasonable rules and regulations relating to the conduct of the business of junk dealing which shall protect the health of the community. No junk dealer shall violate any such rule or regulation.

## § 189-10. Reporting inventory.

Every junk dealer, upon being served with a written notice to do so by the Town Board on blank forms to be furnished by the Town Board, shall give an accurate description of all goods, articles or other things purchased or received by him in the course of business of a junk dealer at such time and during such period of time specified in the notice, stating the amount paid for the same and the name, residence and general description of the person from whom such goods, articles or things were received.

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

## § 189-11. Stolen goods.

If any goods, articles or things whatsoever shall be advertised in any newspaper printed in Winnebago County as having been lost or stolen and the same or any answering the description advertised or any portion or part thereof shall be or come into possession of any junk dealer or peddler, he shall give information thereof in writing to the proper officer and state from whom the same was received. Any junk dealer or peddler who has or receives any goods, articles or things lost or stolen or alleged or supposed to have been lost or stolen shall exhibit the same on demand to any police officer, the Town Board or any magistrate or person authorized in writing by the Sheriff of Winnebago County or any magistrate who shall exhibit such authorization to such dealer or peddler.

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

## § 189-12. Complaints; revocation of license.

- A. Upon complaint being made in writing by any Town official or resident of the Town to the Town Clerk that any licensee has violated any of the provisions of this chapter, the Town Board shall summon such licensee to appear before it at the time specified in the summons, which shall be not less than three days after the date of the service thereof, to show cause why this license shall not be

revoked. The Town Board and the Building Inspector shall proceed to hear the matter, and if they find the allegations of such complaint are correct, they shall revoke such junk dealer's license.

- B. Whenever any license shall be so revoked, no refund of any unearned portion of the fee therefor shall be made, and no license shall be granted to any person whose license has been revoked within a period of one year from the date of such revocation. Notice of such revocation and the reason or reasons therefor in writing shall be served by an officer upon the person named in the application by mailing the same to the address given in the application and upon filing a copy of the same with the Building Inspector.

## § 189-13. Violations and penalties.

Any person who, by himself or by his clerk, agent or employee, shall conduct the business of a junk dealer as herein defined without the license required by this chapter, shall violate any of the provisions of this chapter or who, having had his license revoked, shall continue as a junk dealer may, upon conviction thereof, be subjected to a penalty as provided in Chapter 1, § 1-4 of this Code. In addition to the penalties imposed, the license of the person shall be canceled or revoked.

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

## Chapter 200. Licenses and Permits

[HISTORY: Adopted by the Town Board of the Town of Winneconne 10-20-1994 as § 12.02 of the 1994 Code. Amendments noted where applicable.]

### GENERAL REFERENCES

Dog licenses — See Ch. 112, Art. II.

Intoxicating liquor and fermented malt beverages — See Ch. 182.

Junk dealers — See Ch. 189.

Mobile homes and mobile home parks — See Ch. 210.

### § 200-1. Purpose.

No person shall engage in any trade, profession, business or privilege in the Town for which a license or permit is required by any provision of this Code without first obtaining such license or permit from the Town in the manner provided in this chapter, unless otherwise specifically provided.

### § 200-2. Application.

Unless otherwise provided, application for a license or permit shall be made in writing to the Town Clerk upon forms provided by the Town, and the applicant shall state the location of the proposed activity and such other facts as may be required for or be applicable to the granting of such a license or permit.

### § 200-3. Payment of fee.

The fees required for any license or permit shall be paid at the office of the Town Clerk before the granting of the license or permit. No fee paid shall be refunded unless the license or permit is denied.

### § 200-4. Bond and insurance.

All required bonds shall be executed by two sureties or a surety company and be subject to the approval of the Town Board. Where policies of insurance are required, such policies shall be approved as to



substance and form by the Town Attorney. Satisfactory evidence of coverage by bond or insurance shall be filed with the Town before the license or permit is issued.

## § 200-5. Other approvals.

Where the approval of any Town or state officer is required prior to the issuance of any license or permit, such approval shall be presented to the Town before any license or permit is issued.

## § 200-6. Contents; records.

Licenses or permit certificates shall show the name of the licensee or permittee, the date of issue, the activity licensed and the term of the license or permit and shall be signed in the name of the Town by the Chairman and Town Clerk and be impressed with the Town Seal. The Clerk shall keep a record of all licenses and permits issued.

## § 200-7. Terms.

- A. Unless otherwise provided, the license year shall end on June 30 of each year.
- B. Where the issuance of licenses for a period of less than one year is permitted, the effective date of such license shall commence with the date of issuance.
- C. Permits shall be issued for the term set forth in the permit.

## § 200-8. Exhibition of certificate.

Every licensee or permittee shall carry his license or permit certificate upon his person at all times when engaged in the activity for which the license or permit was granted, except that where such activity is conducted at a fixed place or establishment, the license or permit certificate shall be exhibited at all times in some conspicuous place in his place of business. The licensee or permittee shall exhibit the license certificate when applying for a renewal and upon demand of any police officer or person representing the issuing authority.

## § 200-9. Transfer.

Unless otherwise provided, no license or permit shall be transferable or assignable.

## § 200-10. Review of determinations.

All determinations made by the Town Board shall be subject to the provisions of Ch. 68, Wis. Stats.

## § 200-11. Inspections.

Town officials may enter upon the premises where any licensed or permitted activity is being conducted for the purpose of inspection at any reasonable time.

## § 200-12. Revocation and suspension of licenses.

- A. Except as otherwise provided, any license issued under this chapter may be revoked for cause by the Town Board. No license shall be revoked except upon written verified complaint filed with the Town Board by the Chairman, a member of the Town Board, the Police Chief or a resident of the Town. The licensee shall be served with a written copy of the charges and shall be given an opportunity to be heard before the Town Board. The licensee shall be given notice of such hearing, which shall be not more than 20 nor less than five days after notice, except as otherwise agreed between the parties.<sup>[1]</sup>
- [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- B. At such hearing, the licensee shall be entitled to be represented by counsel, shall have the right to present and cross-examine witnesses and, upon request, may have subpoenas issued by the Chairman or presiding officer of the Board to compel the attendance of witnesses.
- C. After hearing the evidence, the Board may revoke such license or impose a limited period of suspension. The determination of the Board shall be final, subject to review under Ch. 68, Wis. Stats., provided that the licensee shall not be entitled to a further hearing unless granted by the Town Board.
- D. The Police Chief shall repossess any license revoked hereunder.<sup>[2]</sup>
- [2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- E. If the licensee does not apply for a hearing within the time provided, the license may be revoked by the Town Board.

## § 200-13. Charges to be paid prior to issuance of license or permit.

[Added 9-21-2000]

- A. As a condition of obtaining any Town license or Town permit, including but not limited to building permits, the following shall be paid in full on a current basis by the applicant: all local taxes, assessments, and special charges, including other amounts due to the Town imposed pursuant to this Code, all forfeitures or judgments resulting from conviction for violation of any Town ordinances (except moving traffic violations), and all other judgments due and owing from any applicant to the Town at the time of the application. Any amounts unpaid within a time limit set by the Town or a court place the applicant in a state of delinquency and ineligible to receive a license or permit.
- B. The Town Clerk shall be charged with the enforcement of this section unless other provisions are made by the Town Board for enforcement.
- C. Alleged errors in amounts claimed to be due the Town may be appealed to the Town Board.

## § 200-14. Violations and penalties.

Except as otherwise provided herein, violations of this chapter shall be subject to a penalty as provided in Chapter 1, § 1-4 of this Code.

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

## Chapter 205. Lighting, Outdoor

[HISTORY: Adopted by the Town Board of the Town of Winneconne 6-17-2010.<sup>[1]</sup> Amendments noted where applicable.]

### GENERAL REFERENCES

Signs — See Ch. 256.

Site plan review — See Ch. 258.

- [1] *Editor's Note: This ordinance was originally adopted as Ch. 260 but was renumbered in order to maintain the alphabetical sequence of the Code.*

## § 205-1. Purpose; applicability; goals.

- A. The purpose of this chapter is to improve nighttime public safety, utility and security by restricting the nighttime emission of light rays which are the source of light trespass and/or unnecessary glare, and/or are detrimental to the safety and/or security of persons, property or vehicular traffic, and/or are detrimental to the traditional aesthetic values of the Town, and/or which unnecessarily restrict persons from the peaceful enjoyment of their property.
- B. The provisions of this chapter shall apply to all outdoor luminaries used, installed, replaced, altered, moved or repaired after the effective date of this chapter, except as this applicability is specifically expanded or reduced herein.
- C. The goal of this chapter is to have all outdoor luminaries be downward directed, sized, and/or located so that the light emitted from the luminaries does not constitute light trespass as defined herein.

## § 205-2. Statutory authority; effect of other provisions; related chapters.

- A. This chapter is enacted pursuant to the provisions of §§ 60.22(3) and 60.23(29) and Chapter 61 of the Wisconsin Statutes.
- B. The provisions of this chapter are intended to supplement other applicable codes and requirements. Compliance with all applicable provisions of building, zoning, electrical and other codes must be observed. In the event of a conflict between the requirements of this chapter and other requirements, the more stringent requirement shall apply.
- C. Related chapters include Town of Winneconne Code Chapter § 256, Signs, § **256-6**, and Chapter **258**, Site Plan Review, § **258-7D**.

## § 205-3. General requirements.

- A. "Light trespass" shall be defined as a light level that exceeds allowable footcandle illumination at locations described herein.
- B. All exterior lighting must be located, sized, shielded and/or directed in such a manner that it does not constitute light trespass as defined herein. Illumination at ground level beneath the light source shall not exceed two footcandles (five footcandles for active building entrances or point of property access, sidewalks or fuel station pump area). A light level of one footcandle or more at the property line also constitutes light trespass.
- C. All outdoor luminaries must be turned off between 11:00 p.m. local time and sunrise except when used for:
  - (1) Lighting necessary for agricultural purposes in compliance with § **205-5**; or
  - (2) Lighting necessary for security purposes in compliance with § **205-5**; or
  - (3) Lighting necessary to illuminate walkways, staircases, or public street and/or private roads in compliance with § **205-5**; or
  - (4) Lighting necessary for commercial purposes that continues after 11:00 p.m., but only for 30 minutes after the close of public access to the place of business and 30 minutes prior to the

opening of public access to the place of business if before sunrise; or

- (5) Recreational use that continues after 11:00 p.m., but only for so long as such use continues.
- D. The outdoor operation of flashing or rotating exterior lights, searchlights, lasers or other high-intensity beams is prohibited except when authorized by conditional use.
- E. No outdoor luminary may be operated in such manner as to constitute a hazard or danger to persons or to safe vehicular or boating operation.
- F. In the case of state and national flags, statues, entranceway markers, or other top-of-pole mounted objects which cannot be illuminated with downward directed lighting, upward directed lighting may be used only in the form of one or two narrow-cone spotlights which confine the illumination to the object of interest, and provided that the lighting is restricted to an angle of not less than 75° up from horizontal.
- G. Outdoor light pole fixtures shall not exceed a maximum height of 35 feet.
- H. Lighted signs must comply with Town of Winneconne Code Chapter **256**.

## § 205-4. Shoreline and berthing structures.

This section applies to all lighting on shoreline and berthing structures or designed to illuminate shoreline or those structures associated with berths. Lighting must comply with § **205-3**, General requirements, of this chapter along with the following conditions:

- A. Lighting inside a boathouse and intended to illuminate its interior is permitted.
- B. Lighting on exteriors of berthing structures shall be fitted with opaque shields to prevent direct visibility of the lamp to persons on public waters or adjacent lands more than 50 feet beyond the berthing structure.
- C. Lighting not mounted on a berthing structure but designed to illuminate a berthing structure or its immediate vicinity shall comply with Subsection **B** above.
- D. Lighting installed on or intended to illuminate seasonally-used berthing structures shall be turned off when not required for safety or security.

## § 205-5. Exemptions.

The following are exempt from the requirements of this chapter to the extent described as follows:

- A. Agricultural.
  - (1) Outdoor luminaries used to provide illumination onto land zoned Agricultural are exempt from the requirements of this chapter except as described in this section. After the effective date of this chapter, only shielded, low-pressure sodium outdoor or light-emitting diode (LED) luminaries may be newly installed to provide illumination.
  - (2) In the case of the replacement of a luminary, lamp, and/or fixture installed to provide illumination, if existing circuitry does not permit replacement of an individual luminary, lamp, and/or fixture with a low-pressure sodium light or LED fixture, high-pressure sodium may be used instead.
  - (3) All reasonable attempts shall be made to meet the goals of this chapter and to eliminate light trespass from all outdoor luminaries whether existing, newly installed or replacement and whether low-pressure sodium, LED or high-pressure sodium light fixtures are used. Additional shielding to eliminate light trespass onto adjoining residential properties from outdoor

luminaries shall be installed if requested by the adjoining residential property owner or occupant or any affected party.

- B. Security. Motion detector security lights, which are normally off and which are occasionally activated on for less than 12 minutes when motion is detected, are exempt from the requirements of this chapter except for the requirements of § **205-3A** and **D**.
- C. Public and private roads.
  - (1) Outdoor luminaries used to provide illumination for public streets and private roads are exempt from the requirements of this chapter except as described in this section. After the effective date of this chapter, only shielded, low-pressure sodium outdoor or light-emitting diode (LED) luminaries may be newly installed to provide illumination for public streets and private roads. However, in the event that the serving electric public utilities require high-pressure sodium lamps for general street and highway lighting, or for other good and sufficient reasons, high-pressure sodium lamps may be used instead of the low-pressure sodium or LED luminaries as specified in this subsection when authorized by conditional use.
  - (2) In the case of the replacement of a luminary, lamp, and/or fixture installed to provide illumination for public streets, if existing circuitry does not permit replacement of an individual luminary, lamp, and/or fixture with a low-pressure sodium light or LED fixture, high-pressure sodium may be used instead.
  - (3) All reasonable attempts shall be made to meet the goals of this chapter and to eliminate light trespass from all outdoor luminaries used to provide illumination for public streets and private roads, whether existing, newly installed or replacement and whether low-pressure sodium, LED or high-pressure sodium light fixtures are used. Additional shielding to eliminate light trespass onto adjoining residential properties from outdoor luminaries which provide illumination of private roads shall be installed if requested by the adjoining residential property owner or occupant or any affected party.
- D. Low-voltage and holiday lighting. All low-voltage landscape or accent lighting and holiday lighting are exempt from the requirements of this chapter except for the requirements of § **205-3A** and **D**.

## § 205-6. When effective; time limit for compliance; replacement fixtures.

- A. This chapter shall take effect and be in force upon publication as required by law.
- B. All nonconforming fixtures shall be brought into compliance within 12 months of publication of this chapter as required by law.
- C. Within the period of compliance defined in § **205-6B**, whenever a nonconforming fixture or light bulb is replaced or moved, the replacement shall meet the requirements of this chapter. All associated nonconforming fixtures shall be brought into compliance at that time.

## § 205-7. Notice of violations; violations and penalties.

- A. Upon receipt of written complaint and determination of noncompliance, written notice of such violation shall be issued to the owner and/or occupant of such premises indicating the nature of the violation and demanding the violation be abated within 30 days of delivery of notice.
- B. If the violation is not abated or appealed within the thirty-day period, actions may be instituted to abate any violations of this chapter and to collect the penalties for such violations, including injunctive relief.

- C. Any person failing to comply with the provisions of this chapter shall be subject to a penalty as provided in Chapter 1, § 1-4, of the Town of Winneconne Code.

## § 205-8. Severability; conflict with other provisions.

- A. **Severability.** This chapter, and its parts, is declared to be severable. If any section, clause, provision, or portion of this chapter is declared invalid or unconstitutional by a court of competent jurisdiction, this decision shall not affect the validity of the chapter as a whole. All parts of the chapter not declared invalid or unconstitutional shall remain in full force and effect.
- B. **Conflict.** If any of this chapter is found to be in conflict with any other ordinance or with any other part of this chapter, the most restrictive or highest standard shall prevail. If any part of this chapter is explicitly prohibited by federal or state statute, that part shall not be enforced.

## Chapter 210. Mobile Home Parks and Trailer Camps

[HISTORY: Adopted by the Town Board of the Town of Winneconne 10-20-1994 as § 12.05 of the 1994 Code. Amendments noted where applicable.]

### GENERAL REFERENCES

Building construction — See Ch. 120.

Subdivision of land — See Ch. 275.

Zoning — See Ch. 310.

## § 210-1. Definitions.

Whenever in this chapter the following terms are used, they shall have the meanings respectively ascribed to them below, except in those instances where the context clearly indicates a different meaning:

### LICENSEE

Any person licensed to operate and maintain a mobile home park.

### LICENSING AUTHORITY

The Town of Winneconne.

### MOBILE HOME

That which is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway and designed, equipped and used primarily for sleeping, eating, and living quarters, or is intended to be so used, and includes any additions, attachments, annexes, foundations and appurtenances, except that a house trailer is not deemed a mobile home if the assessable value of such additions, attachments, annexes, foundations and appurtenances equals or exceeds 50% of the assessable value of the house trailer.

### MOBILE HOME, DEPENDENT

A mobile home which does not have complete bathroom facilities.

### MOBILE HOME, NONDEPENDENT

A mobile home equipped with complete bath and toilet facilities, all furniture, cooking, heating, appliances and complete year-round facilities.

### MOBILE HOME PARK

Any plot of ground upon which two or more units occupied for dwelling/sleeping purposes are located, regardless of whether or not a charge is made for such accommodation.

**PARK**

Mobile home park.

**PERSON**

Any natural individual, firm, trust, partnership, association or corporation.

**PUBLIC HEALTH AND SAFETY**

The highest degree of protection against infection, contagion, disease and fire that a trailer camp or mobile home park will reasonably permit.

**SPACE**

A plot of ground within a mobile home park designed for the accommodation of one mobile home unit.

**TRAILER**

Any vehicle, house car, camp car or any portable or mobile vehicle on wheels, skids, rollers or blocks, either self-propelled or propelled by any other means, which is used or designed to be used for residential, living or sleeping purposes.

**TRAILER CAMP**

Any area or premises on which space available for two or more trailers is rented or held for rent or on which free occupancy or camping for such number is permitted to trailer owners, but not including automobile or trailer sales lots on which only unoccupied trailers are parked for purposes of inspection or sale.

**TRAILER SITE**

A tract or parcel of land on which one or more trailers are usually kept or parked.

**UNIT**

A mobile home unit.

## § 210-2. Use of trailer or mobile home as permanent residence restricted.

No person shall establish a permanent residence in a trailer or mobile home located in the Town unless the same is located in a mobile home park or unless wholly located at least 1,000 feet from the near side of any other structure, whether or not such other structure is used for human habitation. A person shall be deemed to be using a trailer or mobile home as a permanent residence within the meaning of the section if such person has used the same for human habitation for a period of 60 days within a period of six continuous months.

## § 210-3. License procedure.

- A. No person shall construct, establish, place, operate, maintain or offer for public use, with or without compensation, any trailer camp or mobile home park in the Town without first obtaining a license to do so from the Town Board. The total number of units, trailers or mobile homes that may be parked or kept in any one trailer camp or mobile home park pursuant to such license is limited to 100 units, trailers or mobile homes.
- B. Application for such license shall be filed with the Town Clerk on a form prescribed by the Town Board and shall contain a statement of the name and address of the applicant and the location and legal description of the trailer camp or mobile home park, giving the address, exterior dimensions, maximum number of trailers or mobile homes to be accommodated, the actual or proposed sanitary facilities and fire prevention to be maintained and such other pertinent information as the Town Board may require. Such application shall be accompanied by a plat or plan of the trailer camp or

mobile home park showing the actual or proposed location of all trailers or mobile homes, the location of streets, the location of toilets, showers or baths and all other sanitary facilities, the location of fire prevention apparatus, the location of lighting facilities and such other information as the Town Board may require.

- C. Such application shall be accompanied by a license fee computed according to the number of trailers or mobile homes located in such trailer camp or mobile home park on the date such application is filed with the Town Clerk. In determining the amount of such license fee in excess of \$100, trailers or mobile homes located in any trailer camp or mobile home park solely for storage purposes or solely for sale, or both, and which are not used or offered for use for residential, living or sleeping purposes shall not be counted in determining the number of trailers or mobile homes located in any such trailer camp or mobile home park.
- D. By the filing of such application, the applicant shall be deemed to have consented to an inspection, prior to the issuance of the license, by the Town Board and any other Town officials for the purpose of determining whether or not such license should be granted. The Town Board may issue or deny a license in the exercise of its discretion, having due regard for the effect of the establishment of such trailer camp or mobile home park upon the public health, safety and welfare.
- E. Not more than one license shall be issued for the location of a trailer camp or mobile home park in any one common school district of the Town, as such common school district is defined by the state statutes, if such development would cause the school cost to increase above the state average or if an exceedingly difficult or impossible situation exists with regard to providing adequate and proper sewage disposal therein, provided that such prohibition as to the number of licenses that may be issued for trailer camps or mobile home parks located in a common school district shall not apply to trailer camps located in the Town on the date this subsection becomes effective.
- F. Application for renewal of a license shall be filed in the same manner as application for the original license and upon payment of the applicable fee as provided in this section.
- G. Such license shall not be transferable either as to the applicant or as to the licensed premises.
- H. Such license, when issued, shall be and remain posted in a conspicuous place at the licensed premises at all times that the same remains in force.

## § 210-4. Standards for operation.

- A. Conditions of license. Every trailer camp or mobile home park for which a license is issued under the provisions of this chapter shall be established, maintained and operated in strict conformity with the provisions of this chapter, and by acceptance of such license the licensee shall be deemed to have agreed with the Town Board to comply with all of the provisions of this chapter and to consent to the entry on the licensed premises by any Town official at all reasonable times for the purpose of inspecting the same.
- B. Drainage and sewage. Every trailer camp or mobile home park shall be located on a well-drained site and shall be so graded or adequately drained as to eliminate the collection of surface waters at any point therein. Adequate provision shall be made for the disposal of all sewage by means of duly constructed and maintained septic tanks or other lawful sewage disposal equipment. All provisions for sewage disposal shall be installed and maintained in accordance with the applicable provisions of the Town and State Plumbing Codes.
- C. Water supply. A supply of pure water for drinking and domestic purposes shall be provided in an amount sufficient to care for the needs of the maximum number of persons capable of being accommodated therein. All wells supplying water for such camp shall be constructed and maintained in accordance with the applicable provisions of the Wisconsin Well Construction Code.
- D. Toilets and baths. There shall be established and maintained in every trailer camp or mobile home park a separate toilet and shower or bath for each sex for each 10 trailers or mobile homes and a two-compartment laundry tub with running water for each of 10 units; all such toilets, showers or



baths, laundry tubs and all water facilities shall be connected to the sewage disposal system or have separate and adequate disposal facilities therein for each waste product as the circumstances require, and all of the same shall be maintained in good working order. All toilets, showers or baths and laundry tubs shall have concrete floors, and every room in which a toilet is located shall have at least one window. Toilets shall be water flushed.

- E. Refuse. Every trailer camp or mobile home park shall be provided with a sufficient number of light metal receptacles with close-fitting metal covers for garbage and refuse, and such receptacles shall be emptied at least once in each week.
- F. Spacing. Every trailer or mobile home in a trailer camp or mobile home park shall be located on a space not less than 5,000 square feet in area, and all such spaces shall be arranged in rows facing on a continuous driveway which is at least 25 feet in width, and each space shall have a frontage on such driveway of at least 30 feet. No structure shall be located nearer than 10 feet to the exterior boundary line of any space. No lean-to, shack, tent, room or similar structure of a detachable nature shall be attached to any trailer or mobile home located in a trailer camp or mobile home park, other than as may be required for the housing of equipment for the furnishing of power, light, water, gas or similar service to such trailer or mobile home. Any and all extensions in the area of a trailer camp or mobile home park existing on the date this chapter takes effect, made after the date this chapter takes effect, as well as all trailer camps or mobile home parks constructed after the date this chapter takes effect, shall be laid out and maintained with regard to the spacing of trailers or mobile homes located or to be located therein so as to meet the requirements of this subsection or the requirements of the County Zoning Code as the same is applicable thereto, whichever requires the greater area of such spacing.<sup>[1]</sup>
- [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- G. Lighting. Every trailer camp or mobile home park and every toilet, shower, bath and laundry shall be provided with adequate lighting facilities to make the same safe for use at all times, and all lights for the lighting of the trailer camp or mobile home park in general and the driveways therein shall be kept lighted from 1/2 hour after sunset until sunrise of the following day.
- H. Foundations. All trailer sites and mobile home spaces shall be of concrete or equivalent material.
- I. Registration. A person to whom a license is granted for the operation of any trailer camp or mobile home park shall maintain a register in which shall be registered the name and permanent address of every person using the trailer camp or mobile home park and a description of every trailer or mobile home located in the trailer camp or mobile home park, together with the license number of the automobile or other vehicle and the trailer or mobile home, and such register shall be open at all times for inspection by any official of the Town.
- J. Health and safety. The person to whom a license is issued under the provisions of § 210-3 of this chapter promptly shall report to the Town Clerk the name of every person located upon the licensed premises whom such licensee knows, or has reason to believe, is infected with a contagious disease. Every trailer or mobile home shall have at least one fire extinguisher which shall be maintained at all times in good working order. The person to whom a license is granted under this chapter shall at all times maintain and operate the same for the protection of the public health and safety. All regulations of the State Department of Health and Family Services now or hereafter in effect relating to the establishment and maintenance of trailer camps or mobile home parks and which are not in conflict with the provisions of this chapter shall be deemed a part of this subsection with the same force and effect as though herein set forth in full, and the person to whom a license is issued under this chapter shall be responsible for the enforcement of all such regulations of the State Department of Health and Family Services in the trailer camp or mobile home park for which such license is issued.
- K. Residence. No person, except the licensee to whom a license is issued for the operation of a trailer camp under the provisions of this chapter and the members of his immediate family, shall reside in any trailer camp so licensed for a period of more than six months in any one year, whether such residence is continuous or at intermittent periods. Every person to whom such license is issued shall enforce the provisions of this subsection and promptly shall report to the Town Board the

name of any person so residing in such trailer camp in violation of the provisions of this subsection, together with all information concerning such person and his property as is included in the register required to be maintained by such licensee under the provisions of Subsection I above.

## § 210-5. Revocation of license.

Any person to whom a license has been issued under this chapter found to be in violation of any of the provisions of §§ **210-3** and **210-4** of this chapter or failing to pay or cause to be paid any special assessment levied against the trailer camp or mobile home park within a period of 10 days after such special assessment is required to be paid may be subject to revocation of his license under the provisions of this chapter. Upon revocation of any license issued under this chapter, no refund of the license fee shall be made, and the Town Board may refuse to grant any further license under the provisions of this chapter to such person.

## § 210-6. Monthly parking fee.

There is hereby imposed on each occupied, nonexempt mobile home located in the Town a monthly parking fee as determined under § 66.0435, Wis. Stats. Such fees shall be paid to the Town Treasurer on or before the 10th day of the month following the month for which such fees are due.

## § 210-7. Conflicts with zoning ordinance.

Whenever there is any conflict between the provisions of this chapter and the provisions of any applicable zoning ordinance, the provision which is the most restrictive shall apply with respect to the establishment and operation of any trailer camp or mobile home park in the Town.

[1] *Editor's Note: See Ch. 310, Zoning.*

## § 210-8. Nondependent mobile homes.

A mobile home park harboring only nondependent mobile homes as defined in § **210-1** shall not be subject to the provisions of § **210-4D**.

## § 210-9. Violations and penalties.

Except as otherwise provided herein, violations of this chapter shall be subject to a penalty as provided in Chapter **1**, § **1-4** of this Code.

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

# Chapter 219. Nuisances

[HISTORY: Adopted by the Town Board of the Town of Winneconne 10-20-1994 as Ch. 10 of the 1994 Code. Amendments noted where applicable.]

### GENERAL REFERENCES

Animals — See Ch. **112**.

Outdoor burning — See Ch. **129**.

Cemeteries — See Ch. **140**.

Intoxicating liquor — See Ch. **182**.

Junk dealers — See Ch. **189**.

Peace and good order — See Ch. **237**.

Sewers — See Ch. **252**.

Solid waste — See Ch. **264**.

## § 219-1. Public nuisances prohibited.

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the Town.

## § 219-2. Public nuisance defined.

A public nuisance is a thing, act, occupation, condition or use of property which continues for such length of time as to:

- A. Substantially annoy, injure or endanger the comfort, health, repose or safety of the public.
- B. In any way render the public insecure in life or in the use of property.
- C. Greatly offend the public morals or decency.
- D. Unlawfully and substantially interfere with, obstruct or tend 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.

## § 219-3. Public nuisances affecting health.

The following acts, omissions, places, conditions and things are specifically declared to be public health nuisances; but such enumeration shall not be construed to exclude other health nuisances coming within the definition of § **219-2**:

- A. Adulterated food. All decayed, adulterated or unwholesome food or drink sold or offered for sale to the public.
- B. Unburied carcasses. Carcasses of animals, birds or fowl not intended for human consumption or food which are not buried or otherwise disposed of in a sanitary manner within 24 hours after death.
- C. Breeding places for insects or vermin. Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material in which flies, mosquitoes, disease-carrying insects, rats or other vermin can breed.
- D. Stagnant water. All stagnant water in which mosquitoes, flies or other insects can multiply.
- E. Privy vaults and garbage cans. Privy vaults and garbage cans which are not flytight.
- F. Noxious weeds. Canada thistle, leafy spurge, field bindweed (creeping jenny) and other noxious weeds as defined by Wis. Stat. § 66.0407, as amended, unsightly and troublesome plants which are detrimental to cultivated crops, public health, public welfare and to the general appearance of the surrounding area, or such uncultivated rank plants which create unpleasant or noxious odors or grow to such height as to permit the concealment of filthy deposits.  
[Amended 8-15-2019 by Ord. No. 2019-4]
- G. Water pollution. The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances.
- H. Noxious odors. Any use of property, substances or things within the Town emitting or causing any foul, offensive, noxious or disagreeable odors, gases, effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the Town.

- I. Street pollution. Any use of property which causes any noxious or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the Town.
- J. Air pollution. The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust or other atmospheric pollutants within the Town or within one mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or threaten or cause substantial damage to property in the Town.
- K. Loose animals. Any animals running at large in the Town.
- L. Accumulations of refuse. Accumulations of old cans, lumber, firewood, wood from any tree under quarantine, and other refuse.  
[Added 8-15-2019 by Ord. No. 2019-4]
- M. Junked vehicles. Disassembled, dismantled, partially dismantled, inoperable, junked, wrecked, or unlicensed motor vehicles, truck bodies, tractors, trailers, boats, or campers, exempting farm equipment on land zoned for agricultural purposes, in such state of physical or mechanical ruin as to be incapable of propulsion or of being operated upon the public streets, highways, or waters.  
[Added 8-15-2019 by Ord. No. 2019-4]
- N. Abandoned equipment. Abandoned, discarded, or unused objects or equipment such as furniture, stoves, refrigerators, freezers, cans, containers, lumber, trash, or debris.  
[Added 8-15-2019 by Ord. No. 2019-4]

## § 219-4. Public nuisances offending morals and decency.

The following acts, omissions, places, conditions and things are specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of § 219-2:

- A. Disorderly houses. All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling.
- B. Gambling devices. All gambling devices and slot machines.
- C. Unlicensed sale of liquor and beer. All places where alcohol beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for by the ordinances of the Town.
- D. Continuous violation of Town ordinances. Any place or premises within the Town where Town ordinances or state laws relating to public health, safety, peace, morals or welfare are openly, continuously and repeatedly violated.
- E. Illegal drinking. Any place or premises resorted to for the purpose of drinking alcohol beverages in violation of state laws.

## § 219-5. Public nuisances affecting peace and safety.

The following acts, omissions, places, conditions and things are declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the definition of § 219-2:

- A. Dangerous signs, billboards, etc. All signs, billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public so situated or constructed as to endanger the public safety.

- B. Illegal buildings. All buildings erected, repaired or altered in violation of Town ordinances relating to materials and manner of construction of buildings and structures within the Town.
- C. Unauthorized traffic signs. All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as official traffic control devices, railroad signs or signals or which because of their color, location, brilliance or manner of operation interfere with the effectiveness of any such device, sign or signal.
- D. Obstruction of intersections. All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.
- E. Low hanging tree limbs. All limbs of trees which project over and less than 10 feet above any public sidewalk, street or other public place.
- F. Dangerous trees. All trees which are a menace to public safety or are the cause of substantial annoyance to the general public.
- G. Fireworks. All use or display of fireworks except as provided by state laws and Town ordinances.
- H. Dilapidated buildings. All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.
- I. Low hanging wires and cables. All wires and cables over streets, alleys or public grounds which are strung less than 15 feet above the surface thereof.
- J. Noisy animals or fowl. The keeping or harboring of any animal or fowl which, by frequent or habitual howling, yelping, barking, crowing or making of other noises, greatly annoys or disturbs a neighborhood or any considerable number of persons within the Town.
- K. Obstructions of streets; excavations. All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by this Code, but including those which, although made in accordance with such Code, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished or which do not conform to the permit.
- L. Unlawful assemblies. Any unauthorized or prohibited use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.
- M. Blighted buildings and premises. Premises existing within the Town which are blighted because of faulty design or construction, failure to maintain them in a proper state of repair, improper management or the accumulation thereon of junk or other unsightly debris, structurally unsound fences and other items which depreciate property values and jeopardize or are detrimental to the health, safety, morals or welfare of the people of the Town.
  - (1) Blighted premises contribute to conditions that are dangerous to the public health, safety, morals and general welfare of the people; the conditions necessitate excessive and disproportionate expenditure of public funds for public health and safety, crime prevention, fire protection and other public services; such conditions cause a drain upon public revenue and impair the efficient and economical exercise of governmental functions in such areas.
  - (2) Elimination of blighted premises and prevention of blighted premises in the future is in the best interest of the citizens and shall be fostered and encouraged by this section. It is essential to the public interest that this section be liberally construed to accomplish such purposes.
- N. Appliances and junk. Any junk, wood, bricks, construction materials, cement, concrete blocks, abandoned vehicles, machinery or parts thereof, refrigerators, furnaces, washing machines, stoves, and other appliances or any other unsightly accumulation of items or materials such as may tend to

depreciate property values in the area, or create a blighted condition, or create a hazard (except when such items are properly housed and out of public view).

[Added 8-15-2019 by Ord. No. 2019-4]

## § 219-6. Accumulation of used motor vehicles.

[Amended 4-21-2005; 8-15-2019 by Ord. No. 2019-4]

No person shall accumulate, store or allow to remain outside any building located within the Town for a period of more than 30 days, dump, deposit, or otherwise abandon upon any property or highway, street, road, alley or right-of-way within the Town any used motor vehicle, as "motor vehicle" is defined by Wis. Stat. § 340.01(35), as amended, or any detached part thereof which is in a condition which would mechanically prevent its immediate operation upon any public highway or its operation thereon would be violation of the law. Each day any used motor vehicle as herein defined or any detached part thereof shall be accumulated or stored or allowed to remain contrary to these provisions shall constitute a separate and distinct offense. This section shall not apply to vehicles owned and held available for sale by Wisconsin licensed motor vehicle dealers on the premises from which they are licensed to be sold. This section shall not apply to a junk dealer licensed in compliance with Chapter **189** of the Town Code.

## § 219-7. Abatement of public nuisances.

- A. **Enforcement.** The officers and inspectors of the Town shall enforce those provisions of this chapter that come within the jurisdiction of their respective offices and shall make periodic inspections and inspections upon complaint to ensure that such provisions are not violated. No action shall be taken under this section to abate a public nuisance unless the officer has inspected or caused to be inspected the premises where the nuisance is alleged to exist and has satisfied himself that a nuisance does in fact exist.
- B. **Summary abatement.** If the inspecting officer determines that a public nuisance exists within the Town and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Chairman may direct the proper officer to cause the same to be abated and charge the cost to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.
- C. **Abatement after notice.** If the inspecting officer determines that a public nuisance exists on private premises but that such nuisance does not threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall serve notice on the person causing or maintaining the nuisance to remove the same within 10 days. If such nuisance is not removed within 10 days, the officer shall cause the nuisance to be removed as provided in Subsection **B**.
- D. **Other methods not excluded.** Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the Town or its officials in accordance with the laws of the state.
- E. **Court order.** Except when necessary under Subsection **B**, an officer hereunder shall not use force to obtain access to private property to abate a public nuisance but shall request permission to enter upon private property if such premises are occupied and, if such permission is denied, shall apply to any court having jurisdiction for an order assisting the abatement of the public nuisance.

## § 219-8. Recovery of abatement costs.

In addition to any other penalty imposed by this chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the Town shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge.

## § 219-9. Violations and penalties.

[Amended 8-15-2019 by Ord. No. 2019-4]

Any person who shall violate any provision of this chapter, or any regulation, rule or order made hereunder, or permit or cause a public nuisance, shall be subject to a penalty as provided in Chapter 1, § 1-4 of this Code. The Town may also seek injunctions, abatement orders, warrants to abate a nuisance, and other equitable remedies in the event of a violation.

## Chapter 225. Official Road Map

[HISTORY: Adopted by the Town Board of the Town of Winneconne 8-15-2002. Amendments noted where applicable.]

### GENERAL REFERENCES

Building construction — See Ch. 120.

Comprehensive Plan — See Ch. 146.

Streets and sidewalks — See Ch. 270.

Subdivision of land — See Ch. 275.

## § 225-1. Map established.

There is hereby established an Official Road Map of the Town of Winneconne and parts thereof, showing the location and width of future streets, highways, parks, and playgrounds. The Official Road Map shall be conclusive with respect to the location, width and extent thereof. The placing of any street, highway, park or playground line or lines upon the Official Road Map<sup>[1]</sup> does not constitute the opening or establishment of any street, parkway, park or playground or the taking or acceptance of any land for these purposes.

[1] *Editor's Note: Throughout this chapter, references to "Official Map" were amended to read "Official Road Map" at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 225-2. Approval of land division and subdivision plats.

No land division or subdivision plat shall be approved unless such land division or subdivision plat conforms to the Official Road Map.

## § 225-3. Building permit requirements.

- A. Prior to issuing any type of building permit, the Town Building Inspector shall review the Town's Official Road Map to determine if the application involves the construction or expansion of a structure within an official mapped street, highway, park, or playground. Based on the Town Building Inspector's determination, the building permit application may either be granted or denied within 30 days. If the Town Building Inspector issues a permit for building construction within an official mapped street, highway, park, playground, or waterway, the recipient of the permit is not entitled to compensation for damages or demolition of any structure if the Town authorizes the building of the official mapped street, highway, park, or playground.
- B. Issued county zoning permits in conflict with this chapter will be invalid.

## § 225-4. Changes and amendments.

- A. Before taking any action authorized by this chapter, the Town Board shall hold a public hearing, at which time interested parties shall have an opportunity to be heard. The Town Board may amend the Official Road Map on its own accord, pursuant to this chapter.
- B. A filing fee, established by the Town Board, and an application for amendment to the Official Road Map will be available from the Town Clerk. Amendment applications will first be presented to the Town Plan Commission. Within 60 days, the Plan Commission shall make a recommendation to the Town Board. Within 90 days of filing, the Town Board will set a public hearing (advertised as a Class 2 notice) and will either approve or deny the amendment. If the amendment is approved, it will become part of the Official Road Map. Nonaction by the Town Board shall constitute denial of the amendment.
- C. If any portion of land within the mapped street, highway, park, or playground is no longer considered by the Town Board to be in the best interest of or important for the Town to reserve, the Town Board may amend the Official Road Map (following the amendment process in this section). If the amendment is approved, the Building Inspector may grant a permit for a building or addition in the previously officially mapped parcel. The Town Board may impose reasonable requirements as a condition of granting the permit to promote public health, convenience, safety or general welfare of Town residential areas.

## § 225-5. Appeals.

Where enforcement of the provisions of this chapter would entail practical difficulty or unnecessary hardship, the applicant may appeal the decision of the Town Building Inspector to the Town Board. The Board may, in passing on such appeal, make any reasonable exception and issue the permit subject to conditions that will protect any future street, highway or park layout.

## § 225-6. Certification by Town Clerk.

The Winneconne Town Clerk shall record with the Winnebago County Register of Deeds showing that the Town of Winneconne has established an Official Road Map and shall do likewise as to any amendment.

## § 225-7. Administration.

It shall be the responsibility of the Town Clerk to maintain and keep all maps and property descriptions comprising the Official Road Map up-to-date. The Town Clerk shall be responsible for prompt portrayal of all amendments to the Official Road Map.

## § 225-8. Enforcement.

The Town of Winneconne Building Inspector shall be responsible for the enforcement of this chapter. No building permit shall be issued by the Town Building Inspector where a building, structure or development project directly conflicts with the Official Road Map.

## § 225-9. Violations and penalties.

Anyone who violates the conditions of this chapter shall be subject to the penalties provided in Chapter 1, § 1-4 of this Code.

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

## Chapter 226. Outdoor Heating Devices



[HISTORY: Adopted by the Town Board of the Town of Winneconne 9-21-2006. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Outdoor burning — See Ch. **129**.

Nuisances — See Ch. **219**.

Zoning — See Ch. **310**.

## **§ 226-1. Purpose.**

Although outdoor furnaces may provide an economical alternative to conventional heating systems, concerns have been raised regarding the safety and environmental impacts of these heating devices, particularly the production of offensive odors and potential health effects of uncontrolled emissions. This chapter is intended to ensure that outdoor furnaces are utilized in a manner that does not create a nuisance and is not detrimental to the health, safety and general welfare of the residents of the Town.

## **§ 226-2. Definitions.**

Whenever any of the following terms are used in this chapter, such terms shall be deemed and construed to have the meaning ascribed to them as follows:

### **SOLID-FUEL-FIRED OUTDOOR HEATING DEVICE**

Any equipment, device or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space or water source.

### **STACKS or CHIMNEYS**

Any vertical structure enclosing a flue or flues that carry off smoke or exhaust from a solid fuel-fired heating device; especially that part of such structure extending above a roof.

## **§ 226-3. Regulations.**

- A. All solid-fuel-fired outdoor heating devices shall be installed, operated and maintained in strict conformance with the manufacturer's instructions and regulations and all other applicable local, state and federal standards.
- B. All solid-fuel-fired outdoor heating devices shall be provided with written documentation from the manufacturer that the device meets the EPA emission criteria identified in 40 CFR 60.532(b)(2).
- C. All solid-fuel-fired outdoor heating devices shall, in addition, be operated and maintained as follows:
  - (1) Fuel shall be only natural untreated wood, or other solid fuel specifically permitted by the manufacturer such as corn or other pellets specifically designed for the solid fuel-fired outdoor heating device.
  - (2) The following fuels are prohibited:
    - (a) Processed wood products and any nonwood products.
    - (b) Petroleum in any form.
    - (c) Rubber.
    - (d) Plastic.
    - (e) Garbage.

- (f) Painted wood or treated wood.
  - (g) Any other items not specifically allowed by the manufacturer.
- D. Solid-fuel-fired outdoor heating devices shall be located only on properties zoned A-1 or A-2.
- E. Chimney heights and device location shall be as follows:
- (1) Minimum chimney height of 15 feet.
  - (2) Twenty-five feet from the nearest side or rear property line.
  - (3) One hundred feet from any road.
  - (4) Two feet above the highest eave line of any building within 200 feet of the device on an adjacent property.
  - (5) All chimneys greater than 15 feet in height above the ground shall be provided with documentation from the manufacturer specifying that the solid fuel-fired outdoor heating device will function with this increased chimney height and how the chimney shall be supported.
- F. The owner of the solid-fuel-fired outdoor heating device shall obtain a HVAC permit from the Town of Winneconne before installing a solid-fuel-fired outdoor heating device.
- G. All solid-fuel-fired outdoor heating devices must be installed in accordance with all Town codes and manufacturer's guidelines.
- H. Prior to use, all solid-fuel-fired outdoor heating devices must be inspected and approved by the Building Inspector.

## § 226-4. Nuisances.

Should any solid-fuel-fired outdoor heating device permitted under this chapter become hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood, as determined by the Building Inspector, Fire Chief, and/or the County Health Department, then the owner shall correct, improve or abate the nuisance using whatever means are necessary in accordance with this section. If the nuisance cannot be abated, then operation of the device shall be discontinued until a solution to the nuisance can be found.

## § 226-5. Existing and nonconforming devices.

- A. All existing units shall immediately comply with all manufacturers' specifications and are subject to § 226-3C within 30 days from the effective date of this chapter.
- B. All existing nonconforming devices, upon the complaint of a Town resident, shall be investigated by the Town Building Inspector who will submit a report of his/her findings to the Town Board. The Town Board shall make the final determination as to whether the device shall be allowed, removed, replaced or modified to meet the requirements of this chapter. If the determination is made that the device must be removed, replaced or modified, the owner shall have 45 days from notification to rectify the situation as specified by the Town Board. This notification shall be delivered by the Town Building Inspector, Town Police Department or other Town officer or agent.

## § 226-6. Exceptions.

Where the Town of Winneconne finds that extraordinary hardship will occur from the enforcement of this chapter, upon application to the Town Board, said Town Board may vary the regulations contained

herein to afford substantial justice, provided that such exception will not have the effect of nullifying the intent and purpose of this chapter.

## § 226-7. Violations and penalties.

Any person found to be in violation of any provision of this chapter shall be subject to a penalty as provided in Chapter 1, § 1-4 of the Code.

## Chapter 232. Parks and Recreation

[HISTORY: Adopted by the Town Board of the Town of Winneconne as indicated in article histories. Amendments noted where applicable.]

### Article I. Park Closing Hours

[Adopted 10-20-1994 (§ 9.13 of the 1994 Code)]

#### § 232-1. Hours established; exceptions.

No person shall be in any Town park within the Town of Winneconne between the hours of 10:00 p.m. and 6:00 a.m. with the following exceptions:

- A. Police Department, Winneconne Poygan Fire District and Town Board members when on official business.  
[Amended 4-21-2005]
- B. Any other person authorized by the Police Chief or Town Chairman.

#### § 232-2. Violations and penalties.

[Amended 4-21-2005]

Any person violating this article shall be subject to a penalty as provided in Chapter 1, § 1-4 of this Code.

### Article II. Boating and Waterskiing

[Adopted 10-20-1994 as Ch. 20 of the 1994 Code]

#### § 232-3. Boating regulations.

- A. Speed restrictions. No person shall operate a motorboat at a speed greater than is reasonable and prudent under the conditions and having regard for the activities and potential hazards then existing. The speed of a motorboat shall be so controlled as to avoid colliding with any object lawfully in or on the water or with any person, boat or other conveyance in or on the water in compliance with legal requirements and exercising due care. Where required by a posted notice, which notice shall be conspicuously posted by the Town Board, the speed of motorboats within 50 feet of a populated shoreline or in canals, rivers or harbors giving access to Lake Winneconne, Lake Butte des Morts or the Fox or Wolf Rivers shall be idling speed.
- B. Negligent operation. No person shall operate or use any boat upon the waters of this state in a careless, negligent or reckless manner so as to endanger the property or person of another.

- C. Overloading. No boat shall be loaded with passengers or cargo beyond its safe carrying capacity, taking into consideration weather and other existing operating conditions.
- D. Mooring at Town dock. It shall be unlawful for any person to moor his or her boat or any other boat under his or her control to the Town dock at the south end of Main Street in Butte des Morts and allow the same to remain moored and unoccupied for a period in excess of four consecutive hours.  
[Added 7-16-1998; amended 7-18-2013]

## § 232-4. Waterskiing.

Except for participation in authorized water ski tournaments, competitions, exhibitions or trials therefor where adequate lighting is provided, no person shall operate a motorboat towing a person on water skis, aquaplane or similar device, nor shall any person engage in waterskiing, aquaplaning or similar activity, at any time from sunset to sunrise. Any boat pulling one or more water skiers, aquaplanes or similar devices must at all times be manned by at least two persons, both of whom shall be situated in the boat, one of whom shall give his undivided attention to the steering and operation of the motorboat and the other of whom shall give his attention to the person or persons skiing or aquaplaning or similar device being towed. A person operating a motorboat having in tow a person on water skis, aquaplane or similar device shall operate such boat in a careful and prudent manner and at a reasonable distance from persons or property so as not to endanger the life or property of any person.

## § 232-5. Violations and penalties.

Except as otherwise provided, any person violating any of the provisions of this article shall be subject to a penalty as provided in Chapter 1, § 1-4 of this Code.

## Chapter 237. Peace and Good Order

[HISTORY: Adopted by the Town Board of the Town of Winneconne 10-20-1994 as §§ 9.01 to 9.03, 9.05 to 9.12 and 9.15 of the 1994 Code. Amendments noted where applicable.]

### GENERAL REFERENCES

Animals — See Ch. 112.

Nuisances — See Ch. 219.

## § 237-1. Offenses against state laws subject to forfeiture.

The following statutes defining offenses against the peace and good order of the state are adopted by reference to define offenses against the peace and good order of the Town, provided that the penalty for commission of such offenses hereunder shall be limited to a forfeiture imposed under Chapter 1, § 1-4 of this Code:

§ 134.71	Violations by secondhand dealers
§ 173.10	Crimes against animals
§ 175.25	Illegal storage of junked vehicles
§ 218.0146	Used cars/prohibited acts
§ 218.0147	Purchase or lease of motor vehicle by minor
§ 254.76	Causing fires by tobacco smoking
§ 285.30	Pollution by motor vehicle/tampering with pollution control system
§ 939.05	Parties to crime
§ 939.22	Words and phrases defined

§ 939.32	Attempt
§ 940.19(1)	Battery
§ 941.10	Negligent handling of burning material
§ 941.12(2) and (3)	Interfering with fire fighting
§ 941.13	False alarms
§ 941.20(1)	Reckless use of weapons
§ 941.23	Carrying concealed weapon
§ 941.24	Possession of switchblade knife
§ 943.01(1)	Criminal damage to property (less than \$1,000)
§ 943.07(1), (2) and (3)	Criminal damage to railroad
§ 943.07(4)	Intentionally depositing debris on railroad
§ 943.11	Entry into locked vehicle
§ 943.125	Entry into locked coin box
§ 943.13	Trespass to land
§ 943.14	Criminal trespass to dwelling
§ 943.20	Theft (\$500 or less)
§ 943.21	Fraud on hotel or restaurant keeper (\$500 or less)
§ 943.22	Use of cheating tokens
§ 943.23(2)	Operate auto without owner's consent
§ 943.24	Issue of worthless checks (less than \$500)
§ 943.34(1)	Receiving stolen property, value less than \$500
§ 943.37	Alteration of property identification marks
§ 943.41(2), (3)(a) to (d) or (4)(b)	Credit card crimes, value less than \$500
§ 943.50	Retail theft (shoplifting)
§ 944.15	Fornication
§ 944.17	Sexual gratification
§ 944.20	Lewd and lascivious behavior
§ 944.30	Prostitution
§ 944.31	Patronizing prostitutes
§ 944.33(1)	Pandering
§ 944.36	Solicitation of drinks prohibited
§ 945.01	Definitions relating to gambling
§ 945.02	Gambling
§ 945.04	Permitting premises to be used for commercial gambling
§ 946.06	Improper use of flag
§ 946.32	False swearing
§ 946.40	Refusing to aid officer
§ 946.41	Resisting or obstructing officer
§ 946.42(1)	Escape
§ 946.69	Falsely assuming to act as a public officer
§ 946.70	Impersonating peace officer
§ 946.72(2)	Tampering with public records and notices
§ 947.01	Disorderly conduct

§ 947.012	Unlawful use of telephone
§ 947.06	Unlawful assemblies
§ 948.11	Exposing a child to harmful material or harmful descriptions or narrations
§ 948.63	Receiving property from a child
§ 948.60	Possession of a dangerous weapon by a person under 18
§ 951.01	Definitions
§ 961.41(3g)(e)	Possession of marijuana
§ 961.41(4)(bm)	Unlawful manufacture/delivery of controlled substance

## § 237-2. Firearms.

- A. No person shall fire or discharge any firearm within 200 yards of any dwelling in the Town.
- B. No firearm, whether rifle, shotgun, pistol or other type of firearm, shall be discharged from within the limits of any highway in the Town, and no firearm shall be discharged from any place so that the projectile or projectiles, whether bullets, slugs, pellets, BB's or otherwise, traverse or cross any portion of any public highway within the Town.

## § 237-3. Trespassing.

- A. No person shall do any of the following acts:
  - (1) Enter any enclosed or cultivated land of another with intent to catch or kill any birds, animals or fish on such land or gather any products of the soil without the express or implied consent of the owner or occupant to engage in any of those activities.
  - (2) Enter or remain on any land of another after having been notified by the owner or occupant not to enter or remain on such premises.
  - (3) Hunt, shoot, fish or gather any product of the soil on the premises of another or enter such premises with intent to do any of the foregoing after having been notified by the owner or occupant not to do so.
- B. A person has received notice from the owner or occupant within the meaning of this section if he has been notified personally, either orally or in writing, or if the land is posted. For land to be posted, a sign of at least 11 square inches must be placed in at least two conspicuous places for every 40 acres to be protected. The sign must carry an appropriate notice and the name of the person giving the notice followed by the word "owner" if the person giving the notice is the holder of legal title to the land and by the word "occupant" if the person giving the notice is not the holder of legal title but is a lawful occupant of the land. Proof that appropriate signs as herein provided were erected or in existence upon the premises to be protected within six months prior to the event complained of shall be prima facie proof that the premises to be protected was posted as herein provided.
- C. Whoever erects on the land of another signs which are the same as or similar to those described in Subsection **B** without obtaining the express consent of the lawful occupant of or holder of legal title to such land may be subject to a forfeiture as provided in Subsection **E**.
- D. Any authorized occupant of employer-provided housing shall have the right to decide who may enter, confer and visit with him in the housing area he occupies.
- E. Any person who shall violate any provision of this section shall, upon proof and conviction thereof, forfeit not less than \$50 nor more than \$500, together with the costs of prosecution, and in default of the forfeiture and costs of prosecution or either of them such convicted person shall be committed to and confined within the county jail until such fine and costs of prosecution are paid, but not to exceed 60 days.<sup>[1]</sup>

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

## § 237-4. Throwing or shooting of arrows, stones and other missiles.

No person shall throw or shoot any object, arrow, stone, snowball or other missile or projectile, by hand or by any other means, at any person or at, in or into any building, street, sidewalk, alley, highway, park, playground or other public place within the Town.

## § 237-5. Sale and discharge of fireworks.

Section 167.10, Wis. Stats., regulating the sale and use of fireworks, exclusive of any penalty imposed thereby, is adopted by reference and made a part of this section as though set forth in full.

[1] *Editor's Note: See also Ch. 165, Fire Prevention, § 165-2C(3).*

## § 237-6. Obstructing streets and sidewalks.

No person shall stand, sit, loaf, loiter or engage in any sport or exercise on any public street, sidewalk, bridge or public ground within the Town in such manner as to prevent or obstruct the free passage of pedestrian or vehicular traffic thereon or to prevent or hinder free ingress or egress to or from any place of business or amusement, church, public hall or meeting place, except with the permission of the Town Board upon written application to the Board.

## § 237-7. Loud and unnecessary noise.

No person shall make or cause to be made any loud, disturbing or unnecessary sounds or noises such as may tend to annoy or disturb another in or about any public street, alley, park or any private residence.

## § 237-8. Destruction of property.

No person shall willfully injure or intentionally deface, destroy or unlawfully remove, take or meddle with any property belonging to the Town or its departments or to any person without the consent of the owner or proper authority.

## § 237-9. Littering.

No person shall throw any glass, garbage, rubbish, waste, slop, dirty water or noxious liquid or other litter or unwholesome substance upon the streets, alleys, highways, public parks or other property of the Town or upon any private property not owned by him or upon the surface of any body of water within the Town.

## § 237-10. Open cisterns, wells or other dangerous excavations.

No person shall have or permit on any premises owned or occupied by him any open cisterns, cesspools, wells, unused basements, excavations or other dangerous openings. All such places shall be filled, securely covered or fenced in such manner as to prevent injury to any person, and any cover shall be of a design, size and weight that the same cannot be removed by small children. Any violation of this section is a public nuisance and may be disposed of in accordance with Ch. 823, Wis. Stats.

## § 237-11. Abandoned or unattended refrigerators.

No person shall leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, dwelling or other structure under his control in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or other container which has an airtight door or lid, snap lock or other locking device which may not be released from the inside without first removing such door or lid, snap lock or other locking device from such icebox, refrigerator or container, unless such container is displayed for sale on the premises of the owner or his agent and is securely locked or fastened.

## § 237-12. Violations and penalties.

- A. Except as otherwise provided in this chapter, any person who shall violate any provision of this chapter shall be subject to a penalty as provided in Chapter 1, § 1-4 of this General Code.
- B. In addition to any penalty imposed for violation of § 237-8 of this chapter, any person who shall cause physical damage to or destroy any public property shall be liable for costs of replacing or repairing such damaged or destroyed property. The parent of any unemancipated minor child who violates § 237-8 may also be held liable for the cost of replacing or repairing such damaged or destroyed property in accordance with § 895.035, Wis. Stats.

## Chapter 252. Sewers

[HISTORY: Adopted by the Town Board of the Town of Winneconne as indicated in article histories. Amendments noted where applicable.]

### GENERAL REFERENCES

Building construction — See Ch. 120.  
 Mobile home parks and trailer camps — See Ch. 210.  
 Streets and sidewalks — See Ch. 270.  
 Subdivision of land — See Ch. 275.

## Article I. Mandatory Connection

[Adopted 10-20-1994 as §§ 11.03 and 11.10 of the 1994 Code]

### § 252-1. Connection required.

Any building or trailer new to a lot or parcel of land, whether constructed on or moved on, shall be connected to an approved disposal system.

### § 252-2. Violations and penalties.

Except as otherwise provided, any person who shall violate any provision of this article or any regulation, rule or order made hereunder shall be subject to a penalty as provided in Chapter 1, § 1-4 of this Code.

## Article II. Sludge Disposal

[Adopted 10-18-2001 (§ 11.05 of the 1994 Code)]



## § 252-3. Purpose.

[Amended 11-19-2009]

The purpose of this article is to control the importation for the purpose of disposal, spreading, storage or treatment of sludge into the Town of Winneconne from surrounding communities. In addition, no person may own or operate a public or private landfill within the Town of Winneconne.

## § 252-4. Scope.

[Amended 11-19-2009]

This article pertains to sludge, originating in part or in whole from within the Town, which is defined as a municipal sewer treatment residue, whether solid, semisolid or liquid, that has been processed or treated.

## § 252-5. Abrogation and greater restrictions.

It is not intended by this article 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 article imposes greater restrictions, the provisions of this article shall apply.

## § 252-6. Interpretation.

The provisions of this article shall be held to be the minimum requirements and shall not be deemed a limitation or repeal of any other power granted by Wisconsin Statutes. Where any terms or requirements of this article may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply.

## § 252-7. Applicability.

The requirements of this article shall apply to all persons and entities, whether or not said person lives within the boundaries of the Town of Winneconne or said entity has its business located in the Town of Winneconne.

## § 252-8. Definitions.

For the purpose of this article, the following terms shall have the meanings indicated:

### **SLUDGE**

Municipal sewer treatment residue, whether solid, semisolid or liquid, which has been processed or treated.

[Added 11-19-2009]

### **STORAGE**

The temporary placement of an item, mixture, waste or other material with the intent to move, use, spread or dispose of said material at some time in the future.

### **SURROUNDING COMMUNITIES**

Those areas not found within the boundaries of the Town of Winneconne at the time of enactment of this article. These surrounding communities include but are not limited to residences, businesses, communities, municipalities, and government agencies.

## TREATMENT

Any method, technique or process which is designed to change the physical, chemical or biological character or composition of sludge. "Treatment" includes spreading on fields and incineration.

## § 252-9. Prohibited acts.

[Amended 11-19-2009]

No person or entity may transport, recycle, store, apply to land or treat any sludge in the Town of Winneconne that has been brought in from surrounding communities without a permit.

## § 252-10. Inspections; violations and penalties.

- A. Any authorized officer, employee or representative of the Town of Winneconne may inspect imported materials for potential sludge and any records relating to imported products for the purpose of ascertaining compliance with the provisions of this article. No person may refuse access to any authorized officer, employee or authorized representative of the Town of Winneconne who requests access for purposes of inspection and who presents appropriate credentials. No person may obstruct, hamper, or interfere with an inspection.
- B. Any person or entity that violates a provision of this article may be issued a citation by the Town of Winneconne to collect forfeitures. Proceeding under any other ordinance of law relating to the same or any other matter shall not preclude the issuance of a citation under this subsection.
- C. Penalties for violating this article are as follows:
  - (1) Any person who violates a provision of this article may be required to forfeit \$100 for a first violation, \$500 for a second violation, and not more than \$2,000 for each subsequent violation. Each day of noncompliance with this article may be considered a separate violation of this article.
  - (2) Any person who violates a provision of this article shall be subject to injunctive relief as applied for by the Town of Winneconne.

## § 252-11. Permits.

[Amended 11-19-2009]

Permits may be granted as directed by the Town Board. A request for a permit will be reviewed on a case-by-case basis with the following guidelines:

- A. Each request for a permit shall be presented to the Town Clerk, in writing, a minimum of 10 days prior to the monthly Town Board meeting.
- B. Each request for a permit shall be presented to the Town Board at the monthly Town Board meeting by the person or entity requesting the permit.
- C. A permit fee as set by the Town Board will be required in order to process and record all permits.
- D. If a permit is granted, it shall be valid for a period of one year from the date issued.
- E. Each permit shall designate restrictions for use.
- F. Failure to comply with restrictions presented on the permit shall be cause for retraction of said permit and result in a penalty as set by the Town Board.
- G. If after granting a permit the Town Board determines that there is a legitimate reason to review the permit, the Town Board may schedule a special meeting to reconsider conditions of the permit or to retract the permit.

## Chapter 254. Sex Offender Residency

[HISTORY: Adopted by the Town Board of the Town of Winneconne 8-20-2020 by Ord. No. 2020-5. Amendments noted where applicable.]

### § 254-1. Recitals.

- A. The Wisconsin Statutes, including Chapters 940, 944, and 948 thereof, govern the punishment of individuals who commit sex crimes. The Wisconsin Statutes also govern the release into the community of such individuals. The Town is responsible to maintain the public health, safety, and welfare and finds that sex offenders have high recidivism rates that threaten the public health, safety, and welfare, especially that of children.
- B. The Town Board has reviewed findings in several studies related to recidivism and risk related to individuals who have committed sex crimes. Those studies include the following:
- (1) "Center for Sex Offender Management Fact Sheet: What You Need to Know About Sex Offenders." This fact sheet provided information about sex offender recidivism, including that it is estimated that one in every five girls and one in every seven boys are sexually abused by the time they reach adulthood; that one in six adult women and one in 33 adult men experience an attempted or completed sexual assault; that approximately 67% of all victims of reported sexual assaults are under age 18 and more than half are under age 12; and that about 12% to 24% of sex offenders will reoffend.
  - (2) "U.S. Department of Justice, Bureau of Justice Statistics - Recidivism of Sex Offenders Release from Prison in 1994." This study found that compared to non-sex offenders release from state prisons, release sex offenders were four times more likely to be rearrested for a sex crime.
  - (3) "Correctional Service Canada - Forum on Corrections Research." This study of 178 sex offenders released from a maximum-security psychiatric facility found that after an average follow-up of 59 months, 27.5% of sex offenders in the study sexually recidivated and 40.4% of the sex offenders were arrested, convicted, or returned to a psychiatric facility for a violent offense.
  - (4) "California Research Bureau - The Impact of Residency Restrictions on Sex Offenders and Correctional Management: A Literature Review." This study found that at the time it was written 22 states had enacted some form of residency restriction that prohibits sex offenders from living within a certain distance of schools, day-care centers, or places where children congregate. The least restrictive among them was 500 feet, but distances from 1,000 to 2,500 feet were common.
  - (5) "National Bureau of Economic Research - There Goes the Neighborhood? Estimates of the Impact of Crime Risk on Property Values from Megan's Laws." This study found that the majority of both violent and nonviolent offenses take place less than one mile from victims' homes. It also found that prices of homes near sex offenders declined considerably following an offender's arrival in the neighborhood.
  - (6) "An Evaluation of Sex Offender Residency Restrictions in Michigan and Missouri." This study found that while in Michigan, residency restrictions led to a slight increase in recidivism, in Missouri, the reconviction rate declined.
- C. Based on the above studies and other information presented to the Town Board, the Board determines that the restrictions set forth in this chapter serve the purpose of protecting the public health, safety, and welfare from the risk of recidivism of sex offenders. The Board further determines that the intent and effect of this chapter is not to banish sex offenders from residing within the Town, and careful attention has been given to ensure that there are ample locations for sex offenders to reside within the Town in compliance with the requirements of this chapter.

- D. The Board further determines that the opportunity for individualized consideration of the risks and benefits of residency restrictions on a case-by-case basis is the best approach to achieve the purposes of this chapter and, to that end, this chapter establishes an "exemption" process by which a sex offender may seek an exemption from its residency restrictions by petitioning to the Board's Sex Offender Residence Board.

## § 254-2. Purpose.

The purpose of this chapter is to protect the public health, safety, and welfare in the Town by regulating the residency of sex offenders.

## § 254-3. Definitions.

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

### **CRIME AGAINST CHILDREN**

Shall mean any of the following offenses set forth in the Wisconsin Statutes, as amended, or in the laws of this or any other state or the federal government having like elements necessary for conviction, respectively:

- Wis. Stat. § 940.225(1) First Degree Sexual Assault;
- Wis. Stat. § 940.225(2) Second Degree Sexual Assault;
- Wis. Stat. § 940.225(3) Third Degree Sexual Assault;
- Wis. Stat. § 940.22(2) Sexual Exploitation by Therapist;
- Wis. Stat. § 940.30 False Imprisonment - victim was minor and not offender's child;
- Wis. Stat. § 940.31 Kidnapping - victim was minor and not offender's child;
- Wis. Stat. § 944.02 Rape (prior statute, now Wis. Stat. § 940.225);
- Wis. Stat. § 944.06 Incest;
- Wis. Stat. § 944.10 Sexual Intercourse with a Child (prior statute, now Wis. Stat. § 948.02);
- Wis. Stat. § 944.11 Indecent Behavior with a Child (prior statute, now Wis. Stat. § 948.02);
- Wis. Stat. § 944.12 Enticing Child for Immoral Purposes (prior statute, now Wis. Stat. § 948.07);
- Wis. Stat. § 948.02(1) First Degree Sexual Assault of a Child;
- Wis. Stat. § 948.02(2) Second Degree Sexual Assault of a Child;
- Wis. Stat. § 948.025 Engaging in Repeated Acts of Sexual Assault of the Same Child;
- Wis. Stat. § 948.05 Sexual Exploitation of a Child;
- Wis. Stat. § 948.055 Causing a Child to View or Listen to Sexual Activity;
- Wis. Stat. § 948.06 Incest with a Child;
- Wis. Stat. § 948.07 Child Enticement;
- Wis. Stat. § 948.075 Use of a Computer to Facilitate a Child Sex Crime;
- Wis. Stat. § 948.08 Soliciting a Child for Prostitution;
- Wis. Stat. § 948.095 Sexual Assault of a Student by School Instruction Staff;
- Wis. Stat. § 948.11(2)(a) or (am) Exposing a Child to Harmful Material;
- Wis. Stat. § 948.12 Possession of Child Pornography;
- Wis. Stat. § 948.13 Convicted Child Sex Offender Working with Children;
- Wis. Stat. § 948.30 Abduction of Another's Child;
- Wis. Stat. § 971.17 Not Guilty by Reason of Mental Disease or an Included Offense; and
- Wis. Stat. § 975.06 Sex Crime Law Enforcement.

**RESIDENCE**

A place where a person sleeps, abides, lodges, or resides on a permanent or regular basis. For purposes of this definition, a permanent basis means 14 or more consecutive days and a regular basis means 14 or more aggregate days during any calendar year and four or more days in any month. A person may have more than one residence.

**SEX OFFENDER**

A person who has been convicted of, has been found delinquent of, or has been found not guilty of by reason of disease or mental defect of a sexually violent offense or a crime against children.

**SEXUALLY VIOLENT OFFENSE**

Shall have the meaning set forth in Wis. Stat. § 980.01(6).

**§ 254-4. Residency restriction.**

- A. Except as otherwise provided in this chapter, a sex offender may not reside within 2,000 feet of any real property upon which there exists any of the following uses, whether the applicable following use is located within the Town or in another municipality:
- (1) A school for children.
  - (2) A public park, park facility, or pathway.
  - (3) A day-care licensed by the State of Wisconsin.
  - (4) A public library.
  - (5) A public playground.
  - (6) A public athletic field used by children.
  - (7) A residential care center for children.
  - (8) A public swimming pool.
  - (9) A public community center.
- B. For purposes of this section, distance is to be measured in a straight line from the closest boundary line of the real property upon which the sex offender's residence is located to the closest boundary line of the real property of the applicable use.

**§ 254-5. Residency restriction exceptions.**

A sex offender residing within an area otherwise prohibited by § **254-4** does not commit an offense if any of the following apply:

- A. The person is required to serve a sentence at a jail, prison, juvenile facility, or other facility located at the otherwise prohibited location.
- B. The person had established a residence, as defined § **254-3** above, at the location prior to the effective date of this chapter.
- C. The use enumerated in § **254-4** was established after the sex offender established a residence at the location and registered that residence as required by law.
- D. The sex offender is a minor or ward under guardianship.

**§ 254-6. Safety zones.**

No sex offender may enter or be present on any real property upon which there exists any facility used for or which supports the use of:

- A. A school for children.
- B. A public park, park facility, or pathway.
- C. A day-care licensed by the State of Wisconsin.
- D. A public library.
- E. A public playground.
- F. A public athletic field used by children.
- G. A residential care center for children.
- H. A public swimming pool.
- I. A public community center.

## § 254-7. Safety zone exceptions.

A sex offender present in an area otherwise prohibited by § 254-6 does not commit an offense if any of the following apply:

- A. The property supporting a use enumerated in § 254-6 also supports a church, synagogue, mosque, temple, or other house of religious worship, subject to the following conditions:
  - (1) Entrance and presence on the property may occur only during hours of worship or other religious program or service.
  - (2) The person may not participate in any religious education programs that include individuals under the age of 18.
- B. The property supporting a use enumerated in § 254-6 also supports a use lawfully attended by the sex offender's natural or adopted child or children, which child's use reasonably requires the attendance of the sex offender, provided that entrance and presence on the property occurs only during hours of activity related to the use by the child or children.
- C. The property supporting a use enumerated in § 254-6 also supports a polling location in a local, state, or federal election, subject to the following conditions:
  - (1) The sex offender is eligible to vote.
  - (2) The polling location is the designated polling location for the sex offender.
  - (3) The sex offender casts his or her ballot with whatever usual and customary assistance is available and vacates the property immediately after voting.
- D. The property supporting a use enumerated in § 254-6 also supports a school lawfully attended by the sex offender as a student, provided that the sex offender may only remain on the property at such times that are reasonably required for his or her educational purposes.
- E. The property supporting a use enumerated in § 254-6 also supports a police station, Town hall, or other governmental building, provided that the sex offender vacates the property immediately after completing the activity that required his or her presence at the property.

## § 254-8. Original residency restriction.

In addition to the other residency restrictions set forth herein and subject to the limitations in § 254-5, no sex offender may establish a residence in the Town unless he or she was a resident of Winnebago County at the time of the most recent offense resulting in the person's most recent conviction, commitment, or placement as a sex offender. This limitation shall not apply to the establishment of a residence at a dwelling that is owned by a member of the sex offender's family at the time the sex offender establishes residence therein. For purposes of this section, a member of a sex offender's family means the sex offender's mother, father, brother, sister, child, or grandparent.

## § 254-9. Sale or rental of property for use by sex offenders.

No person may sell or rent any place, structure, or part thereof with knowledge that it will be used as a residence by any sex offender that is prohibited from establishing residence therein by this chapter.

## § 254-10. Petition for exemption.

- A. A sex offender may seek an exemption from this chapter by petitioning to the Sex Offender Residence Board ("Residence Board").
- B. The Residence Board shall consist of three citizens residing in the Town. Members shall be selected by the Town Chairperson subject to the approval of the Town Board. Members shall serve for a term of five years and shall serve no more than two consecutive terms. The terms for the initial members of the Residence Board shall be staggered with one member serving one year, a second member serving three years, and a third member serving five years.
- C. The Residence Board shall approve an official petition form. The sex offender seeking an exemption must complete the petition and submit it to the Town Clerk, who shall forward it to the Residence Board. The Residence Board shall hold a hearing on each petition, during which the Residence Board may review any pertinent information and accept oral or written statements from any person. The Residence Board shall base its decision on factors related to the Town's interest in promoting, protecting, and improving the health, safety, and welfare of the community. Applicable factors for the Residence Board to consider include, but are not limited to:
  - (1) Nature of the offense that resulted in designated offender status.
  - (2) Date of offense.
  - (3) Age at time of the offense.
  - (4) Recommendation of probation or parole officer.
  - (5) Investigative report of the Police Department.
  - (6) Recommendation of any treating practitioner.
  - (7) Counseling, treatment and rehabilitation status of the sex offender.
  - (8) Remorse of sex offender.
  - (9) Duration of time since sex offender's incarceration.
  - (10) Support network of sex offender.
  - (11) Relationship of offender and victim(s).
  - (12) Presence or use of force in offense(s).
  - (13) Adherence to terms of probation or parole.
  - (14) Proposals for safety assurance of sex offender.

(15) Conditions to be placed on the exemption.

- D. The Residence Board shall decide by majority vote whether to grant or deny an exemption. An exemption may be unconditional or limited to a certain address, time, or subject to other reasonable conditions. The Residence Board's decision shall be final for purposes of any appeal. A written copy of the decision shall be provided to the sex offender and the Police Department.

## § 254-11. Enforcement.

A person violating this chapter shall be subject to forfeitures in an amount of not less than \$200 nor more than \$500 for each violation, plus the costs of prosecution (including reasonable attorneys' fees). For purposes of calculating forfeitures, each day that a violation exists shall constitute a separate offense. Violations of this chapter are also deemed public nuisances, and the Town may bring an action in circuit court to enjoin or abate any violation.

## Chapter 256. Signs

[HISTORY: Adopted by the Town Board of the Town of Winneconne 7-21-2005. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Building construction — See Ch. **120**.

Zoning — See Ch. **310**.

## § 256-1. Purpose.

The purpose of this chapter is to protect the public health, safety and general welfare by:

- A. Promoting well-maintained and attractive signage within the Town;
- B. Providing for adequate business identification, advertising, and communication; and
- C. Protecting the safety and efficiency of the Town's transportation network by reducing confusion or distractions to motorists and enhancing motorists' ability to view pedestrians, obstacles, other vehicles and official traffic signs, signals, or devices by minimizing a proliferation of messages for the motorist.

## § 256-2. Signs prohibited in certain districts; exceptions.

All signs are prohibited in all residential, agricultural, commercial, and industrial districts except as follows:

- A. Signs over show windows or doors of a business establishment announcing without display or elaboration only the name and occupation of the proprietor and not to exceed two feet in height and 10 feet in length.
- B. Real estate signs which advertise the sale, rental or lease of the premises, and political campaign signs when they are temporarily located. The sign is not to exceed four square feet.
- C. Name, occupation and warning signs not to exceed two square feet located on the premises.
- D. Bulletin boards and identification signs for public, charitable or religious institutions, apartments, planned residential developments and subdivisions and model homes, in residential districts, provided they:
  - (1) Are on premises.



- (2) Do not exceed 32 square feet in area except model homes not to exceed 16 square feet in area.
  - (3) Are located a minimum of 10 feet from the right-of-way.
  - (4) Conform to the other yard requirements of the basic district.
  - (5) Do not exceed in height 10 feet above the crown of the road.
  - (6) Meet distance requirements of freestanding business signs.
  - (7) Are limited to the number of signs specified for on-premises business signs.
- E. Memorial signs, tablets, names of buildings, or date of erection when cut into masonry surface or when constructed affixed flat against a structure shall not exceed four square feet.
- F. Official signs (municipal), such as traffic control, parking restrictions, information and notices.
- G. Temporary signs or banners when authorized by the Board of Appeals.
- H. Farm names and identification signs in all agricultural districts not to exceed 32 square feet.
- I. Signs in existence before the adoption of this chapter.
- J. Signs provided for in §§ **256-3** and **256-5** of this chapter.
- K. Temporary signs not to exceed four square feet advertising yard sales or rummage sales.

## § 256-3. Permitted signs; standards.

- A. On-premises business signs are permitted in all commercial and industrial districts.
- B. Temporary and mobile mounted signs are permitted in commercial and all industrial districts.
- C. Business signs clearance standards:
- (1) Projecting signs shall not be less than 10 feet above the grade nor 15 feet above a driveway or an alley.
  - (2) Freestanding signs.
    - (a) Located above a walkway or driving area: the bottom of the sign shall not be less than 10 feet above a walkway nor less than 15 feet above a driveway or an alley.
    - (b) Located within 100 feet of the center line of the intersection of two streets: the bottom of the sign shall not be less than 10 feet above existing grade or grade of existing structure.
    - (c) Located within 30 feet of a driveway center line and road right-of-way: the bottom of the sign shall not be less than 10 feet above existing grade or grade of existing structure.
- D. Business sign standards.
- (1) Street: Minimum ten-foot setback, unless otherwise specified in conditional use approval.
  - (2) Size. The area of all faces combined, per side, shall not exceed 100 square feet. Signs designed to have more than two sides shall reduce the overall area of all sides combined to not exceed 200 square feet total, with no one side exceeding 100 square feet, all faces combined. Size may be increased to 150 square feet, per side, all faces combined, for a corner lot if the owner agrees to limit the number of signs to one.
  - (3) Height, maximum: 35 feet above the crown of the road.

## § 256-4. Nonconforming signs.

- A. Signs existing at the time of adoption of this chapter which do not conform to the provisions of this chapter must conform to the provisions of this chapter within 12 months of adoption of this chapter. These signs shall adhere to the provisions of this chapter and to the following:
- B. Two or more signs located closer than the distance standards indicated in this chapter shall become nonconforming for the purposes of this section, regardless of which sign was erected first and regardless of whether the nearest sign measured from is located outside of Town zoning jurisdiction.

## § 256-5. Informational signs

- A. Informational signs are those signs directing ingress and egress to an area, as well as parking and flow of traffic. These signs are allowed without a permit as an accessory use to all parking areas.
- B. Standards.
  - (1) Size, maximum area: four square feet.
  - (2) Number, maximum: one sign per each entrance and exit. Additional signs may be placed on the property as needed for the operation of the business.
  - (3) Yard: projection must be within property lines.
  - (4) Height, maximum: seven feet above crown of road.

## § 256-6. Shape and illumination.

Signs shall not resemble, imitate, or approximate the shape, size, form or color of railroad or traffic signs, signals or devices. Signs shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals, or devices. No sign shall be erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window, driveway, or fire escape; and no sign shall be attached to a standpipe or fire escape. No sign shall be placed so as to obstruct or interfere with traffic visibility. External illuminated signs shall be lighted by white light only; no sign shall flash, oscillate, or rotate, except public service time and temperature signs. External illumination shall be shaded, shielded, or directed from surrounding properties and vehicular traffic and shall not illuminate upward beyond the face of the sign.

## § 256-7. Dilapidated, unmaintained and abandoned signs.

- A. Dilapidated and unmaintained signs. Signs allowed by this chapter shall be maintained in a safe, presentable and good structural condition at all times, including replacement of defective parts, painting, repainting, cleaning and other acts required for proper maintenance of the sign. Signs that are determined by the Town to be dilapidated, unmaintained and/or unsafe shall be subject to the razing provisions of § 66.05, Wis. Stats.
- B. Abandoned signs shall be removed by the owner or lessee of the premises, when, for a business sign, the business it advertises is no longer conducted, and for an advertising or directional sign, when lease payment and rental income are no longer provided. If the owner or lessee fails to remove the sign, the Town shall give the owner 60 days' written notice to remove said sign. Upon failure to comply with this notice, the Town may cause removal to be executed, the expenses of which will be assessed to the tax roll of the property on which the abandoned sign is located.

## § 256-8. Distance standards.

Business signs shall be allowed at a distance of one business sign per lot of record; except, where the business has frontage on multiple roadways, the frontage on each roadway shall be allowed one business sign.

## § 256-9. Administration.

- A. The Town shall designate the Building Inspector to administer and enforce the terms and conditions of this chapter and all other provisions relating to signs.
- B. Town powers. The Town shall have the power and authority to administer and enforce this chapter. Included among such powers are the following specific powers:
  - (1) Upon presentation of proper identification to the sign owner or owner's agent, the Town may enter the sign area for purposes of inspecting the sign, sign structure, and any fasteners securing the sign to a building or support. In cases of emergency where imminent hazards to persons or property are known to exist, and where the sign owner or owner's agent is not readily available, the Town may enter the sign area for purposes of inspection or remediation. When on private property, the Town shall observe rules and regulation concerning safety, internal security, and fire protection. If the Town is denied admission to inspect any sign, inspection shall be made only under authority of a warrant issued by a court of proper jurisdiction. When applying for such warrant, the Town shall submit an affidavit setting forth a belief that a violation of this chapter exists with respect to a particular sign, and the reasons for forming this belief. The affidavit shall designate the place and name of the person believed to own or possess the sign. If the court finds probable cause exists for the search of the sign, or supporting structures, then a warrant authorizing the search shall be issued. The warrant shall describe the property with sufficient certainty to identify the same. This warrant shall constitute authority for the Town to enter the sign area and to inspect the property.
  - (2) Upon issuance of a stop order from the Town, work on any sign that is being conducted in any manner contrary to this chapter shall be immediately stopped. This notice and order shall be in writing and shall be given to the owner of the parcel, the sign owner, or to the person performing the work. The stop order shall state the conditions under which work may be resumed. The Town police shall have authority to enforce a stop order.
  - (3) If the Town has determined that a violation has occurred, the owner shall have 30 days to bring the sign into compliance or remove the sign.
  - (4) A sign installed after the effective date of this chapter, and not conforming to this chapter, shall be removed by the owner. The sign owner shall not be entitled to compensation for the sign removal and shall reimburse the Town for any cost incurred in connection with the removal.
  - (5) Any person violating any provision of this chapter is punishable under § 1-4 of this Code and shall be issued a citation with a forfeiture of not less than \$50 and not more than \$500 for each violation. Each day, subsequent to the thirty-day period allowed for corrective action, shall constitute a separate violation. In addition, the Municipal Attorney is authorized to adjudicate the offense with a summons and complaint and to take any other action, legal, injunctive and equitable, to assure compliance with this chapter.

## § 256-10. Appeals.

Appeals to the determination of the Town may be made in writing directly to the Board of Appeals who shall hear the appeal within 60 days. Variances may be granted if all of the following criteria are fulfilled:

- A. The circumstance are not of the applicant's making.

- B. The applicant's request mitigates unusual site conditions.
- C. The applicant's request would not create a detriment to the neighborhood or reduce property value.
- D. The applicant's request is consistent with the spirit and intent of this chapter.
- E. Without a variance, the applicant would experience a hardship and cannot make any reasonable use of the property.

## § 256-11. Severability; more stringent provisions to prevail.

- A. **Severability.** This chapter, and its parts, are declared to be severable. If any section, clause, provision, or portion of this chapter is declared invalid or unconstitutional by a court of competent jurisdiction, this decision shall not affect the validity of the chapter as a whole. All parts of the chapter not declared invalid or unconstitutional shall remain in full force and effect.
- B. **Conflict.** If any part of this chapter is found to be in conflict with any other ordinance or with any other part of this chapter, the most restrictive or highest standard shall prevail. If any part of this chapter is explicitly prohibited by federal or state statute, that part shall not be enforced.

## Chapter 258. Site Plan Review

[HISTORY: Adopted by the Town Board of the Town of Winneconne 11-19-2009.<sup>[1]</sup> Amendments noted where applicable.]

### GENERAL REFERENCES

Building construction — See Ch. **120**.

Comprehensive Plan — See Ch. **146**.

Subdivision of land — See Ch. **275**.

Zoning — See Ch. **310**.

[1] *Editor's Note: This ordinance also repealed former Ch. 258, Site Plan Review, adopted 5-15-2003 (Ch. 16 of the 1994 Code), as amended.*

## § 258-1. Authority and title.

This chapter is established pursuant to the authority conferred by § 61.34(1) and (5), Wis. Stats., and shall be known as the "Town of Winneconne Site Plan Ordinance."

## § 258-2. Purpose.

The purpose of this chapter is to provide a process for site plan review and Town conditional use permits for land uses and developments which are subject to a building permit and/or conditional use permit. Additionally, this chapter is to promote the public health, safety, convenience and general welfare by ensuring, to the maximum extent practicable, that future development or redevelopment of individual parcels of land in the Town of Winneconne is compatible with existing or potential development of adjacent or nearby properties and with public improvements and facilities, such as roads, sewers and surface drainage.

## § 258-3. Scope.

This chapter is designed to determine, establish, regulate and restrict:

- A. Ingress and egress.

- B. Parking and on-site circulation.
- C. Surface and subsurface drainage.
- D. External lighting.
- E. Landscaping.
- F. Signage.
- G. Outdoor storage.
- H. Architectural features and the specific location and orientation of buildings and structures.

## § 258-4. Applicability of other regulations.

The regulations and standards of this chapter are minimum requirements. Other regulations and standards contained in the Winnebago County Zoning Ordinance, the Winnebago County Land Division Ordinance, Chapter **310**, Zoning, and Chapter **275**, Subdivision of Land, of the Town of Winneconne Code and the Wisconsin Administrative Code pertain to the use and development of property and may apply. To the extent possible, the regulations and standards of this chapter shall be construed consistent with and in harmony with other applicable regulations and standards; provided, however, that in the event of a conflict, the most restrictive regulation or standard shall apply.

## § 258-5. Jurisdiction.

This chapter applies throughout the Town of Winneconne.

## § 258-6. General provisions.

- A. Applicability of regulations. The regulations set forth in this chapter shall apply to all buildings and structures or additions thereto requiring a building permit except as follows:
  - (1) One- and two-family dwellings and buildings and structures accessory to one- and two-family dwellings.
  - (2) Permitted principal or accessory buildings and structures in an A-1 Farmland Preservation District or A-2 Agricultural District pursuant to the Winnebago County Zoning Ordinance and Chapter **310**, Zoning, of the Town Code, as amended.
  - (3) Any accessory buildings and structures not exceeding 2,000 square feet on a parcel where the principal building or structure has been erected or constructed prior to the effective date of adoption of this chapter.
  - (4) Additions to buildings and structures not exceeding 2,000 square feet or 20% of the gross floor area, whichever is greater, where the building or structure has been erected or constructed prior to the effective date of adoption of this chapter.
- B. Site plan approval required. No building or structure or part thereof requiring a building permit and not exempt pursuant to Subsection **A** above shall hereafter be erected, constructed or reconstructed, and no building permit shall be issued unless a site plan has been submitted and approved according to the requirements and procedures set forth herein.

## § 258-7. Criteria for review.

- A. Driveways.

- (1) Configuration. Driveways shall ordinarily intersect with public streets as nearly as possible at right angles.
- (2) Multiple frontage. Where a parcel abuts two streets, access may be limited to the street with the lowest functional classification, i.e., arterial, collector and local.
- (3) Number and spacing. No parcel fronting on a public street for less than 100 feet shall ordinarily have more than one driveway access to that street. No parcel fronting on a public street for between 100 feet and 250 feet shall ordinarily have more than two driveway accesses to that street; provided, however, that the center line of the two driveways should not be closer than 50 feet for local or collector streets or closer than 75 feet for arterial streets. One additional access may be approved for each additional 250 feet subject to the center-line separation of 50 feet for local or collector streets and 75 feet for arterial streets.
- (4) Corner and lot line clearance. No driveway shall be constructed closer than 65 feet to a local street intersection, closer than 75 feet to a collector street intersection or closer than 100 feet to an arterial street intersection. No driveway shall be constructed with its center line closer than 25 feet to a property line except when the driveway is jointly used by the adjoining property.
- (5) Width. Minimum driveway widths of 12 feet are required for one-way driveways, and minimum driveway widths of 24 feet are required for two-way driveways. Driveways shall not exceed a maximum width of 36 feet at their juncture with the street pavement or 30 feet in width at the property line. Driveways shall conform to existing culvert laws.
- (6) Coordination with opposite-side driveways and buildings. Driveways shall be located to minimize potential interference and conflicts with the use of buildings and driveways located on the opposite side of the street.

**B. Parking.**

- (1) Surface. All off-street parking facilities shall be surfaced with bituminous asphalt, concrete or a dustless material. All surfaces shall be maintained in a smooth, well-graded condition.
- (2) Drainage. All off-street parking facilities shall meet the drainage requirements set forth in § 17.02(6) of the Winnebago County Zoning Ordinance.
- (3) Location and arrangement. Subject to required landscaping areas, all required yards in commercial and industrial districts may be used for off-street parking. Off-street parking shall be arranged for convenient access and safety of pedestrians and vehicles. Off-street parking shall be arranged so that no vehicle shall be required to back from such facilities directly onto public streets. Except for driveways, no part of the right-of-way shall be used for vehicle maneuvering or parking.
- (4) Dimensional standards. Each off-street parking space shall not be less than nine feet in width and not less than 180 square feet in area exclusive of the space required for aisles and driveways. Minimum aisle width shall be as follows:

<b>Angle of Parking</b>	<b>One-Way Aisle (feet)</b>	<b>Two-Way Aisle (feet)</b>
Parallel	12	20
30°	12	20
45°	12	22
60°	18	24
90°	22	24

**C. Drainage.**

- (1) Drainage requirements. Any parcel developed or redeveloped shall require submittal of drainage impact calculations and appropriate drainage improvements for surface water

conveyance and/or retention. Drainage calculations shall use the methodology set forth in TR-55, Urban Hydrology for Small Watersheds. Drainage shall meet the requirements set forth in § 17.02(6) of the Winnebago County Zoning Ordinance.

- (2) Existing drainage. To the maximum extent practicable, existing watercourses and drainage patterns shall be maintained. Modifications of existing watercourses or drainage patterns shall not unduly impair or impede drainage from other parcels in the watershed. Farm drain tile shall not be terminated or discontinued without provision to accommodate tile flows.
- D. Signs. Signs shall meet the requirements of Chapter **256**, Signs, of the Town of Winneconne Code. No sign shall be located within 10 feet of any side or rear lot line.

## § 258-8. Site plan submittal; required components.

- A. General requirements. A site plan shall be submitted prior to or coincident with an application for a building permit. For conditional uses under the Winnebago County Zoning Ordinance, a site plan shall be submitted prior to or coincident with an application for conditional use permit.
- B. Site plan review application. A site plan review application shall be submitted along with the site plan to the Town Plan Commission for review and recommendation to the Board. The site plan review application shall be available from the Town and require the following information:
  - (1) Name, address and phone number of the property owner.
  - (2) Name of project, if any, and the address and legal description of the property.
  - (3) A statement describing the proposed development or redevelopment.
  - (4) The zoning classification of the parcel.
- C. Plan of operation. The plan of operation shall, in letter or report form, include the following, when applicable:
  - (1) Proposed use of land and building(s);
  - (2) Total number of employees;
  - (3) Hours of operation;
  - (4) Total occupancy of building (if restaurant, church or other assembly use);
  - (5) Total number of units (if residential); and
  - (6) Number, type and size of vehicles stored outdoors (recreational and commercial).
- D. Building plans. Building plans shall show and include the following:
  - (1) Design and architecture of building. Elevations shall be provided and dimensioned for all proposed and existing structures.
  - (2) Materials and color. Wall, roof and trim material and colors shall be submitted and indicated on the plans and should complement the surrounding area.
  - (3) Massing and orientation. Building size, scale, location and orientation should reflect the physical scale of the surrounding buildings.
  - (4) Building plans. Floor plans, for each story, and sections shall be drawn to sufficient detail so that all room sizes, wall openings, building projections and location of all exterior HVAC and utility services equipment can be identified.
  - (5) Dumpster enclosures. Elevations and material and colors of dumpster enclosures shall be indicated on the plans and should complement the building.

- (6) Residential units. Rooms used for residential purposes shall provide adequate living area, as required in the International Building Code and the Municipal Code.
- (7) Accessibility. Buildings shall be in compliance with the Americans with Disability Act.<sup>[1]</sup>  
[1] *Editor's Note: See 42 U.S.C. § 12101 et seq.*
- (8) Roof-mounted equipment. All roof-mounted equipment shall be located and/or screened in order to minimize its visibility from the abutting streets and surrounding properties.
- (9) Multifamily buildings. Multifamily buildings shall conform with the exterior building variation guidelines hereinafter set forth:
- (a) Exterior building variation is required on multifamily buildings that contain eight or more units. One quarter of units within the building shall differ from the other units by symmetrically changing the location, pattern or form of at least two of the following architectural elements:
- [1] Balconies, porches or verandas;
  - [2] Window type and fenestration;
  - [3] Roof pitch or design;
  - [4] Exterior materials;
  - [5] Height;
  - [6] Other exterior building modifications approved by the Review Authority.
- (b) Each building in a multifamily development that consists of two or more buildings shall differ from each adjacent and facing building by using at least two of the following criteria:
- [1] Staggered setbacks of at least 1/2 a building length between buildings;
  - [2] Shifted building orientation of at least 45° between buildings;
  - [3] Facade width, height and symmetry;
  - [4] Roof pitch or design;
  - [5] Total number, type or symmetrical location of doors, windows or architectural properties and the exterior building materials;
  - [6] Other exterior building modifications approved by the Plan Commission.
- (c) At a minimum, the lower 1/3 of the building shall be architectural masonry and/or glass.
- (d) The Town Plan Commission may waive any of these requirements for additions to existing buildings or structures on a case-by-case basis.
- (10) Commercial and institutional buildings. Commercial and institutional buildings shall conform to the design guidelines hereinafter set as follows:
- (a) Articulation on the rooflines shall be provided by using a pitched roof, a partial roof or parapet walls of varying heights.
- (b) Rooftop mechanical equipment shall be concealed in order to prevent its visibility from grade level as measured from the lot lines and abutting street rights-of-way.
- (c) At a minimum, the lower 1/3 of the building shall be architectural masonry and/or glass.
- (d) Materials and colors of the outbuildings or accessory structures shall be consistent with the main building.



- (e) Articulation of building facades should be provided by using recesses and/or projections, ornamentation, windows, awnings, arcades or similar architectural elements.
  - (f) The Plan Commission may waive any of these requirements for additions to existing buildings or structures on a case-by-case basis.
- (11) Industrial buildings. Industrial buildings shall conform with the design guidelines hereinafter set forth:
- (a) Building exteriors of all new industrial buildings or additions shall be constructed of architectural masonry, architectural composite aluminum or steel panels, glass or any combination of these materials at a minimum on the lower 1/3 of the building fronting a public street or officially mapped road.
  - (b) Articulation of entrances and office areas is encouraged.
- E. Site plans. Site plans shall show and include the following:
- (1) Legal description. Legal description and property location.
  - (2) Dimensions. Dimensions of the development site, indicated along the property line. Distances from the property line to all buildings, structures and freestanding signs and building setback lines shall be indicated.
  - (3) Building layout and signage. The location, footprint, outside dimensions, floor elevation and square footage of all buildings, structures and freestanding signs shall be indicated.
  - (4) Setbacks. Front, side and rear yard zoning setback lines shall be indicated and labeled as such.
  - (5) Grades. Proposed and existing grading at two-foot intervals. In addition, location, grade and dimensions of all existing and proposed paving surfaces and of all abutting streets.
  - (6) Access. Existing and proposed pedestrian and vehicular access points, streets, drives, alleys, bicycle paths, bridges, intersections and other pedestrian and vehicular circulation elements, labeled with street names, dimensions and surface materials identified (i.e., asphalt, sod, concrete, etc.).
  - (7) Parking. Location and dimensions of vehicle accommodation areas, including parking areas, loading areas and circulation areas, with the surface material identified and showing the layout and dimensions of parking spaces and direction of travel lanes, aisles or driveways. The number of parking spaces required, as outlined in the Winnebago County Town/County Zoning Ordinance, shall be labeled.
  - (8) Surface of off-street parking areas. All required off-street parking areas and any driveway, interior access driveway or interior access drive to and from such off-street parking areas shall be hard surfaced with asphalt, concrete or other material to provide a durable, dust-free surface.
  - (9) Easements. Location and dimensions of all existing or planned easements, lands subject to deed restrictions or protective covenants, rights-of-way, and required emergency accessways.
  - (10) Stormwater detention. The location and square footage of the stormwater detention pond, if required, shall be identified.
  - (11) Lands dedicated to the public. Identification of all land to be dedicated or reserved for public use, with the use named.
  - (12) Exterior lighting. The location and type of outdoor lighting fixtures, if any, and shall also meet the following requirements:
    - (a) Any outdoor lighting shall be direct cutoff in nature and shall be directed away from surrounding properties and vehicular traffic. No exterior lighting, whether freestanding or

- mounted on a building or structure, shall be reflected or produce unreasonable glare upward or beyond the parcel boundaries.
- (b) Light fixtures shall be selected with care to ensure that they are appropriately scaled in relation to their setting and to ensure that they are of a style that is compatible with the character of their immediate environment.
  - (c) All lighting wires/cables shall be placed underground.
  - (d) Accent lighting should be used only to highlight architectural and landscape design elements, when appropriate.
  - (e) Pedestrian walkways and parking areas shall be illuminated to a sufficient level so as to provide for safety and security.
- (13) Site constraints. Any easement, covenant or right-of-way, existing or planned, which creates site design constraints shall be indicated. Any design adjustments to these constraints shall not adversely impact the intent of these standards or the provisions of this chapter.
- (14) Floodplain and wetlands. The location of any floodplain, wetland and shoreland boundary shall be shown.
- (15) Orientation. The location, proportion and orientation of buildings or structures should complement the location, proportion and orientation of surrounding land forms, buildings or structures.
- (16) Surrounding land uses and zoning. The Plan Commission shall consider the impact of the proposed development on the Comprehensive Plan, any neighborhood plan and zoning, as amended. The Plan Commission shall use the following criteria when assessing the development's impact on surrounding land uses:
- (a) The development shall be consistent with the objectives of the Comprehensive Plan and any neighborhood plan.
  - (b) The development shall be compatible with the character and objectives of the zoning district or districts within which it is located.
  - (c) The development shall be compatible with the character of the neighborhood which surrounds the development.
- (17) Site access. Site access shall be governed by the following criteria:
- (a) Site entrance drive dimensions such as widths, radii and visibility triangles shall be identified.
  - (b) An adequate internal stacking distance shall be provided from the property line at each entrance.
  - (c) Appropriate traffic control measures, including signs, crosswalks, etc., at all entrances to public rights-of-way may be required.
  - (d) Adjacent developments are encouraged to share a common entrance drive within commercial and industrial districts.
  - (e) Access to adjoining sites should be coordinated, where possible, with cross access easements, which shall be a minimum width of 30 feet. Such easements are encouraged to link parking areas.
- (18) Protection of natural features.
- (a) Preservation. All new development shall preserve, enhance or protect existing natural features. The site plan, or accompanying documents, shall evidence the means by which the development addresses the following:

- [1] Minimizing disruption of existing natural features and, wherever possible, incorporating them into the overall design.
  - [2] Prior to development, protecting all natural elements from damage due to construction activities.
  - [3] Providing evidence of compliance with the Winnebago County Erosion Control and Stormwater Management Ordinance.
- (b) Open space. The following specific areas shall be preserved as undeveloped open space:
- [1] Wetlands.
  - [2] Lands in a designated floodplain or floodway.
  - [3] Habitats of endangered wildlife or vegetation as identified by the Federal and/or Wisconsin Department of Natural Resources.
- F. Landscape plans. Landscape plans shall show and include the following:
- (1) Buildings. The location and footprint of any and all buildings and structures.
  - (2) Dimensions. Dimensions of development site, indicated along the property line.
  - (3) Streets. Existing and proposed pedestrian and vehicular access points, streets, drives, alleys, bicycle paths, bridges, intersections and other pedestrian and vehicular circulation elements, labeled with street names, dimensions and surface materials identified (i.e., asphalt, sod, concrete, etc.).
  - (4) Parking. The location and dimension of parking lots, parking spaces and parking lot accessways.
  - (5) Easements. Location and dimensions of all existing or planned easements, lands subject to deed restrictions or protective covenants, lands to be dedicated or devoted to public use, and rights-of-way.
  - (6) Lighting, signage and freestanding structures. The location and dimensions of outdoor lighting fixtures, freestanding signs, permanent or temporary walls and fences, waste and trash disposal facilities, surface utility structures and other freestanding structural features.
  - (7) Recreational facilities. The location and dimension of playgrounds, tot-lots and other recreational facilities.
  - (8) Dumpster enclosure. Trash dumpsters shall be screened with fencing of decorative wood or masonry, compatible with the building design, of at least six feet in height, with a solid, attractive single or double access gate on one side only. Shrubs are encouraged along the fencing.
  - (9) Mechanical and utility equipment. All freestanding utility and mechanical equipment shall be screened from view through the use of coniferous plant materials or fencing compatible with the proposed building design.
  - (10) Service areas. All service areas, such as loading docks, shall be screened from view of a public street through the use of coniferous plant materials or fencing compatible with the proposed building design.
  - (11) A landscape improvement table with the following information shall be submitted:
    - (a) Total area of site;
    - (b) Total area of parking, building area and other impervious areas proposed on site;
    - (c) Total area of site required to be landscaped;

- (d) The quantity, installation size and height of all trees and shrubs at the time of planting; and
  - (e) The percentage of tree family, genus and species proposed.
- (12) Plants. All plants shall be labeled and identified on the landscape plan.
- (13) Grading. Existing and proposed contours and grades at a two-foot interval, including the location, slope ratios (horizontal to vertical) of all proposed berming, at one-foot contour intervals. Location, extent and general elevations and slope ratios of all surface water detention areas and drainageways. Elevations at top and bottom of all proposed retaining and screening walls and fences. Existing lines should be shown as dotted lines.
- (14) Ground cover. Specification of the type and boundaries of all proposed ground cover, including both scientific and common names of all proposed plant materials.
- (15) Nonliving ground cover. The location of paving materials and nonliving ground cover identified and labeled.
- (16) Tree lines. Tree line of wooded areas shall be identified. Existing trees. Location, species and size of all existing trees that are six inches or larger in diameter measured 54 inches above natural grade shall be identified. Any trees to be removed should be clearly identified. Trees which will be used to meet landscape requirements shall be indicated. If required for reasons of clarity, this information may be depicted as a supplemental illustration.
- (17) Maintenance. The landscaping shall be maintained in conformity with the approved landscape plan.
- (18) Bond or Letter of Credit. A bond or letter of credit shall be provided, if the applicant is seeking occupancy before all landscaping has been completed, to ensure the landscaping plan will be completed.
- (19) Trees, shrubs and ground cover are encouraged to provide diversification of plant species and are not meant to limit the developer or the development of commercial, retail or industrial sites.
- G. Utility plans. Utility plans shall show and include the following:
- (1) Utility lines. Location and dimensions, in length and diameter, where applicable, of all aboveground and underground conduits and utility lines, including storm and sanitary sewers, water mains, electrical, natural gas and communication (cable, telephone, etc.) lines.
  - (2) Connections. Location of all utility connections and metering facilities, including fire hydrants, Fire Department connections, existing wells, pumping stations and lift stations.
  - (3) Cross-sections. Road and paving cross-sections and details.
  - (4) Buildings. Location and footprint of any and all buildings and structures.
  - (5) Streets. Location and names of existing and proposed streets and intersections and the location of parking lots, sidewalks and bike paths and other elements of vehicular and pedestrian circulation.
  - (6) Plumbing. Plumbing plans showing, in detail, the size and location of all water meters.
  - (7) Storm, sanitary and water system requirements. Storm sewer, sanitary sewer and water utility systems, as outlined in the utility plan, shall meet the standards and specifications of the Municipal Code. These provisions may require the designation of easements providing access for public utility purposes.
  - (8) Electric, gas and communication system requirements. Electric, gas and communication utility systems, as designated on the utility plan, shall meet the requirements of the respective utility company's rules and regulations.

- (9) Placement. Utility systems shall be placed in accordance with Town ordinances and utility companies' rules and regulations. The Plan Commission may require the underground installation of lines and distribution points, the elimination of poles and overhead lines or the simultaneous organization and installation of utility systems.
- H. Stormwater and erosion control plan. All stormwater and erosion control plans shall comply with the Winnebago County Code. All stormwater management facilities shall be inspected by the Winnebago County for compliance with the approved stormwater management plan prior to the Building Inspector issuing an occupancy permit.
- I. Digital plans. A digital copy of all plans, elevations and sections in AutoCAD (\*.dwg) or compatible form by electronic mail or compact disc shall be submitted with the site plan review application and with any revision submittals to the Town of Winneconne Clerk.

## § 258-9. Action by Town Board.

The Town Board shall have the authority to approve, object to or reject a site plan. The Town Board or its designee shall take action to approve, approve conditionally or reject the site plan within 60 days of submittal and shall state, in writing, any conditions of approval or reasons for rejection, unless the time is extended by agreement with the property owner. Failure of the Town Board or its designee to act within the 60 days, or extension thereof, constitutes denial of the site plan.

## § 258-10. Records.

Town Board approval of a site plan shall be noted on the face of the site plan by signatures of the Town Board Chairperson and Town Clerk and the date of approval. The Town shall keep on file one copy of all site plans submitted for approval. All matters of site plan approval shall be of public record.

## § 258-11. Compliance with approved site plan required.

An approved site plan shall constitute a condition for the issuance of a building permit. An approved site plan only authorizes development or redevelopment as set forth in the approved site plan. Development or redevelopment at variance with that set forth on an approved site plan shall be deemed a violation of this chapter.

## § 258-12. Modifications or amendments after approval.

In the event special conditions and circumstances exist which are peculiar to the land, which would cause unnecessary hardship or practical difficulties to develop or redevelop the parcel in strict conformity with the approved site plan, the Town Board may modify or amend the site plan, provided that the spirit and intent of this chapter shall be observed. Any modification or amendment shall be noted on the face of the site plan with the date of the modification or amendment.

## § 258-13. Fee.

A site plan review fee shall be in accordance with the Town fee schedule. The site plan review fee shall be paid to the Town Clerk at the time of site plan submittal. Payment of the site plan review fee is a prerequisite for submittal and action by the Town Board. Payment of the fee does not constitute approval.

## § 258-14. Violations and penalties.

- A. It shall be a violation of this chapter to develop or redevelop a parcel subject to site plan approval without obtaining site plan approval. It shall be a violation of this chapter to develop, redevelop, modify or maintain a parcel contrary to or inconsistent with an approved site plan.
- B. Compliance with the provisions of this chapter may be enforced by appropriate fines and penalties. Compliance may also be enforced by injunctive suit of the Town.
- C. Any person who violates any provision of this chapter, or any order issued hereunder, shall, upon conviction, be subject to a penalty as provided in Chapter 1, § 1-4 of this Code.

## § 258-15. Appeals.

Any person or persons jointly or severally aggrieved by any decision of the Town Board may, within 30 days after the decision of the Town Board, commence an action seeking the remedy available by certiorari.

## Chapter 264. Solid Waste

[HISTORY: Adopted by the Town Board of the Town of Winneconne 10-20-1994 as Ch. 13 of the 1994 Code. Amendments noted where applicable.]

### GENERAL REFERENCES

Outdoor burning — See Ch. 129.

Nuisances — See Ch. 219.

Littering — See Ch. 237.

## § 264-1. General provisions.

- A. Title. This chapter shall be titled "Solid Waste Disposal and Mandatory Recycling."
- B. Purpose. To the extent permitted by law, this chapter is intended to serve as a municipal waste flow control ordinance in conjunction with program activities of Winnebago County and its Solid Waste Management Board. It is intended by this chapter to establish regulations that reduce the amount of solid waste and other disposables in landfills and thus protect the public health, public welfare and the environment. In so doing, this chapter is to promote recycling, composting, and resource recovery through the administration of an effective recycling program in the Town and to allow the Town to comply with Ch. 287, Wis. Stats., and Ch. NR 544, Wis. Adm. Code, or their successor provisions.
- C. Authority. This chapter is adopted as authorized under § 287.09, Wis. Stats., Chs. 146, 252, 289, 291 and 823, Wis. Stats., and by adoption of village powers under § 60.10, Wis. Stats.
- D. Abrogation and greater restrictions. It is not intended by this chapter 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 chapter imposes greater restrictions, the provisions of this chapter shall apply.
- E. Interpretation. In their interpretation and application, the provisions of this chapter 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 chapter may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this chapter is required by state statutes, or by a standard in Ch. NR 544, Wis. Adm. Code, and where the chapter provision is unclear, the provision shall be interpreted in light of the Wisconsin Statutes and the Ch. NR 544 standards in effect on the date of the adoption of this chapter, or in effect on the date of the most recent text amendment to this chapter.

- F. Applicability. The requirements of this chapter apply to all persons within the Town of Winneconne, Winnebago County, Wisconsin.
- G. Administration. The provisions of this chapter shall be administered by the Town Board or its designee.
- H. Effective date. This chapter shall take effect on January 1, 1995.

## § 264-2. Definitions.

Whenever any of the following terms are used in this chapter, such terms shall be deemed and construed to have the meaning ascribed to them as follows:

### **BIMETAL CONTAINER**

A container for carbonated or malt beverages that is made primarily of a combination of steel and aluminum.

### **CONTAINER**

A receptacle designed for the purpose of collection of recyclable materials. For the Town, containers will be transparent thirteen- to thirty-gallon bags. Required containers for other portions of the solid waste stream shall be as specifically designated in other portions of this chapter.

### **CONTAINER BOARD**

Corrugated paper board used in the manufacture of shipping containers and related products.

### **CONTRACTOR**

The person, corporation or partnership performing recyclable materials collection and processing under this chapter as well as solid waste collection and disposal.

### **GARBAGE**

Discarded materials resulting from the handling, processing, preparation, storage, cooking and consumption of food, and discarded animal feces.

### **HAZARDOUS SUBSTANCE**

Any substance or combination of substances which may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or which may pose a substantial present or potential hazard to human health or the environment. This term includes, but is not limited to, pesticides and substances which are toxic, corrosive, flammable, irritants, strong sensitizers or explosives, as determined by the Department of Natural Resources (DNR).

### **HDPE**

High-density polyethylene labeled by SPI Code No. 2.

### **LDPE**

Low-density polyethylene labeled by SPI Code No. 4.

### **MAGAZINES**

Magazines and other materials printed on similar paper.

### **MAJOR APPLIANCE**

A residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator, stove, furnace, boiler, dehumidifier or water heater.

### **MEDICAL WASTE**

Infectious waste and those containers, packages and materials that contain infectious waste or that are from a treatment area and are mixed with infectious waste.

**MIXED OR OTHER PLASTIC RESIN TYPES**

Plastic containers marked by SPI Code No. 7.

**MULTIPLE-FAMILY DWELLING**

A property containing five or more residential units, including those which are occupied seasonally.

**NEWSPAPER**

Newspaper and other materials printed on newsprint.

**NONRESIDENTIAL FACILITIES AND PROPERTIES**

Commercial, retail, industrial, institutional and governmental facilities and properties. This term does not include multiple-family dwellings.

**OFFICE PAPER**

High-grade printing and writing papers from offices in nonresidential facilities and properties. Printed white ledger and computer printouts are examples of office paper generally accepted as high grade. This term does not include industrial process waste.

**PERSON**

Includes any individual, corporation, partnership, association, local government unit as defined in § 66.0131(1)(a), Wis. Stats., state agency or authority or federal agency.

**PETE**

Polyethylene terephthalate labeled by SPI Code No. 1.

**POST-CONSUMER WASTE**

Solid waste other than solid waste generated in the production of goods, hazardous waste, as defined in § 291.01(7), Wis. Stats., waste from construction and demolition of structures, scrap automobiles, or high-volume industrial waste, as defined in § 289.01(17), Wis. Stats.

**PP**

Polypropylene labeled by SPI Code No. 5.

**PS**

Polystyrene labeled by SPI Code No. 6.

**PVC**

Polyvinyl chloride labeled by SPI Code No. 3.

**RECYCLABLE MATERIALS**

Includes lead acid batteries, major appliances, waste oil, yard waste, aluminum containers, corrugated paper or other container board, foam polystyrene packaging, glass containers, magazines, newspaper, office paper, rigid plastic containers, including those made of PETE, HDPE, PVC, LDPE, PP, PS, and mixed or other resins or multiple resins, steel containers, waste tires and bimetal containers.

**REFUSE**

All matters produced from industrial or community life, subject to decomposition, not defined as sewage or wastewater. This term does not include appliances, stones, concrete, dirt, plaster, tires, batteries, antifreeze, automotive engine waste oil, yard waste and building and demolition materials.

**RESIDENTIAL UNIT**

A space occupied or designed for human occupancy by a person or group of persons at any time during the year within the limits of the Town which constitutes a separate household occupied by a person or group of persons. Each residential space on a farm or other property containing more than one such space shall be considered a residential unit. Residential spaces in properties containing more than four residential units are not included. Residential space in an operating



business with commercial dumpsters is not included. A residential unit shall be considered occupied when domestic light and power services are supplied thereto.

[Amended 1-15-2009]

#### **SOLID WASTE**

Has the meaning specified in § 289.01(33), Wis. Stats.

#### **SOLID WASTE FACILITY**

Has the meaning specified in § 289.01(35), Wis. Stats.

#### **SOLID WASTE TREATMENT**

Any method, technique or process which is designed to change the physical, chemical or biological character or composition of solid waste.

#### **STEEL CONTAINER**

A container for beverage or food that is made primarily of a combination of steel and tin.

#### **WASTE TIRE**

A tire that is no longer suitable for its original purpose because of wear, damage or defect.

#### **YARD WASTE**

Leaves, grass clippings, yard and garden debris and brush, including clean, woody, vegetative material no greater than six inches in diameter. This term does not include yard and garden debris and brush in excess of six inches in diameter, stumps, roots or shrubs with intact root balls.

### **§ 264-3. Pickup schedule.**

#### **A. Residential areas.**

- (1) Solid waste, with the exception of recyclable materials, shall be collected once a week from residential units and churches according to a schedule set by the Town Board.
- (2) Recyclable materials shall be collected from residential units according to a schedule set by the Town Board.

#### **B. Multiple-family dwellings and industrial areas. Solid waste shall be collected only from residential units and churches. No collection is provided by the Town from commercial and industrial establishments or multiple-family dwellings. These establishments must arrange for collection and disposal of all of their solid waste and recyclables in a manner required by this chapter.**

### **§ 264-4. Points of storage and collection.**

[Amended 1-15-2009]

#### **A. Placement for pickup.**

- (1) Containers must be set out by 6:00 a.m. on the collection date. A charge per occurrence as set by the Town Board will be assessed when the Town or its contractor must return to pick up a container set out after the regularly scheduled pickup has occurred.
- (2) "Roadside" refers to that portion of the right-of-way adjacent to paved or traveled public roadways. Containers shall be placed as close to the roadway as practicable without interfering with or endangering the movement of vehicles or pedestrians. When construction work is being performed in the right-of-way, containers shall be placed as close as practicable to an access point for the collection vehicle.

- (3) Private roads that are capable of handling the smallest size and weight vehicle the Town's contractor has shall be included in the collection route, provided that the contractor can obtain permission from the owners and parties having maintenance responsibility for these roads, which includes a release of liability from the owners of the private roads. In the event permission cannot be obtained, only those materials that are left adjacent to the right-of-way of the intersecting public roadway near the point of its intersection with the private roadway will be picked up.

## § 264-5. Separation and care of recyclable materials.

- A. Separation. Occupants of single-family and two- to four-unit residences, multiple-family dwellings and nonresidential facilities and properties shall separate the following materials from post-consumer waste:
  - (1) Lead acid batteries.
  - (2) Major appliances.
  - (3) Waste oil.
  - (4) Yard waste.
  - (5) Aluminum containers.
  - (6) Bimetal containers.
  - (7) Corrugated paper or other container board.
  - (8) Foam polystyrene packaging.
  - (9) Glass containers.
  - (10) Magazines or other materials printed on similar paper.
  - (11) Newspapers or other materials printed on newsprint.
  - (12) Office paper.
  - (13) Rigid plastic containers made of PETE, HDPE, PVC, LDPE, PP, PS, and mixed or other resins or multiple resins.
  - (14) Steel containers.
  - (15) Waste tires.
- B. The Town Board reserves the right to designate by resolution additional solid waste items as recyclable material to be separated and/or collected by the Town or its contractor. The Town Board also reserves the right, after a variance has been obtained from DNR under § 287.11(2m), Wis. Stats., or its successor provision by the Town or the county, to so designate that certain solid waste items be deleted from those included as recyclable materials. The Town Board shall provide written notice to known occupants and contractors affected by these changes. The Town Board shall direct how added or deleted items shall be handled.
- C. Exemptions. The separation requirements of Subsection **A** do not apply to the following:
  - (1) Occupants of single-family and two- to four-unit residences, multiple-family residences and nonresidential facilities and properties that send their post-consumer waste to a processing facility licensed by the State DNR that recovers the materials specified in Subsection **A** from solid waste in as pure a form as technically feasible.
  - (2) Solid waste from these occupants which is burned as a supplemental fuel at a facility if less than 30% of the heat input to the facility is derived from the solid waste burned as

supplemental fuel.

- (3) A recyclable material of these occupants specified in Subsection **A** for which a variance or exemption has been granted by the DNR under § 287.07(7)(d) or 287.11(2m), Wis. Stats., or § NR 544.14, Wis. Adm. Code.
- D. Care of separated recyclable materials. To the greatest extent practicable, the recyclable materials separated in accordance with Subsection **A** hereof shall be clean and kept free of contaminants, such as food or product residue, oil or grease, or other nonrecyclable materials, including but not limited to household hazardous waste, medical waste, and agricultural chemical containers. Recyclables shall be stored in a manner which protects them from wind, rain, and other inclement weather conditions.

## § 264-6. Management of lead acid batteries, major appliances, waste oil and yard waste.

[Amended 7-16-2009]

Occupants of single-family and two- to four-unit residences, multiple-family dwellings and nonresidential facilities and properties, except as otherwise directed by order of the Town Board, shall manage lead acid batteries, major appliances, waste oil and yard waste as follows:

- A. Batteries. Batteries shall not be picked up. Producers may take the batteries to a retail establishment that sells such batteries, designated Winnebago County solid waste battery collection site or any other lawfully designated collection site. The producer is responsible for any charges imposed by the sites to which the batteries are delivered.
- B. Major appliances. Major appliances may be disposed of by contacting the Town's contracted hauler or by delivery to the designated county solid waste collection site. The producer is responsible for the cost imposed by either of these two facilities.
- C. Waste oil. Producers may deliver waste oil to an oil retailer who has facilities for its recovery or deliver it to the designated county solid waste collection site. Producers are responsible for any charges imposed by the receiving facility.
- D. Yard waste. Subject to other applicable restrictions, yard waste shall not be picked up. Producers may compost, burn or bury yard waste on their own properties.<sup>[1]</sup> It may also be delivered to the county solid waste collection site.

[1] *Editor's Note: See Ch. 129, Burning, Outdoor.*

## § 264-7. Preparation and collection of solid waste.

[Amended 4-21-2005; 1-15-2009; 7-16-2009]

- A. Solid waste other than recyclables.
- (1) All garbage and other refuse shall be stored in containers distributed by the Town.
  - (2) The containers shall be kept clean and in a sanitary condition. Maintenance and repair of all containers shall be the responsibility of the property owner.
  - (3) Animal feces shall be properly disposed of by wrapping it in paper and then placing it in a suitable plastic disposable container.
  - (4) Except as otherwise specifically provided, stones, concrete, dirt, tires, batteries, antifreeze, medical waste, hazardous substances and automotive engine waste are not allowed in the solid waste stream and will not be picked up except as otherwise provided in this chapter. Any container with such prohibited materials will not be picked up.

- (5) Materials such as couches, bulky items and other items not otherwise provided for in this chapter, appliances and other items containing metal, which include but are not limited to engines, car parts, swing sets, piping, springs, lawn mowers and bicycles, require special arrangements for disposal and must be kept separate from other solid waste. They shall be disposed of, at the producer's expense, by contacting a state- and Town-licensed hauler or delivery to the designated county solid waste collection site.
  - (6) If solid waste materials are not prepared according to the provisions of this chapter, or are not placed in suitable containers or locations, or if a container is damaged, employees of the Town's contractor shall tag these containers, and pickup shall not be made until the condition is remedied in compliance with this chapter.
- B. Recyclables. Except as otherwise directed by order of the Town Board, occupants of single-family and two- to four-unit residences shall do the following for the proper preparation and recyclable material collection of the separated materials specified in § **264-5A(5) to (15)**.
- (1) Aluminum containers shall be rinsed clean and commingled in blue recycle totes with other recyclable items and placed at roadside for collection.
  - (2) Bimetal containers shall be rinsed clean and commingled in blue recycle totes with other recyclable items and placed at roadside for collection.
  - (3) Corrugated paper and other container board shall be flattened and commingled in blue recycle totes with other recyclable items and placed at roadside for collection.
  - (4) Glass containers shall be rinsed clean and commingled in blue recycle totes with other recyclable items and placed at roadside for collection. Caps and lids must be removed.
  - (5) Magazines or other materials printed on similar paper shall be commingled in blue recycle totes with other recyclables.
  - (6) Newspaper or other materials printed on newsprint shall be commingled in blue recycle totes with other recyclables.
  - (7) Office paper shall be commingled in blue recycle totes with other recyclables.
  - (8) Plastic containers made of PETE, HDPE, PVC, LDPE, PP, PS and other plastic containers made of mixed or other plastic resin types shall be rinsed clean and commingled in blue recycle totes with other recyclables.
  - (9) Tin/steel containers shall be rinsed clean and commingled in blue recycle totes with other recyclable items and placed at roadside for collection.
  - (10) Waste tires may be taken to the designated county solid waste collection site or special arrangements can be made for their pickup or delivery to the Town's contracted hauler or other state-licensed hauler. The producer is responsible for any additional charges in regard to tires.

## § 264-8. Multiple-family dwellings.

- A. Owners or designated agents of multiple-family dwellings shall do all of the following to recycle the materials specified in § **264-5A(5) to (15)**:
- (1) Provide adequate, separate containers for the recyclable materials.
  - (2) Notify tenants in writing at the time of renting or leasing the dwelling and at least semiannually thereafter about the established recycling program.
  - (3) Provide for the recyclable material collection of the materials separated from the solid waste by the tenants and the delivery of the materials to a recycling facility.

- (4) Notify tenants of reasons to reduce and recycle solid waste, which materials are collected, how to prepare the materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address and telephone number.
- B. The requirements specified in Subsection **A** do not apply to the owners or designated agents of multiple-family dwellings if the post-consumer waste generated within the dwelling is treated at a processing facility licensed by the DNR that recovers for recycling the materials specified in § **264-5A(5)** to **(15)** from solid waste in as pure a form as is technically feasible.

## § 264-9. Nonresidential facilities and properties.

- A. Owners or designated agents of nonresidential facilities and properties shall do all of the following for recycling the materials specified in § **264-5A(5)** to **(15)**:
- (1) Provide adequate, separate containers for the recyclable materials.
  - (2) Notify in writing, at least semiannually, all users, tenants and occupants of the properties about the established recycling program.
  - (3) Provide for the recyclable material collection of the materials separated from the solid waste by the users, tenants and occupants and the delivery of the materials to a recycling facility.
  - (4) Notify users, tenants and occupants of reasons to reduce and recycle, which materials are collected, how to prepare materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address and telephone number.
- B. The requirements specified in Subsection **A** do not apply to the owners or designated agents of nonresidential facilities and properties if the post-consumer waste generated within the facility or property is treated at a processing facility licensed by the DNR that recovers for recycling the materials specified in § **264-5A(5)** to **(15)** from solid waste in as pure a form as is technically feasible.

## § 264-10. Disposal of recyclable materials prohibited.

No person may dispose of recyclable materials in a solid waste disposal facility or burn in a solid waste treatment facility any of the recyclable materials specified in § **264-5A(5)** to **(15)** which have been separated for recycling, except waste tires may be burned with energy recovery in a solid waste treatment facility.

## § 264-11. Haulers.

- A. Licenses. No person or corporation shall engage in the business of collecting solid waste or recyclables within the Town for storage, treatment, processing, marketing or disposal without first being licensed by the DNR under § NR 502.06, Wis. Adm. Code, and by the Town.
- B. Restrictions. Haulers may not dispose in a landfill or dispose in a solid waste facility any recyclable materials generated in the Town that have been separated for recycling. Haulers shall not compact glass with paper during collection and transport of recyclables to a processing facility or market and shall maintain materials in marketable condition.

## § 264-12. Processing facilities.

Any contractor operating in the Town shall not transport for processing any recyclables to a processing facility unless that facility has been, by January 1, 1995, self-certified with the Wisconsin Department of Natural Resources under § NR 544.16, Wis. Adm. Code.

## § 264-13. Unlawful acts.

- A. Antiscavaging or unlawful removal of solid waste. It shall be unlawful for any person, unless under contract with or licensed by the Town, to collect or remove any material that has been deposited or placed at the curb or in a container adjacent to a home or nonresidential building for the purposes of collection for disposal or recycling.
- B. No dumping. It shall be unlawful for any person to dispose of or dump solid waste in any street, alley, or public place within the Town or in any receptacles on private property without the owner's consent, unless it is placed in bags or containers in the manner and at the time specified by this chapter. No person shall place for collection any solid waste at the road right-of-way adjoining land not owned or occupied by such person.
- C. Burning and burying. It shall be unlawful to burn or bury solid waste or recyclables other than yard waste by residential and nonresidential sectors and at construction sites. Open burning shall be permitted only of clean wood, yard waste and nontreated paper products.<sup>[1]</sup>  
*[1] Editor's Note: See also Ch. 129, Burning, Outdoor.*
- D. Nondisposable materials. It shall be unlawful for any person to place for disposal any of the following wastes: hazardous and toxic waste, chemicals, explosives, flammable liquids, liquid paint, trees and stumps, construction debris, carcasses, and medical wastes, except that personal needles contained in rigid containers to eliminate injury to collection personnel can be placed for disposal with other landfill refuse.
- E. Garbage from outside of municipality. It shall be unlawful to bring solid waste for disposal and recycling from outside the Town boundaries into the Town unless authorized by agreement with the Town.

## § 264-14. Establishment of fees.

The municipality shall determine the cost for regular and special solid waste and recycling collection and user fees to cover those costs. Fees shall be assessed as a line item on taxes under § 66.0627, Wis. Stats., on a yearly basis for up to no more than two cubic yards from a single producer on a collection day from residential units and churches.

## § 264-15. Ownership of recyclables and refuse.

Title to all materials, other than recyclables, shall pass to the Town's contracted hauler when placed in the contractor's collection vehicle, removed by the contractor from a container, or removed by the contractor from a residential unit, whichever occurs last. Title to recyclables shall pass to Winnebago County when placed in the Town contractor's collection vehicle, removed by the contractor from the container, or removed by the contractor from the residential unit, whichever occurs last.

## § 264-16. Right to reject materials.

The hauler has the right to reject or leave at the roadside any recyclable material that is not prepared according to the specifications in this chapter or in educational material provided by the contractor or Town to the producers. Materials may also be left if not separated from solid waste, placed in the proper container, or not designated recyclable materials for collection. The hauler also has the right to refuse to pick up any solid waste if it contains recyclable containers and material. In such cases, the hauler shall

notify the producer of the materials as to the reasons for rejecting the items either verbally or in writing. The hauler shall also keep a list of such occurrences and provide it to the Town Clerk for a designated time period as determined by the Town Board.

## § 264-17. Reporting requirements.

The recycling haulers and processors operating in or for the Town are required to maintain records and report in writing to the Town Clerk at least twice each year.

### A. Reports shall include:

- (1) The amount of solid waste and recyclables collected and transported from the Town.
- (2) The amount of recyclables processed and/or marketed by item type from the Town.
- (3) The final disposal location of solid waste and recyclable material.

### B. Failure to report shall be cause for the Town to revoke any license or permit or to sever any contract with the hauler or processor.

## § 264-18. Inspections; violations and penalties.

A. Inspection. For the purpose of ascertaining compliance with the provisions of Ch. NR 544, Wis. Adm. Code, or its successor chapter and compliance with this chapter, any authorized officer, employee or representative of the Town may, under § 66.0119, Wis. Stats., or its successor sections, and under Ch. NR 544, Wis. Adm. Code, or its successor provisions, inspect recyclable materials in the Town separated for recycling; inspect post-consumer waste in the Town intended for disposal; inspect any recyclable material collection locations and any other collection facilities and collection vehicles in the Town, including any collection areas for single-family and two- to four-unit residential dwelling units, multiple-family dwelling units and nonresidential facilities and properties that are controlled by any occupants, any contractor of the Town, any permitted collector, or any other person participating in any recycling activity in the Town, any solid waste disposal facilities and solid waste treatment facilities; and, in addition, inspect any records relating to recyclable material activities of any occupants, any contractor for the Town, any permitted collectors or other persons in the Town. These records shall be kept confidential by the Town Board when necessary to protect proprietary information.

### B. Penalties.

- (1) Any person who violates a provision of this chapter may be issued a citation by the Town under this chapter to collect forfeitures. The issuance of a citation shall not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this subsection.
- (2) Penalties for violating this chapter may be assessed as follows:<sup>[1]</sup>
  - (a) Any person who violates § **264-10** may be required to forfeit \$50 for the first violation, \$200 for a second violation, and not more than \$2,000 for a third or subsequent violation.
  - (b) Any person who violates a provision of this chapter, except § **264-10**, may be required to forfeit not less than \$10 nor more than \$1,000 for each violation.

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

## Chapter 270. Streets and Sidewalks

[HISTORY: Adopted by the Town Board of the Town of Winneconne 10-20-1994 as §§ 8.01, 8.02, 8.04, 8.05, 8.06, 8.10 and 9.14 of the 1994 Code. Amendments noted where applicable.]

## GENERAL REFERENCES

Numbering of buildings — See Ch. **124**.  
 Comprehensive Plan — See Ch. **146**.  
 Official Road Map — See Ch. **225**.  
 Sewers — See Ch. **252**.  
 Site plan review — See Ch. **258**.  
 Subdivision of land — See Ch. **275**.

## ATTACHMENTS

**Attachment 1 - Typical Road Section Diagrams** 

**Attachment 2 - Appendix A** 

## § 270-1. Excavations.

- A. Permit required. An excavation permit shall be obtained before any person shall excavate or dig upon or in any Town road or public right-of-way, excluding federal, state and county highways. The excavation permit shall be obtained by the person or his contractor performing the work. The Town Highway Superintendent<sup>[1]</sup> is hereby authorized to issue such permits.
- [1] *Editor's Note: An ordinance adopted 6-20-2013 amended § 1-19B(5) to change references to the "Highway Superintendent" to read "Superintendent of Highways."*
- B. Form of application. An application shall give the following information and such other information as shall be required:
- (1) The purpose of the proposed excavation.
  - (2) The location where the proposed excavation is to be made.
  - (3) The type of surfacing on the road or public right-of-way in which the excavation is proposed to be made.
  - (4) The proposed date that work is to commence.
  - (5) The name and address of the applicant.
  - (6) Such application shall contain and it shall be the duty of the applicant and his contractor to comply with the following provisions: "The undersigned covenant and agree that if permission to excavate shall be granted to the undersigned as requested hereby, then in consideration thereof, we will:
    - (a) Place or cause to be placed suitable and adequate warning and safety devices, barricades and lights in such places, in such quantity and of such kind or nature as provided in § **270-1F**, so long as such excavation is unsurfaced or remains a hazard to traffic of any kind upon such road or public right-of-way.
    - (b) Open the excavation by neat saw joints through the concrete or asphalt surface course.
    - (c) Close and backfill such excavation and replace the surface of such road in accordance with § **270-1H**.
    - (d) Indemnify and hold harmless the Town from any damages it may be required to pay on account of injury to person or property caused by the applicant or his agent in the process of excavation."
- C. Report of utility facilities required. Whenever any person while so excavating, digging in or upon or removing any material from any Town road or public right-of-way shall uncover, strike, disturb or discover any pipe, cable, conduit casing or other object used to transmit gas, water, sewer, electric



energy or other products, he shall report the fact immediately to the owner of such facility and the Town Highway Superintendent<sup>[2]</sup> before progressing further with the excavation or removal. When such facilities are removed, cut or damaged, the person, at his own expense, shall cause them to be replaced or repaired as the owner of the facility shall direct.

[2] *Editor's Note: An ordinance adopted 6-20-2013 amended § 1-19B(5) to change references to the "Highway Superintendent" to read "Superintendent of Highways."*

- D. Duty of Highway Superintendent.<sup>[3]</sup> Upon receipt of the report required in Subsection C above, the Highway Superintendent shall make a preliminary inspection of the utility facility so discovered, struck, disturbed or damaged and notify the proper owner of the facility maintaining the same, if not previously notified by the excavator, for a more complete inspection to determine any damage that might have occurred due to the excavation work being done.

[3] *Editor's Note: An ordinance adopted 6-20-2013 amended § 1-19B(5) to change references to the "Highway Superintendent" to read "Superintendent of Highways."*

- E. Appeal to Town Board. If any applicant for a permit is refused, he shall have the right to appeal to the Town Board for such permit by filing a written notice of appeal with the Town Clerk within 10 days of such refusal. The Town Board shall act on such appeal within 30 days of the receipt of such request. The Town Clerk shall notify the appellant in writing at least two days prior to the Town Board meeting at which such appeal is to be considered, giving the time and place of the Board meeting.

- F. Protection of public.

(1) All barricades and protective and warning devices shall comply with the Wisconsin Statutes and the administrative rules of the Department of Safety and Professional Services and the Division of Highways of the Department of Transportation.

[Amended 12-19-2019 by Ord. No. 2019-6]

(2) All excavations, removals and barricade placements must permit at least one lane of traffic at least 12 feet wide. Any deviation from this requirement requires written permission from the Town Highway Superintendent.<sup>[4]</sup>

[4] *Editor's Note: An ordinance adopted 6-20-2013 amended § 1-19B(5) to change references to the "Highway Superintendent" to read "Superintendent of Highways."*

- G. Excavated material. Material from the excavation shall be placed where the least practicable inconvenience to the public or traffic will be caused and so as to permit the free passage of water through culverts and ditches. Excess spoil shall be removed as soon as possible from the areas of excavation work.

- H. Excavation backfilling. The backfilling of the excavation shall be accomplished as follows:

(1) The excavation shall be filled from the bottom to one foot above the pipe or conduit with fine granular material which shall be well tamped to preclude any settlement.

(2) The remainder of the excavation backfilling may consist of suitable native soil properly compacted to avoid settlement. All roots, rocks, large stones, debris or other unsuitable material which would cause interference with the compaction shall not be used and shall be removed from the site as soon as possible. This backfilling shall be made as soon as possible after the granular backfill and shall be compacted in layers not to exceed 12 inches in depth.

(3) On all Town roads with gravel surface, the permittee or his contractor shall complete the compacted backfill to approximately six inches below grade and immediately place six inches of compacted gravel surfacing.

(4) On Town roads surfaced with asphalt or concrete, the permittee or his contractor shall complete the compacted backfill to the subbase course. The subbase course and the permanent surfacing of concrete or asphalt shall then be placed to permanently repair the road surface by the permittee or his contractor. Any settlement of the area so repaired shall be

repaired at the expense of the permittee for a period of one year from the date of the original repairs.

(5) Immediately after placing the surface course, all debris or excess materials shall be removed and the area opened to traffic.

- I. Emergency excavations authorized. In the event of an emergency, any person owning or controlling any sewer, water main, conduit, pipe, cables or other underground facilities in or under any Town road or public right-of-way and his agents or employees may take any immediate proper emergency measures to remedy dangerous conditions for the protection of property, life, health or safety without obtaining an excavation permit, provided that such person shall apply for an excavation permit not later than the end of the next succeeding business day.

## § 270-2. Culvert permits.

- A. Established. No culverts shall be installed on Town roads for the purpose of private drives without a permit having been issued by the Town Highway Superintendent. No building permit shall be issued until a culvert permit is issued or a determination has been made by the Town Highway Superintendent that no culvert is required for the parcel to have access to the Town road. The permit fee shall be established from time to time by the Town Board.  
[Amended 5-16-2019 by Ord. No. 2019-1]
- B. Culvert specifications. Culverts shall be of galvanized steel, shall not be less than 15 inches in diameter nor less than 24 feet in length, and shall not be longer than 36 feet in length. End walls are required.  
[Amended 5-16-2019 by Ord. No. 2019-1]
- C. Diameter and grade. The diameter and grade of culvert is to be set and determined by the Highway Superintendent. The Highway Superintendent will set hubs for grade prior to installation and will inspect the culvert after installation to determine that it has been properly set and installed.  
[Amended 5-16-2019 by Ord. No. 2019-1]
- D. Culvert bedding and cover. Culverts shall be covered by crushed stone free of soil or other foreign matter to a depth established by the Highway Superintendent. The necessity of bedding stone below the culvert shall be determined by the Highway Superintendent.  
[Amended 5-16-2019 by Ord. No. 2019-1]
- E. Variance. Any application for variance from the above requirements or for appeal from the requirements established by the Highway Superintendent shall be addressed to the Town Board and filed with the Highway Superintendent. The Highway Superintendent in consultation with the Town Chairman will set the application for consideration by the Town Board as promptly as practical within 45 days of the application date.  
[Amended 5-16-2019 by Ord. No. 2019-1]
- F. Any such culverts or driveways installed pursuant to this section or installed with a permit or fee required under this section, for that portion of the driveway and culvert extending from the owner's property line to the road right-of-way, must not be constructed of any concrete or cement, but rather such culverts or driveways should be constructed of asphalt, stone and gravel, or some other similar construction materials that allow for relatively easy destruction, removal, and reconstruction.  
[Added 5-18-2000]

## § 270-3. Obstruction of ditches; damaging Town property.

- A. No person shall fill or obstruct any ditch alongside of Town roads with any dirt or debris whatsoever.
- B. No landowner abutting upon any Town road shall cultivate, plow or remove soil from his land in such manner as to obstruct or fill any ditch alongside of any Town road.

- C. Any person causing damage to any culvert, ditch or other Town property shall, in addition to any penalty imposed, be responsible for the costs of restoring such property to its original condition.

## § 270-4. Town road requirements.

[Amended 8-15-1996; 10-18-2001; 5-19-2005; 6-19-2008]

Any road constructed in the Town of Winneconne shall comply with and meet all of the minimum standards set forth below before the Town Board of the Town of Winneconne will consider an application for it to become part of the Town road system. A written application is required for the Town Board to consider any road to become part of the Town road system. It is in the public interest for the Town of Winneconne to establish minimum design standards for roads, streets and highways constructed in the Town to accommodate anticipated traffic and afford satisfactory access to police, fire-fighting, snow removal, sanitation, and road maintenance equipment.

- A. Definitions. As used in this section, the following terms shall have the meanings indicated:

### **APPROACH**

That portion of road extending 100 feet on each side of a culvert or bridge.

### **BASE COURSE**

The supporting base material of the roadway, including shoulder.

### **DRAINAGE**

The gradual drying of highway by system ditches, trenches, channels, etc.

### **GRADE**

The rate of ascent or descent of roadway.

### **HIGHWAY**

The road or way over which the public generally has a right to pass, to include the complete right-of-way.

### **ROAD BED**

The whole material laid in place and ready for travel.

### **ROADWAY**

The traveled portion of the highway.

### **SUBGRADE**

The earthen portion of roadway under base course.

### **SURFACE**

The top of the roadway, or traveled surface.

- B. Applicability. This section shall be applicable to all highways laid out by or approved by the Town Board after adoption of this section, including but not limited to any highways dedicated in plats for proposed subdivisions submitted for review pursuant to Ch. 236, Wis. Stats., any private highways being donated to the Town, and any other highways being accepted by the Town as public highways in the Town.

- C. Minimum road design standards.

(1) General.

- (a) All work shall be done in accordance with the State of Wisconsin Department of Transportation Standard Specifications for Highway and Structure Construction, latest edition except as follows:

- [1] All gravel used for street construction shall contain no more than 9.5% P200.
  - [2] Prior to placing the base course, the contractor shall supply the Town Engineer with a gradation report for the stockpile to be used. During construction the Town may take samples for testing.
- (b) The following minimum design standards shall apply under this section: all Town highways shall be classified as local roads unless designated by the Town Board as collector or arterial. The classification of all roads under this section shall be within the complete discretion of the Town Board considering such factors as traffic count, character of anticipated traffic, and relation of highway to traffic patterns within the Town and other highway systems. It is intended that local be the lowest traffic count with access to private property as its principal function. Collector highways are intended to be highways acting as collectors from local roads to higher priority roads or developed areas. Arterials are intended to serve as corridors through the Town serving intraregional and interarea traffic movement.

**Maximum Allowable Grade of Roadway**

(percent)

Classification	Residential Development/Land Usage		Commercial or Industrial Development/Land Usage	
	With Curb and Gutter	Without Curb and Gutter	With Curb and Gutter	Without Curb and Gutter
	Local	10	10	8
Collector	8	8	6	6
Arterial	6	6	6	6

**Minimum Centerline Radius of Horizontal Curve**

(feet)

Classification	Residential Development/Land Usage		Commercial or Industrial Development/Land Usage	
	With Curb and Gutter	Without Curb and Gutter	With Curb and Gutter	Without Curb and Gutter
	Local	100	100	200
Collector	100	100	200	200
Arterial	300	300	400	400

**Corner Radii at Intersections (feet)\***

Residential Development/Land Usage		Commercial or Industrial Development/Land Usage	
With Curb and Gutter	Without Curb and Gutter	With Curb and Gutter	Without Curb and Gutter
25	30	25	30

NOTES:

\*Intersections with county and state highways may require larger radii.

**Minimum Length of Vertical Curve**

Classification	Requirement
Local	20 feet for each 1% algebraic difference in grade, in percent;

**Minimum Length of Vertical Curve**

<b>Classification</b>	<b>Requirement</b>
	none required for under 2% algebraic difference in grade
Collector	50 feet for each 1% algebraic difference in grade
Arterial	50 feet for each 1% algebraic difference in grade

**Design Speed (MPH) for Residential, Commercial and Industrial**

<b>Classification</b>	<b>Preferred</b>	<b>Minimum</b>
Local	30	20**
Collector	55	30**
Arterial	55	40**

**NOTES:**

\*\*The Town Board may make exceptions to these requirements based on topography and/or site limitations. The developer shall supply the Town of Winneconne with the design speed per the Wisconsin Department of Transportation Facilities Development Manual.

- (2) Construction process. Prior to any construction occurring, the developer shall execute the following with the Town:

- (a) Prior to any construction occurring, the developer shall provide the Town of Winneconne a letter of credit or an escrow account in the amount equal to the estimated cost plus 20% as provided by the developer and approved by the Town Board for all road construction, including equipment, labor and materials. These costs, at a minimum, shall include gravel, seed, fertilizer and mulch, signage, erosion, control, paving and shouldering. The additional 20% is provided for unanticipated increases in construction costs, Town engineering and attorney's fees. On an annual basis, or until the public improvements have been accepted by the Town of Winneconne, the letter of credit or escrow account shall be provided by the developer and reviewed by the Town on an annual basis with necessary adjustments provided due to changes in cost of material, labor or other related costs.

[Amended 12-18-2008]

- (b) Road construction plans must be approved by the Town of Winneconne, in writing, prior to construction commencing.

[Amended 12-18-2008]

- (c) Road construction shall take place only between May 1 and November 1 of each year. All roads shall be constructed to subgrade within one year of the date of approval of the final plat. Subgrade materials will lie without application of an asphalt surface until the following spring (subgrades must winter-over). Before application of an asphalt surface, the subgrade must pass a proof roll test and be accepted by the Town Highway Superintendent.<sup>[1]</sup>

[1] *Editor's Note: An ordinance adopted 6-20-2013 amended § 1-19B(5) to change references to the "Highway Superintendent" to read "Superintendent of Highways."*

- (d) Road construction in subdivisions will be in accordance with the following schedule. Where subgrades have satisfied the winter-over and proof roll requirements above, asphalt must be applied by August 31.

[Amended 12-18-2008]

[1] The final paving shall be installed when occupancy permits have been issued for 70% of the properties in the subdivision or when greater than 20% of the available properties have occupancy permits and three years have elapsed since approval of

the final plat, whichever comes first. The asphalt binder is required after the first year regardless of lot occupancy.

- [2] In the event that less than 20% of the land is developed, and three years have elapsed since the approval of the final plat, the Town Board may require final paving of the road in conformance with this subsection. The developer shall then be required to construct the road in conformance with all Town ordinances and resolutions.
  - [a] The Developer shall guarantee the improvements under this subsection for a period of three years from the date of final acceptance by the Town Board. This guarantee shall include total and complete restoration of any disturbed surface or component of the improvement to the standard provided in the construction documents per § **275-45** and ordinance specifications.
  - [b] If the developer fails to make required replacement or repairs, or the repairs or replacement are not completed to the Town's satisfaction, the Town shall have the option of making the repairs and collecting the costs of the replacement or repairs through any legal means available to the Town.
  - [c] Prior to final acceptance of the public improvements, a letter of credit or escrow account shall be provided by the Developer in the amount of 15% of the final cost of construction. The Town has the ability to draw upon the letter of credit and/or escrow account for any costs or expenses it incurs in making replacement or repairs.
- (3) Culverts. Prior to installation of culverts, the following conditions must be met:
  - (a) Private entrance culverts shall be installed by the following requirements:
    - [1] The owner shall designate with flagged stakes at each end where the culvert is to be placed.
    - [2] The Town officer will view site and designate size and length with end walls (minimum equivalent size culvert of 18 inches).
    - [3] Any culvert installed over 30 feet in length the Town may require an oversized culvert or a cleanout placed in the middle of culvert and level with driveway surface. No culvert shall exceed 36 feet in length without written approval of the Town Board.
    - [4] The owner shall secure culvert and end walls and notify the Town Board when they are on site.
    - [5] The owner's contractor shall supply and install steel culverts with end walls. Installation shall include excavation, bedding, placement of new culvert with end walls and all necessary hardware, backfill of trench and restoration of ditch and side slopes and other areas disturbed by construction.
    - [6] Topsoil shall be filled in behind end walls to provide a blended appearance.
    - [7] Culverts shall be protected from sediment until vegetation is established and the installation is accepted by the Town of Winneconne. Any sediment deposits found in the culverts shall be removed prior to Town of Winneconne's acceptance.
    - [8] If the culvert is set incorrectly or if there are sediment deposits left within the Town of Winneconne's right-of-way, the Town of Winneconne will clean the ditch and set the culvert (if applicable) to facilitate proper drainage at the current fee set by the Town Board.
    - [9] When all above are complete and the owner pays installation, the permit will be issued.

- (b) Concrete fences, gates, lighting or other objects are not allowed on the Town right-of-way. The Town of Winneconne is not responsible for damage to concrete surfaces for snowplowing activities.  
[Amended 12-18-2008; 8-20-2020 by Ord. No. 2020-7]
- (4) Collector or arterial roads. Any road must comply with all the minimum standards set forth below before the Town Board of the Town of Winneconne will consider an application for any road to become part of the Town road system. This shall apply to applications for approval of plats and/or certified survey maps (CSM) with road construction involved.
- (a) There shall be an eighty-foot right-of-way.
- (b) All roads designated as collector or arterial shall be designed to be through roads. Any termination due to phasing shall have a fifty-foot radius graveled and a forty-seven-foot radius paved, temporary turnaround installed.
- (c) All topsoil shall be stripped and removed from the right-of-way.
- (d) Suitable subsoil material excavated from ditches shall be used for the leveling of the subgrade.
- (e) All ditches shall be generally designed to be cut 2.5 feet below edge of pavement elevation and graded to permit proper drainage with gradual slopes at a grade not less than 0.7% per approval street plans.
- (f) Cross culverts shall be placed in the roadway to facilitate drainage of the roadway, where necessary, per the approved drainage plan. Culverts shall be corrugated steel metal pipe with associated steel metal end-walls.
- (g) Collector or arterial roads constructed in the Town of Winneconne must have:
- [1] Eleven inches of two-and-one-half-inch breaker run (Gradation 1).
- [2] Six inches of three-fourths-inch crushed run (Gradation 2).
- [3] Geotextile fabric.
- (h) The travel portion of the road must be 24 feet wide of four-inch compacted asphalt surface (1.75 inches surface and 2.25 inches of binder).
- (i) Asphalt surface must have a three-foot shoulder on each side consisting of three-fourths-inch crusher run material (Gradation 2).
- (5) Local road standards. Any road must comply with all the minimum standards set forth below before the Town Board of the Town of Winneconne will consider an applications for any road to become part of the Town road system. This shall apply to applications for approval of plats and/or certified survey maps (CSM) with road construction involved.
- (a) There shall be a sixty-six-foot right-of-way.
- (b) Any permanent dead-end road shall have a sixty-six-foot radius right-of-way (forty-seven-foot radius pavement, fifty-foot radius graveled) cul-de-sac at terminus. Any temporary termination of roadways shall have a forty-seven-foot radius pavement and fifty-foot radius graveled, temporary turnaround installed.
- (c) All topsoil shall be stripped and removed from the right-of-way.
- (d) Suitable subsoil material excavated from ditches may be used for the leveling of the subgrade.
- (e) All ditches shall be generally designed to be cut two feet below the edge of the pavement elevation and graded to permit proper drainage with gradual slopes at a grade not less than 0.7% per approved street plans.

- (f) Cross culverts shall be placed in the roadway to facilitate drainage of the roadway, where necessary per approved street plans. Culverts shall be corrugated steel metal pipe with associated steel metal end-walls.
- (g) Local roads constructed in the Town of Winneconne must have:
  - [1] Eight inches of two-and-one-half-inch breaker run (Gradation 1).
  - [2] Four inches of three-fourths-inch crusher run for surface granular material (Gradation 2).
  - [3] Geotextile fabric.
- (h) The travel portion of the road must be 22 feet wide of three-and-one-half-inch compacted asphalt surface. (1.75 inches of surface and 1.75 inches of binder).
- (i) Asphalt surface must have a three-foot shoulder on each side consisting of three-fourths-inch crusher run material.

D. Minimum road construction standards.

(1) Construction staking.

- (a) The proposed work will be staked by the Town of Winneconne's surveyor/engineer. The Town surveyor/engineer will provide station staking lath along both sides of the right-of-way. The positioning of the lath will provide direction on the placement of topsoil piles.
- (b) The Town Engineer will provide the contractor with street summary sheets that provide subgrade, stone grade, ditch grade and right-of-way elevations for all the streets.
- (c) The contractor shall utilize the right-of-way station stakes for alignment. It is the contractor's responsibility to stake the edge of stone and centerline alignments for the proposed streets. It is the contractor's responsibility to check the vertical accuracy of the subgrade and stone grades prior to the Town Engineer's subgrade check.

(2) Clearing and grubbing. Clearing and grubbing shall consist of cutting and disposing of trees, brush, stumps, roots, shrubs, fallen trees, fence posts, fence wire, vines and other vegetation and debris occurring within the project limits and disposing of the same as required for the specified construction.

(a) Method.

- [1] The clearing limits shall be the limits of the right-of-way or easement unless otherwise stated or indicated on the approved plans.
- [2] The contractor shall use whatever methods for clearing and grubbing best suited to the site of work and which will not cause damage to adjacent property.
- [3] The contractor shall remove obstructions, such as street signs, small culverts and end walls, advertising signs and guard posts, located in construction easements or rights-of-way, provided the owner is notified prior to removal and they are promptly replaced to their original condition unless otherwise specified.
- [4] Any existing culverts that the Town Street Supervisor or Town's designated Engineer indicates shall be salvaged, shall be carefully removed and shall become the property of the Town of Winneconne.
- (b) Disposal. Unless otherwise required, all materials resulting from the clearing or from cleanup shall become the property of the contractor. The contractor shall take full responsibility for the complete and proper disposal of the material.
- (c) Protection of survey monuments. The contractor and/or developer shall be responsible for the protection and replacement, if necessary, of survey monuments which may exist



throughout the project area. Any disturbed survey monuments shall be replaced by a registered surveyor at the contractor's expense.

(3) Fine grading/excavation.

- (a) Prior to construction, the contractor shall strip all topsoil from the right-of-way and stockpile. The entire street right-of-way shall be excavated to the typical sections shown.<sup>[2]</sup> There will be areas where existing ground elevations and proposed street grades will dictate that slope intercepts extend beyond the right-of-way lines. The contractor shall construct low existing elevations to proper right-of-way elevations. Existing elevations that are higher in terrain may be left higher than typical. However, excessive elevation differences in right-of-way from one side of the street cross-section to the other will not be acceptable.

[2] *Editor's Note: The typical road section diagrams are included at the end of the chapter.*

- (b) The subgrade shall be comprised of sound nonorganic material free from topsoil or other deleterious material. Acceptable excavated subgrade material shall be moved to locations on this project where fill is required.
- (c) The contractor shall proof roll (loaded truck) the subgrade for the engineer in conjunction with the compaction testing and prior to placing crushed stone base course. Subgrade in ditch areas shall be excavated and graded to allow for the addition of a minimum of four inches of topsoil.
- (d) Any excess material not needed for road construction shall be hauled off site or placed and leveled in locations determined by the engineer.

(4) Embankments. Embankments consist of placing in embankments and in miscellaneous backfills material obtained from roadway excavation or borrow areas, all in accordance with these specifications and in reasonably close conformity with the lines, grades, thicknesses and typical cross sections shown on the approved plans.

(a) Materials.

[1] Materials for embankment shall consist of approved materials and shall contain no logs, stumps, brush or other organic material. Unsuitable material or frozen lumps shall not be permitted to be placed in the embankment except in the area beyond the limits of an assumed one-to-one slope extending outward from the outer limits of the roadway shoulder line.

[2] Materials to be in the top 12 inches of the embankment shall be free of large stones, concrete and other materials which would significantly affect scarifying, compacting and finishing the subgrade.

(b) Construction methods.

[1] Before placing any material in an embankment, the contractor shall clear and grub and also strip the topsoil. Unless otherwise specified in the contract, the construction of embankments shall be discontinued in the fall or early winter when weather conditions prevail which will cause substantial freezing of the materials as they are placed in the embankment, except when the materials used are from rock excavation or are granular and contain only minor quantities of silt, clay, loam or similar materials.

[2] The material placed in an embankment shall be placed in layers starting at the lowest elevation. The layers shall be spread evenly to a uniform thickness throughout and parallel to finished grade. The thickness of the layer shall be as necessary to secure the required compaction, generally not exceeding eight inches. Where it is not practical to place the material in layers eight inches thick, such as marshes, wet ground, filling in water, or on a steep hill side, a single layer may be constructed to a

thickness not greater than necessary to support the hauling equipment while placing subsequent layers.

- [3] Embankments placed in wet marshes or swamps shall in general be constructed by end dumping the fill material. When marshes are excavated in a dry condition, the embankment shall be constructed in layers and compacted so far as practicable. For a description of the method, please refer to Section 203, Marsh Excavation.<sup>[3]</sup>

[3] *Editor's Note: See Section 203 of the "Standard Specifications."*

- [4] Where material placed for embankment consists of rack or broken stone of sufficient size that placing in eight-inch layers is not practical, the material may be placed in layers not exceeding the average diameter of the largest pieces, provided there will be no nesting and all the voids are filled with smaller stones and satisfactory soil or rock fines.

(5) Preparation of subgrade.

- (a) The contractor shall notify Martenson & Eisele, Inc. after the completion of the subgrade construction. The Town of Winneconne's surveyor/engineer will check and document the subgrade elevations.
- (b) The contractor shall ensure that the subgrade elevations are within the Town of Winneconne's tolerances (0.08 inch) prior to notifying the Town of Winneconne's surveyor/engineer to verify elevations.

(6) Excavation below subgrade.

- (a) The contractor shall excavate the street to the typical section shown.<sup>[4]</sup>

[4] *Editor's Note: The typical road section diagrams are included at the end of the chapter.*

- (b) Excavation below subgrade (undercutting) may be necessary over some portions of this project. If such excavation is required, the contractor shall obtain prior authorization from the Engineer.
- (c) The contractor shall backfill excavations below subgrade (two inches over-dig) with suitable on-site material. This backfill material shall be compacted and brought up to the subgrade elevations as shown on the typical sections<sup>[5]</sup> and shall be paid at the unit price supplied on the proposal form.

[5] *Editor's Note: The typical road section diagrams are included at the end of the chapter.*

(7) Compaction.

- (a) Except as otherwise provided, all fill placed in embankments, all backfills in marshes and construction of rock fills shall be compacted in accordance with requirements for standard compaction unless special compaction is called for on the approved plans or supplemental specifications.
- (b) The material to be compacted shall be at the optimum moisture content to insure proper compaction. If the moisture content is excessive in that excessive distortion or displacement occurs under the compaction equipment, the material shall be allowed to dry. Drying may be accelerated by aeration or manipulation by means of blade graders, discs, or other appropriate equipment. If the material is too dry to compact properly, water shall be added in quantities deemed necessary to aid and accelerate effective compaction.
- (c) Each layer of an embankment shall be compacted to the degree that no further appreciable consolidation is evidenced under the action of the compaction equipment. No material shall be placed for the succeeding layer until the required compaction is attained for each layer.
- (d) The compaction shall be attained by specialized compaction equipment, supplemented by hauling and leveling equipment traveling with an equal distribution over each layer. If the

compaction attained through the hauling and leveling equipment is satisfactory and sufficient, specialized compaction equipment will not be required. If specialized equipment is necessary, specialized compaction equipment shall include tamping rollers, pneumatic-tire rollers, vibratory rollers or other types of equipment designed for compaction which will achieve the desired result.

- (e) Tamping rollers shall exert a weight of not less than 150 pounds per square inch of tamping surface. Other rollers, such as pneumatic-tire roller, shall exert a weight of not less than 150 pounds per linear inch of roller width.
  - (f) Embankments of six feet or less in height shall be compacted to at least 95% of maximum density for their full depth. Embankments over six feet in height shall have the top six feet compacted to not less than 95% of maximum density, and those portions more than six feet below the finished subgrade shall be compacted to at least 90% of maximum density. The maximum density of the fill material will be determined in accordance with ASTM test designation D-1557, modified Proctor test, and the relative density shall be determined in accordance with the standard method of test for density for soil-in-place by the Sand Cone Method, AASHTO Test Designation T 191, or other approved methods. If such tests are required by the Town Board, they shall be done at the developer's expense.
- (8) Compaction testing.
- (a) Subgrade.
    - [1] The Town will contract with an independent testing laboratory to provide the required testing services.
    - [2] Testing will determine maximum density and optimum moisture content for compaction in accordance with ASTM D1-1557 (one test for each type of material for each source). Field density testing will be conducted in accordance with ASTM D1-1556 and/or D-2922 and D-3017. Minimum frequency for field testing shall be two acceptable tests per roadway or as follows, whichever number is greater: one moisture/density test per 100 feet of roadway.
    - [3] Additional density testing may be required under the following conditions:
      - [a] Soil density does not meet project requirements.
      - [b] Change in method of compaction.
      - [c] Change in source or quality of soil or aggregate.
      - [d] Disturbed cut areas.
  - (b) Stone base.
    - [1] The Town will contract with an independent testing laboratory to provide the required compaction testing services.
    - [2] The contractor shall compact each layer of aggregate after placed and spread to the required thickness, width and section. If the material is deficient in moisture content, to attain the required density, the contractor shall add the necessary moisture during compaction operations by means which provides a uniform application. Each layer or course placed shall be compacted to at least 95% of the maximum dry density as determined by the modified Proctor test (ASTM D1557). Areas where proper compaction is not obtainable due to segregation of materials, excess fines or other deficiencies shall be reworked or removed and replaced with material that will yield the desired results. The contractor shall shape and maintain the material to the proper dimensions prior to and during compaction operations.
- (9) Geotextile fabric.

- (a) The contractor shall notify the Town of Winneconne and the Town of Winneconne's surveyor/engineer prior to any placement of fabric. The contractor shall install geotextile fabric on the subgrade of all streets.
- (b) The geotextile fabric shall consist of either woven polyester, polypropylene, stabilized nylon, polyethylene or polyvinylidene chloride. All fabric shall have the minimum strength values required in the weakest principle direction. The geotextile fabric rolls shall be clearly marked showing the type of fabric.

[1] The fabric shall comply with the following minimum physical requirements:

**Geotextile Fabric Minimum Physical Requirements**

<b>Parameter</b>	<b>Method</b>	<b>Value</b>
Trapezoid Tear (pounds)	ASTM D-4533	100 pounds
Permittivity (sec-1)	ASTM D4491	.02
Apparent opening size (sieve size)	ASTM D-4751	30/70
Ultraviolet degradation (% strength retained)	ASTM D-4355	70
Grab tensile strength (pounds)	ASTM D-4632-86	280 minimum
Puncture strength (pounds)	ASTM D-4833	115 minimum
Mullen burst (psi)	ASTM D-3786	600 minimum
Elongation at required strength (%)	ASTM D-4632-86	25% maximum

[2] All numerical values represent minimum/maximum average roll values (i.e., the average of test results on any roll in a lot should meet or exceed the minimum values in the table).

- (c) The rolls of fabric are to be kept dry until installed and shall be clearly marked showing the type of fabric.
- (d) Construction methods.

[1] Prior to the placement of fabric, the subgrade shall be smoothed, shaped, and compacted to the required grade, section, and density. After the fabric has been placed on the subgrade area, no traffic or construction equipment will be permitted to travel directly on the fabric.

[2] The fabric shall be placed on the subgrade, rolled out parallel to the roadway, and pulled taut manually to remove wrinkles. Adjacent rolls of fabric shall be overlapped a minimum of 24 inches or sewn with a lock stitch. All factory and field seams shall be sewn with a thread having the same or greater durability as the material in the fabric and sewn seams shall have the same strength as the specified strength of the fabric.

[3] Weights or pins may be required to prevent lifting of the fabric by wind. After placement, the fabric shall be exposed no longer than 48 hours prior to covering. Base course material shall be placed by back dumping with trucks and leveled with a crawler dozer to a minimum depth of four inches over the fabric.

[4] Construction equipment shall be such that ruts do not exceed three inches in depth. All ruts shall be filled with additional material, smoothing of ruts will not be permitted. Before covering, the condition of the fabric shall be inspected to determine that no holes, rips, or tears occurred in the fabric. If any defects are observed, the damaged area shall be covered with a patch of fabric using a three-foot overlap in all directions.

(10) Placement of stone base.

- (a) The contractor shall notify the Town of Winneconne and the Town of Winneconne's surveyor/engineer prior to any placement of stone base. The contractor shall set up a

proof roll with said representatives onsite. The subgrade shall be approved by a representative of the Town of Winneconne prior to commencing with the fabric and stone placement.

- (b) Should the contractor begin graveling streets without the consent of the Town of Winneconne, the contractor shall remove the fabric and stone at his cost.

(11) Placing topsoil.

- (a) The contractor shall place screened pulverized, salvaged or imported topsoil to a depth of four inches in all ditches and to other areas as indicated on the approved plans and specifications.
- (b) Rocks, stones, twigs, and clods that will not break down and other foreign material shall be removed, and the entire surface shall be dressed to present a uniform appearance.
- (c) After the areas upon which the topsoil is to be placed have been prepared and finished to the required lines, grades, slopes and cross section, the topsoil shall be placed and spread thereon to a uniform depth of four inches.

(12) Restoration. The contractor shall stabilize all disturbed areas on the project, including swales and lot lines. Restoration shall consist of placing and grading topsoil, seeding, fertilizing, mulching and erosion control revegetative if required.

(13) Seeding.

- (a) The contractor shall seed areas indicated on the approved plans and specifications. All seed shall conform to the Wisconsin Statutes and Wisconsin Administrative Code Chapter ATCP 20 regarding noxious weed seed content and labeling. Seed mixture No. 10 per Section 630 of the "Standard Specifications" shall be applied at the rate specified in that section.
- (b) The contractor is responsible for a two-inch catch of grass and shall reseed any bare or sparse areas as determined by the Engineer.

(14) Fertilizer. The contractor shall provide and incorporate into the soil fertilizer to the areas indicated on the approved plans and specifications to be seeded. Type A Fertilizer per Section 629 of the "Standard Specifications" shall be applied at the rate specified in that section.

(15) Mulching.

- (a) The contractor shall utilize Method C mulching per Section 627 of the "Standard Specifications" and shall apply at the rate specified in that section. The contractor shall furnish and place weed-free hay or straw as mulch at a depth of 1/2 inch to 1 1/2 inches to all areas indicated on the plans and in the specifications to be seeded. Mulch shall be applied in locations not covered by erosion mat. Mulch shall be placed within three days after seeding has been completed.
- (b) Mulching operations shall not be performed during periods of excessively high winds which would preclude the proper placing of the mulch. The placed mulch shall be loose or open enough to allow some sunlight to penetrate and air to slowly circulate, but thick enough to shade the ground, conserve soil moisture and prevent or reduce soil erosion.

(16) Erosion control revegetative mat.

- (a) Erosion control revegetative shall be installed at locations shown on the plan.
- (b) The entire street ditch section shall be matted with Class II, Type B erosion control vegetative mat (C125 as manufactured by North American Green or equal). If higher grade matting is needed due to steeper slopes or conveyance of excessive stormwater flows, the engineer shall specify a product to be approved by the Town Engineer.

## (17) Bituminous concrete pavement.

(a) This work shall consist of the construction of a plant mixed bituminous concrete surface on the approved prepared foundation, base course or existing surface in accordance with the approved plans and specifications. Asphaltic concrete pavement materials shall be mix HMA Type E-1. Pavements shall be placed in two lifts with 1 1/2 feet of tapered overlap (Michigan Joint). The first lift shall be a binder course. The second lift shall be a finish course. Minimum lift thickness shall be 1 3/4 inches.

## (b) Materials.

[1] The binder course shall be 19.0 mm (3/4 inch) gradation as described in section 460.2.2.3 of the "Standard Specifications." The finish course shall be 12.5 mm (1/2 inch) gradation, as described in Section 460.2.2.3, of the "Standard Specifications."

[2] The bituminous material used in bituminous concrete shall be asphalt, performance graded (PG) 58-28 for local and commercial streets and PG 64-22 for industrial streets.

## (c) Methods.

[1] The roadbed shall be prepared by doing any necessary scarifying, shaping and compaction of aggregate base course required to restore the surface to the proper contour and provide a surface free from potholes, sags, depressions, or other irregularities.

[2] All base preparation, compaction, prime coating, paving methods, and equipment used shall be in accordance with Section 460 of the "Standard Specifications."

## (18) Shouldering.

(a) The contractor shall install a three-foot shoulder on each side consisting of three-fourths-inch crusher run material (Gradation 2).

(b) The construction of aggregate shoulders along pavements shall be prosecuted in such manner that the shoulder is construction to the required cross section and flush with the pavement as soon as practicable. Shoulders shall be compacted in accordance with standard methods. If shouldering is delayed for any reason, the contractor shall provide and maintain signing and other traffic protection and control devices.

## E. Acceptance.

(1) Prior to acceptance, the Town Engineer shall submit verification to the Town that the subgrade, stone grade, ditches and right-of-ways were constructed in accordance with the plans.

(2) The owner shall supply the Town of Winneconne with lien waivers from the project contractor, the project engineer/surveyor and any other subconsultants that performed work for the project.

## § 270-5. Plowing of private roads.

A. The Town shall contract with contractors for the removal of snow from those private roads designated by the Town Highway Superintendent.<sup>[1]</sup> The owners of property abutting on such roadways shall reimburse the Town for the actual cost of the service plus an administrative processing fee to be determined by the Town Board.

[1] *Editor's Note: An ordinance adopted 6-20-2013 amended § 1-19B(5) to change references to the "Highway Superintendent" to read "Superintendent of Highways."*

B. Contractors performing snow removal services shall be required to itemize their billing showing work performed on private roads at the rate specified in their contract with the Town for all snow removal work. The cost of plowing all private roads shall be divided equally among the parcels

fronting on all the private roads which were plowed. The Town Board shall levy special assessments pursuant to § 66.0627, Wis. Stats., to reimburse the Town for plowing expense, plus the administrative processing fee.

## § 270-6. Snow and ice removal.

[Added 5-18-2000; amended 7-20-2000]

- A. No person shall plow, push or deposit in any public roadway or road right-of-way snow from within the lot lines of the property owned or controlled by him or her, in such manner or in such quantity as to create a traffic hazard.
- B. As used in this section, the following terms shall have the meanings indicated:

### **ROAD RIGHT-OF-WAY**

The legally described right-of way for the road.

### **ROADWAY**

That portion of a street or alley between the regularly established curblines or that portion which is improved, designed or ordinarily used for vehicular travel.

- C. Penalty for violating this section shall be as provided in Chapter 1, § 1-4 of this Code.

## § 270-7. Portion of Town road renamed.

[Added 4-19-2001]

Pursuant to § 81.01(11), Wis. Stats., that portion of Lasley Point Road east of County Road South Highway 110 that lies within the Town of Winneconne be and hereby is renamed "Grimson Road."

## § 270-8. Violations and penalties.

Except as otherwise provided, any person who shall violate any provision of this chapter shall be subject to a penalty as provided in Chapter 1, § 1-4 of this Code.

## Chapter 275. Subdivision of Land

[HISTORY: Adopted by the Town Board of the Town of Winneconne 11-21-2002 (Ch. 15 of the 1994 Code). Amendments noted where applicable.]

### **GENERAL REFERENCES**

- Plan Commission — See Ch. 9.
- Building construction — See Ch. 120.
- Numbering of buildings — See Ch. 124.
- Comprehensive Plan — See Ch. 146.
- Mobile home parks and trailer camps — See Ch. 210.
- Official Road Map — See Ch. 225.
- Sewers — See Ch. 252.
- Site plan review — See Ch. 258.
- Streets and sidewalks — See Ch. 270.
- Zoning — See Ch. 310.

## Article I. Introduction

## § 275-1. Authority.

The provisions of this chapter are adopted by the Town of Winneconne Town Board which has adopted Village powers pursuant to the authority granted by Chs. 61 and 236, Wis. Stats. This chapter shall require either a certified survey map or a subdivision plat to create new land parcels or lots in the Town of Winneconne.

## § 275-2. Title.

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

## § 275-3. Purpose.

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

- A. Promote the public health, safety and general welfare.
- B. Further the orderly layout and use of land.
- C. Prevent the overcrowding of land.
- D. Lessen congestion in the streets and highways.
- E. Provide for adequate light and air.
- F. Facilitate adequate provisions for water, sewerage and other public requirements.
- G. Provide for proper ingress and egress.
- H. Promote proper monumenting of subdivided land and conveyancing by accurate legal description.

## § 275-4. Abrogation and greater restrictions.

- A. 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.
- B. 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 county and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

## Article II. General Provisions

### § 275-5. Jurisdiction.

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

- A. Transfers of interest in land by will or pursuant to court order.
- B. Leases for a term not to exceed 10 years, mortgages or easements.



- C. 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 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 § 275-7.

## § 275-6. Combining lots.

Lots shall be combined into one parcel according to § 275-7 when one or more of the following occurs:

- A. The requirements of § 275-5C are not met.
- B. A use, structure, or structural addition that occupies more than one lot under the same ownership.
- C. Existing substandard lots on record platted according to Ch. 236 Wis. Stats., when, in the determination of the Zoning Administrator, the intent of the district will not be maintained at the time of construction.

## § 275-7. Combining description.

Land described in § 275-6 shall be combined into one parcel by certified survey map procedures and recorded in the County Register of Deeds office.

## § 275-8. Compliance required.

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 consistent with the provisions of Ch. 236, Wis. Stats., and in compliance with all the requirements of this chapter and:

- A. Duly approved County Zoning and Private Sewage System Ordinances.
- B. County Access Control Ordinance.
- C. Applicable local ordinances.
- D. Provisions of the Winnebago County Land Records Ordinance as enumerated in § 8.05 of the Winnebago County Code.
- E. Town of Winneconne Comprehensive Plan.
- F. Town of Winneconne Road Development Ordinance.<sup>[1]</sup>  
  - [1] *Editor's Note: See Ch. 270, Streets and Sidewalks, § 270-4, Town road requirements.*
- G. State of Wisconsin Administrative Code provisions.

## § 275-9. 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.

## § 275-10. Variances.

[Amended 4-21-2005]

- A. In any particular case where it can be shown that, by 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 Board of Appeals may relax such requirement to the extent deemed just and proper so as to relieve such difficulty or hardship, provided that 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.
- B. The Town Board, at its discretion, if it determines it necessary for the public good, may refer the matter to the Board of Appeals and/or may conduct a public hearing to permit parties in interest to comment on the variance request.
- C. If a hearing is determined necessary, the applicant shall be responsible for payment of a hearing fee as established by the Town of Winneconne. The 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 of the local newspaper according to Ch. 985, Wis. Stats. 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.
- D. A majority vote of the entire membership of the 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 Board of Appeals setting forth the reasons which, in the opinion of the Board of Appeals, justified the modification.

## § 275-11. Enforcement.

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.

## § 275-12. Violations and penalties.

- A. Recordation improperly made shall be subject to the provisions of § 236.30, Wis. Stats.
- B. Conveyance of lots in unrecorded plats shall be subject to the provisions of § 236.31, Wis. Stats.
- C. Monuments disturbed or not placed shall be subject to the provisions of § 236.32, Wis. Stats.
- D. An Assessor's plat may be ordered by the Town when a subdivision is created by successive divisions as provided in § 236.31(2), Wis. Stats.
- E. Any person failing to comply with the provisions of this chapter shall be subject to a penalty as provided in Chapter 1, § 1-4 of the Town of Winneconne Code.

[Amended 4-21-2005]

## § 275-13. Appeals.

Any person aggrieved by an objection to a plat or failure to approve a plat may appeal therefrom as provided in §§ 236.13(5) and 62.23(7), Wis. Stats.

## Article III. Minor Land Divisions (Certified Survey Map)

### § 275-14. Submittal.

- A. When it is proposed to create up to four lots or building sites, or when it is proposed to divide a block, lot or outlot into up to four lots or building sites within a recorded subdivision plat without changing the boundaries of said block, lot or outlot, the subdivider shall file a certified survey map (CSM). Any lot or lots being applied for by CSM having five acres or less, and intended for residential purposes, shall include application for rezoning to residential.  
[Amended 4-21-2005]
- B. Previous to filing a certified survey map of any parcel of land, the subdivider shall consult with the Town Zoning Administrator for advice and assistance to assure the division does not conflict with local, county, or regional plans.  
[Amended 4-21-2005]
- C. The subdivider shall provide the Town with a reasonably accurate preliminary map of the land being considered for division. It may be a freehand 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, and 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 Plan Commission may recommend and 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 consistent with Town specifications.
- D. After tentative Town approval as to a general land division, the subdivider shall proceed to have a certified survey map prepared. The certified survey map shall be drawn in accordance with this chapter. The subdivider shall file 15 copies of the CSM, accompanied by a filing fee (on record in the Town Clerk's office). Said filing must occur with the Town Clerk at least one week prior to the Town Plan Commission meeting. In the event the division involves the dedication and development of a Town road, the subdivider shall also meet with the Town Attorney to formulate a development agreement.<sup>[1]</sup>

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

### § 275-15. Review and approval.

The Town Clerk shall transmit a copy of the map to all affected boards, commissions or departments for their review and recommendations concerning matters within their jurisdiction. Their recommendations shall be transmitted to the Town Board. The map shall be reviewed by the Town Plan Commission for conformance with this chapter and all ordinances, rules, and regulations and the Town Comprehensive Plan.

- A. The certified survey map shall be prepared by a registered land surveyor in accordance with the provisions contained in § 236.34, Wis. Stats., and shall show clearly on its face the following:
- (1) All existing buildings, setbacks, watercourses, drainage ditches, names of adjacent owners, setbacks to structures on adjacent property and other features pertinent to division of property.
  - (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.
- B. An owner's certificate and approval signature of the Town Chairman and Treasurer's certificate in accordance with § 236.21(3), Wis. Stats., shall be the only approvals required for recording unless additional approvals are necessary for dedication purposes.
  - C. All corners shall be monumented.
  - D. The map shall be prepared on durable white paper, on tracing cloth, or paper (that can be copied), 8 1/2 inches wide by 14 inches long. The scale shall not be more than 500 feet to the inch.
  - E. 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 Ch. 236, Wis. Stats.
  - F. The Town Plan Commission shall, within 45 days from the date of filing of the map, recommend approval, conditional approval or rejection of the map and shall transmit the map along with its recommendations to the Town Board.
  - G. The Town Board shall approve, approve conditionally, or reject such map within 90 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 forwarded to the subdivider. If the map is approved, the Town Board shall cause the Town Clerk to so certify on the face of the original map and return the map to the subdivider.
  - H. An executed development agreement may be required for any proposed improvements as prescribed in § 275-17 of this chapter.
  - I. 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.
  - J. An Assessor's plat may be ordered by the Town Board at the expense of the subdivider when a subdivision as defined herein is created by successive division as provided in § 236.31(2), Wis. Stats.

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

## Article IV. Major Land Divisions

### § 275-16. Preliminary consultation.

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

- A. The subdivider shall have an initial consultation with the Town Plan Commission and other appropriate individuals or entities deemed necessary by the Town Plan Commission before proceeding with platting procedures. The purpose of these consultations is to inform the subdivider of the parameters, regulations, and policies in regard to the following issues:<sup>[1]</sup>
  - (1) The suitability of the site for development.
  - (2) The accessibility of the site.

- (3) The availability of public facilities (sewer, school, parks, water, etc.) and public services (police, fire, etc.).
- (4) Soil conditions and drainage patterns.
- (5) The effect of the proposed development on any contemplated improvements.
- (6) Zoning of the site and regulations that apply.
- (7) Required public improvements.

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

B. The subdivider shall submit a concept plan on a topographic survey map indicating the nature of the above conditions. The initial sketch plan should take into account the intent of this chapter as well as any other reviewing agencies' comments obtained in contacts with the appropriate agencies. A second meeting may be required if the sketch plan needs to be significantly altered to meet the criteria identified in this chapter. The sketch plan will be reviewed as it relates to:

- (1) Topography, based on a United States Geological Survey (USGS) quadrangle map.
- (2) The improvements, design, dedications, or reservations required by these regulations.
- (3) Continuity to existing development within 300 feet of all boundaries.
- (4) Regulations as set down by Ch. 236, Wis. Stats.
- (5) Regulations established under Ch. COMM. 83, Wis. Adm. Code (septic systems).
- (6) Regulations established under Ch. TRANS 33, Wis. Adm. Code, as it relates to highway regulations.
- (7) Applicable county codes.
- (8) Consistency with the Town's Comprehensive Plan and any other Town ordinances and policies.
- (9) For property within a Town sanitary district, the proposed plat will be consistent with the plans for providing sanitary sewer service.

## § 275-17. Development agreement.

As part of the preliminary plat submission, the Town requires the subdivider to meet with the Town Attorney to formulate a development agreement, which must be approved by the Town Board prior to executing the final plat. The subdivider will be obligated to pay all legal and professional fees associated with the Town's review and approval of the development agreement.

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

## § 275-18. Preliminary plat review.

A. The subdivider shall file the following items for preliminary plat review with the Town Clerk at least seven days prior to the Town Plan Commission meeting:

- (1) Fifteen copies of the preliminary plat, plus one additional copy for the Village of Winneconne if the plat lies within the Village's extraterritorial plat review jurisdiction.
- (2) A copy of the map 11 inches by 17 inches or 8 1/2 inches by 11 inches.
- (3) Application form (available from the Town Clerk).
- (4) A filing fee (on record in the Town Clerk's office).

- B. Said filing must occur with the Town Clerk at least seven days prior to the Town Plan Commission meeting. The subdivider should also file a copy with the utility companies having jurisdiction over the subject area so that required easements can be determined. A subdivision within a sanitary district and sewer service area must include district sanitary sewer service.
- C. The subdivider will be responsible for submitting the required copies for state agency review according to § 236.12(6), Wis. Stats. State review comments returned to the subdivider shall be forwarded to the Town Clerk 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 that no objections were found. If an objecting agency fails to act within 20 days, it shall be deemed to have no objection to the plat.
- D. The preliminary plat and development agreement shall be reviewed by the Plan Commission for conformance with this chapter and all other ordinances, rules, and regulations and the Town Comprehensive Plan. The Plan Commission is hereby designated as approving authority for all preliminary plats.
- E. Within 90 days of the date of filing the preliminary plat with the Town Clerk, the Plan Commission shall approve, approve conditionally, or reject such plat, in accordance with § 236.11(1), Wis. Stats. Failure of the Plan Commission to act within the 90 days, or extension thereof, constitutes an approval of the preliminary plat. One 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 Clerk's office.
- F. Upon petition by the subdivider, the Plan Commission may waive submittal requirements.
- G. Approval or conditional approval of the preliminary plat by the Plan Commission 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.

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

## § 275-19. Final plat review.

- A. The subdivider shall file the following items for final plat review with the Town Clerk at least seven days prior to the Town Plan Commission meeting:
  - (1) Fifteen copies of the final plat, plus one additional copy for the Village of Winneconne if the plat lies within the Village's extraterritorial plat review jurisdiction.
  - (2) A copy of the map 11 inches by 17 inches or 8 1/2 inches by 11 inches.
  - (3) Application form (available from the Town Clerk).
  - (4) A filing fee (on record in the Town Clerk's office).
  - (5) A development agreement.
- B. The subdivider shall be responsible for submitting the required copies for state agency review according to § 236.12(6), Wis. Stats. State review comments returned to the subdivider shall be forwarded to the Town Clerk 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 that no objections were found. If an objecting agency fails to act within 20 days, it shall be deemed to have no objection to the plat.
- C. 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.

- D. If the final plat is not submitted within 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 § 275-18.
- E. Following a recommendation from the Town Plan Commission, the Town Board shall, within 60 days of the date of filing the original final plat with the Clerk, approve or reject such plat in accordance with § 236.11(2), Wis. Stats., 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 Town Plan Commission. If the Town Board fails to act within 60 days and the time has not been extended by agreement and if no unsatisfied objections have been filed within that period, the plat shall be deemed approved, and, upon demand, a certificate to that effect shall be made on the face of the plat by the Clerk of the authority which has failed to act. 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 20 days or, if filed, have been met.

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

## § 275-20. Recordation.

Following final plat approval by the Town Board and either required improvements being installed or a development agreement and sureties ensuring completion of installation being executed and filed, the Town Clerk shall cause the certificate to be inscribed upon the plat. Within six months of approval by the last approving agency, the owner or his agent must have the plat recorded in the Winnebago County Register of Deeds office.

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

## Article V. General Plat Requirements

### § 275-21. 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 shall be 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:

- A. Title under which the proposed subdivision is to be recorded.
- B. Legal description, parcel numbers, and general location of proposed subdivision and relative location to a nearby municipality.
- C. Date, scale and North arrow.
- D. Names and addresses of the owner, subdivider and land surveyor preparing the plat.
- E. 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.
- F. Approximate length and bearing of the exterior boundaries of the proposed subdivision referenced to a corner established in the United States Public Land Survey and the total acreage encompassed thereby.
- G. 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 judgment of the

Town Board undue hardship would result because of the remoteness of the parcel from a mean sea level reference elevation, another datum may be used.

- H. Water elevations of adjoining lakes and streams at the date of survey, ordinary high-water elevation, and designated floodplains, wetlands, and surface water drainageways regulated under the authority of the Winnebago County Town/County Zoning Ordinance and § 275-41 of this chapter.
- I. Location, right-of-way width and names of all existing and proposed streets, alleys or other public ways, easements, railroad and utility rights-of-way and all section and quarter-section lines within the exterior boundaries of the plat or immediately adjacent thereto.
- J. Location and names of any adjacent subdivisions, parks, schools, and cemeteries and owners of record of abutting unplatted lands.
- K. 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 center-line elevations, all to the datum used for the contours.
- L. Location, size and invert elevation of any existing sanitary or storm sewers, culverts and drainpipes, the location of manholes, catch basins, hydrants, and 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.
- M. Locations of all existing property boundary lines, structures, drives, streams and watercourses, marshes, rock outcrops, wooded areas, railroad tracks and other similar significant features within the tract being subdivided or immediately adjacent thereto.
- N. Dimensions of all lots, together with proposed lot and block numbers.
- O. In the preliminary plat stage, show the location and 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 nonpublic uses not requiring platting. In cluster subdivisions, conservation areas or open space (both primary and secondary) must be identified.
- P. Approximate radii of all curves.
- Q. Existing zoning and proposed use on and adjacent to the proposed subdivision.
- R. Corporate limit lines.
- S. Any proposed lake and stream access with a small drawing clearly indicating the location of the proposed subdivision in relation to the access.
- T. 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 approval, when applicable.
- U. Seasonally wet areas.
- V. Any additional information that the Town Board deems necessary.

## § 275-22. Street plans and profiles.

The subdivider shall provide street plans and profiles showing existing ground surface and proposed and established street grades, including extensions for a reasonable distance beyond the limits of the proposed subdivision, and all elevations, plans and profiles shall meet the approval of the Town Board.



## § 275-23. Testing.

The Town Board 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. All subdivisions not served by public sanitary sewer service shall comply with the provisions of the Wisconsin Administrative Code. All appropriate data shall be submitted with the preliminary plat.

## § 275-24. Covenants.

The Town Board may 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.

## § 275-25. Affidavit of surveyor.

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.

# Article VI. Final Plat Requirements

## § 275-26. 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 § 236.20, Wis. Stats. The final plat shall show correctly on its face, in addition to the information required by § 236.20, Wis. Stats., 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.

## § 275-27. Surveying and monumenting.

All final plats shall meet all the surveying and monumenting requirements of § 236.15, Wis. Stats.

## § 275-28. Certificates.

All final plats shall provide all the certificates required by § 236.21, Wis. Stats., 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.

# Article VII. Condominium Plats

## § 275-29. Intent.

It is the intent of this article to regulate condominiums as they are related to zoning and for the division of land for the purpose of establishing a condominium plat.

## § 275-30. 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.

- A. 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.
- B. Roads in condominium plats will remain private and shall not be accepted as Town roads.

## § 275-31. Minor condominium plat.

Creation of a minor condominium plat shall be by certified survey map. The certified survey map shall be submitted to the Town following procedures as set forth under Article III, Minor Land Divisions, § 275-14 of this chapter and shall be prepared according to §§ 236.34 and 703.11, Wis. Stats.

## § 275-32. Major condominium plat.

### A. Preliminary plat submittal.

- (1) The subdivider shall prepare a preliminary plat in accordance with this chapter. The applicant shall provide the Town 15 copies of the preliminary plat and one copy to any adjoining city or village, if in the extraterritorial plat approval jurisdiction.<sup>[1]</sup>

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

- (2) In addition, condominium plats which are located within the jurisdictional authority of the Winnebago County Town/County Zoning Ordinance and developed according to § 17.08 for planned unit development shall submit application for the conditional use permit (§ 17.25) simultaneously with the preliminary plat to the County Planning and Zoning Department.

- (3) Fee. An application fee as set forth by the Town of Winneconne fee schedule shall be paid in full at the time of submittal of the preliminary plat.<sup>[2]</sup>

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

- (4) Preliminary plat requirements. Refer to the provisions of §§ 275-21 through 275-25 of this chapter.

- B. Preliminary plat review and approval. In order to facilitate public comment, the Town Clerk 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 five days prior to the date of such meeting. The Plan Commission shall conduct a meeting to review the plat for conformance with this chapter and all other ordinances, rules and regulations which affect the plat. At this meeting, the Plan Commission shall permit the public to comment on the proposed plat. The Plan Commission shall either approve, approve conditionally, or reject the preliminary plat within 90 days of submittal. If no actions are taken by the Plan Commission within 90 days, the condominium plat is deemed rejected.<sup>[3]</sup>

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

- C. Surveying. All final plats shall meet all the surveying requirements of § 703.11, Wis. Stats.

- D. Certificates. All final plats shall provide the surveyor's certificate required by § 703.11(4), Wis. Stats., 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.

### E. Fee.

- (1) Application fee. 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 a conditional use permit according to §§ 17.08 and 17.25 for planned unit developments will be required to pay a separate fee to the county.
- F. 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 § 703.11, Wis. Stats.
- G. 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.
- H. Replat. In accordance with § 236.36, Wis. Stats., 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 §§ **275-16** through **275-20** of this chapter. 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 Ch. 80, Wis. Stats.

## Article VIII. Design Standards

### § 275-33. Street arrangement.

The subdivider shall dedicate land for and improve streets as provided herein:

- A. All land divisions shall be designed so as to provide each lot with satisfactory access to a public street as provided herein.
- B. The following conditions shall apply for street arrangement in all proposed land divisions:
- (1) Streets shall conform to any applicable official map ordinance in effect. <sup>[1]</sup> 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.  
*[1] Editor's Note: See Ch. 225, Official Road Map.*
  - (2) 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 as practicable, continuous and in alignment with existing or planned streets with which they are to connect.
  - (3) 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.
  - (4) 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.
  - (5) Street intersections.

- (a) 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.
  - (b) The number of intersections along major streets and highways shall be held to a minimum. In addition, intersections shall meet Winnebago County's Access Control Ordinance (as administered and enforced by Winnebago County). The Department of Transportation determines road access to state highways. Otherwise, wherever practicable, the distance between such intersections should not be less than 600 feet.
  - (c) Street jogs with center-line offsets of less than 125 feet shall not be approved.
- (6) 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 right-of-way diameter and a roadway in compliance with the applicable Town of Winneconne ordinances.
  - (7) 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 nonaccess reservation along the rear property line or by the use of frontage streets.
  - (8) 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.
  - (9) 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. This subsection shall not apply to condominium developments.
  - (10) 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. All street names must be approved by Winnebago County Planning and Zoning Department.
  - (11) Private streets. There can only be one residence per private street.

## § 275-34. Street design standards.

- A. The minimum right-of-way of all proposed streets shall be as specified on any adopted official map of the Town of Winneconne, or, if no width is specified, the minimum right-of-way width shall be as required by the Town Board and Chapter **270**, Streets and Sidewalks, § **270-4**, Town road requirements, of the Town Code or other applicable ordinance(s).
- B. Minimum roadway width and surface width of all new land division roads shall comply with Chapter **270**, Streets and Sidewalks, § **270-4**, Town road requirements, of the Town Code or § 86.26, Wis. Stats.
- C. 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 that 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 and minimum roadway pavement diameter in accordance with applicable Town of Winneconne ordinances.

- D. Street grades shall comply with Chapter **270**, Streets and Sidewalks, § **270-4**, Town road requirements, of the Town Code as supplemented by § 86.26, Wis. Stats. 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.
- E. Radii of curvature. When a continuous street center line deflects at any one point by more than 10°, a circular curve shall be introduced having a radius of curvature on such center line of not less than 100 feet on minor streets.
- F. Half streets shall be prohibited except where:
  - (1) The other half has already been dedicated.
  - (2) Its alignment is shown on an officially adopted street plan.
- G. Vision quarter easements shall be required along state highways. The plat shall show the access control permit.
- H. 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 applicable Town/county ordinances.

## § 275-35. Ingress and egress on limited access highways.

- A. 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 certified survey map 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 Appeals.
  - (5) According to Town ordinance.
- B. If access is provided by an easement to use an existing access, Subsection **A(2)** above, then the following provisions shall apply:
  - (1) The parent parcel having an existing access shall allow access to each subsequent parcel; and
  - (2) 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.
  - (3) Setback requirements will be applicable to all Town of Winneconne ordinances, including a seventy-five-foot building setback from the right-of-way, or the zoning classification of the parcel as defined in Chapter 17 of the Winnebago County Town/County Zoning Ordinance, whichever is greater. Setback provisions shall be measured from the edge of easement.
  - (4) Easement right-of-way shall be a minimum of 60 feet in width and shall not include public right-of-way (overlap) within the easement width.

## § 275-36. Limited access highway and railroad rights-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:

- A. 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."
- B. Commercial and industrial districts should provide, on each side of the limited access highway or railroad, streets approximately parallel to and at a suitable distance from such highway or railroad for the appropriate use of the land between such streets and highway or railroad, but not less than 150 feet.
- C. 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.
- D. Minor streets immediately adjacent and parallel to the railroad right-of-way should be avoided.
- E. Setback from a state highway shall either be the Town of Winneconne setback requirements or the county zoning district setback requirements or the setback requirements of Ch. TRANS 233, Wis. Adm. Code, whichever is greater.

## § 275-37. 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.

- A. 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.
- B. 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.

## § 275-38. 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, utility lines may be required to be buried.

## § 275-39. Lots.

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.

- A. Side lot lines should be at 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.
- B. 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.

- C. Lot frontage. All newly created lots or parcels shall comply with Chapter **310**, Zoning, of the Town Code.<sup>[1]</sup>  
 [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- D. Area and dimensions of lots shall conform to the requirements of Chapter **310**, Zoning, of the Town Code and, in areas not served by public sewer, shall, in addition, conform to the requirements of the Ch. COMM 85, Wis. Adm. Code.<sup>[2]</sup>  
 [2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II). Original § 15.48(5), (7) and (8), which appeared in this section, were deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- E. Width of lots shall conform to the requirements of Chapter **310**, Zoning, of the Town Code.<sup>[3]</sup>  
 [3] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 275-40. Building setback lines.

Building setback lines shall conform to the requirements established in Chapter **310**, Zoning, of the Town Code. The required Town setback lines shall be shown on the face of the plat.

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

## § 275-41. Surface water drainage.

- A. Surface water drainage shall be governed and enforced by county ordinance.
- B. A covenant shall be recorded with the final plat in the Winnebago County Register of Deeds office. The covenant shall state:
- (1) Maintenance of all drainageways and associated structures within the subdivision is the sole responsibility of the property owners of the subdivision, unless otherwise noted on the plan or required by the Town of Winneconne or any utility district formed in the Town to address stormwater runoff.
  - (2) Upon failure of the property owner(s) to perform maintenance of the drainageways and associated structures, the County and/or Town retains the right to perform maintenance and/or repairs, the cost of which shall be equally assessed among the property owners of the subdivision with a drainage covenant.
  - (3) The design of stormwater facilities shall implement the Wisconsin Construction Best Management Practices and shall address water quality as well as water quantity.
- C. Creation or enhancement of water features. Any created pond or lake, or any enhancement of a quarry or other body of standing water, within the boundary of any land division shall be owned and maintained by a homeowners' association. The homeowners' association document shall specify that all lot owners within the subdivision shall have equal rights to said water feature. The homeowners' association document shall incorporate reasonable provisions by the Town of Winneconne to assure the continued maintenance of the facility in perpetuity and to provide liability protection for the occupants and owner of the facility.<sup>[2]</sup>

- [2] *Editor's Note: Original § 15.51, Surface water drainage restrictions, which immediately followed this section, was deleted 4-21-2005.*

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

## § 275-42. Driveway construction and size.

[Added 5-20-2004]

- A. Driveways, regardless of zoning classification, less than 200 feet in length from the road right-of-way to the primary structure shall be 20 feet wide with a minimum six-inch gravel base. [Amended 6-20-2013]
- B. Driveways, regardless of zoning classification, 200 feet or greater in length from the road right-of-way to the primary structure shall be 16 feet wide with a minimum six-inch gravel base and providing a sixty-foot continuous turn radius within 50 feet of the primary structure.
- C. Only one residential structure is permitted per driveway.

## Article IX. Dedications and Improvements

### § 275-43. Dedication and reservations of land.

- A. Whenever a tract of land to be divided embraces all or any part of a street designated in the adopted Town of Winneconne, Regional and County Comprehensive Plans or adopted plan components, such public way shall be made a part of the plat and either dedicated or reserved by the subdivider in the locations and dimensions indicated on such plan.
- B. Whenever a proposed park, playground, public access, open space site or other public land, other than streets or drainageways, designated in the adopted Town of Winneconne, Regional and County Comprehensive Plans or adopted plan components is embraced, all or in part, in a tract of land to be divided, such proposed public lands shall be made a part of the plat and shall either be dedicated to the public or reserved for acquisition at undeveloped land costs for a period not to exceed three years between the applicant and the public agency having jurisdiction. If the reserved land is not acquired by such public agency within the above time limit, the land shall be released to the owner.
- C. In order that adequate land be dedicated, reserved, and preserved for development of public parks, recreation and open space and to provide for proper location of such sites as the Town develops, the following provisions shall be established:
  - (1) Whenever feasible and to be compatible with the overall land use program of the Town, the subdivider shall provide and dedicate parkland to be held by the Town. [Amended 4-21-2005; 8-3-2006]
    - (a) Said dedication shall either be a minimum of three acres of land for park and recreation needs of the community or an amount of land to be determined in accordance with the following Town zoning classifications:

<b>Zoning Classification</b>	<b>Percent Allocation of Gross Residential Acreage</b>
Single-family	6%
Two-family	8%
Multiple-family	12%
Planned unit development	12%

- (b) The above-listed requirements shall be reduced by 1/3 if the parkland that is dedicated and approved by the Town is maintained by the homeowners' association.
- (2) The number, size and location of all dedications shall be recommended by the Town Plan Commission and subject to approval by the Town Board, which shall ascertain that the proposed sites are suitable for the proposed uses. The Town Board shall retain the right to refuse any dedication of land found to be unsuitable.<sup>[1]</sup>



[1] *Editor's Note: Former Subsection C(3) through (5), regarding payment in lieu of dedication, which immediately followed this subsection, was repealed 8-3-2006. This ordinance also provided for the redesignation of former Subsection C(6) and (7) as Subsection C(3) and (4), respectively.*

- (3) After the final plat has been recorded, no lot or parcel shall be further divided by replat, certified survey map or conveyance, as defined in § 706.01(4), Wis. Stats., unless such further division shall have been approved by the Town Board.

[Amended 7-18-2013]

- (4) Creation or enhancement of park or open space. Any created park or open space, or any enhancement of any other area not dedicated to the public, within the boundary of any land division shall be owned and maintained by a homeowners' association. The homeowners' association document shall specify that all lot owners within the subdivision shall have equal rights to said land feature. The homeowners' association document shall incorporate reasonable provisions by the Town of Winneconne to assure the continued maintenance of the facility in perpetuity and to provide liability protection for the occupants and owner of the facility.

[Amended 4-21-2005]

## § 275-44. Improvements.

- A. No construction or installation of improvements shall commence in a proposed subdivision until the preliminary plat and a development agreement (as specified in § 275-17) have been approved and executed by the Town of Winneconne. The subdivider shall file along with the development 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 shall begin formulating the development agreement during the preliminary plat approval process.

[Amended 4-21-2005]

- B. No building permits shall be issued until the road subgrade passes a proof roll test accepted by the Superintendent of Highways and a bond is posted to cover the cost for the completion of the road to Town specifications.

[Amended 8-16-2007; 6-20-2013]

## § 275-45. Plans.

The following plans and accompanying construction specifications may be required by the Town of Winneconne before authorization of construction or installation of improvements can be made:

- A. Street plans and profiles showing existing and proposed grades, elevations and cross sections of required improvements.
- B. Installation of Town-approved street signs and lights at all street intersections that are within a proposed subdivision, or on adjacent roadways of any subdivision, installed at the subdivider's expense.
- C. Sanitary sewer plans and profiles showing the locations, grade, sizes, elevations and materials of required facilities.
- D. Surface water drainage facilities, which may include curb and gutters, catch basins and inlets, road ditches and open channels, as may be required to provide adequate surface drainage for the subdivision. Open ditch grades and culvert depth shall be reviewed and approved by the Town before installation. Subdivisions that need on-site stormwater detention facilities will be required to grant the county maintenance easements.

[Amended 4-21-2005]

- E. Utility services shown as underground installations. Any utility markers placed during plat construction, including adjoining road rights-of-way, shall be removed within 20 days of utility installation by the subdivider.

## § 275-46. Inspections.

[Amended 4-21-2005]

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 or its designee shall inspect and approve all completed work prior to release of the sureties.

## § 275-47. Public sanitary and 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:

- A. Property lying within a functioning sanitary district and the urban service area shall only be developed in accordance with § 16.06 of the Winnebago County Sanitary Ordinance.
- B. Major land divisions and major condominium plats shall be served by a public sanitary sewage system, major holding tank in a sanitary district as part of a public sewer system, or an on-site soil absorption system in accordance with Ch. COMM 85, Wis. Adm. Code. Private holding tanks are expressly prohibited.
- C. Minor land divisions and minor condominium plats may be served by holding tanks provided that no alternative methods are available.

## Article X. Cluster Subdivisions

### § 275-48. 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 open space 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.

### § 275-49. Review.

Cluster subdivisions shall be submitted for review according to §§ **275-15** to **275-20** of this chapter.

- A. Plans analyzing each site's special features are required for all proposed subdivisions, as they form the basis of the design process for open space, house locations, street alignments, and lot lines. The applicant or representative shall bring a copy of the existing features (site analysis) map to the on-site walkabout with the Town Plan Commission. Detailed requirements for an existing features map shall include:
- (1) A topography map, based on a United States Geological Survey (USGS) quadrangle map;
  - (2) The location of environmentally sensitive elements, such as steep slopes (over 25%), wetlands, watercourses, intermittent streams and one-hundred-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, tree lines, open fields or meadows, scenic views into or out from the property, watershed divides and drainageways, fences or stone walls, rock outcrops, and existing structures, roads, tracks and trails.
- B. An existing features map shall identify both primary conservation areas (floodplains, wetlands, and steep slopes, as defined in the process for computing adjusted tract acreage) and secondary conservation areas, as described in § **275-52** of this chapter. Together, these primary and secondary conservation areas comprise the development's proposed open space. Their location must be consistent with the Towns Comprehensive Plan's implementation section regarding parks and recreation and multipurpose trails. The existing features map shall form the basis for the conceptual preliminary plan, which shall show the tentative location of houses, streets, lot lines, and greenway lands.
- [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 275-50. Requirements.

Proposed cluster developments shall contain a minimum of 20 acres and shall be platted according to the requirements of this chapter. The maximum permitted number of lots in such development shall be determined by dividing the total adjusted tract acreage as described below by the minimum lot sizes required in Chapter **310**, Zoning, of the Town Code.

- A. Open space shall be comprised of two types of land, primary conservation areas and secondary conservation areas. All lands within both primary and secondary 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.
  - (1) Primary conservation areas. This category consists of wetlands, lands that are generally inundated (under ponds, lakes, creeks, etc.), land within the one-hundred-year floodplain, slopes exceeding 25%, and soils subject to slumping. These sensitive lands are deducted from the total parcel acreage to produce the adjusted tract acreage on which density shall be based (for both conventional and conservation subdivisions).
  - (2) Secondary conservation areas. In addition to the primary conservation areas, at least 50% of the remaining buildable land (minus deductions as specified in § **275-51**) shall be designated and permanently protected.
- B. Land in the primary and secondary conservation areas (not used for lots and streets) shall be protected through a conservation easement or actual land dedication to the public. This may be accomplished by the following means:
  - (1) 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 open space conservation easement. (See § **275-54** of this article for specific requirements governing this form of open space dedication.)
- C. Water supply and sewage disposal shall meet the minimum standards of all state, county, sanitary district, or Town regulations.
- D. The design standards, as outlined within this chapter, 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 shape and depth, length of cul-de-sac roads, and road right-of-way width.
- E. Pedestrian trails within a cluster subdivision are required to be connected to any regional pedestrian trails wherever established or proposed by the Town of Winneconne, Winnebago County, or the

State of Wisconsin.

## § 275-51. Minimum percentage of open space.

The minimum percentage of land that shall be designated as permanent open space, not to be further subdivided, and protected through a conservation easement held by a homeowners' association or dedicated to the Town of Winneconne or Winnebago County shall be as specified below:

- A. A minimum of 50% of the total parcel area, including the following kinds of unbuildable land (which are also required to be deducted when calculating net permitted density for conventional subdivisions as well): wetlands and land that is generally inundated and under ponds, lakes, creeks, etc.; all of the floodway and floodway fringe within the one-hundred-year floodplain, as shown on official FEMA maps; land with slopes exceeding 25% or soils subject to slumping; and land under permanent easement prohibiting future development (including easements for drainage, access, and utilities). The above areas shall generally 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.
- B. The fifty-percent requirement may be decreased by 5% for each of the following elements shown in the subdivision (maximum of fifteen-percent reduction):
  - (1) Use of a cluster septic system.
  - (2) Coordinated subdivision theme identification signage, street name signs and lighting.
  - (3) Other aesthetics not necessarily required by this chapter, 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.
- C. All undivided open space 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 Winneconne and duly recorded with the Winnebago County Register of Deeds.
- D. The subdivider shall document the purposes for which open space areas are proposed on the face of the plat.
- E. The required open space may be used, without restriction, for underground drainage fields for individual or community septic systems.
- F. Stormwater management ponds or basins and land within the rights-of-way for underground pipelines may be included as part of the minimum required open space.

## § 275-52. Location of open space.

- A. The location of open space conserved through compact residential development shall be consistent with the policies contained in the Town Comprehensive Plan's implementation section regarding parks and recreation and multipurpose trails and with the recommendations contained in this section and the following section (§ 275-53, Evaluation criteria).
- B. Although the locations of primary conservation areas are predetermined by the locations of floodplains, wetlands, steep slopes, and soils subject to slumping, greater latitude exists in the designation of secondary conservation areas (except that they shall include a one-hundred-foot deep greenway buffer along all water bodies and watercourses and a fifty-foot greenway buffer alongside wetlands soils classified as "very poorly drained" in the medium-intensity county soil survey).
- C. The location of secondary conservation areas shall be guided by the maps and policies contained in the environment sections of the Town's Comprehensive Plan and shall typically include all or part of

the following kinds of resources: mature woodlands, aquifer recharge areas, areas with highly permeable ("excessively drained") soil, significant wildlife habitat areas, prime farmland, historic, archaeological or cultural features listed (or eligible to be listed) on national, state or county registers or inventories, and scenic views into the property from existing public roads.

- D. Although the resource lands listed as potential secondary conservation areas may comprise more than half of the remaining land on a development parcel (after primary conservation areas have been deducted), no applicant shall be required to designate more than 20% of that remaining land as a secondary conservation area.
- E. General locational standards. Cluster subdivisions shall be designed around both the primary and secondary conservation areas which together constitute the total required open space. The design process should therefore commence with the delineation of all potential open space, after which potential house sites are located, the road alignments identified, and lot lines drawn in as the final step.
- F. Undivided open space shall be directly accessible to the largest practical number of lots. To achieve this, the majority of lots should abut undivided open space in order to provide direct views and access. Safe and convenient pedestrian access to the open space from all lots not adjoining the open space should be provided.

## § 275-53. Evaluation criteria.

The Town Plan Commission and Town Board shall evaluate cluster subdivisions to determine whether the proposed conceptual preliminary plan:

- A. Protects and preserves 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).
- B. Preserves and maintains mature woodlands, existing fields, pastures, meadows, and orchards and creates sufficient buffer areas to minimize conflicts between residential and agricultural uses. 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.
- C. Maintains or creates an upland buffer of natural native species vegetation of at least 100 feet in depth adjacent to wetlands and surface waters, including creeks, streams, springs, lakes and ponds.
- D. Designs around existing hedgerows and tree lines 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.
- E. 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.
- F. Protects wildlife habitat areas of species listed as endangered, threatened, or of special concern by the United States Environmental Protection Agency.

- G. 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.
- H. Protects rural roadside character and improves public safety and roadway carrying capacity by avoiding development fronting directly onto existing public roads.
- I. Provides mature landscape plantings equal to at least 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.
- J. Includes a pedestrian circulation system designed to assure pedestrian safety and that provides a connection to adjoining properties or pedestrian trail systems. All roadside pedestrian trails (if any) should connect with off-road trails.
- K. 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 multipurpose trails implementation section of the Town's Comprehensive Plan.

## § 275-54. Ownership of open space.

- A. Different ownership and management options apply to the permanently protected open space created through the development process. The open space shall remain undivided and shall be owned and maintained by a homeowners' association, the Town, the county, or a recognized land trust or conservancy. However, all trails within a cluster subdivision must be open to the public. A public land dedication, not exceeding 10% of the total parcel size, may be required by the Town, through designated open space, 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 open spaces.
- B. Common open space 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 open space 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 open space, provided that such land is accessible to the residents of the Town; there is no cost of acquisition other than any costs incidental to the transfer of ownership, such as title insurance; and the Town agrees to and has access to maintain such lands. Where the Town accepts dedication of common open space that contains improvements, the Town may require the posting of financial security to ensure the structural integrity of said improvements as well as the functioning of said improvements for a term not to exceed 18 months from the date of acceptance of dedication. The amount of financial security shall not exceed 15% of the actual cost of installation of said improvements.
  - (2) Homeowners' association: The undivided open space 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 the open space 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 open space, 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 open space. Shares shall be defined within the association bylaws.
  - (f) In the event of a proposed transfer, within the methods here permitted, of undivided open space land by the homeowners' association, or of the assumption of maintenance of undivided open space 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 the undivided open space.
  - (h) The homeowners' association may lease open space lands to any other qualified person or corporation for operation and maintenance of open space lands, but such a lease agreement shall provide that:
    - [1] The lot owners of the development shall at all times have access to the open space lands contained therein (except croplands during the growing season);
    - [2] The undivided open space to be leased shall be maintained for the purposes set forth in this chapter; and
    - [3] The operation of open space 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.
  - (i) The lease shall be subject to the approval of the Town of Winneconne, 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 30 days of their execution and a copy of the recorded lease shall be filed with the Town.
- C. Condominiums. The undivided open space and associated facilities may be controlled through the use of condominium agreements approved by the Town. Such agreements shall be in conformance with the State Condominium Ownership Act (Ch. 703, Wis. Stats.). All undivided open space land shall be held as a "common element."
- D. Dedication of easements. The Town may, but shall not be required to, accept easements for public use of any portion or portions of undivided open space land, title of which is to remain in ownership by condominium or homeowners' association, provided that such land is accessible to Town residents; there is no cost of acquisition other than any costs incidental to the transfer of ownership, such as title insurance; and a satisfactory maintenance agreement is reached between the developer, condominium or homeowners' association, and the Town.

- E. 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 open space 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
  - (3) A maintenance agreement acceptable to the Board is entered into by the developer and the organization.

## § 275-55. Maintenance standards.

- A. The ultimate owner of the open space (typically a homeowners' association) shall be responsible for raising all moneys required for operations, maintenance, or physical improvements to the open space 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.
- B. In the event that the association or any successor organization shall, at any time after establishment of a development containing undivided open space, fail to maintain the undivided open space 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 open space in reasonable condition.
- C. Failure to adequately maintain the undivided open space in reasonable order and condition constitutes a violation of this chapter. 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 20 days.
- D. Should any bill or bills for maintenance of undivided open space by the Town be unpaid by November 1 of each year, a late fee of 15% shall be added to such bills and a lien shall be filed against the premises or assessed as a special assessment, in the Town's discretion.<sup>[1]</sup>

[1] *Editor's Note: Original § 15.65, Penalties, which immediately followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II). See § 275-12, Violations and penalties.*

## Article XI. Definitions

### § 275-56. Definitions.

In the construction of this chapter, the definitions contained in this section shall be observed and applied except when the context clearly indicates otherwise.

#### **ACCESS**

"Access" is defined solely as ingress/egress.

#### **ALLEY**

A public or private right-of-way which provides secondary access to abutting properties.

#### **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.



**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.

**BUILDING**

A structure having a roof supported by columns or walls. When separated by division walls from the ground up and without openings, each portion of each building shall be deemed a separate building.

**COLLECTOR STREET**

A street used, or intended to be used, to carry traffic from minor streets to the major system of arterial streets, including principal entrance streets to residential developments.

**COMPREHENSIVE PLAN**

The Town of Winneconne Comprehensive Land Use Plan for the development of the Town of Winneconne, adopted according to statute, and including any amendment to such plan, which is now in affect.

**COUNTY**

Winnebago County and shall include any agency, department or committee thereof.

**COUNTY PLANNING AND ZONING COMMITTEE**

The County Planning and Zoning Committee, as authorized by § 59.69, Wis. Stats., or any other committee created by the County Board and authorized to plan land use.

**COUNTY PRIVATE SEWAGE SYSTEM ORDINANCE**

The County Private Sewage System Ordinance which is included as Chapter **18** of the Winnebago County Code.

**COUNTY ZONING ORDINANCE**

The Winnebago County Town/County Zoning Ordinance which is included as Chapter 17 of the Winnebago County Code.

**CUL-DE-SAC STREET**

A minor street with only one outlet and having a turnaround for the safe and convenient reversal of traffic movement.

**EXTRATERRITORIAL PLAT APPROVAL JURISDICTION**

The unincorporated area within 1 1/2 miles of a fourth-class city or village and within three miles of all other cities over which cities and villages may exercise plat approval, provided that they have enacted an official map ordinance or subdivision control ordinance in accordance with § 236.10, Wis. Stats.

**FINAL PLAT**

The map or plan of a subdivision and any accompanying material as described in §§ **275-26** through **275-28** of this chapter.

**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.

**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.

**GRADE**

The slope of a road, street or other public way, specified in percent.

**IMPROVEMENT, PUBLIC**

Any sanitary sewer, storm sewer, drainage ditch, water main, roadway, park, parkway, public access, sidewalk, pedestrianway, planting strip, off-street parking area or other facility for which the county or Town may ultimately assume the responsibility for maintenance and operation.

**LAND DIVISION**

The act or process of dividing land into two or more parcels.

**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, open space, sanitary, or other requirements.

**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:

- A. The right-of-way of a public or private street.
- B. Areas of navigable water.

**LOT, CORNER**

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

**LOT, 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 chapter, which is provided with the minimum frontage upon a public road, and which complies with all applicable subdivision laws and ordinances.

**LOT LINES**

The peripheral boundaries of a parcel of land.

**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.

**LOT, THROUGH**

A lot which has a pair of opposite lot lines along two parallel streets and which is not a corner lot. On a through lot, both street lines shall be deemed front lot lines.

**LOT WIDTH**

The mean horizontal distance between the side lot lines of a lot measured at right angles to the depth. On irregularly shaped (nonperpendicular) lots, the width shall be the average width of the lot computed according to Ch. COMM 85, Wis. Adm. Code. 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.

**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 chapter if five or more parcels or building sites of five acres or smaller in size are created within any five-year period from a lot parcel or tract which existed on the effective date of this chapter.

**MAJOR LAND DIVISION**

The creation of five or more parcels or building sites of one acre or larger (unsewered) in size by successive divisions within a period of five years.

**MAJOR STREET**

Arterial and collector roads primarily intended for through traffic with a secondary function for direct access.

**MINOR 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 chapter if one but not more than four parcels or building sites of five acres or smaller in size are created within any five-year period from a lot parcel or tract which existed on the effective date of this chapter.

**MINOR LAND DIVISION**

The creation of one but not more than four parcels or building sites which divide land into a parcel or parcels of five acres or smaller in size. Minor land divisions shall be created by certified survey maps. Not more than four parcels may be created by means of minor land division procedures within any five-year period from a lot, parcel or tract which existed on the effective date of this chapter.

**MINOR STREET**

A street used or intended to be used primarily for access to abutting properties.

**OBSTRUCTION, DRAINAGEWAY**

This chapter refers to two different types of obstructions:

**A. 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.

**B. 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 nonhuman cause.

**OFFICIAL MAP**

Refers to any future official map adopted by the Town of Winneconne, consistent with the Town's Comprehensive Land Use Plan, which includes and sets forth the identification, location, alignment, dimensions and classification of existing and proposed public streets, highways, drainageways, parkways, and park and recreation sites.

**OUTLOT**

A remnant parcel of land not to be used for building purposes, so designated on the plat.

**PARCEL**

A lot created by a division of land. A parcel(s) which 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 nonnavigable waters. A parcel is created as of the date the deed, land contract, lease, etc., is recorded with the Register of Deeds office.

**PLAN COMMISSION**

Refers to the Town of Winneconne Plan Commission.

**PLANNING ADMINISTRATOR**

The person designated by the County Planning and Zoning Committee to administer the Winnebago County Subdivision Ordinance.

**PRELIMINARY PLAT**

A map showing the salient features of a proposed subdivision submitted to the Town Plan Commission for purposes of preliminary consideration as described in § 275-21 of this chapter.<sup>[1]</sup>

**PUBLIC WAY**

Any public road, street, highway, walkway, drainageway or part thereof.

**SHORELAND JURISDICTION**

The area within 1,000 feet of the ordinary high-water mark of a navigable lake, pond or flowage, or within 300 feet of the ordinary high-water mark of a river or stream, or to the landward side of a floodplain, whichever distance is greater.

**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.

**STREET (PUBLIC)**

The right-of-way of any street, road, highway, lane, etc., dedicated to the public which generally provides access to abutting properties.

**SUBDIVISION**

A division of land into two or more lots, parcels, tracts or building areas for the purpose of sale or development. For the purpose of this chapter, a subdivision shall include the division of land by means of a minor plat (certified survey map), major plat, condominium plat, and cluster subdivision.

**TOWN**

Refers to the Town of Winneconne.

**TOWN CLERK**

Refers to the Town of Winneconne Town Clerk.

**TRACT**

A contiguous area of land which exists or has existed in single ownership.

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

## Chapter 284. Town Property, Use of

[HISTORY: Adopted by the Town Board of the Town of Winneconne as indicated in article histories. Amendments noted where applicable.]

### Article I. Town Hall

[Adopted 10-20-1994 as § 1.32 of the 1994 Code]

#### § 284-1. Use restrictions.

- A. Who may use. The building can be made available to the following:
- (1) Residents of the Town.

(2) Governmental agencies, such as planning commissions, fire departments, and other organizations relating to government.

- B. When available. The hall can be made available between the hours of 8:00 a.m. and 11:00 p.m.
- C. Reservations and cancellations of reservations by Town. Persons wishing to use the Town Hall must submit a written request to the Town Clerk by completing a request form furnished by the Town Clerk. The request must be submitted no more than six months prior to the date requested.
- D. Deposit. All applications for use must be accompanied by a deposit of \$150. The amount refunded to applicant, if any, shall be returned the month following hall use. Town bills are regularly paid the fourth week of the month and must be approved by Town Board. Deposit refunds shall be treated as a Town bill. All rentals are termed tentative until receipt of the deposit by the Clerk.
- E. Maintenance. The hall and grounds must be left in the same orderly condition in which they were found. The refrigerator, stove and sink may be used. Perishable items of any kind are not to be left in the refrigerator. The stove and oven are to be turned off. Garbage is to be removed from premises. It cannot be incinerated at the building. If the premises are left in satisfactory condition, \$100 of the deposit will be returned to the applicant.
- F. Size of group and use restrictions. No more the 225 persons may attend any authorized function. No intoxicating liquor is allowed on the premises. Beer and wine may be served without charge but shall not be sold.
- G. Responsibility for keys.  
[Amended 4-20-1995]
- (1) It is the applicant's responsibility to contact the Town Clerk prior to the function to make arrangements to pick up the keys. Keys may not be picked up earlier than three days before the function and must be returned the day following, according to arrangements made with the Town Clerk. Notwithstanding the above provisions, governmental agencies which meet at the Town Hall regularly at least as often as once per month may be issued one key to be retained as long as they continue to meet at the Town Hall.<sup>[1]</sup>
- [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- (2) All keys are issued at the pleasure of the Town. Anyone holding a key to the building shall return it within 48 hours of a request from the Town Board, Town Chairman or Town Clerk. Duplicating keys is prohibited. Anyone who loses a key shall be responsible for compensating the Town for the cost of re-keying the building and replacement of all keys then issued or in possession of the Town.
- H. Decorating. No decorations or other items may be attached to the walls, doors, ceilings or other parts of the building. Decorations need to be removed from the premises immediately following the event.
- I. Tables and chairs. There are several large tables and chairs available for use. They must be put back where they were found when the event is over but may be used. The "forum" which the Town Board occupies for meetings shall not be moved.
- J. Outside of building and grounds. During the warmer months the outside grounds are available for use in conjunction with the inside of the building. Again, the grounds must be left in neat conditions, i.e. paper, cups, etc., picked up. The tables and chairs must be left in the building.
- K. Smoking. Absolutely no smoking is allowed within the municipal building. Smoking is allowed on the grounds.
- L. Variances. All variances from the above regulations and rules shall be approved by the Town Board.
- M. Notwithstanding the other provisions set forth in Subsections **D** and **E** of this section, government agencies not located within Winnebago County, such as planning commissions, fire departments, and other organizations relating to government, shall pay the fifty-dollar nonrefundable portion of

the deposit but shall not be required to deposit the additional \$100. Agencies located within Winnebago County shall be exempt from the fee entirely. All agencies shall, promptly upon being billed, reimburse any cleanup expenses that the Town incurs.

## Chapter 295. Vehicles and Traffic

[HISTORY: Adopted by the Town Board of the Town of Winneconne 10-20-1994 as Ch. 7 of the 1994 Code. Amendments noted where applicable.]

### § 295-1. State traffic laws adopted.

- A. Except as otherwise specifically provided in this chapter, all provisions of Chs. 340 to 348, Wis. Stats., describing and defining regulations with respect to vehicles and traffic, including penalties to be imposed, except fines or terms of imprisonment, and procedures for prosecution, are hereby adopted and by reference made a part of this chapter as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this chapter. Any future amendments, revisions or modifications of statutes incorporated herein are intended to be made part of this chapter in order to secure uniform statewide regulation of traffic on the highways, streets and alleys.
- B. In addition to the sections of the Wisconsin Statutes previously adopted, there is also adopted in its entirety Ch. MVD 5, Wis. Adm. Code, titled "Standards for Motor Vehicle Equipment," and as it may be amended from time to time.

### § 295-2. Speed limits.

A traffic and engineering investigation having been made on the following described highways, the maximum permissible speed at which vehicles may be operated on such highways, which speed is herewith established as reasonable and safe pursuant to § 349.11, Wis. Stats., shall be as set forth herein, subject to approval by the Division of Highways and upon the erection of standard signs giving notice thereof:

- A. Twenty-five miles per hour.

<b>Name of Street</b>	<b>Location</b>
Adams Street	From Huron Street to 0.07 of a mile west of Grand River Drive
Crestview Drive	From its south intersection with Lakewind Drive to Oak Lane Drive
East Island Road	From 0.12 of a mile south of Island Road to 200 feet north of Island Road
Erie Street	From 0.06 of a mile south of Washington Street to 0.11 of a mile north and east of Adams Street
Forest Park Road	From CTH "G" to a point 1/4 mile north of CTH "G"
Grand River Drive	From Lakewind Drive to Washington Street
Grant Street [Added 11-21-2002]	From the Village limits to West State Highway 116
Harbour South Drive [Added 6-21-2007]	From State Road 116E to the south end
Hiawatha Drive [Added 8-17-1995]	From Indian Shores Road to Lasley Shores Road
High Pointe Drive	From Harbour South Drive to Southwind Drive

**Name of Street**

[Added 6-21-2007]

Huron Street

Indian Shores Road

[Added 8-17-1995]

Island Road

Lakewind Drive

Lakewind Drive

Lasley Shore Road

Main Street

Memorial Drive

[Added 7-16-1998]

North Harbour Drive

Oak Lane Drive

Olen Trail

Ontario Street

Pointe West Drive

[Added 6-21-2007]

Southwind Drive

[Added 6-21-2007]

Sunset Trail

Village Road

Washington Street

**Location**

From Washington Street to Adams Street

From Forest Park west to the end of the road

From Crestview Drive to East Island Road

From Main Street to County Road S

From its south intersection with Main Street to its north intersection with County Road S

From Lasley Point Road to Indian Shores Road

In Butte des Morts

From South 5th Avenue to east end of the road

From County Road S westerly

From Lakewind Drive northeasterly for 0.18 of a mile

From Indian Shores Road northerly for 0.34 of a mile

From 0.03 of a mile north of Adams Street to 0.03 of a mile south of Washington Street

Entire length

From Harbour South Drive to County Road S

From Indian Shores Road northerly for 0.49 of a mile

From Crestview Drive to Lakewind Drive

From County Road S to Grand River Drive

## B. Thirty miles per hour.

**Name of Street**

Paulson Road

Rivermoor Drive

[Repealed 1-19-2012]

Rivermoor Road

Shubert Road

Wentzel Shore Road

**Location**

From Lasley Point Road southerly for 0.28 of a mile

Entire length

Entire length

From a point common to Sections 7-8-17-18, Township 19 North, Range 15 East, easterly for 0.68 of a mile

## C. Thirty-five miles per hour.

[Amended 7-18-2013]

**Name of Street**

Forest Park Road

Lakeshore Road

**Location**

From Indian Shores Road northerly for 0.24 of a mile

From 9th Street to Wentzel Road

## D. Forty-five miles per hour.

**Name of Street**

Clow Road

[Added 5-15-2003]

**Location**

Entire length

**Name of Street****Location**

Cross Road  
[Added 10-18-2007]

Entire length

Grimson Road  
[Added 10-18-2001]

From County Road S east to the Town line

Indian Shores Road

From CTH "M" to Forest Park Road

Lasley Point Road  
[Added 10-18-2001]

Entire length

Wentzel Road

With 35 mph warning speed sign

- E. Fifteen miles per hour.  
[Added 7-16-1998]

(1) School zone. When children are present on South 5th Avenue from Memorial Drive north to the town line.

- F. Twenty miles per hour.  
[Added 1-19-2012]

**Name of Street****Location**

Rivermoor Drive

Entire length

## § 295-3. Arterial streets.

Arterial streets shall be designated by stop signs or other appropriate signs, and every operator of a vehicle approaching such sign shall comply with § 346.46, Wis. Stats.

## § 295-4. Winter parking.

- A. All-night parking prohibited. When signs have been erected at or reasonably near the corporate limits of the Town as provided in § 349.13, Wis. Stats., no person shall park any motor vehicle on any street or road in the Town between the hours of 2:00 a.m. and 5:00 a.m., except physicians and other emergency calls and vehicles, from November 1 of each year to April 1 of the following year.
- B. Towing. In addition to the penalty below, any law enforcement officer may cause any vehicle parked in violation of this section to be moved to a public parking lot or garage. The cost of moving and storage shall be paid by the owner or operator of such vehicle, and the law enforcement authority of the Town shall hold such vehicle until all charges of moving and storage have been paid.

## § 295-5. Official traffic signs and signals.

[Amended 6-20-2013]

- A. Procurement and erection. The Superintendent of Highways shall procure, erect and maintain appropriate standard traffic signals, signs and markings conforming to the rules of the State Department of Transportation, giving such notice of the provisions of this chapter as required by state law. Signs shall be erected in such location and manner as the Town Board shall determine will best effect the purposes of this chapter and give the adequate warning to users of the streets, highways and roads.
- B. Removal of unofficial signs and signals. The Superintendent of Highways shall have the authority granted by § 349.09, Wis. Stats., and is hereby directed to order the removal of a sign, signal, marking or device placed, maintained or displayed in violation of this section or § 346.41, Wis.



Stats. Any change imposed on the premises for removal of such an illegal sign, signal or device shall be reported to the Town Board at its next regular meeting for review and certification.

## § 295-6. Obedience to crossing guards.

No operator of a vehicle shall fail or refuse to stop for a crossing guard when, in the performance of his duties, the crossing guard so directs by use of a sign or signal.

## § 295-7. Snowmobiles.

A. State snowmobile laws adopted. Except as otherwise specifically provided in this chapter, the statutory provisions describing and defining regulations with respect to snowmobiles in the following enumerated sections of the Wisconsin Statutes are hereby adopted by reference and made part of this section as if fully set forth herein. Acts required to be performed or prohibited by such statutes are required or prohibited by this section.

§ 350.01	Definitions
§ 350.02	Operation of snowmobiles on or in vicinity of highway
§ 350.03	Right-of-way
§ 350.04	Snowmobile races, derbies and routes
§ 350.045	Public utility exemption
§ 350.047	Local ordinance to be filed
§ 350.05	Operation by youthful operators established
§ 350.055	Safety certification program restricted
§ 350.07	Driving animals
§ 350.08	Owner permitting operation
§ 350.09	Head lamps, tail lamps and brakes
§ 350.10	Miscellaneous provisions for snowmobile operation
§ 350.12	Registration of snowmobiles
§ 350.13	Uniform trail signs and standards
§ 350.15	Accidents and accident reports
§ 350.17	Enforcement
§ 350.18	Local ordinances
§ 350.19	Liability of landowners

B. Applicability of rules of the road to snowmobiles. The operator of a snowmobile upon a roadway shall, in addition to the provisions of Ch. 350, Wis. Stats., be subject to §§ 346.04, 346.06, 346.11, 346.14(1), 346.18, 346.19, 346.20, 346.21, 346.26, 346.27, 346.33, 346.35, 346.37, 346.39, 346.40, 346.44, 346.46, 346.47, 346.48, 346.50(1)(b), 346.51, 346.52, 346.53, 346.54, 346.55, 346.87, 346.88, 346.89, 346.90, 346.91, 346.92(1) and 346.94(1) and (9), Wis. Stats.

C. Unattended snowmobiles. No person shall leave or allow a snowmobile to remain unattended on any public highway or public property while the motor is running or with the starting key in the ignition.

## § 295-8. School district premises.

[Added 1-17-2002]

- A. Purpose. The purpose of this section is to regulate Winneconne Community School District rules and the operation and parking of motor vehicles on off-highway Winneconne Community School District premises.
- B. This section is established pursuant to §§ 118.105 and 340.01(22), Wis. Stats.
- C. The Town of Winneconne shall regulate Winneconne Community School District rules and the operation and parking of motor vehicles on off-highway Winneconne Community School District premises. This shall include regulation of the speed zone for that portion of Wolf Run located in the Town of Winneconne which is defined as a distance 388 meters south from Lasley Point Road.
- D. Penalty. The penalty for violation of this section is as provided in §§ **295-9** and **295-11** of this chapter.

## § 295-9. Violations and penalties.

The penalty for violation of any provision of this chapter shall be a forfeiture as hereafter provided together with costs under § 345.27, Wis. Stats., and a penalty assessment, where applicable, as required under § 757.05(1), Wis. Stats.

- A. State forfeiture statutes. Any forfeiture for violation of § 295- shall conform to the forfeiture permitted to be imposed for violation of the statutes adopted by reference, including any variations or increases for subsequent offenses.
- B. Local regulations. Except as otherwise provided in this chapter, the penalty for violation of a provision of this chapter shall be as provided in Chapter 1, § 1-4 of this Code.
- C. Parking violations.

Wis. Stats.	Violation	Forfeiture	
		Minimum	Maximum
§ 346.51(1)	Improper parking on/off roadway	\$3	\$200
§ 346.52(1)	Stopping/standing in prohibited areas	\$3	\$40
	Second conviction within 1 year	\$6	\$100
§ 346.52(2)	Stopping/standing on highway by grade school	\$3	\$40
	Second conviction within 1 year	\$3	\$100
§ 346.53	Parking/standing where prohibited	\$3	\$40
	Second conviction within 1 year	\$6	\$100
§ 346.54	Improper parking/standing of vehicle	\$3	\$40
	Second conviction within 1 year	\$6	\$100
§ 346.55(1)	Parking on left side of highway	\$3	\$200
§ 346.55(2)	Parking vehicle for sale on highway	\$3	\$200
§ 346.55(3)	Parking on posted private property	\$3	\$40
	Second conviction within 1 year	\$6	\$100

## § 295-10. Enforcement.

- A. Enforcement procedure. This chapter shall be enforced according to §§ 66.0114 and 345.20 to 345.53 and Ch. 799, Wis. Stats.
- B. Deposit.

- (1) Any person arrested for a violation of this chapter may make a deposit of money as directed by the arresting officer at the Municipal Court or by mailing the deposit to the Court. The arresting officer or the Municipal Court Clerk shall notify the arrested person, in writing, that:<sup>[1]</sup>
  - (a) If he fails to appear in Court at the time fixed in the citation, he will be deemed to have tendered a plea of no contest and submitted to a forfeiture plus costs not to exceed the amount of the deposit.
  - (b) If he fails to appear in Court at the time fixed in the citation, and if the Court does not accept the deposit as a forfeiture, he will be summoned into Court to answer the complaint.

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

- (2) The amount of the deposit shall be determined in accordance with the deposit schedule established by the Wisconsin Judicial Conference and shall include the penalty assessment established under § 757.05, Wis. Stats., and costs. If a deposit schedule has not been established, the arresting officer shall require the alleged offender to deposit the forfeiture established by the Chief of Police, which shall include the penalty assessment established under § 757.05, Wis. Stats. Deposits for nonmoving violations shall not include the penalty assessment.
  - (3) The arresting officer or the person receiving the deposit shall issue the arrested person a receipt therefor as required by § 345.26(3)(b), Wis. Stats.
- C. Stipulation of no contest. Except as otherwise provided by statute, any person charged with a violation of this chapter may make a stipulation of no contest pursuant to § 345.27, Wis. Stats., which shall be received at the police station or the office of the Clerk of Court within 10 days of the date of the alleged violation. Such person shall, at the time of entering into the stipulation, make the deposit required under Subsection **B** if he has not already done so. A person who has mailed or filed a stipulation under this subsection may, however, appear in Court on the appearance date and may be relieved from the stipulation for cause shown as required in § 345.37, Wis. Stats.

## § 295-11. Right to stipulate guilt in parking violations.

[Added 12-21-1995; amended 12-21-2000]

- A. In lieu of a citation, the Police Department is authorized to issue a parking ticket for violations of any parking regulations contained in this chapter. Where violations are noted by issuance of a parking ticket, each such owner or operator shall, within 120 hours after 6:00 p.m. of the day of the violation, pay to the Town Clerk at the Town Hall as a forfeiture for and in full satisfaction of such violation the sum of \$10. Each such owner or operator shall, after said period of 120 hours, pay an additional penalty of \$20. However, if the penalty is not paid within 15 days after 6:00 p.m. of the day of violation, each such owner or operator shall then pay an additional penalty of \$40, except that if the penalty is not paid within 45 days after 6:00 p.m. of the day of violation, each such owner or operator shall pay an additional penalty of \$50. The failure of such owner or operator to make such payment shall render such owner or operator subject to the penalties provided in § 345.28, Wis. Stats. Each time a designated violation is noted by the issuance of a parking ticket, even though such violations shall be consecutive, shall constitute a separate violation.
- B. Where the parking ticket forfeiture is not paid within 45 days after 6:00 p.m. of the day of violation, the Police Department may then issue a citation for such violation and the matter shall proceed as otherwise set forth in this chapter.

## Chapter 296. Vehicles, All-Terrain and Utility-Terrain

[HISTORY: Adopted by the Town Board of the Town of Winneconne 10-18-2019 by Ord. No. 2018-4. Amendments noted where applicable.]

## § 296-1. Intent.

The Town of Winneconne, Winnebago County adopts the following all-terrain vehicle (ATV) and utility terrain vehicle (UTV) route ordinance upon the roadways listed herein. Following due consideration of the recreational value to connect trail opportunities and weighed against possible dangers, public health, liability aspects, terrain involved, traffic density and automobile traffic volume, this route has been created.

## § 296-2. Statutory authority.

This route is created pursuant to Town authority as authorized by § 23.38(8)(b), Wis. Stats. The applicable provisions of § 23.33 regulating ATV/UTV operations pursuant to routes are adopted.

## § 296-3. Routes.

- A. The Town of Winneconne reserves the right to close or modify routes at any time.
- B. The Town of Winneconne, or its designee, shall maintain all route signs within the Town.
- C. All ATV/UTV routes shall be signed in accordance with NR 64.12 and NR 64.12(7).
- D. Routes designated.  
[Amended 2-20-2020 by Ord. No. 2020-3; 7-16-2020 by Ord. No. 2020-6; 5-20-2021 by Ord. No. 2021-1]
  - (1) All Town roads are designated ATV/UTV routes in the Town of Winneconne.
  - (2) The following County roads within the Town of Winneconne have been authorized by Winnebago County for ATV/UTV travel:
    - (a) County Highway B from the west Town line to Lakeshore Road.
    - (b) County Highway D from the west Town line to Mueller Road.
    - (c) County Highway M from the corner of Lasley Point Road north to the Winchester Town line.
- E. The Town of Winneconne Clerk shall maintain a route map.

## § 296-4. Definitions.

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

### **ALL-TERRAIN VEHICLE or ATV**

A commercially designed and manufactured motor-driven device that has a weight, without fluids, of 900 pounds or less, has a width of 50 inches or less, is equipped with a seat designed to be straddled by the operator, and travels on three or more low-pressure tires or nonpneumatic tires or as defined in Wis. Stats. § 23.33(b) and any amendments thereto.

- A. A commercially designed and manufactured motor driven device to which all of the following applies:
  - (1) It has a weight, without fluids, of more than 900 pounds but not more than 2000 pounds.
  - (2) It has a width of 50 inches or less.
  - (3) It is equipped with a seat designed to be straddled by the operator.

- (4) It travels on three or more low-pressure tires or nonpneumatic tires.

### **ATV/UTV ROUTE**

A roadway designated by Town ordinance for use by all-terrain vehicle operators or utility-terrain vehicle operators or as defined in Wis. Stats. § 23.33(c) and any amendments thereto.

### **GOLF CART**

A vehicle whose speed attainable in one mile does not exceed 20 miles per hour on a paved, level surface, and that is designed and intended to convey one or more persons and equipment to play the game of golf in an area designated as a golf course or as defined in Wis. Stats. § 23.33(fm) and any amendments thereto. A golf cart is not an ATV or UTV and is not allowed on the ATV/UTV route established by this chapter.

### **UTILITY-TERRAIN VEHICLE or UTV**

Any of the following, or as defined in Wis. Stats. § 23.33(ng) and any amendments thereto:

- A. A commercially designed and manufactured motor driven device that does not meet federal motor vehicle safety standards in effect on July 1, 2012, that is not a golf cart, low-speed vehicle, dune buggy, mini-truck, or tracked vehicle, that is designed to be used primarily off of a highway, and that has, and was originally manufactured with, all of the following:
- (1) A weight, without fluids, of 2,000 pounds or less.
  - (2) Four or more low-pressure tires or nonpneumatic tires.
  - (3) A steering wheel.
  - (4) A tail light.
  - (5) A brake light.
  - (6) Two headlights.
  - (7) A width of not more than 65 inches.
  - (8) A system of seat belts, or a similar system, for restraining each occupant of the device in the event of an accident.
  - (9) A system of structural members designed to reduce the likelihood that an occupant would be crushed as the result of a rollover of the device.

## **§ 296-5. Conditions.**

- A. All ATV/UTV operators shall wear eye protection.
- B. All UTV operators and passengers shall wear a seat belt.
- C. All ATV/UTV operators on routes shall observe posted roadway speed limits but shall not exceed 35 mph regardless whether a higher speed limit is posted.
- D. All ATV/UTV operators shall ride single file.
- E. No ATV/UTV may be operated on any designated route between the hours of 10:00 p.m. to 6:00 a.m. daily.
- F. All ATV/UTV operators must have attained the age of 16 and must have a valid driver's license.
- G. ATV/UTV operators shall possess State of Wisconsin Motor Vehicle Insurance coverage as per § 344.33 of the State Statutes.

[Added 2-20-2020 by Ord. No. 2020-2<sup>[1]</sup>]

- (1) It shall include \$25,000 bodily injury to, or death of one person in any one accident.
- (2) Subject to the limit under Subsection **G(1)** above for one person, \$50,000 because of bodily injury or death of two or more persons in any one accident.
- (3) \$10,000 minimum liability because of injury to, or destruction of property of others in any one accident.

[1] *Editor's Note: This ordinance also renumbered former Subsections G through R as H through S, respectively.*

- H. All ATV/UTV operators must abide by all traffic laws.
- I. No person under the age of 18 may operate an ATV/UTV on any designated route unless wearing approved protective head gear.
- J. No ATV/UTV may be operated on any designated route which ATV/UTV does not meet all applicable federal noise and air pollution standards.
- K. Operators of ATV/UTV shall observe all laws of this state pertaining to the use of ATV/UTV.
- L. All ATV/UTV operators shall ride on paved surfaces only, except when yielding right of way.
- M. Headlights must always be operational and visible from 200 feet and taillights must always be operational and visible from 500 feet in the hours of darkness.
- N. No person may operate an ATV/UTV with a blood alcohol concentration (BAC) of .08% or more.
- O. No person may operate an ATV/UTV with any detectable amount of a restricted controlled substance in their blood.
- P. Town of Winneconne ATV/UTV routes can be closed at any time by the Town Board or Police Chief when public safety is at risk.
- Q. ATV/UTV routes are intended for recreational travel to and from other ATV/UTV routes located outside the Town, or places of business or other destinations along the Town ATV/UTV routes. The Town ATV/UTV routes are not intended for continuous circular travel on the route only.
- R. Operators must use hand signals when turning if ATV/UTV is not equipped with turn signals.
- S. Any ATV/UTV driven on Town of Winneconne route must be registered for public use with the State of Wisconsin.

## § 296-6. Enforcement.

The Town Board authorizes the Winnebago County Sheriff to enforce this ordinance as well as any other law enforcement officer authorized to enforce the laws of the State of Wisconsin. This ordinance may be enforced by any Town Board member or designee of the Town.

## § 296-7. Penalties.

Wisconsin state all-terrain vehicle penalties as found in § 23.33(13)(a) Wis. Stats., are adopted by reference. Except for § 23.33 (am) to (e) person who violates this chapter shall forfeit not more than \$250 and not less than \$50.

## § 296-8. Severability.

This provision of this chapter shall be deemed severable and it is expressly declared that the Town of Winneconne would have passed the other provisions of this chapter irrespective of whether not one or

more provisions may be declared invalid. If any provision of this chapter 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 affective.<sup>[1]</sup>

[1] *Editor's Note: Former § 296-9, Effective date, amended 10-17-2019 by Ord. No. 2019-5, was repealed 11-18-2021 by Ord. No. 2021-4.*

## Chapter 300. Wind Energy Conversion Systems

[HISTORY: Adopted by the Town Board of the Town of Winneconne 5-19-2005. Amendments noted where applicable.]

### GENERAL REFERENCES

Zoning — See Ch. 310.

Ordinance to Create Chapter 300 of the General Code of the Town of Winneconne, WI

### § 300-1. Purpose.

The Town Board of the Town of Winneconne adopts this chapter to promote the effective and efficient use of wind energy conversion systems (WECS) and to regulate the placement of wind energy conversion systems so that the public health and safety will not be jeopardized.

### § 300-2. Findings.

- A. The Town Board of the Town of Winneconne finds and declares that wind energy is an abundant, renewable and nonpolluting energy resource of the Town and that its conversion to electricity will reduce our dependence on nonrenewable energy sources and decrease the air and water pollution that results from the use of conventional energy sources.
- B. The Town Board of the Town of Winneconne further finds and declares that:
  - (1) Wind turbines that convert wind energy to electricity are currently available on a commercial basis from many manufacturers.
  - (2) The generation of electricity from properly sited wind turbines can be cost effective, and in many cases existing power distribution systems can be used to transmit electricity from wind-generating stations to utilities or other users.
  - (3) Regulation of the siting and installation of wind turbines is necessary for the purpose of protecting the health and safety of neighboring property owners and the general public.

### § 300-3. Definitions.

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

#### OVERSPEED CONTROL

A mechanism used to limit the speed of blade rotation to below the design limits of the WECS.

#### SITE

The plot of land where the WECS is to be placed. The site could be publicly or privately owned by an individual or a group of individuals controlling single or adjacent properties.

#### SWEPT AREA

The largest area of the WECS which extracts energy from the wind stream. In a conventional propeller-type WECS, there is a direct relationship between swept area and the rotor diameter.

**TOTAL HEIGHT**

The height of the tower and the furthest vertical extension of the WECS.

**WIND ENERGY CONVERSION SYSTEM**

A machine that converts the kinetic energy in the wind into a usable form (commonly known as a "wind turbine" or "windmill.") The WECS includes all parts of the system except the tower and the transmission equipment; the turbine or WECS may be on a horizontal or vertical axis, rotor or propeller.

**§ 300-4. Requirements.**

Wind energy conversion systems shall be permitted in only A-2 Agricultural zoning districts, subject to the following requirements:

- A. Building permit application for a WECS. Building permit applications for a wind energy conversion system shall be accompanied by a plot plan drawn in sufficient detail to clearly describe the following.
  - (1) Property lines and physical dimensions of the site.
  - (2) Location, approximate dimensions and types of major existing structures and uses on site.
  - (3) Location and elevation of the proposed WECS.
  - (4) Location of all aboveground utility lines on site or within one radius of the total height of the WECS.
  - (5) Location and size of structures and trees above 35 feet within a five-hundred-foot radius of the proposed WECS. For purposes of this requirement, electrical transmission and distribution lines, antennas and slender or open lattice towers are not considered structures.
  - (6) Show the zoning designation of immediate and adjacent sites as set forth in Chapter **310**, Zoning.
  - (7) Include make, model, picture and manufacturer's specifications, including noise decibels.
- B. General provisions. Installation of all wind energy conversion systems shall comply with the following requirements:
  - (1) WECS size. This chapter covers those WECS whose swept area is 1,000 square feet or less. (For conventional propeller WECS, this would be approximately 35 feet or less in diameter.)
  - (2) Water pumpers. Non-electrical WECS used for pumping water may be exempted from the provisions of Subsection **B(3)** through **(15)**, but they must be sited so as any tip-over will be harmless to others.
  - (3) Compliance with Uniform Building Code.
    - (a) Building permit applications shall be accompanied by standard drawings of the structural components of the wind energy conversion system, including support structures, tower, base and footings. Drawings and any necessary calculations shall be certified, in writing, by a Wisconsin State registered professional engineer that the system complies with the Wisconsin State Fire Prevention and Building Code. This certification would normally be supplied by the manufacturer.
    - (b) Where the structural components or installation vary from the standard design or specification, the proposed modifications shall be certified by a Wisconsin State registered professional engineer for compliance with the seismic and structural design provisions of the Wisconsin State Fire Prevention and Building Code.
  - (4) Compliance with National Electrical Code.



- (a) Building permit applications shall be accompanied by a line drawing identifying the electrical components of the wind system to be installed in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code. The application shall include a statement from a Wisconsin State registered professional engineer indicating that the electrical system conforms to good engineering practices and complies with the National Electrical Code. This certification would normally be supplied by the manufacturer. All equipment and materials shall be used or installed in accordance with such drawings and diagrams.
  - (b) Where the electrical components of an installation vary from the standard design or specifications, the proposed modifications shall be reviewed and certified by a Wisconsin State registered professional engineer for compliance with the requirements of the National Electrical Code and good engineering practices.
- (5) Rotor safety. Each wind energy conversion system must be equipped with both manual and automatic controls to limit the rotational speed of the blade below the design limits of the rotor. The application must include a statement by a Wisconsin State registered professional engineer certifying that the rotor and overspeed controls have been designed and fabricated for the proposed use in accordance with good engineering practices. The engineer should also certify the structural compatibility of possible towers with available rotors. This certification would normally be supplied by the manufacturer and include the distance and trajectory of the thrown blade from an exploding turbine or propeller according to the loss of blade theory.
- (6) Guy wires. Anchor points for guy wires for the WECS tower shall be located within property lines and not on or across any aboveground electric transmission or distribution line. The point of ground attachment for the guy wires shall be enclosed by a fence six feet high.
- (7) Tower access. Towers should have either:
  - (a) Tower-climbing apparatus located no closer than 12 feet from the ground;
  - (b) A locked anti-climb device installed on the tower; or
  - (c) The tower shall be completely enclosed by a locked, protective fence at least six feet high.
- (8) Noise. The WECS shall meet the requirements of any existing noise ordinance of the Town of Winneconne.
- (9) Electromagnetic interference. No WECS shall be installed in any location along the major axis of an existing microwave communications link where the operation of the WECS is likely to produce an unacceptable level of electromagnetic interference, unless the applicant provides sufficient evidence satisfactory to the Zoning Administrator indicating the degree of expected interference and the possible side effect on the microwave communication link. If has been demonstrated to the Town Zoning Administrator that a wind energy conversion system is causing harmful interference, the operator shall promptly mitigate the harmful interference.
- (10) Signs. At least one sign shall be posted at the base of the tower warning of electrical shock or high voltage.
- (11) Height. The minimum height of the lowest part of the WECS shall be 30 feet above the highest existing major structure or tree within a two-hundred-fifty-foot radius. For purposes of this requirement, electrical transmission and distribution lines, antennas and slender or open-lattice towers are not considered structures. WECS shall be located or installed in compliance with the guidelines of the Federal Aviation Regulations with regard to airport approach zones.
- (12) The minimum lot size required for the erection, construction or placement of a WECS on a property shall be five acres.
- (13) Setbacks.

- (a) Except as provided for under § **300-4B(6)**, the WECS shall be set back from any property line, aboveground utility line or other WECS a distance greater than either its overall height, including blades, or the minimum yard requirement, whichever is greater.
  - (b) In the case of cluster development, a WECS shall be erected within the common open space area and shall be set back from all residences a distance greater than Subsection **B(13)(a)** above.
  - (c) Contiguous property owners may construct a WECS for use in common, provided that the required setback is maintained relative to the property lines of nonparticipant owners.
- (14) Utility notification (for those WECS which will be interconnected to a utility grid). No wind turbine shall be installed until evidence has been given that the utility company has been notified, in writing.
- (15) Abatement. If a wind energy conversion system or systems are not maintained in operational condition for a period of one year or poses a potential safety hazard, the owner or operator shall take expeditious action to remedy the situation. The Town of Winneconne reserves the authority to abate any hazardous situation and to pass the cost of such abatement on to the owner or operator of the system. If the Town of Winneconne determines that the WECS has been abandoned and poses a safety hazard, the system shall be removed within 45 days of written notice to the owner or operator of the system.
- (16) Liability insurance. The applicant, owner, lessee or assignee shall maintain a current insurance policy which will cover installation and operation of the wind energy conversion system at all times. Said policy shall provide a minimum of \$300,000 of property and personal liability coverage.
- (17) Lighting of tower. Lighting of the tower for aircraft and helicopter will conform to FAA standards for wattage and color.
- (18) Environmental impact. The project must be viewed for visual pollution and the Town may require an environmental impact statement.

## § 300-5. Special permit required.

- A. Installation. Installation of wind energy conversion systems shall require the granting of a special permit.
- B. Application. Every application for a special permit shall be made, in writing, to the Plan Commission in accordance with the requirements by the Town, shall be accompanied by a filing fee as set forth in the Town's Schedule of Fees and shall include the following information:
  - (1) Name and address of the applicant.
  - (2) Evidence that the applicant is the owner of the premises involved or that the applicant has written permission of the owner to make such an application.
  - (3) A plot plan and development plan drawn in sufficient detail to clearly describe:
    - (a) Property line and physical dimensions of the proposed site;
    - (b) Location, approximate dimensions and types of major existing structures and uses of the site;
    - (c) Location and elevation of the proposed WECS;
    - (d) Location of all aboveground utility lines and other WECS on site or within one radius of the total height of the proposed WECS, including the furthest vertical extension of the rotor assembly;

- (e) Location and size of structures or trees above 35 feet within a five-hundred-foot radius of the proposed WECS. For purposes of this requirement, electrical transmission and distribution lines, antennas and slender or open-lattice towers are not considered structures;
  - (f) Where applicable, the location of all transmission facilities proposed for installation; and
  - (g) Where applicable, the location of all road and other service structures proposed as part of the installation.
- C. The Building Inspector or his designee shall have the right at any reasonable time to enter, in the company of the owner or his agent, the premises on which a WECS has been constructed to inspect all parts of said wind energy conversion system installation and require that repairs or alterations be made, if in his judgment, there exists a deficiency in the operation or in the structural stability of the system. If necessary the Building Inspector or his designee may order the system secured or otherwise cease its operation. It shall not be required that the owner or his agent be present in the event of an emergency situation involving danger to life, limb or property.

## § 300-6. Violations and penalties.

Any person who violates any provision of this chapter shall be guilty of a violation and subject to a fine of not more than \$250, imprisonment not to exceed 15 days, or both such fine and imprisonment.

## Chapter 310. Zoning

[HISTORY: Adopted by the Town Board of the Town of Winneconne 10-20-1994 as Ch. 17 of the 1994 Code. Amendments noted where applicable.]

### GENERAL REFERENCES

Board of Appeals and Plan Commission — See Ch. **9**.  
 Building construction — See Ch. **120**.  
 Comprehensive Plan — See Ch. **146**.  
 Mobile home parks and trailer camps — See Ch. **210**.  
 Signs — See Ch. **256**.  
 Site plan review — See Ch. **258**.  
 Subdivision of land — See Ch. **275**.

## Article I. Introduction

### § 310-1. Authority, purpose and intent.

This chapter is adopted under the authority granted by §§ 59.69(5)(d), 60.10(2)(c), 60.22(3), 60.62, 61.35 and 62.23, Wis. Stats. The purpose is to promote the health, safety, morals, beauty, aesthetics and general welfare of the Town of Winneconne. The general intent is to produce a uniform zoning format for the Town.

### § 310-2. Abrogation and greater restrictions.

It is not intended by this chapter to interfere with, abrogate or annul any existing easements, covenants or other agreements between parties, nor is it intended by this chapter 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 buildings or premises. However, whenever this chapter imposes greater restrictions, the provisions of this chapter shall control. In addition, it is acknowledged that the shoreland, floodplain and

wetland provisions of the Winnebago County Town/County Zoning Ordinance as adopted by said county exclusively control those areas officially delineated by the county as within floodplain and shoreland areas. This chapter recognizes that exclusive control. It is not intended hereby to regulate those areas.

### § 310-3. Interpretation.

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

### § 310-4. When effective.

[Amended 4-21-2005]

This chapter 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.

### § 310-5. Title.

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

### § 310-6. Zoning Map.

[Amended 4-21-2005]

The map indicating the boundaries of all the zoning districts established for the Town of Winneconne, which map is incorporated herein by reference, is available in the office of the Town Clerk.

### § 310-7. Definitions and word usage.

For the purpose of this chapter, 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, and 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 ESPY Report No. 322 are incorporated by reference. Shoreland definitions set forth in Ch. NR 116, Wis. Adm. Code, are incorporated by reference.

#### **ACCESSORY BUILDING OR USE**

A building or use customarily incidental or subordinate to the principal building or use and located on the same lot with the principal building or use. A mobile home, automobile trailer or other vehicle, or part thereof, or building on wheels used as a temporary or permanent dwelling or lodging place shall not be considered an accessory building or use.

#### **ALLEY**

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

#### **BASEMENT**

A story partly underground but having at least 1/2 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, or if used for business purposes, or if used for dwelling purposes by other than a janitor or his family.

#### **BOARDINGHOUSE**

A building, other than a hotel, where meals or lodging and meals are served for compensation.

**BUILDING HEIGHT**

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

**CAMPGROUND**

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**

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**

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

**CELLAR**

A story having more than 1/2 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.

**CONDITIONAL USE**

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 due consideration in each case by the Plan Commission of the impact of such use on the neighboring land and of the public need for the particular use at the particular location, recommendations of approval or disapproval, with or without conditions, shall be forwarded to the Town Board for final action.

[Amended 2-15-1996; 3-19-2009]

**DEVELOPMENT**

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

**FAMILY**

One or more persons occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a boardinghouse, lodging house or hotel.

**FRONTAGE**

That side of a lot abutting on a public street.

**FRONT YARD**

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.

**GRADE**

The average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.

**HALF STORY**

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

**HIGHWAY**

A main Town street or road designated on the Zoning Map which may also be 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.

**HOME OCCUPATION**

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**

A building occupied as the more or less temporary abiding place of individuals who are lodged, with or without meals, for compensation, and in which there are more than four sleeping rooms.

**KENNEL**

A 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.

**LOADING AREA**

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

**LODGING HOUSE**

A building other than a hotel where lodging is provided for compensation.

**LOT**

A parcel of land occupied or to be occupied by one main building or use, with its accessories, and including the open spaces 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 DEPTH**

The mean horizontal distance between the front and rear lot lines.

**LOT LINES**

The lines bounding a lot, as defined in this chapter.

**MOBILE HOME OR TRAILER**

That which is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway and designed and equipped and used primarily for sleeping, eating and living quarters.

**MOBILE HOME SUBDIVISION OR PARK**

A tract of land planned and used for the purpose of supplying to the public parking space or lots for two or more mobile homes or trailers for residential use only.

**MULTIPLE DWELLING**

A building or portion thereof used or designed as a residence for three or more families living independently of each other and doing their own cooking therein, including apartments, apartment hotels, and group houses.

**NONCONFORMING USE**

A building or land occupied by a use that does not conform to the use regulations of the district in which it is situated.

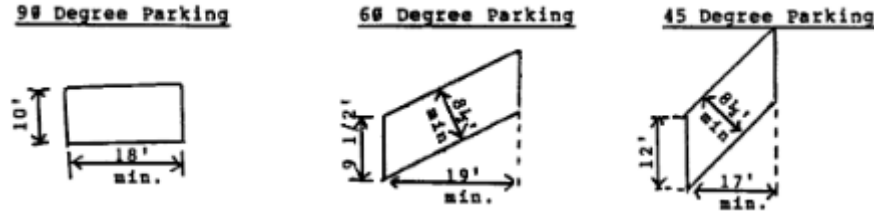
### ONE-FAMILY DWELLING

A building designed for or occupied exclusively by one family, and said building shall contain a minimum width of 20 feet, measured from the narrowest part of the structure, and a minimum living area of 1,000 square feet.

[Amended 11-18-1999]

### PARKING SPACE

The off-street area required for parking one automobile, which in this chapter is held to be the area shown in the following diagrams:



### PRINCIPAL USE

The main use of land or structures as distinguished from a secondary or accessory use.

### PRIVATE GARAGE

An accessory building 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.

### PUBLIC GARAGE

A garage other than a private garage.

### REAR YARD

An open space on the same lot as the main building, unoccupied except as permitted in this chapter, and including accessory buildings which may occupy the rear yard as permitted in the residential districts. The rear yard is situated between the rear line of the lot and the rear line of the buildings, projected to the side lines of the lot.

### RIGHT-OF-WAY

A strip of land dedicated or acquired for public or private use, typically to construct and operate infrastructure for transportation facilities. The rights to utilize such right-of-way are generally part of a recorded document. In the event there is no recorded document, the right-of-way shall be determined by measuring 33 feet from the center of the road.

[Added 10-16-2014]

### SETBACK

The minimum required distance between the established lot line/right-of-way line and a structure.

[Added 10-16-2014]

### SIDE YARD

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.

### STORY

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**

A public or private thoroughfare which affords the principal means of access to abutting property.

**STRUCTURAL ALTERATIONS**

Any change in the supporting members of a building, such as bearing walls, columns, beams or girders.

**STRUCTURE**

Anything constructed or erected, the use of which requires more or less permanent location on the ground.

**TWO-FAMILY DWELLING**

A building designed for or occupied exclusively by two families living independently of each other, and said building shall contain a minimum width of 20 feet, measured from the narrowest part of the structure, and a minimum living area of 1,000 square feet.

[Amended 11-18-1999]

**USABLE FLOOR AREA**

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.

**YARD**

An open space on the same lot with a principal building or group of buildings which is unoccupied and unobstructed from its lowest level upward, except as otherwise permitted in this chapter, and which extends along a lot line and at right angles thereto to a depth or width specified in the yard regulations for the district in which the 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 1/3 of its minimum width or 24 inches, whichever is smaller.

## Article II. General Provisions

### § 310-8. Jurisdiction.

The provisions of this chapter shall apply to all structures, land, water and air within the Town of Winneconne, Winnebago County, Wisconsin.

### § 310-9. Compliance required.

- A. Unless otherwise provided by this chapter, after the effective date of this chapter no structure, land or water shall be developed, and no structure or part thereof shall be relocated, erected, moved, reconstructed, enlarged, extended, converted or structurally altered, without a zoning permit and without full compliance with this chapter and all other applicable Town, county and state regulations; provided, however, that this chapter shall not govern normal farming operations on farmland or normal filling, grading or landscaping of land.
- B. The Town Board or any owner or owners of property within the Town who are affected by a particular regulation, variance or constitutional use under this chapter may sue to enforce, by injunctive order, compliance with this chapter.



## § 310-10. Building Inspector; Zoning Administrator.

- 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. When practicable, the Building Inspector shall be a resident of the Town; provided, however, that the Building Inspector shall possess such certification of skill or experience as may be required from time to time by the State of Wisconsin.
- 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.
- C. A 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. When practicable, The Zoning Administrator shall be a resident of the Town.
- D. The Zoning Administrator shall accept applications, issue or deny zoning permits, give notice of violations and enforce the provisions of this chapter.
- E. Duties of Building Inspector and Zoning Administrator.
  - (1) The 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 chapter, 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.
  - (2) The 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 chapter 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 a nonconforming matter by notice in writing to the holder of such permit.
  - (3) Notwithstanding any other provision of this chapter, no inspection shall be required of any farm or agricultural outbuilding, except that setback requirements of this chapter shall be enforced.

## § 310-11. Building permit.

- A. A building permit shall be required for the construction, moving, reconstruction, enlargement, extension, conversion or alteration of any building or structure, except that the Building Inspector may authorize minor repairs or alterations valued at less than \$500 if such work does not require a zoning permit and does not change the occupancy, area, structural strength, electrical system, fire protection, exits, plumbing system, light or heating and ventilation of the building without issuing a building permit. Applications for a building permit shall be made in writing to the Building Inspector on forms which shall include the following:
  - (1) Names and addresses of the applicant, owner of the site, and architect, professional engineer and contractor, if any.
  - (2) 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.
  - (3) 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.
  - (4) Type of structure.

- (5) Existing and proposed operation of the structure or site.
  - (6) Number of employees or occupants.
  - (7) Zoning district in which the subject site is located.
  - (8) Plot plan 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.
    - (a) The proposed finished grade for the principal structure shall be a grade 12 inches above the crown of any adjacent public road at the center of said structure.
    - (b) 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.
- B. Building permits shall recite the information set forth in the application and shall be displayed at the subject site and shall expire six months after date of issue unless substantial work has been commenced and diligently pursued within that period.
- (1) A building permit shall be granted or denied in writing by the Building Inspector within 30 days after filing of the application. Where public sewer is unavailable, no permit for new construction intended to be occupied by human beings shall be issued without the prior approval of sanitary plans and issuance of a sanitary permit by the Winnebago County, Wisconsin, Sanitary Inspector. Except for barns, silos and similar farm buildings, no permit shall be issued for any addition, reconstruction, enlargement or conversion of a principal structure where sanitary facilities are not provided in accordance with the Winnebago County, Wisconsin, Sanitary Ordinance and § H 62.20, Wis. Adm. Code.
  - (2) No building permit shall be issued until the Building Inspector receives a report from the Zoning Administrator that the proposed construction is in conformance with this chapter.
  - (3) Fees. Fees for building permits shall be as established from time to time by resolution of the Town Board.
  - (4) When any work is begun on site without first obtaining a permit therefor as required herein, the Building Inspector shall have the power and authority to stop work until a permit has been procured. The permit fee specified herein shall be doubled, but the payment of such doubled fees shall not relieve any person from fully complying with all of the regulations of this chapter nor from any penalties prescribed herein.

## § 310-12. Certificate of compliance.

- A. Where a permit is required under this chapter, no development or structure shall be used or occupied until a certificate of compliance has been issued by the Zoning Administrator. Such certificate shall state that the development or structure is in compliance with the applicable standards of this chapter.<sup>[1]</sup>

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

- B. 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 Zoning Administrator shall issue a certificate of compliance for any building or premises existing at the time of the adoption of this chapter, 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 chapter.

## § 310-13. Use restrictions.

The following use restrictions and regulations shall apply, and, unless otherwise specified, the basic standards of a district shall be minimum standards:

- A. Principal uses. Only those principal uses specified for a district, their on-site services and the following uses and the conditions specified below shall be permitted in that district, except gardening shall be a principal use in all districts.
- B. Accessory uses. Unless otherwise specified in other sections, accessory uses and structures are permitted in any district, but not until their principal structure is present or under construction. Residential accessory uses shall not involve the conduct of any business, trade or industry. Accessory uses include incidental repairs; storage; parking facilities; employees' and owners' itinerant agricultural laborers' quarters not for rent; private swimming pools; and private emergency shelters.
- C. Accessory use location.  
[Amended 10-16-2014]
  - (1) Unless otherwise specified in other sections, accessory uses and detached accessory structures are permitted within the buildable area. They shall not be closer than 10 feet to the principal structure. They shall not exceed 18 feet in height.
  - (2) For residential properties less than one acre in size, the maximum size of the accessory structure shall not exceed 1,200 square feet plus 1% of the lot size. The structure shall not be closer than three feet to any lot line or five feet from any alley. One structure, up to 100 square feet, will be exempted from the calculation of permitted square footage and shall not be counted in the number of structures permitted.
  - (3) If the residential property is one acre or greater but less than five acres, the maximum size of the accessory structure(s) shall be 1,500 square feet plus 1% of the lot size. Up to two accessory structures shall be permitted and these shall not be closer than three feet to any lot line or five feet to any alley. One structure, up to 100 square feet, will be exempted from the calculation of permitted square footage and shall not be counted in the number of structures permitted.
- D. Conditional use. Conditional uses and their accessory uses are considered as special uses which require approval and a public hearing if there is approval, all in accordance with Article IV of this chapter. In addition to those stated elsewhere in this chapter, the following shall be conditional uses in all zoning districts of this chapter:
  - (1) Utilities and associated structures, provided that all principal structures and uses are not less than 50 feet from any residential district lot line.
  - (2) One-time disposal, except in a Floodplain/Shoreland District, subject to receiving a Department of Natural Resources (DNR) permit (according to § 310-34).
- E. Town uses. Town service facilities, including town halls, town offices, town fire and ambulance stations, and town garages, shall be considered a principal use in all districts, except in the Farmland Preservation District (A-1), where they shall require conditional use approval.
- F. Unclassified or unspecified uses. According to § 310-46E of this chapter.
- G. Temporary uses. Temporary uses, such as real estate sales field offices or shelters for materials and equipment being used in the construction of a permanent structure, may be permitted by the Town Plan Commission. Other temporary uses, e.g. mobile homes, emergency housing needed due to natural disaster, etc., shall be according to § 310-46F of this chapter.
- H. (Reserved)<sup>[1]</sup>

[1] *Editor's Note: Former Subsection H, Directional signs, was repealed 7-21-2005. For current provisions, see Ch. 256, Signs.*

- I. Exceptions generally. The height and area regulations in this chapter shall be subject to the following exceptions:
  - (1) Building height. Chimneys, radio and/or television towers, or similar structures and the necessary mechanical appurtenances therefor may be erected to any height unless a specific prohibition is set forth in this chapter.
  - (2) Open or lattice-enclosed fire escapes, fireproof outside stairways, and balconies opening upon fire towers projecting into yards not more than three feet shall be permitted where so placed as not to obstruct light or ventilation.

## § 310-14. Sanitary regulations.

The provisions of the Winnebago County Sanitary Ordinance and of Chs. COMM 83, COMM 85 and NR 112, Wis. Adm. Code, are incorporated by reference.

## § 310-15. Accumulation or dumping of garbage.

An accumulation or dumping of refuse, rubbish, ashes, or garbage within this Town is prohibited except as provided in this chapter, and it cannot be permitted within 1/8 mile of any dwelling, business building, or public highway and must be licensed pursuant to Chs. NR 51 and NR 151, Wis. Adm. Code, and a surety bond furnished.

## § 310-16. Enforcement.

It shall be unlawful to construct or use any structure, land or water in violation of any of the provisions of this chapter. In case of any violation, the Town Board, the Zoning Administrator, the Town Plan Commission, or any property owner who would be specifically damaged by such violation may institute appropriate action or proceedings to enjoin a violation of this chapter. Every structure, fill or development placed or maintained in floodplains in violation of this chapter is a public nuisance, and the creation thereof may be enjoined and maintenance thereof may be abated by an action instituted by the Town or any citizen who lives in or within 500 feet of the floodland or by Winnebago County.

## § 310-17. Violations and penalties.

Any person, firm or corporation who or which fails to comply with the provisions of this chapter or any order of the Zoning Administrator or Building Inspector issued in accordance with this chapter or resists enforcement shall, upon conviction thereof, forfeit not less than \$100 nor more than \$1,000 and costs of prosecution for each violation and in default of payment of such forfeiture and costs shall be imprisoned in the county jail until payment thereof, but not exceeding 30 days. Each day a violation exists or continues shall constitute a separate offense.

## § 310-18. Driveways.

[Added 5-20-2004]

- A. Driveways, regardless of zoning classification, less than 200 feet in length from the road right-of-way to the primary structure shall be 20 feet wide with a minimum six-inch gravel base.  
[Amended 6-20-2013]

- B. Driveways, regardless of zoning classification, 200 feet or greater in length from the road right-of-way to the primary structure shall be 20 feet wide with a minimum six-inch gravel base and providing a sixty-foot continuous turn radius within 50 feet of the primary structure.  
[Amended 6-20-2013]
- C. Only one residential structure is permitted per driveway.

## Article III. Zoning Districts

### § 310-19. Districts established.

- A. To regulate and restrict the location of trades, industries, residences, and other uses, and the location of buildings designed, erected, altered or occupied for specific purposes; to regulate and limit the size of buildings hereafter erected or altered; and to regulate and limit the density of population, the Town of Winneconne is divided into the following districts, the standards of which are set forth in this article:  
[Amended 2-15-1996; 2-16-2017 by Ord. No. 2017-1]

<b>District</b>	<b>Designation</b>
Rural Residential District	R-1
Residential District	R-1A
Residential District	R-1A-1
Residential District	R-2A
Residential District	R-3A
Planned Residential District	R-4A
Mobile Home District	MH-1
Commercial District	C-1
Industrial District	I-1
Farmland Preservation District	A-1
Agricultural District	A-2
Floodplain District	FP-1

- B. The boundaries of the districts set forth above are shown upon the Official Zoning Map(s) on file in the office of the Town Clerk and upon the General Floodplain Overlay(s) on the Official Zoning Map(s) of Winnebago County on file in the office of the Winnebago County Zoning Administrator, which said map(s) and overlay(s) are made a part of this chapter as if the map(s), overlay(s), notations, references, and other information shown upon them were all fully set forth herein.

### § 310-20. Rural Residential District R-1.

[Added 2-16-2017 by Ord. No. 2017-01<sup>[1]</sup>]

In the Future Land Use Plan, the agriculture, vacant/undeveloped future land use category includes developed and possibly some future residential lots created by the CSM (Certified Survey Map) process, but shall not include subdivisions created through the platting process covered in the subdivision ordinance Chapter **275**, beginning at Article **IV**. The Residential District R-1 is intended to provide a quiet, pleasant and relatively spacious living area, protected from traffic hazards and the intrusion of incompatible land uses. Basic district standards are designed to provide reliable single-family home sites where all other uses, facilities, and services are of secondary significance to the location of the home site and living area itself.

- A. Use regulations. In the Residential District R-1, no building or land shall be used and no building shall be erected or structurally altered unless otherwise provided in this chapter, except for the following uses:
- (1) One-family dwellings (but no mobile homes).
  - (2) One-family dwellings with rooms for up to two paying guests (but no mobile homes).
  - (3) Accessory buildings, including one private garage.
  - (4) Fences are permitted on or near property lines in this district. All fences must comply with the minimum requirements for fences set forth in Ch. 90, Wis. Stats. No fence shall exceed six feet in height.
- B. Height regulations. In the Residential District R-1, no building shall be erected or structurally altered to exceed 35 feet or 2 1/2 stories in height. Accessory buildings shall not exceed 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.
- C. Area regulations.
- (1) Front yards. The front yard depth dimension shall also be defined as the front yard setback. On every lot in the Residential District there shall be an open and unobstructed front yard having a depth of not less than 75 feet, except as follows:
    - (a) Where lots comprising 40% or more of the frontage adjoining any undeveloped lot within 500 feet in either direction are already developed with buildings having an average front yard depth with a variation of not more than six feet from such average, no building on the undeveloped lot shall project beyond the average front yard line so established, provided that this regulation shall not require a front yard depth of more than 75 feet in any case.
    - (b) No front yard need exceed the greater depth of already developed adjoining buildings, one on either side thereof, if such two adjoining buildings are less than 200 feet apart.
    - (c) Properties having access from a private road shall add an additional 33 feet to the front yard setback as measured from the center of the private road.
  - (2) Side yards. On every lot in the Residential District there shall be two side yards, one on each side of the building, and neither of such side yards shall be less than 10 feet in width. The side yard depth dimension shall also be defined as the side yard setback.
  - (3) Corner lots. Every corner lot in the Residential District shall have a width sufficient to provide a building setback of at least 75 feet from each street right-of-way line.
  - (4) Rear yards. The rear yard depth dimension shall also be defined as the rear yard setback.
    - (a) On every lot in the Residential District there shall be a rear yard having a depth of not less than 25 feet if the lot is served by a public sewer utility and not less than 50 feet if there is no sewer service for said lot, except as follows:
      - [1] Where lots comprising 40% or more of the frontage adjoining any undeveloped lot within 500 feet in either direction are already developed with buildings having an average rear depth with a variation of not more than six feet from such average, no building on the undeveloped lot shall project beyond the average rear yard line so established, provided that this regulation shall not require a rear yard depth of more than 25 feet for sewered lots or 50 feet for unsewered lots.
      - [2] No rear yard need exceed the greater depth of already developed adjoining buildings, one on either side thereof, if such two adjoining buildings are less than 200 feet apart.
    - (b) Rear yards permitted under these exceptions shall be established and certified by the Building Inspector.

- (5) On every lot abutting on any shoreline, there shall be an open and unobstructed front, side or rear yard, as the case may be, having a depth of not less than 75 feet measured from the ordinary high water mark.
  - (6) Every lot in the Residential District shall have a minimum frontage of 85 feet if the lot is served by a public sewer utility and 200 feet if there is no public sewer service for said lot, except as follows:
    - (a) No undeveloped lot between two developed lots along the same street or road shall be required to have a minimum frontage greater than either of such adjoining lots.
  - (7) Every lot in the Residential District shall have a minimum area of 12,000 square feet if the lot is served by a public sewer utility and 43,000 square feet if there is no public sewer service for said lot, except as follows:
    - (a) No undeveloped lot between two developed lots along the same street or road shall be required to have a minimum area greater than either of such adjoining lots.
  - (8) The maximum lot area in the residential area is 4.99 acres
  - (9) Accessory buildings may not project forward or beyond the required setbacks of the main building.
- D. Off-street parking requirements.
- (1) Spaces required for the one-family dwelling shall be one space per family.
  - (2) Spaces required for the one-family dwelling with paying guests shall be one space per family and one space for each paying guest.
- E. Conditional uses. Upon application duly approved and after public hearing, the following uses will be granted subject to consideration of adequate parking provisions, together with the traffic problems they may generate and their compatibility with the existing neighborhood:
- (1) Churches and convents.
  - (2) Hospitals, clinics and professional offices, other than correctional and mental institutions, and veterinary offices, clinics and hospitals.
  - (3) Schools and colleges, public, parochial and private.
  - (4) Museums, libraries, parks, playgrounds or community centers not conducted for profit.
  - (5) Uses customarily incidental to the above uses. Home occupations are permitted as conditional uses, provided that such uses are situated within the main or accessory buildings. Incidental services, such as all utility systems in compliance with Ch. 281, Wis. Stats., are permitted.
  - (6) Greenhouses.
  - (7) Professional or announcement unlighted signs not over one square foot in area, except that public and quasipublic institutions may have for their own use an announcements sign or bulletin board not over eight square feet in area and unlighted pertaining to the lease, hire, or sale of a building or premises, provided that no other advertising sign of any character shall be permitted in the Residential District, and provided further that all permitted signs shall be located within the lot lines and at least 15 feet from the lot line.
- F. Conformance with provisions. The Residential District R-1 shall conform as follows:
- (1) All dwellings erected, reconstructed, or structurally altered in this district shall comply with the State of Wisconsin Uniform Dwelling Code.
  - (2) All principal and conditional uses authorized for the Residential District R-1 must comply with the Winnebago County Sanitary Ordinance and setback standards of Ch. COMM 83, Wis.

## Adm. Code.

- (3) If mobile homes exist as nonconforming uses, they must conform to Ch. COMM 85, Wis. Adm. Code, if there is no public sewer service for said lot. Mobile homes must pay also fees authorized and required under § 66.0435(3)(c), Wis. Stats., and conform to the basic district standards of the Mobile Home District.

[1] *Editor's Note: This ordinance also provided for the redesignation of former §§ 310-20 through 310-57 as §§ 310-21 through 310-58, respectively.*

## § 310-21. Residential District R-1A.

[Amended 2-15-1996]

The Residential District R-1A is intended to provide a quiet, pleasant and relatively spacious living area, protected from traffic hazards and the intrusion of incompatible land uses. Basic district standards are designed to provide reliable single-family home sites where all other uses, facilities, and services are of secondary significance to the location of the home site and living area itself.

- A. Use regulations. In the Residential District R-1A, no building or land shall be used and no building shall be erected or structurally altered unless otherwise provided in this chapter, except for the following uses:
- (1) One-family dwellings (but no mobile homes).
  - (2) One-family dwellings with rooms for up to two paying guests (but no mobile homes).
  - (3) Accessory buildings, including one private garage.
  - (4) Fences are permitted on or near property lines in this district. All fences must comply with the minimum requirements for fences set forth in Ch. 90, Wis. Stats. No fence shall exceed six feet in height.
- B. Height regulations. In the Residential District R-1A, no building shall be erected or structurally altered to exceed 35 feet or 2 1/2 stories in height. Accessory buildings shall not exceed 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.

[Amended 6-17-2004]

C. Area regulations.

- (1) Front yards. The front yard depth dimension shall also be defined as the front yard setback. On every lot in the Residential District there shall be an open and unobstructed front yard having a depth of not less than 75 feet, except as follows:

[Amended 10-16-2014]

- (a) Where lots comprising 40% or more of the frontage adjoining any undeveloped lot within 500 feet in either direction are already developed with buildings having an average front yard depth with a variation of not more than six feet from such average, no building on the undeveloped lot shall project beyond the average front yard line so established, provided that this regulation shall not require a front yard depth of more than 75 feet in any case.
  - (b) No front yard need exceed the greater depth of already developed adjoining buildings, one on either side thereof, if such two adjoining buildings are less than 200 feet apart.
  - (c) Properties having access from a private road shall add an additional 33 feet to the front yard setback as measured from the center of the private road.
- (2) Side yards. On every lot in the Residential District there shall be two side yards, one on each side of the building, and neither of such side yards shall be less than 10 feet in width. The side yard depth dimension shall also be defined as the side yard setback.

[Amended 10-16-2014]



- (3) Corner lots. Every corner lot in the Residential District shall have a width sufficient to provide a building setback of at least 75 feet from each street right-of-way line.  
[Amended 10-16-2014]
  - (4) Rear yards. The rear yard depth dimension shall also be defined as the rear yard setback.  
[Amended 10-16-2014]
    - (a) On every lot in the Residential District there shall be a rear yard having a depth of not less than 25 feet if the lot is served by a public sewer utility and not less than 50 feet if there is no sewer service for said lot, except as follows:
      - [1] Where lots comprising 40% or more of the frontage adjoining any undeveloped lot within 500 feet in either direction are already developed with buildings having an average rear depth with a variation of not more than six feet from such average, no building on the undeveloped lot shall project beyond the average rear yard line so established, provided that this regulation shall not require a rear yard depth of more than 25 feet for sewer lots or 50 feet for unsewered lots.
      - [2] No rear yard need exceed the greater depth of already developed adjoining buildings, one on either side thereof, if such two adjoining buildings are less than 200 feet apart.
    - (b) Rear yards permitted under these exceptions shall be established and certified by the Building Inspector.
  - (5) On every lot abutting on any shoreline, there shall be an open and unobstructed front, side or rear yard, as the case may be, having a depth of not less than 75 feet measured from the ordinary high water mark.  
[Amended 10-16-2014]
  - (6) Every lot in the Residential District shall have a minimum frontage of 85 feet if the lot is served by a public sewer utility and 200 feet if there is no public sewer service for said lot, except as follows:
    - (a) No undeveloped lot between two developed lots along the same street or road shall be required to have a minimum frontage greater than either of such adjoining lots.
  - (7) Every lot in the Residential District shall have a minimum area of 12,000 square feet if the lot is served by a public sewer utility and 43,000 square feet if there is no public sewer service for said lot, except as follows:
    - (a) No undeveloped lot between two developed lots along the same street or road shall be required to have a minimum area greater than either of such adjoining lots.
  - (8) Accessory buildings may not project forward or beyond the required setbacks of the main building.
- D. Off-street parking requirements.
- (1) Spaces required for the one-family dwelling shall be one space per family.
  - (2) Spaces required for the one-family dwelling with paying guests shall be one space per family and one space for each paying guest.
- E. Conditional uses. Upon application duly approved and after public hearing, the following uses will be granted subject to consideration of adequate parking provisions, together with the traffic problems they may generate and their compatibility with the existing neighborhood:
- (1) Churches and convents.
  - (2) Hospitals, clinics and professional offices, other than correctional and mental institutions, and veterinary offices, clinics and hospitals.
  - (3) Schools and colleges, public, parochial and private.

- (4) Museums, libraries, parks, playgrounds or community centers not conducted for profit.
  - (5) Uses customarily incidental to the above uses. Home occupations are permitted as conditional uses, provided that such uses are situated within the main or accessory buildings. Incidental services, such as all utility systems in compliance with Ch. 281, Wis. Stats., are permitted.
  - (6) Greenhouses.
  - (7) Professional or announcement unlighted signs not over one square foot in area, except that public and quasi-public institutions may have for their own use an announcements sign or bulletin board not over eight square feet in area and unlighted pertaining to the lease, hire, or sale of a building or premises, provided that no other advertising sign of any character shall be permitted in the Residential District, and provided further that all permitted signs shall be located within the lot lines and at least 15 feet from the lot line.
- F. Conformance with provisions. The Residential District R-1A shall conform as follows:
- (1) All dwellings erected, reconstructed, or structurally altered in this district shall comply with the State of Wisconsin Uniform Dwelling Code.
  - (2) All principal and conditional uses authorized for the Residential District R-1A must comply with the Winnebago County Sanitary Ordinance and setback standards of Ch. COMM 83, Wis. Adm. Code.
  - (3) If mobile homes exist as nonconforming uses, they must conform to Ch. COMM 85, Wis. Adm. Code, if there is no public sewer service for said lot. Mobile homes must pay also fees authorized and required under § 66.0435(3)(c), Wis. Stats., and conform to the basic district standards of the Mobile Home District.

## § 310-22. Residential District R-1A-1.

[Added 2-15-1996]

The Residential District R-1A-1 is intended to provide a quiet, pleasant, and more dense living area than the R-1A District, in subdivided area only, protected from traffic hazards and incompatible land uses. Basic district standards are designed to provide reliable single-family home sites where all other uses, facilities, and services are of secondary significance to the location of the home site and living area itself.

- A. Use regulations. In the Residential District R-1A-1, no building or land shall be used and no building shall be erected or structurally altered unless otherwise provided in this chapter, except for the following uses:
- (1) One-family dwellings (but no mobile homes).
  - (2) Accessory buildings, including one private garage.
  - (3) Fences are permitted on or near property lines in this district. All fences must comply with the minimum requirements for fences set forth in Ch. 90, Wis. Stats. No fence shall exceed six feet in height.
- B. Height regulations. In the Residential District R-1A-1, no building shall be erected or structurally altered to exceed 35 feet or 2 1/2 stories in height. Accessory buildings shall not exceed 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.  
[Amended 6-17-2004]
- C. Area regulations.
- (1) Front yards. The front yard depth dimension shall also be defined as the front yard setback. On every lot in this Residential District there shall be an open and unobstructed front yard having a

depth of not less than 30 feet, except as follows:

[Amended 10-16-2014]

- (a) Where lots comprising 40% or more of the frontage adjoining any undeveloped lot within 500 feet in either direction are already developed with buildings having an average front yard depth with a variation of not more than six feet from such average, no building on the undeveloped lot shall project beyond the average front yard line so established, provided that this regulation shall not require a front yard depth of more than 30 feet in any case.
  - (b) No front yard need exceed the greater depth of already developed adjoining buildings, one on either side thereof, if such two adjoining buildings are less than 200 feet apart.
  - (c) Properties having access from a private road shall add an additional 33 feet to the front yard setback as measured from the center of the private road.
- (2) Side yards. On every lot in this Residential District there shall be two side yards, one on each side of the building, and neither of such side yards shall be less than 10 feet in width. The side yard depth dimension shall also be defined as the side yard setback.  
[Amended 10-16-2014]
- (3) Corner lots. Every corner lot in this Residential District shall have a width sufficient to provide a building setback of at least 30 feet from each street right-of-way line.  
[Amended 10-16-2014]
- (4) Rear yards. The rear yard depth dimension shall also be defined as the rear yard setback.  
[Amended 10-16-2014]
- (a) On every lot in this Residential District there shall be a rear yard having a depth of not less than 25 feet if the lot is served by a public sewer utility and not less than 50 feet if there is no sewer service for said lot, except as follows:
    - [1] Where lots comprising 40% or more of the frontage adjoining any undeveloped lot within 500 feet in either direction are already developed with buildings having an average rear depth with a variation of not more than six feet from such average, no building on the undeveloped lot shall project beyond the average rear yard line so established, provided that this regulation shall not require a rear yard depth of more than 25 feet for sewered lots or 50 feet for unsewered lots.
    - [2] No rear yard need exceed the greater depth of already developed adjoining buildings, one on either side thereof, if such two adjoining buildings are less than 200 feet apart.
  - (b) Rear yards permitted under these exceptions shall be established and certified by the Building Inspector.
- (5) Frontage. Every lot in the Residential District shall have a minimum frontage of 100 feet at the building setback line, regardless of whether or not public sewer is available to the lot, except as follows:
- (a) No undeveloped lot between two developed lots along the same street or road shall be required to have a minimum frontage greater than either of such adjoining lots.
- (6) Area. Every lot in this Residential District shall have a minimum area of 21,000 square feet, regardless of whether or not public sewer service is available to the lot, except as follows:
- (a) No undeveloped lot between two developed lots along the same street or road shall be required to have a minimum area greater than either of such adjoining lots.
- (7) Accessory buildings may not project forward or beyond the required setbacks of the main building.

D. Off street parking requirements. Two spaces shall be required for the one-family dwelling.

- E. Conditional uses. Upon application duly approved and after public hearing, the following uses will be granted subject to consideration of adequate parking provisions, together with the traffic problems they may generate and their compatibility with the existing neighborhood:
- (1) Churches and convents.
  - (2) Incidental services, such as all utility systems in compliance with Ch. 281, Wis. Stats., are permitted.
- F. Conformance with provisions. The Residential District R-1A-1 shall conform as follows:
- (1) All dwellings erected, reconstructed, or structurally altered in this district shall comply with the State of Wisconsin Uniform Dwelling Code.
  - (2) All principal and conditional uses authorized for the Residential District R-1A-1 must comply with the Winnebago County Sanitary Ordinance and setback standards of Ch. COMM 83, Wis. Adm. Code.
  - (3) If mobile homes exist as nonconforming uses, they must conform to Ch. COMM 85, Wis. Adm. Code, if there is no public sewer service for said lot. Mobile homes must pay also fees authorized and required under § 66.0435(3)(c), Wis. Stats., and conform to the basic district standards of the Mobile Home District.

## § 310-23. Residential District R-2A.

The Residential District R-2A is intended to provide a living area which is pleasant but not as spacious as District R-1A.

- A. Use regulations. In the Residential District R-2A, no building or land shall be used and no building shall be erected or structurally altered unless otherwise provided in this chapter, except for the following uses:
- (1) Any use permitted in Residential District R-1A.
  - (2) Two-family dwellings.
  - (3) Accessory buildings, the use of which is customarily incident to any of the above uses and located on the same lot.
  - (4) Fences are permitted on or near property lines in this district. All fences must comply with the minimum requirements for fences set forth in Ch. 90, Wis. Stats. No fence shall exceed six feet in height.
- B. Height and area regulations. In the Residential District R-2A, no building shall be erected or structurally altered to exceed 35 feet or 2 1/2 stories in height. Accessory buildings shall not exceed 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.  
[Amended 6-17-2004]
- (1) Front yards. The front yard depth dimension shall also be defined as the front yard setback. On every lot in the Residential District there shall be an open and unobstructed front yard having a depth of not less than 75 feet, except as follows:  
[Amended 10-16-2014]
    - (a) Where lots comprising 40% or more of the frontage adjoining any undeveloped lot within 500 feet in either direction are already developed with buildings having an average front yard depth with a variation of not more than six feet from such average, no building on the undeveloped lot shall project beyond the average front yard line so established, provided that this regulation shall not require front yard depth of more than 75 feet in any case.

- (b) No front yard need exceed the greater depth of already developed adjoining buildings, one on either side thereof, if such two adjoining buildings are less than 200 feet apart.
  - (c) Properties having access from a private road shall add an additional 33 feet to the front yard setback as measured from the center of the private road.
- (2) Side yards. On every lot in the Residential District there shall be two side yards, one on each side of the building, and neither of such side yards shall be less than 10 feet in width. The side yard depth dimension shall also be defined as the side yard setback.  
[Amended 10-16-2014]
  - (3) Corner lots. Every corner lot in the Residential District shall have a width sufficient to provide a building setback of at least 75 feet from each street right-of-way line.  
[Amended 10-16-2014]
  - (4) Rear yards. The rear yard depth dimension shall also be defined as the rear yard setback.  
[Amended 10-16-2014]
    - (a) On every lot in the Residential District there shall be a rear yard having a depth of not less than 25 feet if the lot is served by a public sewer utility and not less than 50 feet if there is no public sewer service for said lot, except as follows:
      - [1] Where lots comprising 40% or more of the frontage adjoining any undeveloped lot within 500 feet in either direction are already developed with buildings having an average rear yard depth with a variation of not more than six feet from such average, no building on the undeveloped lot shall project beyond the average rear yard line so established, provided that this regulation shall not require a rear yard depth of more than 25 feet for sewered lots or 50 feet for unsewered lots.
      - [2] No rear yard need exceed the greater depth of already developed adjoining buildings, one on either side thereof, if such two adjoining buildings are less than 200 feet apart.
    - (b) Rear yards permitted under these exceptions shall be established and certified by the Building Inspector.
  - (5) On every lot abutting on any shoreline, there shall be an open and unobstructed front, side, or rear yard, as the case may be, having a depth of not less than 75 feet measured from the ordinary high water mark.  
[Amended 10-16-2014]
  - (6) Every lot in the Residential District shall have a minimum frontage of 85 feet if the lot is served by a public sewer utility and 200 feet if there is no public sewer service for said lot, except as follows:
    - (a) No undeveloped lot between two developed lots along the same street or road shall be required to have a minimum frontage greater than either of such adjoining lots.
  - (7) Every lot in the Residential District shall have a minimum area of 12,000 square feet if the lot is served by a public sewer utility and 43,000 square feet if there is no public sewer service for said lot, except as follows:
    - (a) No undeveloped lot between two developed lots along the same street or road shall be required to have a minimum area greater than either of such adjoining lots.
  - (8) Accessory buildings may not project forward or beyond the required setbacks of the main building.
- C. Off street parking requirements. Spaces required for one-family and two-family dwellings shall be one space per family, and if paying guests are accommodated, one additional space is required for each paying guest.

- D. Conditional uses. Upon application duly approved and after public hearing, the following uses will be granted subject to consideration of adequate parking provisions, together with the traffic problems they may generate and their compatibility with the existing neighborhood:
- (1) Any conditional use allowable in Residential District R-1A.
  - (2) Charitable institutions, rest homes, nonprofit clubs and lodges which may have for their own use an unlighted sign or bulletin board not over eight square feet in area, provided that all permitted signs shall be located within the lot lines and at least 10 feet inside lot lines.
  - (3) Rooms for more than four paying guests.
- E. Conformance with provisions. The Residential District R-2A shall conform as follows:
- (1) All dwellings erected, reconstructed, or structurally altered in this district shall comply with the State of Wisconsin Uniform Dwelling Code.
  - (2) All principal and conditional uses authorized for the Residential District (R-2A) must comply with the Winnebago County Sanitary Ordinance and setback standards of Ch. COMM 83, Wis. Adm. Code.
  - (3) If mobile homes exist as nonconforming uses, they must conform to Ch. COMM 85, Wis. Adm. Code, if there is no public sewer service for said lot. Mobile homes must pay all fees authorized and required under § 66.0435(3)(c), Wis. Stats., and conform to the basic district standards of the Mobile Home District.

## § 310-24. Residential District R-3A.

The Residential District R-3A is intended to provide a living area which is pleasant and includes multiple housing but retaining a relatively low density pattern. All lots in this district must be served by a public sewer utility.

- A. Use regulations. In the Residential District R-3A, no building or land shall be used and no building shall be erected or structurally altered unless otherwise provided in this chapter, except for the following uses:
- (1) Any use permitted in Residential District R-2A.
  - (2) Multiple-family dwellings.
  - (3) Accessory buildings, the use of which is customarily incident to any of the above uses and located on the same lot.
  - (4) Fences are permitted on or near property lines in this district. All fences must comply with the minimum requirements for fences set forth in Ch. 90, Wis. Stats. No fence shall exceed six feet in height.
- B. Height and area regulations. In the Residential District R-3A, no building shall be erected or structurally altered to exceed 35 feet or 2 1/2 stories in height. Accessory buildings shall not exceed 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.  
[Amended 6-17-2004]
- (1) Front yards. The front yard depth dimension shall also be defined as the front yard setback. On every lot in the Residential District there shall be an open and unobstructed front yard having a depth of not less than 75 feet, except as follows:  
[Amended 10-16-2014]
    - (a) Where lots comprising 40% or more of the frontage adjoining any undeveloped lot within 500 feet in either direction are already developed with buildings having an average front

yard depth with a variation of not more than six feet from such average, no building on the undeveloped lot shall project beyond the average front yard line so established, provided that this regulation shall not require a front yard depth of more than 75 feet in any case.

- (b) No front yard need exceed the greater depth of already developed adjoining buildings, one on either side thereof, if such two adjoining buildings are less than 200 feet apart.
  - (c) Properties having access from a private road shall add an additional 33 feet to the front yard setback as measured from the center of the private road.
- (2) Side yards. On every lot in this district there shall be two side yards, one on each side of the building, and neither of such side yards shall be less than 20 feet in width. The side yard depth dimension shall also be defined as the side yard setback.  
[Amended 10-16-2014]
- (3) Corner lots. Every corner lot in this district shall have a width sufficient to provide a building setback of at least 75 feet from each street right-of-way line.  
[Amended 10-16-2014]
- (4) Rear yards. The rear yard depth dimension shall also be defined as the rear yard setback.  
[Amended 10-16-2014]
- (a) On every lot in the Residential District there shall be a rear yard having a depth of not less than 50 feet, except as follows:
    - [1] Where lots comprising 40% or more of the frontage adjoining any undeveloped lot within 500 feet in either direction are already developed with buildings having an average rear yard depth with a variation of not more than six feet from such average, no building on the undeveloped lot shall project beyond the average rear yard line so established, provided that this regulation shall not require a rear yard depth of more than 50 feet.
    - [2] No rear yard need exceed the greater depth of already developed adjoining buildings, one on either side thereof, if such two adjoining buildings are less than 200 feet apart.
  - (b) Rear yards permitted under these exceptions shall be established and certified by the Building Inspector.
- (5) On every lot abutting on any shoreline, there shall be an open and unobstructed front, side, or rear yard, as the case may be, having a depth of not less than 75 feet measured from the ordinary high water mark.  
[Amended 10-16-2014]
- (6) Every lot in this district shall have a minimum frontage of 120 feet, except as follows:
- (a) No undeveloped lot between two developed lots along the same street or road shall be required to have a minimum frontage greater than either of such adjoining lots.
- (7) Every lot in the Residential District shall have a minimum area of 15,000 square feet plus a minimum of 1,500 additional square feet for each housing unit over four such family units. In addition, there must be a minimum open space of 500 square feet per unit for each lot in this district.
- (8) Accessory buildings may not project forward or beyond the required setbacks of the main building.
- C. Off street parking requirements. Off-street parking requirements shall be the same as in Residential District R-2A, and in addition, multiple dwellings shall provide one parking space for each studio apartment and two parking spaces for each family unit. In places of public gathering within this district, one parking space shall be required for each five seats available for public use.
- D. Conditional uses. The following uses are conditional:

- (1) Any conditional use allowable in Residential District R-2A.
- (2) Funeral homes, provided that structures are residential in appearance and located not less than 75 feet from any lot line and adequate off-street parking spaces are provided.
- (3) School dormitories, and sororities and fraternities which provide sleeping quarters.

E. Conformance with provisions. The Residential District R-3A shall conform as follows:

- (1) All dwellings erected, reconstructed, or structurally altered in this district shall comply with the State of Wisconsin Uniform Dwelling Code.
- (2) All principal and conditional uses authorized for the R-3A District must comply with the Winnebago County Sanitary Ordinance and setback standards of Ch. COMM 83, Wis. Adm. Code.
- (3) If mobile homes exist as nonconforming uses, they must conform to Ch. COMM 85, Wis. Adm. Code, if there is no public sewer service for said lot. Mobile homes must pay all fees authorized and required under § 66.0435(3)(c), Wis. Stats., and conform to the basic district standards of the Mobile Home District.

## § 310-25. Planned Residential District (Sewered) R-4A.

The Planned Residential District is intended to provide for large-scale development of land with uses as permitted in residential districts and called "planned development." This district shall have no definite and measurable boundaries until such are approved by the Town Board on the recommendation of the Town Plan Commission, in accordance with procedures prescribed for zoning amendments by § 62.23, Wis. Stats. The development will constitute a reasonable extension of the living areas in the Town and will be compatible with surrounding uses. Plans for the proposed development shall be submitted in duplicate, shall include drawings to scale, and shall show the total land area in square feet, the total percentage of land area covered by structures, and the total number of dwelling units in addition to the location, size and proposed use of all structures and land included in the area involved. All lots in this district must be served by a public sewer utility.

- A. Use regulations. The plans may provide for a combination of single-family and multifamily dwellings and associated uses and for other combinations of uses permitted in residential districts, including schools and educational facilities. All dwellings erected, reconstructed, or structurally altered in this district shall comply with the State of Wisconsin Uniform Dwelling Code.
- B. Height and area regulations.
  - (1) A single area of at least six acres must be provided for the planned residential district.
  - (2) Within the planned residential district, minimum lot sizes and yards and maximum height requirements of the zoning district in which the proposed development is located may be modified, except that minimum yards and maximum heights corresponding to the adjacent districts shall be provided around the boundaries of the district.
  - (3) The total area of the development shall provide a minimum of 7,000 square feet for each single-family unit, plus the lot area requirements of the Residential District R-1A for all other residential units included in the development.
  - (4) The total percentage of lot coverage by all structures in the development shall not exceed 30%.
- C. Conformance with provisions. The Planned Residential District shall conform to:
  - (1) The provisions of Ch. 236, Wis. Stats.
  - (2) All applicable ordinances of the Town not specifically waived by the Town Plan Commission, including subdivision requirements for street standards and street improvements, subdivision



utility improvements, off-street parking requirements and parking area improvements for the Residential District R-1A, and mobile home regulations.

- (3) The State of Wisconsin Uniform Dwelling Code.
- (4) The rules of the State Department of Transportation relating to safety of access and the preservation of the public interest and investments in the street, if the development of any lot contained therein abuts on a state trunk highway or connecting street.

## § 310-26. Mobile Home District MH-1.

The Mobile Home District MH-1 is intended to provide areas exclusive for residential use of mobile homes on individual lots or as part of a mobile home subdivision or park in developing areas, sewered or unsewered.

- A. Use regulations. In the Mobile Home District MH-1, no building or land shall be used and no building shall be erected or structurally altered unless otherwise provided in this chapter except for the following uses:
  - (1) Single-family mobile homes for residential use and accessory buildings.
  - (2) Two or more mobile homes for residential use and accessory buildings.
  - (3) Where lots are developed as a mobile home subdivision or park, offices, toilets, bathing, clothes washing, and recreation utilities, and other similar services for residents of the subdivision or park.
- B. Conditional uses. Upon application duly approved and after public hearing, the following uses will be granted, subject to consideration of adequate parking provisions and their compatibility with the neighborhood:
  - (1) All conditional uses specified in Residential District R-1A.
- C. Basic district standards. For lots developed as single-family mobile home sites, all front yards, side yards, rear yards, shoreline yards, and minimum lot frontage and area shall comply with the minimum requirements set forth in Residential District R-1A.
  - (1) No mobile home or building shall exceed one story or 15 feet in height.
  - (2) All parcels developed as mobile home parks or mobile home subdivisions must submit application and plans, pursuant to § 66.0435(5), Wis. Stats., to the Town Plan Commission, in duplicate, to include drawings to scale showing total land area in square feet and the percentage of land area covered by structures, designating their location, size, and proposed use. Minimum requirements are as follows: each mobile home shall be located on a lot of not less than 5,000 square feet with a minimum lot width of 50 feet. Mobile home park license fees are set by the Town Board.  
[Amended 4-21-2005]

[1] *Editor's Note: See also Ch. 210, Mobile Home Parks and Trailer Camps.*

## § 310-27. Commercial District C-1.

- A. Use regulations. The Commercial District is designed to accommodate those retail and customer service establishments which are characteristic of a light commercial nature with a restriction that there be no more than one business to each specified lot in the Commercial District. In the Commercial District, no building or land shall be used and no building shall be erected or structurally altered unless otherwise provided in this chapter, except for the following uses:  
[Amended 3-19-2009]

Accessory uses incidental to and on the same zoning lot as the principal use

Antique shops

Art and school supply stores

Automobile accessory stores

Banks and financial institutions

Barbershops and beauty parlors

Bicycle sales, rental and repair stores

Book and stationary stores

Business machine sales and service

Camera and photographic supply stores

Carpet and rug stores (retail only)

China and glassware stores

Clothing stores

Dressmaking (custom)

Dry goods stores

Dwelling space for one family unit as part of a business, which shall provide the minimum usable floor area required in the Residential District R-3A and two parking spaces

Electrical and household appliance and service stores, including radio and television

Employment agencies

Florist shops

Furniture stores

Furrier shops

Garden supply stores

Gift shops

Hardware, paint and wallpaper stores

Hobby shops, including coins and stamps

Interior decorating shops

Jewelry stores

Leather goods and luggage stores

Medical and dental clinics, not including veterinary clinics

Medical supply stores

Music stores

Offices, business, organizational and professional, not including veterinarians

Office supply stores

Optical sales and service

Photographic studios

Picture framing

Plumbing and heating sales

Post offices

Sewing and needlecraft shops, including materials, patterns, instructions and machines

Shoe stores and shoe, clothing and hat repair

Tailor shops

Taxidermists

- B. Conditional uses. Any commercial use not expressly allowed in Subsection **A** is subject to a conditional use permit.
- (1) Upon completion and submittal of a duly approved application for a conditional use permit and preliminary site plan information (A formal site plan application is required before a building permit is issued.), and after public hearing, uses will be granted subject to consideration of: number of employees, hours of operation and projected number of occupants of the building or site; traffic safety, including adequate measures to provide ingress and egress designed to minimize traffic hazards in the public streets; adequate utilities, access roads, drainage and other necessary site improvements; compatibility with neighboring properties within 300 feet of site property lines; and any other factors deemed relevant by the Plan Commission.
  - (2) Information to be considered as part of the request for a conditional use permit shall include dimensional building elevations of all structures on the subject property; property boundaries and dimensions; location, footprint, outside dimensions, floor elevation and square footage and distance to property lines of all buildings, structures and freestanding signs; front, side and rear yard zoning setback lines; existing and proposed pedestrian and vehicular areas; location and dimensions of vehicle parking areas with the number of parking spaces labeled; location and dimensions of all existing and proposed easements; location and square footage of stormwater facilities; location and type of outdoor lighting fixtures; outside storage areas identified (dumpsters, inventory, trucks, recreational vehicles, etc.); location of wetlands/watercourses/floodplains and floodways and setbacks; and existing and proposed utility connections and easements.

Art galleries and museums

Building material and product sales excepting ready-mix concrete

Campgrounds

Churches and other religious institutions

Convention, meeting and exhibition halls

Farm implement and machinery sales and service

Feed and seed stores

Garden supply and nurseries

Gas stations

Golf courses, golf driving ranges, drive-in theaters and other commercial recreation excepting those which would be offensive by virtue of emission of smoke, noise, dust, vibration or odor

Libraries

Marine sales and service

Mobile home sales

Motor vehicle service stations

Parks

Physical culture and health services, gymnasiums, or baths

Schools, music, dance, business, commercial or trade

Shopping center: the petitioner shall submit a preliminary development plan for the shopping center showing a unified and organized arrangement of buildings, off-street parking, internal traffic circulation and service facilities which are feasible for the property on which the center is proposed and which plan shall minimize any adverse effect of the center on the properties surrounding the proposed development; the plan must contain information showing compliance with minimum yard requirements for this district around its boundaries

Veterinary offices, clinics and hospitals; pet shops

Warehouses

Wholesale establishments

Uses clearly similar in character to those listed

Uses customarily incident to any of the above uses and located on the same lot

- C. Accessory use. Residential quarters are permitted within the business structure, provided that the occupant is an owner, manager, or caretaker of the business.
- D. Height regulations. No building erected or structurally altered shall exceed 35 feet in height from the main elevation of the finished grade.
- E. Area regulations.
  - (1) Front yards. On every lot in the Commercial District there shall be an open and unobstructed front yard having a depth of not less than 50 feet. The front yard depth dimension shall also be defined as the front yard setback.  
[Amended 10-16-2014]
  - (2) Side yards. On every lot in the Commercial District there shall be two side yards, one on each side of the building, and neither of such side yards shall be less than 10 feet in width. The side yard depth dimension shall also be defined as the side yard setback.  
[Amended 10-16-2014]
  - (3) Corner lots. Every corner lot in the Commercial District shall have a width sufficient to provide a building setback of at least 50 feet from each street right-of-way line.  
[Amended 10-16-2014]
  - (4) Rear yards. On every lot in the Commercial District there shall be a rear yard having a depth of not less than 25 feet if the lot is served by a public sewer utility and not less than 50 feet if there is no public sewer service for said lot. The rear yard depth dimension shall also be defined as the rear yard setback.  
[Amended 10-16-2014]
  - (5) On every lot abutting on any shoreline, there shall be an open and unobstructed front, side, or rear yard, as the case may be, having a depth of not less than 75 feet measured from the ordinary high water mark.  
[Amended 10-16-2014]
  - (6) Every lot in the Commercial District shall have a minimum frontage of 75 feet if the lot is served by a public sewer utility and 100 feet if there is no public sewer service for said lot.
  - (7) Every lot in the Commercial District shall have a minimum area of 15,000 square feet if the lot is served by a public sewer utility and 30,000 square feet if there is no public sewer service for said lot.
- F. Off-street parking requirements. One parking space must be provided for each 200 square feet of floor space.
- G. Off-street loading requirements. Space must be provided for off-street loading of sufficient size so that no street, alley, or pathway is blocked.

## § 310-28. Industrial District I-1.

The Industrial District is intended to provide for industrial and manufacturing and warehouse uses in areas separated from other uses and to prevent the intrusion of incompatible uses within the district. The standards set forth herein are designed to minimize or eliminate possible environmental nuisances to adjacent commercial, business or residential districts.

- A. Use regulations. The following uses are permitted in the Industrial District:
  - (1) Any industrial use involving production, processing, cleaning, servicing, manufacturing, repair or storage of materials, goods or products and including wholesaling, warehousing, transportation and communication facilities, except those uses listed under conditional,

prohibited, and outdoor uses in this section, provided that such industrial use conforms to all of the performance standards set forth in this chapter.

- (2) Business and commercial uses that principally serve industrial needs and activities. Such uses shall comply with the performance standards.
  - (3) Institutional uses, including clinics, professional offices, churches, and schools.
- B. Conditional uses. The following uses are conditional. These uses may be permitted in the Industrial District in accordance with the procedures hereinafter outlined:
- (1) Manufacture, utilization and storage of explosives.
  - (2) Planned industrial districts, subdivisions or parks.
  - (3) Reduction or dumping of garbage, offal or dead animals complying with § 95.72, Wis. Stats.
  - (4) Stockyards and slaughterhouses.
  - (5) Uses requiring buildings or structures in excess of 60 feet in height above grade.
  - (6) Keeping and storage of anhydrous ammonia and other toxic matters.
  - (7) Migrant labor camps.
  - (8) Junkyards, including vehicle and machinery wrecking and storage, in compliance with Ch. 289, Wis. Stats.
- C. Outdoor uses. Manufacturing operations, utilization and storage of materials may be conducted outdoors, provided that such areas are kept neat and in an orderly fashion or screened from a public right-of-way. The outdoor storage of materials subject to becoming windburn (such as sand, gravel, coal, sulfur, etc.) shall not be permitted within 500 feet of other districts.
- D. Height regulations.
- (1) No building hereafter erected or structurally altered shall exceed 60 feet in height.
  - (2) Where any use in an industrial district joins another zoning district, no building shall exceed 35 feet in height, unless the yards required in the industrial district adjacent to the district boundary are increased one foot for each foot the building exceeds 35 feet.
- E. Area regulations.
- (1) Front yards. On every lot in the Industrial District, an open and unobstructed front yard of at least 10 feet shall be required, except for buildings facing collector streets or highways (as designated on the Zoning Map), which shall provide an open and unobstructed front yard of 35 feet in which no vehicles may be parked closer than 10 feet to the public right-of-way or highway; front yards shall be provided on each side abutting a public right-of-way. The front yard depth dimension shall also be defined as the front yard setback.  
[Amended 10-16-2014]
  - (2) Side and rear yards. Side and rear yards of no less than 10 feet shall be provided, except where an industry abuts another zoning district, in which case, side and rear yards which abut the district shall not be less than 25 feet. The side and rear yard depth dimension shall also be defined as the side yard setback and rear yard setback, respectively.  
[Amended 10-16-2014]
  - (3) Off-street loading requirements. Space shall be provided for off-street loading of sufficient size and capacity so that streets, alleys and pathways are not blocked.
  - (4) Off-street parking requirements. An off-street parking space shall be provided, with a minimum of one parking space for each four of the total number of employees on all shifts, plus one

space for each vehicle maintained or owned on the premises by the industrial use. Residential and institutional uses shall meet residential district parking requirements.

- F. Environmental performance standards. Hereinafter, all new uses, buildings and structures and all existing uses, buildings, and structures extended, enlarged or reconstructed with respect to such extended, enlarged or reconstructed portion or portions shall conform to the following standards:
- (1) Noise and vibration. The sound-pressure level and earth vibration of any activity or operation shall not cause a nuisance across lot lines in any adjoining districts. The Town shall determine the nuisance character of the noise and vibration.
  - (2) Smoke. For the purpose of determining the density or equivalent opacity of smoke, the Ringelmann Chart, as published by the United States Bureau of Mines in Circular No. 8333 (1967), or an accurate facsimile on file with the Building Inspector, shall be employed.
    - (a) In the Industrial District, the emission of smoke from any chimney, stack, vent, opening or combustion process shall not exceed Ringelmann No. 2; however, smoke in excess of Ringelmann No. 2, but not exceeding Ringelmann No. 3, is permitted for a total of eight minutes during any four-hour period.
    - (b) Particulate matter emission from all stacks or vents shall not exceed one pound per hour per acre of lot area.
    - (c) Particulate matter emissions from materials or products subject to becoming windborne shall be kept to a minimum by paving, oiling, wetting, or other means to render the surface wind-resistant. Such sources include storage piles of coal, sand, cinders, sulphur, etc., storage areas, yards, and roads.
  - (3) Toxic matter. The measurement of toxic matter shall be at ground level or habitable elevation and shall be the average of any twenty-four-hour sampling period. The release of any airborne toxic matter shall be governed by the quantities permitted in this subsection, which are listed in the current Threshold Limit Values adopted by the American Conference of Governmental Industrial Hygienists and kept on file by the Building Inspector. If a toxic substance is not contained in this listing, the applicant shall satisfy the Department of Safety and Professional Services that the proposed levels will be safe to the general population. Nowhere in the Industrial District shall the release of airborne toxic matter exceed 1/30 of the threshold limit value across lot lines.

[Amended 12-19-2019 by Ord. No. 2019-6]
  - (4) Flammable liquids and gases. The storage, utilization or manufacture of flammable liquids or gases shall be permitted in accordance with the Department of Safety and Professional Services code on flammable liquids.

[Amended 12-19-2019 by Ord. No. 2019-6]
  - (5) Detonable materials. Activities involving the storage, utilization or manufacture of materials or products in excess of five pounds which decompose by detonation shall be prohibited from the Industrial District. Such materials shall include, but not be limited to, all primary explosives, such as lead azide, lead styphnate, fulminates and tetracene; all high explosives, such as TNT, RDX, HMX, ETN, and picric acid; propellants and components thereof, such as dry nitrocellulose, black powder, boron hydrides, hydrazine and its derivatives; pyrotechnics and fireworks, such as magnesium powder, potassium chlorate and potassium nitrate; blasting explosives, such as dynamite and nitroglycerine; unstable organic compounds, such as acetylides, tetrazoles and ozonides; unstable oxidizing agents, such as perchloric acid, perchlorates, and hydrogen peroxide in concentrations greater than 35%; and nuclear fuels, fissionable materials and products, and reactor elements such as Uranium 235 and Plutonium 239.
  - (6) Glare and heat. In the Industrial District any operation producing intense glare or heat shall be performed within a completely enclosed building or in such a manner as not to create a public

nuisance or hazard along lot lines. Exposed sources of light shall be shielded so as not to create a nuisance across lot lines.

- (7) Definitions. Definitions of technical terms used in the environmental performance standards are listed by category, as follows:

- (a) Noise.

**SOUND-PRESSURE LEVEL**

The intensity of sound measured in decibels.

- (b) Smoke and particulate matter.

**PARTICULATE MATTER**

Material, other than water, which is suspended in or discharged into the atmosphere in a finely divided form as a liquid or solid.

**RINGELMANN NUMBER**

The shade of smoke as it appears on the standard Ringelmann Chart published by the United States Bureau of Mines.

**SMOKE**

Small gasborne particles, other than water, that form a visible plume in the air.

- (c) Toxic matter.

**THRESHOLD LIMIT VALUE**

The maximum allowable airborne concentration of toxic material, as established by the American Conference of Governmental Industrial Hygienists.

**TOXIC MATTER**

Materials which are capable of causing injury to living organisms by chemical means when present in relatively small amounts.

- (d) Detonable materials.

**DETONABLE MATERIALS**

Materials which decompose by detonation. Such materials include explosives, unstable compounds and fissionable materials.

- G. Compliance with performance standards required.

- (1) An application for a building permit or certificate of occupancy for a use, building or structure which requires compliance with performance standards shall have affixed to it the certification of the applicant or his duly authorized representative stating that the use, building or structure and the operation of the use thereof, or the use of the land when no building or structure is involved, complies or will comply with all provisions of this chapter pertaining to such performance standards.
- (2) The Building Inspector shall, upon receipt of such certification, approve and authorize the issuance of the building permit and certificate of occupancy, provided that there is compliance with all other relevant provisions of this chapter. Such issuance of a building permit and certificate of occupancy does not permit any future violation of any part of the performance standards required.

- H. Violation of performance standards. If in the opinion of the Building Inspector a violation of the performance standards has occurred, the Building Inspector shall send written notice of such violation to the owners of the property by certified mail. The owners shall have a reasonable length of time, as determined by the Building Inspector, to correct the violation. Where technical complexity or extraordinary expense makes it unreasonable for the Town to maintain the personnel or

equipment necessary to make the determination of the violation, the Town shall call in properly qualified experts to make the determination. If expert findings indicate a violation of the performance standards, the cost of the determination shall be assessed against the properties or persons responsible for the violation, in addition to the other penalties prescribed by this chapter. If no violation is found, the cost of the determination shall be paid entirely by the Town.

## § 310-29. Farmland Preservation District A-1.

The Farmland Preservation District A-1 is designed to accommodate agricultural uses permitted under the Farmland Preservation Act, Ch. 91, Wis. Stats., to the extent that property within the Town may qualify to enter into farmland preservation agreements.

- A. Use regulations. In the Farmland Preservation District A-1, no parcel of land in the Town of Winneconne can be eligible for zoning in this district unless it has 35 or more acres of contiguous land which is devoted primarily to agricultural use and produces gross farm profits sufficient to satisfy § 91.01(6), Wis. Stats. No building or land shall be used and no building shall be erected or structurally altered unless otherwise provided in this chapter, except for the following uses:
- (1) Beekeeping.
  - (2) Commercial feedlots.
  - (3) Dairying and egg production.
  - (4) Fish or fur farming.
  - (5) Floriculture.
  - (6) Forest and game management.
  - (7) Grazing.
  - (8) Livestock raising.
  - (9) One- and two-family farm dwellings which shall have minimum lot frontage and area for front yard, side yard, rear yard, shoreline yard, and corner parcels according to the minimum requirements set forth in Residential District R-1A and subject to limitations set forth as follows:
    - (a) Use of residence limited. The only residences allowed as permitted uses in this district are those to be occupied by a person who, or a family at least one member of which, earns a substantial part of his/her livelihood from farm operations on the parcel having Farmland Preservation District A-1 zoning, or is a parent or child of the operator of the farm.
  - (10) Orchards.
  - (11) Plant greenhouses and nurseries.
  - (12) Poultry raising.
  - (13) Raising of fruits, nuts and berries.
  - (14) Raising of grain, grass, mint and seed crops.
  - (15) Sod farming and vegetable raising.
  - (16) Any additional uses from time to time permitted under § 91.01, Wis. Stats., provided that such uses are exclusively for agricultural use.
- B. Accessory uses. The following uses are accessory uses in this district:
- (1) Fences. Security fences are permitted on the property line but shall not exceed 10 feet in height and shall be of an open type similar to woven wire or chain link fencing.



- (2) Signs. Directional signs shall be permitted according to this chapter.<sup>[1]</sup>  
 [1] *Editor's Note: See § 310-13H.*
- (3) Roadside stands. One roadside stand on any one farm shall be permitted, provided that it will be used only for the sale of the farm products raised on said farm.
- (4) Outbuildings.
- C. Height regulations. Residences shall not exceed limitations for Residential District R-1A requirements.
- D. Area regulations.  
 [Amended 10-16-2014]
- (1) Front yards. On every lot in the Farmland Preservation District there shall be an open and unobstructed front yard having a depth of not less than 75 feet. The front yard depth dimension shall also be defined as the front yard setback.
- (2) Side yards. On every lot in the Farmland Preservation District there shall be two side yards, one on each side of the building, and neither of such side yards shall be less than 20 feet in width. The side yard depth dimension shall also be defined as the side yard setback.
- (3) Corner lots. Every corner lot in the Farmland Preservation District shall have a width sufficient to provide a building setback of at least 75 feet from each street right-of-way line.
- (4) Rear yards. On every lot in the Farmland Preservation District there shall be a rear yard having a depth of not less than 20 feet. The rear yard depth dimension shall also be defined as the rear yard setback.
- (5) Shoreline lots. On every lot abutting on any shoreline, there shall be an open and unobstructed front, side, or rear yard, as the case may be, having a depth of not less than 75 feet measured from the ordinary high water mark.
- E. Conditional uses. Upon application duly approved and after public hearing, the following uses will be granted subject to consideration of adequate parking provisions, together with the traffic problems they may generate and their compatibility with the existing neighborhood:
- (1) Gas and electric utilities not requiring authorization under § 196.491(3), Wis. Stats.
- (2) Farm residences or structures which existed prior to the adoption of this chapter may be separated from a larger farm parcel but such separation shall not reduce the acreage to less than 35 acres of contiguous land.
- (3) Uses customarily incidental to the principal uses in this district, which must be agricultural-related, religious, other utilities, institutional or governmental uses which do not conflict with agricultural use and are found to be necessary in light of the alternative locations available for such uses.
- (4) Mobile homes which shall be occupied as an accessory use to the farm operation. The occupant must earn a substantial part of his/her livelihood from farm operations on the parcel. A mobile home may be parked and occupied on an operating farm for the farm operator, farm labor, or retired farm parents. Only one such mobile home shall be permitted per operating farm, provided that:
- (a) The farm operator shall agree in writing that discontinuance of the mobile home occupancy as the specified accessory use will necessitate removal of the mobile home.
- (b) The conditional use shall be renewed every year.
- F. Conformance with provisions. The Farmland Preservation District A-1 shall conform as follows:

- (1) All dwellings erected, reconstructed or structurally altered in this district shall comply with the State of Wisconsin Uniform Dwelling Code.
  - (2) All principal and conditional uses authorized for the Farmland Preservation District A-1 must comply with the Winnebago County Sanitary Ordinance and setback standards of Ch. COMM 83, Wis. Adm. Code.
  - (3) If mobile homes exist as nonconforming uses, they must conform to Ch. COMM 85, Wis. Adm. Code, if there is no public sewer service for said lot. Mobile homes must pay all fees authorized and required under § 66.435(3)(c), Wis. Stats., and conform to the basic district standards of the Mobile Home District.  
[Amended 4-21-2005]
- G. Revisions limited. The provisions of this Farmland Preservation District A-1 may not be revised except as provided in §§ 91.75(5) and 91.77, Wis. Stats., and upon due notice to the Wisconsin Department of Agriculture, Trade and Consumer Protection.

## § 310-30. Agricultural District A-2.

The Agricultural District A-2 is provided to conserve good farming areas and compatible public or private uses and to prevent the uneconomic and uncontrolled spread of residential development outside the available residential districts which might result in excessive cost to the Town for premature provision of essential public improvements and services, such as sewer, water and utility lines.

- A. Principal uses. In the Agricultural District A-2, no building shall hereafter be erected or structurally changed or altered unless otherwise provided in this chapter, except for the following principal uses and in accordance with acreage limitations, if any, hereinafter specified.

### Beekeeping

- \*Commercial feedlots
- \*Dairying and egg production
- \*Farm equipment sales and/or service
- \*Fish, fur or game farming
- \*Fish ponds and wildlife areas

### Floriculture

Forest and \*game management

\*Grain elevators

\*Grazing

In-season roadside stands for the sale of farm products produced on the premises and up to 2 un-lighted signs not larger than 8 square feet each advertising such sale

\*Livestock raising

Orchards

\*Paddocks

\*Pasturage

Plant greenhouses and nurseries

\*Poultry raising

\*Raising and keeping of stable animals

Raising of fruits, nuts, and berries

Raising of grain, grass, mint, and seed crops and the harvesting and storage thereof

Residences, if surrounded by an open lot area of at least 1 acre; residences in this district shall have minimum lot frontage and area for front yards, side yards, rear yards, shoreline yards, and

corner parcels according to the minimum requirements set forth in the Residential District R-1A

Sod farming and vegetable raising

Veterinary offices or animal hospitals

Viticulture

\*These principal uses are not permitted on parcels of 5 acres or less.

B. Conditional uses. Upon application duly approved and after public hearing, the following uses will be granted:

- (1) Airports, airstrips and landing fields, in compliance with Ch. 114, Wis. Stats., and all FAA regulations.
- (2) Amusement parks, ballparks, golf courses, and driving ranges.
- (3) Cheese factories.
- (4) Creameries and milk condenseries.
- (5) Gas and electric utilities not requiring authorization under § 196.491(3), Wis. Stats.
- (6) Go-cart tracks and skating rinks.
- (7) Gravel or sand pits and quarries, including washing and grading of products, upon approval of a re-use plan for the land, with performance bond.
- (8) Kennels.
- (9) Landfill and solid waste disposal operations in compliance with Ch. 289, Wis. Stats.
- (10) Livestock yards.
- (11) Migratory labor housing.
- (12) Mobile homes which shall be occupied as an accessory use to the farm operation. The occupant must earn a substantial part of his or her livelihood from farm operations on the parcel. A mobile home may be parked and occupied on an operating farm for the farm operator, farm labor, or retired farm parents. Only one such mobile home shall be permitted per operating farm, provided that:
  - (a) The farm operator shall agree in writing that discontinuance of the mobile home occupancy as the specified accessory use will necessitate removal of the mobile home.
  - (b) The conditional use shall be renewed every year.
- (13) Parks and recreational facilities.
- (14) Pea viners.
- (15) Public incinerators.
- (16) Radio and television broadcasting studios and towers.
- (17) Slaughtering establishments complying with § 97.42, Wis. Stats.
- (18) Sludge storage, disposal and spreading in compliance with all applicable State of Wisconsin and local regulations relating thereto.<sup>[1]</sup>  
[Amended 2-15-1996]  
*[1] Editor's Note: See Ch. 252, Sewers, Art. II, Sludge Disposal.*
- (19) Trap and skeet shooting and target ranges.
- (20) Truck terminals.

- (21) Water storage and sewage disposal plants and power stations.
  - (22) Uses customarily incidental to any of the permitted uses or the conditional uses listed for this district.
  - (23) Uses customarily incidental to the principal uses in this district if they are agricultural-related, religious, institutional, or governmental uses. Home occupations are permitted as conditional uses, provided that such uses are situated with the main or accessory building.
- C. Fencing. Fences are permitted on or near property lines in this district. All fences must comply with the minimum requirements for fences set forth in Ch. 90, Wis. Stats. No fence shall exceed 10 feet in height.
  - D. Height regulations. Residences shall not exceed limitations for Residential District R-1A requirements.
  - E. Area regulations. Farmland Preservation District A-1 area regulations as to front yards, side yards, corner lots, rear yards and shoreline lots shall apply to the Agricultural District A-2.
  - F. Conformance with provisions.
    - (1) All dwellings erected, reconstructed, or structurally altered in this district shall comply with the State of Wisconsin Uniform Dwelling Code.
    - (2) All principal and conditional uses authorized for the Agricultural District A-2 must comply with the Winnebago County Sanitary Ordinance and setback standards of Ch. COMM 83, Wis. Adm. Code.
    - (3) If mobile homes exist as nonconforming uses, they must conform to Ch. COMM 85, Wis. Adm. Code, if there is no public sewer service for said lot. Mobile homes must pay all fees authorized and required under § 66.0435(3)(c), Wis. Stats., and conform to the basic district standards of the Mobile Home District.  
[Amended 4-21-2005]

## § 310-31. Parcels created by certified survey map.

[Added 5-20-2004]

Any parcel of land that is created by a certified survey map or a division of land that is less than five acres in area shall not continue to be zoned, or zoned, Agricultural District (A-1 and A-2).

- [1] *Editor's Note: An ordinance adopted 10-16-2014 provided that building setback dimensions have been revised to begin measurement from the public right-of-way line for front yard distance and from the property line for side and rear setback distances, respectively. Any existing structures that do not meet these new standards shall be "grandfathered" as part of these revisions. All previous reductions to these dimensions remain unchanged.*

## Article IV. Conditional Uses

[Amended 2-15-1996; 5-18-2006]

### § 310-32. Application for permit.

Application for conditional use permits shall be made in writing to the Town of Winneconne Plan Commission on forms furnished by the Town of Winneconne Zoning Administrator and shall include the following where applicable:

- A. Names and addresses of the applicant and/or owner of the subject site.

- B. Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; the zoning district in which the subject site lies; and a plot plan.
- C. Additional information, such as ground surface elevations, basement and first floor elevations, utility elevations, roads, contours, historic and probable future floodwater elevations, areas subject to inundation by floodwaters, depths of inundation, floodproofing measures, soil types, slope, boundaries, and plans for proposed structures, giving dimensions and elevations pertinent to the determination of the hydraulic capacity of the structure or its effects on flood flows may be required.

## § 310-33. Public hearing; notice; action by Plan Commission.

There shall be a public hearing upon any application for a conditional use permit. The Plan Commission shall conduct the hearing and shall fix a reasonable time and place and give public notice thereof in accordance with applicable requirements of the Wisconsin Statutes. Recommendations of approval or disapproval, with or without conditions, shall be forwarded to the Town Board for final action. The Plan Commission, however, shall not have the power to act upon conditional uses in areas such as shorelands, where applicable statutes of the State of Wisconsin withhold such power from the Town.

## § 310-34. Standards for review of applications.

All conditional uses must be in accordance with the purpose and intent of this chapter and shall not be hazardous, harmful, offensive or otherwise adverse to the environmental quality, water quality, shoreland cover, or property values in the Town of Winneconne. The Plan Commission shall review the site, and existing and proposed structures. They may also review architectural plans, neighboring land and water uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, waste disposal, water supply systems, and the effect of the proposed use, structure, operation and improvement upon flood damage protection, water quality, shoreland cover, natural beauty and wildlife habitat as they deem necessary.

## § 310-35. Conditions.

- A. The approval of conditional use may be made subject to conditions if the Plan Commission finds them to be necessary to fulfill the purpose and intent of this chapter or the State Water Resource Act of 1965 or to meet the provisions of the Wisconsin floodplain and shoreland management programs. Conditions may include, but are not limited to, the following: landscaping, architectural design, type of construction, sureties, water supply and waste disposal systems, and operation limitations. In shorelands, the standards set forth in § 281.31(5) (a), Wis. Stats., shall be adhered to.
- B. Variances shall be granted only as provided by, and in accordance with, Article VI of this chapter.

## § 310-36. Decisions; expiration of conditional use.

Conditional uses shall expire within 12 months unless substantial work has commenced pursuant to their approval. A copy of all decisions granting or denying applications affecting property located in a floodplain or shoreland area shall be given to the Wisconsin Department of Natural Resources.

# Article V. Nonconforming Uses, Structures and Lots

[Amended 5-18-2006]

## § 310-37. Existing nonconforming uses.

The lawful nonconforming use of a structure, land or water existing at the time of the adoption or amendment of this chapter may be continued although the use does not conform to the provisions of this chapter; provided, however, that only the portion of the land or water in actual use may be so continued, and the structure may not be extended, enlarged, reconstructed, substituted, moved, or structurally altered except when required to do so by law or order or so as to comply with the provisions of this chapter.

- A. Total lifetime structural repairs or alterations shall not exceed 75% of the equalized full assessed value of the structure at the time of its becoming a nonconforming use unless it is permanently changed to conform to the use provisions of this chapter.
- B. Substitution of new equipment may be permitted by the Plan Commission if such equipment will reduce the incompatibility of the nonconforming use with the neighboring uses.
- C. For the purpose of this chapter, a nonconforming use shall begin as of the time it was made nonconforming by the terms of a preceding ordinance, of this chapter, or of an amendment to this chapter.

## § 310-38. Abolishment or replacement.

- A. If such nonconforming use is discontinued or terminated for a period of 12 months, any future use of the structure, land, or water shall conform to the provisions of this chapter. When a nonconforming use or structure is damaged by fire, explosion, flood, the public enemy, or other calamity to the extent of more than 50% of its current assessed value, it shall not be restored except so as to comply with the use provisions of this chapter.
- B. In applying this section to damaged uses or structures, lots platted according to Ch. 236, Wis. Stats., and on record in the County Register of Deeds office before the effective date of this chapter need not be combined if, in the determination of the Zoning Administrator, the intent of the district will be maintained at the time of construction.

## § 310-39. Existing nonconforming structures.

A lawful nonconforming structure existing at the time of the adoption or amendment of this chapter may be continued although its size or location does not conform to the lot width, lot area, yard, height, parking and loading, and access provisions of this chapter; however, it shall not be extended, enlarged, reconstructed, moved, or structurally altered except when required to do so by law or order or so as to comply with the provisions of this chapter.

## § 310-40. Changes and substitutions.

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

## Article VI. Board of Appeals

[Amended 2-15-1996; 4-21-2005; 5-18-2006]

## § 310-41. Establishment.

A Board of Appeals is established for the purpose of hearing appeals from actions of the Zoning Administrator and applications for variances from and exceptions to the provisions of this chapter and deciding the same.

## § 310-42. Membership; terms of office; compensation.

[Amended 7-18-2013]

The Board of Appeals shall consist of five members appointed by the Town Chairman, subject to confirmation by the Town Board. The terms of office shall be for three years or until their successors shall have been duly appointed and qualified as members. The members of the Board of Appeals shall receive for their services compensation as set by the Town Board and their actual and reasonable expenses, exclusive of automobile mileage which shall not be reimbursable. They shall be removable by the Town Chairman for cause upon written charges and after public hearing. The Town Chairman shall designate one member Chairman. The Board of Appeals may employ a secretary and other employees. Vacancies shall be filled for the unexpired terms of members whose terms become vacant. The Town Chairman shall appoint two alternate members who shall act, with full power, only when a member of the Board of Appeals refuses to vote because of interest or when a member is absent.

## § 310-43. Rules, meetings and records.

[Amended 7-18-2013]

The Board of Appeals shall adopt rules in accordance with the provisions of this chapter. Meetings shall be held at the call of the Chairman and at such other times as the Board of Appeals may determine. The Chairman or Acting Chairman of the Board of Appeals, if there is one, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Appeals 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 of Appeals may take action by a majority of the members present, provided that a quorum is present. A quorum is defined as a majority of the members of the Board of Appeals. The Board of Appeals shall keep records of its examinations and other official actions. All records shall be filed immediately in the office of the Board of Appeals and shall be public.

## § 310-44. Appeals.

Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer of the Town of Winneconne affected by any decision 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.

## § 310-45. Automatic stay of proceedings.

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 of Appeals 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 of Appeals or by a court of record on application, with notice to the officer from whom appeal is made, and on due cause shown.

## § 310-46. Hearings.

The Board of Appeals 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.

## § 310-47. Powers.

A. The Board of Appeals shall have the following powers:

- (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this chapter.
- (2) To hear and decide special exceptions to the terms of this chapter and to grant such variances from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in practical difficulty or unnecessary hardship, so that the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done. Use variances shall not be granted by the Board of Appeals.
- (3) To hear and decide appeals on denied zoning uses or appeals for interpretations of zoning regulations established under this chapter.
- (4) To hear and decide applications for substitution of more restrictive nonconforming uses for existing nonconforming uses where no structural alterations are to be made.

B. In exercising its powers 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 end shall have the powers of the officer from whom appeal is taken and may issue or direct the issue of permits.

## § 310-48. Decisions; expiration of variances.

Applications shall be denied or approved, with or without conditions, within 40 days of the public hearing on the application. The concurring vote of four 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 chapter. The grounds of every such determination shall be stated in writing. Variances or substitutions shall expire within 18 months of their grant unless substantial work under them has been commenced.

## § 310-49. Appeal of decision to court.

Any person aggrieved by any decision of the Board of Appeals or any taxpayer or any officer of the Town of Winneconne may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the ground of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the Board of Appeals.

## Article VII. Changes and Amendments

### § 310-50. Authority.

Whenever the public necessity, convenience, general welfare or good zoning practice requires, the Town Board may adopt any ordinance or changes in the district boundaries and may amend, change or supplement the regulations established by this chapter or amendments thereto. All such changes or amendments shall be adopted according to the procedures established under §§ 60.62 and 62.23(7), Wis. Stats., upon review and recommendation by the Town Plan Commission.



## § 310-51. Protest.

In case of a protest against any such change or amendment, duly signed and acknowledged by the owners of 20% or more either of the areas 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 therefrom or by the owners of 20% or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of 3/4 of the members of the Town Board voting on the proposed change or amendment.

## § 310-52. Standards for rezoning in A-1 District.

In accordance with § 91.77(1) and (3), Wis. Stats., decisions on petitions for rezoning areas zoned A-1 Farmland Preservation District shall be based on findings which consider the following:

- A. Adequate public facilities to serve the development are present or will be provided;
- B. Provision of these facilities will not be an unreasonable burden to local government;
- C. The land is suitable for development, and
- D. Development will not cause unreasonable air and water pollution, soil erosion or adverse effects on rare or irreplaceable natural areas.

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

## Article VIII. Telecommunications Antennas and Towers

[Added 10-18-2001]

## § 310-53. Definitions.

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

### **ALTERNATIVE TOWER STRUCTURE**

Man-made structures such as elevated tanks, electric utility transmission line towers, nonresidential buildings, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers. Freestanding signs are not considered to be alternative tower structures.

### **ANTENNA**

Any exterior apparatus designed for telephonic, radio, or television communications through the sending and/or receiving of electromagnetic waves.

### **FAA**

The Federal Aviation Administration.

### **FCC**

The Federal Communications Commission.

### **GOVERNING AUTHORITY**

The governing authority of the Town of Winneconne.

### **HEIGHT**

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

**PREEXISTING TOWERS AND ANTENNAS**

See § 310-53D of this article.

**TOWER**

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

**§ 310-54. Applicability.**

- A. District height limitations. The requirements set forth in this article shall govern the location of towers that exceed, and antennas that are installed at, a height in excess of the height limitations specified for each zoning district. The height limitations applicable to buildings and structures shall not apply to towers and antennas; however, in no case shall any tower exceed the following height limitations:
  - (1) For a single use, up to 90 feet;
  - (2) For two users, up to 120 feet; and
  - (3) For three or more users, up to 150 feet in height.
- B. Public property. Antennas located on property owned, leased, or otherwise controlled by the governing authority shall be exempt from the requirements of this article, provided that a license or lease authorizing such antenna or tower has been approved by the governing authority.
- C. Amateur radio; receive-only antennas. This article shall not govern any tower, or the installation of any antenna, that is under 70 feet in height and is owned and operated by a federally licensed amateur radio station operator or is used exclusively as a receive-only antenna.
- D. Preexisting towers and antennas. Any tower or antenna for which a permit has been properly issued prior to the effective date of this article shall not be required to meet the requirements of this article, other than the requirements of § 310-54E and F. Any such towers or antennas shall be referred to in this article as "preexisting towers" or "preexisting antennas."

**§ 310-55. General guidelines and requirements.**

- A. Purpose; goals. The purpose of this article is to establish general guidelines for the siting of towers and antennas. The goals of this article are to minimize the total number of towers throughout the community, strongly encourage the joint use of new and existing tower sites, encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal, encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas, and enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently.
- B. Principal or accessory use. Antennas and towers may be considered either principal or accessory uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lots. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this article shall not be deemed to constitute the expansion of a nonconforming use or structure.

- C. Inventory of existing sites. Each applicant for an antenna and/or tower shall provide to the Winnebago County Planning and Zoning Department an inventory of its existing towers that are either within the jurisdiction of the governing authority or within one mile of the border thereof, including specific information about the location, height, and design of each tower. The Winnebago County Planning and Zoning Department may share such information with other applicants applying for administrative approvals or conditional use permits under this article or other organizations seeking to locate antennas within the jurisdiction of the governing authority; provided, however, that the Winnebago County Planning and Zoning Department is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
- D. Aesthetics and lighting. The guidelines set forth in this subsection shall govern the location of all towers, and the installation of all antennas, governed by this article; provided, however, that the governing authority may waive these requirements if it determines that the goals of this article are better served thereby.
- (1) Towers shall maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
  - (2) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and built environment.
  - (3) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
  - (4) Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the governmental authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.
  - (5) Towers and antennas shall not be used for displaying any advertising. If FCC rules require that the owner's name be shown on the tower or antenna, it shall be posted no more than six feet above the ground on a placard no larger than 1 1/2 square feet.
- E. Federal requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. 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 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.
- F. Building codes; safety standards. 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 30 days to bring such tower into compliance with such standards. If the owner fails to bring such tower into compliance within said 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, and assess said cost as a levy of a special assessment pursuant to § 66.0703, Wis. Stats., or subsequent process.

## § 310-56. Permitted uses.

- A. General. The uses listed in this section are deemed to be permitted uses and shall not require a conditional use permit. Nevertheless, all such uses shall comply with § 310-54 of this article and all other applicable sections.
- B. Specific permitted uses. The following uses are specifically permitted:
  - (1) Installing an antenna on an existing alternative tower structure, so long as said additional antenna adds no more than 20 feet to the height of said existing structure; and
  - (2) Installing an antenna on an existing tower or silo of any height, including a preexisting tower, and further including the placement of additional buildings or other supporting equipment used in connection with said antenna, so long as the addition of said antenna adds no more than 20 feet to the height of said existing tower.

## § 310-57. Conditional use permits.

- A. General. The following provisions shall govern conditional use permits:
  - (1) If the tower or antenna is not a permitted use under § 310-55 of this article, then a conditional use permit shall be required prior to construction of any tower or the placement of any antenna.
  - (2) Towers and antennas may only be located in the Agricultural District (A-2), Commercial District (C-1), and Industrial District (I-1).
  - (3) If a conditional use permit is granted, the governing authority may impose conditions to the extent the governing authority concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.
  - (4) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.
- B. Information required. Each applicant requesting a conditional use permit under this article shall submit a scaled site plan and a scaled elevation view and other supporting drawings, calculations, and other documentation, signed and sealed by appropriate licensed professionals, showing the location and dimensions of all improvements, including information concerning topography, frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses, and other information deemed by the governing authority to be necessary to assess compliance with this article.
- C. Factors considered in granting conditional use permits. The governing authority shall consider the following factors in determining whether to issue a conditional use permit, although the governing authority may waive or reduce the burden on the applicant of one or more of these criteria if the governing authority concludes that the goals of this article are better served thereby:
  - (1) Height of the proposed tower.
  - (2) Capacity of the tower structure for additional antenna equipment to accommodate expansion or to allow for collocation of another provider's equipment.
  - (3) Proximity of the tower to residential structures and residential district boundaries.
  - (4) Nature of uses on adjacent and nearby properties.
  - (5) Surrounding topography.
  - (6) Surrounding tree coverage and foliage.

- (7) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
  - (8) Proposed ingress and egress.
  - (9) Availability of suitable existing towers and other structures as discussed in Subsection **D** of this section.
- D. Availability of suitable existing towers or other structures. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the governing authority that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna may consist of any of the following:
- (1) No existing towers or structures are located within the geographic area required to meet applicant's engineering requirements.
  - (2) Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
  - (3) Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.
  - (4) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
  - (5) The fees, costs, or contractual provisions required by the owner to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
  - (6) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- E. Setbacks and separation. The following setbacks and separation requirements shall apply to all towers and antennas for which a conditional use permit is required; provided, however, that the governing authority may reduce the standard setbacks and separation requirements if the goals of this article would be better served thereby:
- (1) Towers must be set back a distance equal to the height of the tower from any off-site residential structure or any parcel of land zoned residential.
  - (2) Towers, guys, and accessory facilities must satisfy the minimum zoning district setback requirements.
- F. Landscaping. The following requirements shall govern the landscaping surrounding towers for which a conditional use permit is required; provided, however, that the governing authority may waive such requirements if the goals of this article would be better served thereby:
- (1) Tower facilities shall be landscaped with a mixture of deciduous and evergreen trees and shrubs that effectively screen the view of the tower compound from adjacent residential property. The standard buffer shall consist of a landscaped strip at least four feet wide outside the perimeter of the compound.
  - (2) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived altogether.
  - (3) Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large wooded lots, natural growth around the property perimeter may be sufficient buffer.

## § 310-58. Removal of abandoned antennas and towers.

Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within 90 days of receipt of notice from the governing authority notifying the owner of such abandonment. If such antenna or tower is not removed within said 90 days, the governing authority may remove such antenna or 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, and assess said cost as a levy of a special assessment pursuant to § 66.0703, Wis. Stats., or subsequent provisions. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

## Chapter DT. Derivation Table

### ATTACHMENTS

#### DERIVATION TABLE

## Chapter DL. Disposition List

The following is a chronological listing of legislation of the Town of Winneconne adopted since the publication of the Code, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] The last legislation reviewed for the original publication of the Code was a zoning amendment adopted 6-17-2004.

### § DL-1. Disposition of legislation.

<b>Ordinance Number</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
	1-20-2005	Impact fees amendment	Repealed 9-21-2006
	4-21-2005	Adoption of Code	Ch. 1, Art. II
	4-21-2005	Moving of buildings	Repealed 8-15-2013
	4-21-2005	Unsafe buildings	Ch. 126
	5-19-2005	Intoxicating liquor and fermented malt beverages amendment	Ch. 182
	5-19-2005	Streets and sidewalks amendment	Ch. 270
	5-19-2005	Wind energy conversion systems	Ch. 300
	7-21-2005	Signs	Ch. 256; Ch. 310
	7-21-2005	Future Land Use Plan Map amendment	NCM
	5-18-2006	Zoning amendment	Ch. 310
	8-3-2006	Subdivision of land amendment	Ch. 275
	9-21-2006	Impact fees repealer	Ch. 178, reference only
	9-21-2006	Outdoor heating devices	Ch. 226
	6-21-2007	Vehicles and traffic amendment	Ch. 295
	8-16-2007	Subdivision of land amendment	Ch. 275
	10-18-2007	Vehicles and traffic amendment	Ch. 295
	6-19-2008	Numbering of buildings	Ch. 124
	6-19-2008	Streets and sidewalks amendment	Ch. 270
	8-21-2008	Municipal Court	Ch. 18

<b>Ordinance Number</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
	8-21-2008	Finance and taxation amendment	Ch. <b>44</b>
	8-21-2008	Adult entertainment	Ch. <b>109</b>
	8-21-2008	Intoxicating liquor and fermented malt beverages amendment	Ch. <b>182</b>
	12-18-2008	Streets and sidewalks amendment	Ch. <b>270</b>
	1-15-2009	Solid waste amendment	Ch. <b>264</b>
	3-19-2009	Zoning amendment	Ch. <b>310</b>
	7-16-2009	Solid waste amendment	Ch. <b>264</b>
	9-24-2009	Boating: motorboat operation in sensitive wetland areas	Ch. <b>117</b> , Art. <b>I</b>
	11-19-2009	Sewers: sludge disposal amendment	Ch. <b>252</b> , Art. <b>II</b>
	11-19-2009	Site plan review	Ch. <b>258</b>
	6-17-2010	Outdoor lighting	Ch. <b>205</b>
	8-19-2010	Outdoor burning amendment	Ch. <b>129</b>
	10-21-2010	Building construction	Ch. <b>120</b>
	4-21-2011	Naming frontage roads	NCM
	1-19-2012	Vehicles and traffic amendment	Ch. <b>295</b>
	3-15-2012	Intoxicating liquor and fermented malt beverages amendment	Ch. <b>182</b>
	3-15-2012	Boards, committees and commissions amendment	Ch. <b>9</b>
	3-15-2012	Town Board amendment	Ch. <b>94</b>
	4-19-2012	Elections: split shifts for election officials	Ch. <b>32</b> , Art. <b>II</b>
	6-20-2013	Zoning amendment	Ch. <b>310</b>
	6-20-2013	Subdivision of land amendment	Ch. <b>275</b>
	6-20-2013	Subdivision of land amendment	Ch. <b>275</b>
	6-20-2013	Moving of buildings amendment	Repealed 8-15-2013
	6-20-2013	Adoption of Code amendment (nomenclature change)	Ch. <b>1</b> , Art. <b>II</b> ; Ch. <b>122</b> (repealed 8-15-2013); Ch. <b>270</b> (footnote only); Ch. <b>275</b> (footnote only); Ch. <b>295</b> (footnote only)
	6-20-2013	Vehicles and traffic amendment	Ch. <b>295</b>
	7-18-2013	Zoning amendment	Ch. <b>310</b>
	7-18-2013	Subdivision of land amendment	Ch. <b>275</b>
	7-18-2013	Vehicles and traffic amendment	Ch. <b>295</b>
	7-18-2013	Parks and recreation: boating and waterskiing amendment	Ch. <b>232</b> , Art. <b>II</b>
	8-15-2013	Moving of buildings	Superseded by Ord. 2015-1
	9-18-2014	Records amendment	Ch. <b>82</b>
	10-16-2014	Comprehensive Plan and Future Land Use Plan Map amendment	NCM

<b>Ordinance Number</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
	10-16-2014	Zoning amendment	Ch. <b>310</b>
	11-20-2014	Streets and sidewalks amendment	Ch. <b>270</b>
2015-1	7-16-2015	Moving of buildings	Ch. <b>122</b>
2016-1	1-21-2016	Town Board amendment	Ch. <b>94</b>
2017-1	2-16-2017	Zoning amendment	Ch. <b>310</b>

<b>Ord. No.</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>	<b>Supp No.</b>
2018-1	3-15-2018	Zoning Map Amendment	NCM	11
2018-2	7-19-2018	Appointment	NCM	11
2018-3	7-19-2018	Finance and Taxation Amendment	Ch. <b>44</b>	11
2018-4	10-18-2019	Vehicles, All-Terrain and Utility-Terrain	Ch. <b>296</b>	11
2018-5	10-18-2018	Zoning Map Amendment	NCM	11
2019-1	5-16-2019	Officers and Employees Amendment; Streets and Sidewalks Amendment	Ch. <b>70</b> ; Ch. <b>270</b>	11
2019-2	5-16-2019	Court, Municipal	Ch. <b>18</b>	11
2019-3	7-18-2019	Records Schedule	NCM	11
2019-4	8-15-2019	Nuisances Amendment	Ch. <b>219</b>	11
2019-5	10-17-2019	Vehicles, All-Terrain and Utility-Terrain Amendment	Ch. <b>296</b>	11
2019-6	12-19-2019	General Provisions Amendment; Building Construction Amendment; Fire Prevention Amendment; Intoxicating Liquor and Fermented Malt Beverages Amendment; Streets and Sidewalks Amendment; Zoning Amendment	Ch. <b>1</b> ; Ch. <b>120</b> ; Ch. <b>165</b> ; Ch. <b>182</b> ; Ch. <b>270</b> ; Ch. <b>310</b>	11
2020-1	1-16-2020	Broadhead Network Projects	Ch. <b>137</b>	11
2020-2	2-20-2020	Vehicles, All-Terrain and Utility-Terrain Amendment	Ch. <b>296</b>	11
2020-3	2-20-2020	Vehicles, All-Terrain and Utility-Terrain Amendment	Ch. <b>296</b>	11
2020-4	3-19-2020	Court, Municipal	Ch. <b>18</b>	11
2020-5	8-20-2020	Sex Offender Residency	Ch. <b>254</b>	11
2020-6	7-16-2020	Vehicles, All-Terrain and Utility-Terrain Amendment	Ch. <b>296</b>	11
2020-7	8-20-2020	Streets and Sidewalks Amendment	Ch. <b>270</b>	11
2020-8	9-17-2020	Court, Municipal	Ch. <b>18</b>	11
2020-9	8-20-2020	Zoning Map Amendment	NCM	11



<b>Ord. No.</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>	<b>Supp No.</b>
2020-10	10-15-2020	Zoning Map Amendment	NCM	11
2020-11	10-15-2020	Zoning Map Amendment	NCM	11
2020-12	12-17-2020	Zoning Map Amendment	NCM	11
2021-1	5-20-2021	Vehicles, All-Terrain and Utility-Terrain Amendment	Ch. <b>296</b>	12
2021-2	7-15-2021	Boards, Committees and Commissions Amendment	Ch. <b>9</b>	12
2021-3		Not Adopted		12
2021-4	11-18-2021	Vehicles, All-Terrain and Utility-Terrain Amendment	Ch. <b>296</b>	12