

**TOWN OF DEXTER ZONING ORDINANCE #2023-4-18
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ZONING ORDINANCE

TOWN OF DEXTER

Wood County, Wisconsin

SECTION 1.00

AUTHORITY, PURPOSE, AND INTERPRETATION

In accordance with the authority granted in Sections 60.22(3), 60.62 and 62.23, Wisconsin Statutes, the Town Board of the Town of Dexter, Wood County, Wisconsin, being authorized to exercise the powers of a village, does hereby ordain this Ordinance.

1.01 Purposes.

1. An ordinance to promote the health, safety, morals and general welfare; to regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lot which may be occupied, the size of yards, courts and other open spaces, the density of population, the location and use of buildings, structures and land for trade, industry, residence and other purposes; and for the said purposes to divide the Town of Dexter, Wood County, Wisconsin, into districts of such number, shape and area as are deemed best suited to carry out the said purposes; to provide a method for its administration and enforcement and to provide penalties for its violation.
2. The provisions of this ordinance shall be held to be minimum requirements adopted to promote the health, safety, morals, comfort, prosperity, and general welfare of the residents of the town of Dexter, Wood County, Wisconsin.

1.02 Interpretation.

It is not intended by this ordinance to repeal, abrogate, annul, impair or interfere with any existing easement, covenants or agreements between parties or with any rules, regulations, or permits previously adopted or issued pursuant to laws; provided, however, that where the ordinance imposes a greater restriction upon the use of buildings or premises, or upon the height of a building or requires larger open spaces than are required by other rules, regulations or permits, or by easement, covenants or agreements, the provisions of this ordinance shall govern.

SECTION 2.00

DEFINITIONS OF WORDS AND PHRASES

The following words, phrases, and terms, wherever they occur in the Ordinance, shall be interpreted as herein defined:

- (1) ACCESSORY OR AUXILIARY USE OR STRUCTURE: A use or structure subordinate to the principal use of a building or to the principal use of land and which is located on the same lot serving a purpose customarily incidental to the use of the principle building or land use. In the case of a house and detached garage on the lot, the accessory building is the garage.
- (2) AGRICULTURE: The use of land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of normal agricultural activities.
- (3) AIRPORT: Any runway, landing area, airport or other facility designed, used, or intended to be used either publicly or privately by any persons for the landing and taking off of aircraft, including all necessary taxiways, aircraft storage and tie-down areas, hangers and other necessary buildings and open spaces.
- (4) ALLEY OR LANE: A public or private way not more than thirty (30) feet wide affording generally secondary means of access to abutting property and not intended for general traffic circulation.
- (5) APARTMENT: See Dwelling, Multi-Family.
 - (A) Apartment, Efficiency: A dwelling unit in a multi-family building, consisting of not more than one habitable room, together with kitchen or kitchenette and toilet facilities.
- (6) APARTMENT HOTEL: An apartment house which furnishes services for the use of its tenants which are ordinarily furnished by hotels.
- (7) AUTOMOBILE REPAIR: General repair, rebuilding or reconditioning of engines, motor vehicles or trailers; collision services including body, frame, or fender straightening or repair; overall painting or paint shop, vehicle steam cleaning.
- (8) AUTOMOBILE OR TRAILER SALES AREA: An open area, other than a street, used for the display, sale, or rental of new or used motor vehicles or trailers in operable condition and where no repair work is done.
- (9) AUTOMOBILE SALVAGE YARD: Any area of land where two or more inoperative

vehicles, and/or accumulation of parts thereof, are stored in the open and are not being restored to operation; or any land, building, or structure used for the wrecking or storing of such motor vehicles.

- (10) AUTOMOBILE SERVICE STATION OR FILLING STATION: A building or other structure or a tract of land where gasoline or similar fuel, stored only in underground tanks, is dispensed directly to users of motor vehicles. The following activities are permitted as accessory uses to a gasoline station: the dispensing of oil, greases, antifreeze, tires, batteries, and automobile accessories directly to users of motor vehicles; tuning motors, minor servicing, and repair to the extent of installation of the items enumerated above; washing of automobiles. All other activities shall be prohibited, including, but not limited to: upholstery work, auto glass work, painting, welding, tire recapping, auto dismantling and auto sales.
- (11) BASEMENT: A story whose floor line is below grade and having more than half of its clear height below the adjoining finished grade.
- (12) BOARD: Elected or appointed members from the Township of Dexter.
- (13) BOARDING OR ROOMING HOUSE: A dwelling or part thereof occupied by a single housekeeping unit where meals and lodging are provided for three or more persons, not transients, for compensation by previous arrangement.
- (14) BOATHOUSE: Any structure designed for the purpose of protecting or storing boats for non-commercial purposes. Boathouses shall not be used for human habitation.
- (15) BUILDING: Any structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals, equipment, materials or machinery. When such a structure is divided into separate parts by one or more unpierced walls extending from the ground up, each part is deemed a separate building, except as regards minimum side yard requirements as hereinafter provided.
- (A) Buildable Lot Area: That part of the lot not included within the open areas required by this Ordinance.
- (B) Building, Height of: The vertical distance from the average contact ground level at the front wall of the building to the highest point of the coping of a flat roof or, to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip or gambrel roofs.
- (C) Building or Setback Line: The line outside the right-of-way of a street beyond which no building or part thereof shall project, except as otherwise provided by this Ordinance.
- (D) Building - Floor Area Ratio: The floor area of the building divided by the area of the lot on which it is or will be located. The floor area of the building shall include that area of

ground covered by the roof of the building. Total floor area shall include the sum of the floor areas of all buildings on the lots.

- (E) Building, Completion: The building shall be considered complete when roofing materials, siding materials, windows, doors, and steps have been affixed to the exterior and the interior supplied with electricity, plumbing, and heating fixtures in operable condition and in conformance with applicable codes.
- (16) BUILDING INSPECTOR: Administrator and enforcer of Uniform Dwelling Code Construction. Certified by the Wisconsin Department of Safety and Professional Services.
- (17) CAMPGROUNDS: Any public or private premises, including buildings, established for temporary day and overnight habitation by persons using equipment designed for the purpose of temporary camping.
- (18) CAMPING VEHICLE: A vehicle designed for intermittent human habitation and is towed by a motor vehicle or self-propelled upon a highway.
- (19) CEMETERY: Land used or intended to be used for the burial of the human dead and dedicated for cemetery purposes, including columbarium's, crematories, mausoleums, and mortuaries if operated in connection with and within the boundaries of such cemetery.
- (20) CLINIC: A place used for the care, diagnosis and treatment of sick, ailing, and injured persons or animals and those who are in need of medical or surgical attention, but who are not provided with board or room nor kept overnight on the premises, except veterinarian clinics.
- (21) CLUB: A non-profit association of persons who are bona fide members, paying regular dues, and are organized for some common purpose, but not including a group organized solely or primarily to render a service customarily carried on as a commercial enterprise.
- (22) CONDITIONAL USE: A use of land which, while appropriate for inclusion within a given district, possesses a high likelihood of creating problems with regard to nearby parcels of land or the occupants thereof, and which are therefore permitted only subject to the fulfillment of conditions which effectively ensure that no such problems will be created.
- (23) CONVALESCENT HOME: A home designed for the care of patients after they leave the hospital but before they are released from observation and treatment.
- (24) COURT: An open unoccupied and unobstructed space, other than a yard, on the same lot with a building or group or buildings which is enclosed on three or more sides.
- (25) DISTRICT: A portion of the territory of the Town within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this Ordinance as specified on the Official Zoning Map as adopted by the Town Board of Supervisors.

- (26) DRIVE-IN ESTABLISHMENT: A place of business in which patrons can be served while remaining in their automobiles.
- (27) DWELLING: Any building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons, but not including a tent, trailer or trailer coach, hotel or motel.
 - (A) Dwelling, Single Family: A building designed for or used exclusively for residence purposes by one family or housekeeping unit.
 - (B) Dwelling, Two Family: A building designed for or used exclusively by two families or housekeeping units.
 - (C) Dwelling, Multi-Family: A building or portion thereof designed for or used by three or more families or housekeeping units.
 - (D) Dwelling Group: A group of two or more detached dwellings located on a parcel of land in one ownership and having any yard or court in common.
 - (E) Dwelling Unit: One room, or a suite of two or more rooms, designed for or used by one family for living and sleeping purposes and having kitchen and toilet facilities.
- (28) FARM: An area which is used for the growing of the usual farm products such as vegetables, fruit trees and grain, and their storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals, such as horses, cattle, sheep and swine. The term farming includes the operating of such an area for one or more of the above uses, including dairy farms with the necessary accessory uses for treating or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal farming activities.
- (29) FLOOD: See Wood County Shoreland Zoning Ordinance.
- (30) FRONTAGE: Frontage shall be that boundary of a lot which is along an existing or dedicated public street or, where no public street exists, is along a public way. Where a lot abuts more than one street, the Planning Commission shall determine the frontage for purposes of this Ordinance.
 - (A) Frontage, Where Measured: For construction purposes, minimum frontage requirements set forth in Section 4 of this Ordinance shall be met at the front building line.
- (31) FUR FARM: A tract of land or buildings devoted in whole or part to the raising of furbearing animals.
- (32) GARAGE, PRIVATE: A detached accessory building, or an attached portion of the principal building used or intended for use by the occupants of the premises for the storage of self-propelled vehicles or trailers.

- (A) Garage, Public: A structure or portion thereof, other than a private garage, used for the storage, sale, hire, care, repair or refinishing of self-propelled vehicles or trailers.
- (B) Garage, Storage: Any building or premises, used for housing only, of self-propelled vehicles pursuant to previous arrangements and not to transients, and at which automobile fuels and oils are not sold, and self-propelled vehicles are not equipped, repaired, hired, or sold.
- (33) GRADE: The slope of a road, street, or other public way specified in percent. The percent is based upon elevation difference in one hundred (100) feet of horizontal distance. (Five (5) feet of change in elevation in 100 feet horizontal distance would be a 5% grade.)
- (34) HOME OCCUPATION: A gainful occupation conducted by a member of the family, within his or her place of residence, where the space used is incidental to residential use and no article is sold or offered for sale except such as is produced by such home occupation.
- (35) HOUSEBOAT: A large flat-bottomed boat with super-structure resembling a house, usually moored, and used as a residence.
- (36) HOUSEHOLD UNIT: The body of persons who live together in one dwelling unit as a single housekeeping unit.
- (37) INDUSTRY: Storage, repair, manufacture, preparation or treatment of any article, substance, or commodity for commercial use.
- (38) JUNK YARD: A place where waste, discarded or salvaged materials are bought, sold, exchanged, baled, packed, disassembled or handled, including auto wrecking activities, building wrecking activities, used lumber places and places for storage of salvaged building materials and equipment but not including such places where such uses are conducted entirely within a completely enclosed building and not including pawn shops and establishments for the sale, purchase or storage of used furniture and household equipment, used cars in working condition, or salvaged materials incidental and necessary to manufacturing operations.
- (39) KENNEL: Any structure or premises on which three or more dogs over four months of age are kept for, or intended for, commercial purposes. (A conditional use permit is required for operating a kennel).
- (40) LAUNDROMAT: A business that provides home-type washing, drying and/or ironing machines for hire to be used by customers on the premises.
- (41) LIVESTOCK: Farm animals regarded as an asset.
- (42) LOADING SPACE: An off-street space or berth on the same lot with a building or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or

unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

- (43) LOT: A parcel of land occupied or intended to be occupied by a principle building or a group of such buildings and accessory buildings, or utilized for a principal use and uses accessory thereto, together with such open spaces as required by this Ordinance and having frontage on an officially approved street or place.
- (A) Lot Area: The area of contiguous land bounded by lot lines, exclusive of land provided for public thoroughfares.
- (B) Lot, Corner: A lot abutting upon two or more streets at their intersection or upon two parts of the same street, such streets or parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees. The point of intersection of the street lines is the "corner".
- (C) Lot Depth: The mean horizontal distance between the front and the rear lot lines.
- (D) Lot, Interior: A lot other than a corner lot.
- (E) Lot Lines: A property boundary line of any lot held in single or separate ownership; except that where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the street or alley right-of-way line.
- (F) Lot of Record: A lot which is part of a subdivision, the map of which has been approved by the Wood County Planning and Zoning Committee, as of the effective date of this Ordinance, shall have the same status as if the said subdivision plat was officially recorded in the office of the Register of Deeds; however, no zoning permit shall be issued for any lots in such subdivision until a final plat which includes such lots, has been officially recorded in the office of the Register of Deeds.
- (G) Lot, Through: A lot having frontage on two parallel or approximately parallel streets.
- (H) Lot Width: The mean width of the lot measured at right angles to its depth.
- (44) MINOR STRUCTURE: Any small, movable accessory structure or construction such as birdhouses, tool houses, pet houses, play equipment, arbors and walls and fences under four feet in height.
- (45) MANUFACTURED AND MOBILE HOMES: Manufactured and Mobile Homes are defined as in Wis. Stat. § 66.0435(1), which definitions are hereby incorporated into this Ordinance by reference as if fully set forth herein and as from time to time amended.
- (46) MOTEL OR MOTOR HOTEL: A series of attached, semi-attached or detached sleeping or living units, primarily for the accommodation of automobile transient guests for compensation;

said units, having convenience access to off-street parking spaces for the exclusive use of the guests or occupants; a swimming pool, restaurant, meeting rooms, management offices and other such accessory facilities may be included.

- (47) NONCONFORMING USE: The use or occupancy of a building or premises, which is lawful at the time of the enactment of this Ordinance or amendments thereto, but which use or occupancy does not conform to the provisions of this Ordinance or any amendments thereto.
- (48) NURSING HOME: A home for the aged, chronically ill or incurable persons in which three or more persons not of the immediate family are received, kept and provided with shelter and care for compensation, but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis, treatment or care of the sick or injured.
- (49) PARKING AREA OR LOT, PUBLIC: An open area, other than a street or other public way, used for the parking of automobiles and available to the public whether for a fee, free or as an accommodation for clients or customers.
- (50) PARKING SPACE: A permanently surfaced area of not less than one hundred eighty (180) square feet, having a minimum width of nine feet and a minimum length of eighteen (18) feet, either within a structure or in the open, exclusive of driveways or access drives, for the parking of motor vehicles.
- (51) PERSON: Any individual, firm, trust, partnership, public or private association or corporation; or an individual, partnership, firm, company, corporation, municipality, county, town, state or federal agency, whether tenant, owner, lessee, licensee, or their agent, heir, or assignee.
- (52) PLANNING COMMISSION: A committee of persons appointed by the town to review and make recommendations concerning planning and zoning matters in the town.
- (53) PRINCIPAL BUILDING: The building of primary importance on a parcel of land, in contrast to those which are accessory or of secondary importance.
- (54) QUARRYING: The removal of rock, slate, gravel, sand, topsoil or other natural material from the land by excavating, stripping, leveling or any other such process, for barter or monetary gain, which results in creation of a pond or a pit. Drainage ditching shall not be considered quarrying.
- (55) RECREATIONAL AREA: Shall include park, playground, ball field, ski hill, swimming pool, grounds, and buildings.
- (56) ROADSIDE STAND: A temporary structure, unenclosed and so designed and constructed that the structure is easily portable and can be readily moved.
- (57) SANITARY LAND FILL: A site for the disposal of refuse where that refuse is compacted and covered with dirt at the end of each day.

- (58) SERVICE BUILDING: A structure housing toilet, washing and bathing facilities and such other facilities as may be required by this Ordinance.
- (59) SETBACK: The minimum allowable horizontal distance from a given point or line of reference, such as a thoroughfare right-of-way, waterline, or prospective line to the nearest vertical wall or other element of a building or structure.
- (60) SHOOTING RANGE: An area designed and constructed for the discharge of firearms that is open for club members or public use but excluding privately owned and used target and archery ranges.
- (61) SIGN: Any outdoor medium including its component parts, which is used or intended to be used to direct attention to a business, product, subject, idea, premises, person, or thing.
- (A) Advertising Sign: Any non-point-of-sale sign, usually of changeable character, such as a billboard which portrays advertisements for establishments, services, articles, or products not necessarily associated with the premises upon which the sign is located.
- (B) Banner Sign: Any sign in which the characters, letters, illustrations, or ornamentations are applied to cloth, paper, fabric, or other similar material, with or without frame.
- (C) Ground Sign: A sign supported by one or more uprights, poles or braces placed in or upon the ground surface and not attached to any building and with the bottom of the sign surface more than three (3) feet but less than eight (8) feet above grade.
- (D) Illuminated Sign: A sign designed to give forth any artificial light or reflect such light from an artificial source.
- (E) Pole Sign: A sign with an elevated surface supported by one or more vertical poles or columns placed in the ground with the sign surface a minimum of eight (8) feet above grade.
- (F) Projecting Sign: A sign which projects from and is supported by a wall or a building and extends out from the wall more than twelve (12) inches.
- (G) Roof Sign: A sign situated upon the roof of any building.
- (H) String Sign: Any sign in which lights, ribbons, pennants, or other similar small, attention-drawing devices are attached to a rope, string, wire, pole or similar support.
- (I) Wall Sign: A sign which is attached directly to a building wall and which does not extend out more than twelve (12) inches there from, with the exposed face of the sign in a plane parallel to the building wall.

- (62) STABLE, COMMERCIAL: A stable for horses, donkeys, mules, or ponies which are let, hired, used, or boarded on a commercial basis and for compensation.
- (63) 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 be no floor above it, then the space between the floor and the ceiling above it.
- (A) Story, Half: A partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four (4) feet above the floor of such story; provided, however, that any half of partial story used for residence purposes shall be deemed a story; provided that a basement or cellar used purely for recreational purposes shall not be deemed the first story.
- (64) STREET: A public right-of-way which provides a public means of access to abutting property. The term street shall include avenue, drive, circle, road, parkway, boulevard, lane, place, highway, thoroughfare, or any other similar term.
- (A) Arterial Street: A public street or highway intended to be used primarily for fast or heavy through traffic. Arterial streets and highways shall include freeways and expressways as well as arterial streets, highways, and parkways.
- (B) Collector Street: A street intended to serve and to provide access to neighborhoods or sub-neighborhoods.
- (65) STRUCTURE: Anything constructed or erected, the use of which requires a more or less permanent location on or in the ground. It includes, but is not limited to objects such as buildings, factories, sheds and cabins.
- (A) Permanent Structure: A structure which is built of such materials and in such a way that it would commonly be expected to last and remain useful for a substantial period of time.
- (B) Temporary Structure: A structure which is built of such materials and in such a way that it would commonly be expected to have a relatively short useful life, or is built for a purpose that would commonly be expected to be relatively short term.
- (C) Structural Alteration: Any change in the component members of a building, such as walls, columns, beams, or girders.
- (D) Shipping Containers and Semi-Trailers with axles removed are considered a structure.
- (66) Substantial Evidence Means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.
- (67) TOWN: The Town of Dexter, Wood County.

- (68) TOWN BOARD: The Board of Supervisors of the Town of Dexter.
- (69) UNIFORM DWELLING CODE: The Uniform Dwelling Code (UDC) is the statewide building code for one- and two-family dwellings built since June 1, 1980. The Wisconsin Department of Safety and Professional Service, Industry Services Division, provides consultation and education concerning UDC construction standards and inspection procedures. Building materials are evaluated for conformance with standards. UDC inspection and contractor credentials are administered. The UDC is enforced in all Wisconsin municipalities.
- (70) USE: The purpose for which land or a building or structure is arranged, designed or intended, or for which either land or a building or structure is, or may be occupied or maintained.
- (A) Use - Principle Permitted as a Right: A use which is permitted outright in a district for which a Zoning Permit may be issued by the Zoning Commissioner in accordance with this Ordinance.
- (B) Use - Principle Permitted by Conditional Permit: A use which is permitted in a district only if a Conditional Use Permit is expressly authorized in accordance with this Ordinance.
- (71) VARIANCE: A departure from the terms of the Zoning Ordinance where it is shown that unique physical circumstances applying to a land parcel causes a hardship to the owner and that the condition permitted by the departure still will be in fundamental harmony with surrounding uses.
- (72) VISION CLEARANCE TRIANGLE: An unoccupied triangular space at the corner of a corner lot which is bounded by the street lines and a setback line connecting points determined by measurement from the corner of each street line.
- (73) YARD: A required open space other than a court, on a lot, unoccupied and unobstructed from the ground upward except as otherwise provided in this Ordinance.
- (A) Front Yard: A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto on the lot as required in the district where located.
- (B) Front Yard - How Measured: Such depth shall be measured from the right-of-way line of the existing street on which the lot fronts (the front lot line); provided, however, that if the proposed location of the right-of-way of such street as established on the Official Thoroughfare Plan or Major Street Plan differs from that of the existing street, then the required front yard least depth shall be measured from the right-of-way line of such street as designated on said Thoroughfare Plan or Major Street Plan.
- (C) Rear Yard: A yard extending across the full width of the lot, the depth of which is the minimum distance between the rear lot line and a line parallel thereto on the lot as required in the distance where located.

- (D) Side Yard: A yard extending from the front yard to the rear yard, the width of which is the minimum horizontal distance between the side lot line and a line parallel thereto on the lot as required in the district where located.
 - (E) Side Yard - Least Width, How Measured: Such width shall be measured from the nearest side lot line and, in case the nearest side lot line is a side street lot line, from the right- of-way line of the existing street; provided, however, that if the proposed location of the right-of-way line such street as established in the Thoroughfare Plan differs from that of the existing street, then the required side yard least width shall be measured from the right-of-way of such street as designated on the Thoroughfare Plan.
- (74) ZONING COMMISSIONER: Person appointed by town board to issue zoning permits in accordance with all town zoning regulations. The Town Board shall appoint a Zoning Commissioner, who shall receive such compensation as the Town Board shall determine.
- (1) Duties: The Zoning Commissioner shall prepare a record of all buildings and structures situated within the setback lines as established by this Ordinance, or any amendment thereto, which shall include the distances of such buildings or structures from the centerline, their size, type of construction and use, the quarter section in which they are situated, and the names and addresses of the owner and occupant of the premises and the date on which the record is made. Such record shall be kept current, and shall show any such buildings or structures that may be removed or damaged to the extent that their reconstruction will be contrary to this Ordinance.

SECTION 3.00

GENERAL PROVISIONS

3.01 COMPLIANCE

Except as may be otherwise specifically provided, the use, size, height, and location of buildings now existing or hereafter erected, converted, enlarged or structurally altered, the provisions of open spaces, and the use of land, shall be in compliance with the regulations established herein for the district in which such land or building is located.

3.02 PERMITS

- (1) Purpose of Permits: The primary purpose of issuing zoning permits is to ensure compliance with the provisions of the Ordinance.
- (2) Zoning Permit: Any Building or structure over 200 square feet may not be erected, moved or structurally altered until a zoning permit therefore shall have been applied for from and issued by the Zoning Commissioner.
- (3) Conditional Use Permit: When the use permit being applied for is listed as a "conditional use", the Town Board shall issue a conditional use permit in lieu of the Zoning permit.

This permit shall be used only after report from the Planning Commission, after a public hearing and after provisions of the conditional use section of the Ordinance have been complied with. The Town Board may attach certain conditions that shall be met as a condition of issuing the permit.

- (4) Application Procedure: Applications for zoning or conditional use permits
 - (A) Applications for zoning permits shall be accompanied by county issued sanitary permit (if applicable), scale maps or drawings prepared to the best of the applicant's ability, showing legibly and accurately the location, size (no less than 2 acre) and shape of the lot(s) involved, and of any proposed structures, including the relation of abutting streets and any abutting lakes or streams, and the existing and proposed use of each structure and lot, and the number of families to be accommodated, or the number of persons that would normally occupy the building or structure.
 - (B) All dwellings must acquire Uniform Dwelling Code Permit from UDC Building Inspector after Zoning Permit is acquired.
 - (C) **FEES** See Town of Dexter Schedule of Permit Fees
Resolution 06-2011-03 (A separate document from this one)
- (5) Failure to obtain a zoning permit before the start of construction will result in a citation being issued (see Town of Dexter Citation Ordinance 09-08 a separate document from

this) **and construction is to cease until a permit is applied for and approved.** If the planned started structure appears that it may not be in compliance with the zoning ordinance, **the Town Board may order its removal.**

- (6) Expiration: If within six months of the date of issuance of a zoning or conditional use permit the proposed construction or preparation of land for use has not commenced, said permit shall expire, except that the Town Board may grant an extension of such permit for a period not to exceed six months upon the showing of valid cause.

No occupancy shall be permitted in the basement of an incomplete dwelling in excess of two years. Two years shall be the maximum time for completion of a dwelling as defined in Section 2 of this Ordinance.

3.03 EXEMPTIONS

The provisions regarding filling, grading and work in respect to waterways shall not apply to the construction and repair of public roads, flood control structures, or conservation practices such as terracing, installation of diversions, grass waterways, subsurface drainage, non-navigable drainage ditches, stream stabilization by rip rapping or vegetative cover, or non-floating docks accessory to private dwellings.

The town does not have any permits required for these things HOWEVER those wishing to do this should contact the Wood County Department of Planning and Zoning, Wis. DNR or US Army Corp of Engineers to see if their approvals and/or permits are required to do any of these activities.

3.04 USE REGULATIONS

- (1) Uses Restricted: In any zone no building or land shall be used and no building shall be hereafter erected, structurally altered or relocated except for one or more of the uses as hereinafter stated for that zone and in compliance with the regulations hereinafter established for that zone.
- (2) Accessory Uses: In any zone accessory buildings and uses customarily incident to the permitted uses in that zone shall be permitted subject to such requirements as may be hereinafter designated for that zone in which they are located.
- (3) Temporary Uses: Uses such as real estate sales field office or shelters for materials and equipment being used in the construction of a permanent structure may be permitted by the Zoning Commissioner
- (4) Unclassified Uses: In case of question as to the classification of a use, the question shall be submitted to the Planning Commission for determination.

3.05 VISUAL CLEARANCE

- (1) In each quadrant of every public street or highway intersection, there shall be designated a clear vision triangle, bounded by the street or highway centerlines and a line connecting points on said centerlines at a specified distance from their point of intersection, in the manner described in 3C following.
- (2) The use of the term "triangle" in this section shall not be construed to preclude reasonable modifications of a triangular shaped area, including modifications occasioned by the existence of curving streets or roads.
- (3) The term "centerline" in this section shall be interpreted as follows:
 - A. Where there is an undivided pavement within a right-of-way, the centerline shall be the centerline of that pavement, irrespective of whether or not that coincides with the centerline of the right-of-way.
 - B. Where there is a divided pavement within a right-of-way, the centerline shall be the centerline of the median strip between the pavements, except as specified in subsection C below.
 - C. Where there is a divided pavement within a right-of-way, and the distance between the centerlines of the pavements, measured along the centerline of the intersecting street or highway is 60 feet or greater, the centerlines of the pavements shall be used separately to designate the clear vision triangles.

The distance specified from the point of intersection of the centerlines to the aforesaid points on the centerlines shall be as specified in the following table:

<u>Type of Road</u>	<u>Triangle Side Distance</u>
Class A (State & Federal Highways.)	_____ 300 ft.
Class B (County Trunk Highways)	_____ 200 ft.
Class C (Town Streets & Highways)	_____ 150 ft.
Railroad Crossing	_____ 300 ft.

- (4) Within the clear vision triangle, no object shall be allowed above a height of two and one-half feet above average elevation of the streets at the aforesaid points on their respective centerlines, if it substantially obstructs the view across the triangle.

In situations where trees of large diameter, large numbers of trees, or some combination of these are present, this provision shall be construed to mean that a sufficient number of trees shall be removed so as to render an object, such as a motor vehicle clearly visible across the clear vision triangle from one street or highway to another, the intent being to provide for the public safety. However, it shall not necessarily be construed to mean that

every tree in the clear vision triangle must be removed. In a like manner, this restriction shall not apply to the posts and wires of wire fences, provided that they do not obstruct visibility across the clear vision triangle. Agricultural crops are also exempt from this provision.

3.06 SET BACK

Class A Highway setback shall be 110 feet from the centerline of the highway or 50 feet from the right-of-way line, whichever is greater. Class B highway setback shall be 75 feet from the centerline of the highway or 42 feet from the right-of-way line, whichever is greater. Class C highway setback shall be 75 feet from the centerline of the highway or 42 feet from the right-of-way line, whichever is greater.

3.07 HEIGHT REGULATION EXCEPTIONS

Heights of the following structures may exceed ordinance limits for the zone in which it is to be located: cooling towers, stacks, lookout towers, silos, windmills, water towers, spires, radio and television aerials, masts, antenna and mechanical appurtenances and barns and other buildings designed for the storage of agricultural products.

3.08 AIRPORT REGULATIONS

Except for field crops and fences under five feet high, the maximum height of any object located within 500 feet of either side of the centerline of a landing strip, and extended to a distance of two miles from the end of the runway shall be no higher than 1/100 of the distance of the object to the landing strip.

3.09 AREA REGULATIONS

- (1) Lot Reduction: After adoption of this Ordinance, no lot area shall be so reduced that the dimensional and yard requirements specified by this Ordinance cannot be met.
- (2) Existing Lot Use: Lots existing and of record prior to adoption of this ordinance, but of substandard size, may be devoted to uses permitted in the zone in which located upon granting of a variance from the Board of Appeals except where specified within the jurisdiction of shoreline provisions of the Wood County Shoreland Zoning Ordinance #704.
- (3) Lot Divisions: No improved lot shall hereafter be divided into two or more lots and no portion of any improved lot shall be sold unless all improved lots resulting from each such division or sale shall conform to all the applicable regulations of the zone in which the property is located.
- (4) Yard and Open Space Regulations: All yards and other open spaces allocated to a building (or group of buildings comprising one principal use) shall be located on the same lot as such building. The maintenance of yards and other open space and minimum

lot area legally required for a building shall be a continuing obligation of the owner of such building or of the property on which it is located, as long as the building is in existence. Furthermore, no legally required yards, other open space or minimum lot area allocated to any building shall, by virtue of change of ownership or for any other reason, be used to satisfy yard, other open space, or minimum lot area requirements for any other building.

- (5) Average Setback Determination: A setback equal to the average setback of existing principal buildings located within 500 feet of a proposed building site and on the same side of the street, shall be permitted where five of these buildings do not conform to the appropriate setback line.

3.10 NONCONFORMING USES

- (1) Existing Conditions: All uses existing at the date of adoption of this Ordinance are hereby declared to be legal nonconforming uses.
- (2) Building Repair: Provisions of this Ordinance shall not be construed to prevent the customary and necessary maintenance or repairs of buildings, utilities, and property.
- (3) Continuation of Nonconforming Use: Any building, structure or use which shall become nonconforming upon amendment to this Ordinance may be continued as provided in Sections 3.11, 3.12 and 3.13.

3.11 NONCONFORMING STRUCTURE

- (1) Limitations: No such structure shall be expanded or enlarged in excess of 50 percent of its appraised value except in conformity with the regulations of this Ordinance.
- (2) Repair: When such structure is damaged to the extent of more than 50 percent of its fair market value at the time it became nonconforming, it shall not be restored except in conformity with the regulations of the zone in which it is located.
- (3) Relocation: Should such structure be moved, it shall thereafter conform to the regulations of the zone to which it is moved.
- (4) Lot Lines: The size and shape of a lot shall not be altered in any way so as to increase the degree of nonconformity of a building or use.

3.12 NONCONFORMING USE OF STRUCTURE

- (1) Limitations: No such use shall be expanded or enlarged. No use shall be expanded within a structure which, as of the effective date of this Ordinance, or amendment, was only partially designed for or devoted to carrying on such use.

- (2) Discontinuance: If such use is discontinued for 12 consecutive months, any future use of the structure shall conform to the regulations of the zone in which it is located.
- (3) Termination: If the building in which such use is carried on is damaged to the extent of more than 50 percent of its appraised value at the time it became nonconforming, it shall not be restored for use except in conformity with the regulations of the zone in which it is located.

3.13 NONCONFORMING USE OF LAND

- (1) Limitations: No such use shall be expanded or enlarged.
- (2) Discontinuance: If any nonconforming use of land is discontinued for 12 consecutive months, any further use of the land shall conform to the regulations of the zone in which it is located unless otherwise specifically stated.

3.14 ACCESSORY USES AND STRUCTURES

- (1) Accessory buildings, structures and uses shall be compatible with the principle uses and shall not be established prior to the establishment of the principle use unless otherwise approved by the Planning Commission.

Location: No accessory building or structure shall be erected or altered or moved to a location within the required area of a front or side yard. An accessory building, structure or use in a rear yard shall be not less than five (5) feet from any property line, such accessory building, structure or use shall be set back from the property line adjoining a street the distance required for a front yard, unless otherwise required herein for a specific permitted or conditional use.

- (3) Encroachment: No accessory building, structure or use shall encroach upon that side yard of a corner lot which is adjacent to the street, upon the side yard of a reversed corner lot which is adjacent to the street, upon that part of a rear yard of a through lot, which is within 35 feet from the street line abutting the rear lot line or upon a front yard, except as permitted herein for specific uses.

3.15 YARD REGULATIONS

The following shall not be considered to be obstructions when located in the required yards specified:

- (1) In Any Yards: Marquees and awnings adjoining the principle building overhanging roof eaves; chimneys, if they do not exceed ten percent of the depth of the yard; and ornamental light standards, flag poles, arbors, trellises, trees, shrubs, permitted signs and outdoor fuel dispensing equipment.
- (2) In Side Yards: Open accessory off-street parking spaces, except in a side yard abutting a street.

- (3) In Rear Yards: Enclosed, attached or detached off-street parking spaces; open off-street parking spaces; accessory sheds, tool rooms or any similar structures customarily accessory to the principle use; and balconies, breezeways and open porches.

3.16 FEDERAL, STATE AND COUNTY PERMITS

Permits and/or approvals shall be obtained from Federal, State and County agencies authorized by law to issue such permits or approvals when required under any Federal State or County regulations.

3.17 SOLAR ENERGY SYSTEMS

(1) Purpose:

- A. The purpose of this Ordinance is to establish Town regulations for the installation and use of Solar Energy Systems that generate less than 100 megawatts but more than 10,000 watts.
- B. This Ordinance requires Owner(s) to obtain a zoning conditional use permit from the Town before:
 - 1. Construction of a Solar Energy System;
 - 2. Expansion of an existing or previously–approved Solar Energy System; and/or
 - 3. A material change in the approved design, location, or construction of a Solar Energy System.
- C. The Town may place any condition upon a permit as long as it satisfies at least one of the following:
 - 1. Serves to preserve or protect the public health or safety.
 - 2. Does not significantly increase the cost of the system or significantly decrease its efficiency.
 - 3. Allows for an alternative system of comparable cost and efficiency.
- D. The Town shall consider each permit application on a case-by-case basis.

(2) Definitions. Terms used herein shall have the following meanings:

- A. “Decommissioning” means removal of all of the above ground and below ground portions to a depth of at least four (4) feet of the Solar Energy System and its supporting facilities.
- B. “Owner” means:

1. A person with a direct ownership interest in a Solar Energy System, regardless of whether the person was involved in acquiring the necessary rights, permits, and approvals or otherwise planning for the construction and operation of a Solar Energy System.
 2. At the time a Solar Energy System is being developed, a person who is acting as a Solar Energy System developer by acquiring the necessary rights, permits and approvals for or by planning for the construction and operation of a Solar Energy System, regardless of whether the person will own or operate the Solar Energy System.
- C. "Solar Energy System" means equipment which directly converts and then transfers or stores solar energy into usable forms of thermal or electrical energy. In addition, for purposes of this Ordinance, only electric generating facilities of less than 100 megawatts but more than 10,000 watts are applicable.
- (3) Applications for a Solar Energy System permit are required to contain the following:
- A. Name and address of all Owner(s) of the Solar Energy System, and the name and contact information for a designated representative, if any.
 - B. Evidence that the applicant is the owner of the real property involved or has the written permission of the owner to make such an application.
 - C. Scaled drawing of the Solar Energy System and its dimensions, its location, its height above ground level, orientation, and slope from the horizontal.
 - D. Site plan showing lot lines and dimensions of the Solar Energy System user's lot and neighboring lots within 300 feet of the Solar Energy System.
 - E. The Town reserves the right to establish a Decommissioning review process to determine when a Solar Energy System has reached the end of its useful life.
 - F. Owner(s) shall submit to the Town a copy of all necessary State and Federal permits and approvals.
 - G. A finished landscape plan that includes proposed structures, topography, grubbing, clearing, plantings, and final vegetation.
 - H. Such additional information as the Town may reasonably request, if any.
 - I. A fee bearing a reasonable relationship to the Town's anticipated review and processing of the application that shall include the reasonable, direct cost of services necessary for review of the application provided by outside engineers, attorneys, planners, environmental specialists, and/or other consultants or experts. Additional fees may be

required as necessary, and any fees unused at the end of the application process shall be returned to the applicant. The Town Board shall determine and monitor the fee(s).

- J. As-built plans upon completion of construction.
- (4) Solar Energy System Restrictions. The Town may impose restrictions on a Solar Energy System including but not limited to any of the following:
- A. Location, setbacks, ground clearance, and height.
 - B. Anticipated costs related to emergency services required as a result of the Solar Energy System, such as for e.g., additional training and/or equipment.
 - C. Decommissioning.
 - D. Financial security, such as bonds, cash deposits, or letters of credit.
- (5) Revocation. Any permit granted for the installation or maintenance of a Solar Energy System may be revoked by the Town if the permit holder, its heirs, or assigns, violates the provisions of this Ordinance or the provisions of a permit granted pursuant to this Ordinance.
- (6) Reports and Reviews:
- A. An Owner of a Solar Energy System within the Town shall submit an annual report to the Town Zoning Committee by January 31 of each year documenting the operation and maintenance of the Solar Energy System during the previous calendar year.
 - B. The Town Zoning Committee shall conduct a review of the annual reports submitted, in part to determine if a Solar Energy System has reached the end of its useful life.
 - C. The Town reserves the right to establish a procedure to monitor compliance by the Owner with any condition on an approved Solar Energy System or to assess when Solar Energy System facilities are not maintained in good repair and operating condition. This procedure may include timelines, payment by the Owner of reasonable fees to conduct assessments, and notification to the public.
 - D. The Town may require the Owner to pay a reasonable fee for a third-party inspector to monitor and report regarding an Owner's compliance with permit requirements.
 - E. An Owner shall provide the Town with a copy of any third-party complaints regarding the Solar Energy System.
- (7) Financial Responsibility:
- A. An Owner with a nameplate capacity of 20,000 watts or larger shall provide the Town with financial assurance of the Owner's ability to pay the actual and necessary cost to

Decommission the Solar Energy System before commencing major civil construction activities.

- B. An Owner shall provide the Town with three estimates of the actual and necessary cost to decommission the Solar Energy System. The cost estimates shall be prepared by third parties agreeable to the Owner and the Town. The amount of financial assurance required by the Town will be the average of the three estimates.
- C. An Owner shall establish financial assurance that is acceptable to the Town and that places the Town in a secured position. The financial assurance must provide that the secured funds may be used for Decommissioning the Solar Energy System, or at such time as the Town determines that the Solar Energy System has been Decommissioned, or the Town approves the release of the funds, whichever occurs first. The financial assurance must also provide that the Town may access the funds for the purpose of Decommissioning the Solar Energy System if the Owner does not Decommission the system when Decommissioning is required.
- D. The Town may periodically request information from the Owner regarding industry costs for Decommissioning the Solar Energy System. If the Town finds that the future anticipated cost to Decommission the Solar Energy System is changing in a material way, the Town may correspondingly increase or decrease the amount of financial assurance required.
- E. The Town may require an Owner to submit a substitute financial assurance if an event occurs that raises material concern regarding the viability of the existing financial assurance.

3.18 Mobile Tower Siting

(1) Purpose.

The purpose of this Ordinance is to regulated by zoning permit (1) the siting and construction of any new mobile service support structure and facilities; (2) with regard to a class 1 collocation, the substantial modification of an existing support structure and mobile service facilities; and (3) with regard to a class 2 collocation, collocation on an existing support structure which does not require the substantial modification of an existing support structure and mobile service facilities.

(2) Authority.

The Town Board has the specific authority under Wis. Stat. §§ 62.23 and 66.0404 to adopt and enforce this Ordinance.

(3) Adoption of Ordinance.

This Ordinance, adopted by a majority of the Town Board on a roll call vote with a quorum present and voting and proper notice having been given, having a plan commission recommendation and having had a public hearing, now provides for the regulation by zoning

conditional use permit (1) the siting and construction of any new mobile service support structure and facilities; (2) with regard to a class 1 collocation, the substantial modification of an existing support structure and mobile service facilities; and (3) with regard to a class 2 collocation, collocation on an existing support structure which does not require the substantial modification of an existing support structure and mobile service facilities.

(4) Definitions.

The definitions contained within Wis. Stat. §§ 66.0404(1) and 66.0414(1) and as from time to time they are amended are hereby incorporated into this Ordinance as if fully set forth herein.

(5) Siting and construction of any new mobile services support structure and facilities.

A. Application Process

1. A Town zoning conditional use permit is required for the siting and construction of any new mobile service support structure and facilities. The siting and construction of any new mobile service support structure and facilities is a conditional use in the Town obtainable with permit.
2. A written permit application must be completed by any applicant submitted to the Town. The application must contain the following information:
 - i. The name and business address of, and the contact individual for, the application;
 - ii. The location of the proposed or affected support structure; and
 - iii. The location of the proposed mobile service facility.
3. If the application is to substantially modify any existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
4. If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
5. If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile

service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.

6. A permit application will be provided by the Town upon request to any applicant.
7. If an applicant submits to the Town an application for a permit to engage in an activity described in this Ordinance, which contains all of the information required under this Ordinance, the Town shall consider the application complete. If the Town does not believe that application is complete, the Town shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
8. Within 90 days of its receipt of a complete application, the Town shall complete all following or the applicant may consider the application approved, except that the applicant and the Town may agree in writing to an extension of the 90-day period:
 - i. Review the application to determine whether it complies with all applicable aspects of the Town's building code and subject to the limitations of Wis. Stat. § 66.0604, the Town's zoning ordinances.
 - ii. Make a final decision whether to approve or disapprove the application.
 - iii. Notify the applicant, in writing, of a final decision.
 - iv. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
9. The Town may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under paragraph (5)A.5.
10. If an applicant provides the Town with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the set back or fall zone area required in a zoning ordinance, that zoning ordinance does not apply to such a structure unless the Town provides the applicant with substantial evidence that the engineering certification is flawed.
11. See TOWN OF DEXTER SCHEDULE OF PERMIT FEES for fee.

(6) Class 1 collocation.

- A. Application Process
1. A Town zoning permit is required for a class 1 collocation. A class 1 collocation is a conditional use in the Town obtainable with this permit.
 2. A written permit application must be completed by an applicant and submitted to the Town. The application must contain the following information:
 - i. The name and business address of, and the contact individual for the applicant.
 - ii. The location of the proposed or affected support structure.
 - iii. The location of the proposed mobile service facility.
 - iv. If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
 - v. If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
 - vi. If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not chose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; it technically infeasible; or is economically burdensome to the mobile service provider.
 3. A permit application will be provided by the Town upon request to any applicant.
 4. If an applicant submits to the Town an application for a permit to engage in an activity described in this Ordinance, which contains all of the information required under this Ordinance, the Town shall consider the application complete. If the Town does not believe that the application is complete, the Town shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.

5. Within 90 days of its receipt of a complete application, the Town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Town may agree in writing to an extension of the 90-day period:
 - i. Review the application to determine whether it complies with all applicable aspects of the Town's building code and, subject to the limitations of Wis. Stat. § 66.0604, zoning ordinances.
 - ii. Make a final decision whether to approve or disapprove the application.
 - iii. Notify the applicant, in writing, of its final decision.
 - iv. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
6. The Town may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under paragraph (6)A.2.vi.
7. If an applicant provides the Town with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the set back or fall zone area required in a zoning ordinance, that zoning ordinance does not apply to such a structure unless the Town provides the applicant with substantial evidence that the engineering certification is flawed.
8. See TOWN OF DEXTER SCHEDULE OF PERMIT FEES for fee.

(7) Class 2 collocation.

A. Application Process

1. A Town Zoning permit is required for a class 2 collocation. A class 2 collocation is a permitted use in the Town but still requires the issuance of the Town permit.
2. A written permit application must be completed by any applicant and submitted to the Town. The application must contain the following information:
 - i. The name and business address of, and the contact individual for, the applicant.
 - ii. The location of the proposed or affected support structure.
 - iii. The location of the proposed mobile service facility.

3. A permit application will be provided by the Town upon request to any applicant.
 4. A class 2 collocation is subject to the same requirements for the issuance of a building permit to which any other type of commercial development or land use development is subject.
 5. If an applicant submits to the Town an application for a permit to engage in an activity described in this Ordinance, which contains all of the information required under this Ordinance, the Town shall consider the application complete. If any of the required information is not in the application, the Town shall notify the applicant in writing, within 5 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
 6. Within 45 days of its receipt of a complete application, the Town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Town may agree in writing to an extension of the 45-day period:
 - i. Make a final decision whether to approve or disapprove the application
 - ii. Notify the applicant, in writing, of its final decision.
 - iii. If the application is approved, issue the applicant the relevant permit.
 - iv. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
 7. See TOWN OF DEXTER SCHEDULE OF PERMIT FEES for fee.
- (8) If any provision of this Ordinance is found invalid or unconstitutional by a Court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the provision or application of this Ordinance which can be given effect without the invalid or unconstitutional provision or application.
- (9) Limitations.
- The Town Board may impose additional conditions on the permit except for conditions prohibited by Wis. Stat. § 66.0404.
- (10) Single-family residential setback.
- A. A setback equal to the height of a proposed mobile service support structure is imposed if all of the following apply:

1. The placement of the mobile service support structure is due to either new construction or the substantial modification of facilities and support structures; and
2. The mobile service support structure is or will be on or adjacent to a parcel of land that is subject to a zoning ordinance that permits single-family residential use on that parcel; and
3. This setback requirement shall be measured from the lot lines of the other adjacent and nonadjacent parcels for which single-family residential use is a permitted use under a zoning ordinance.

B. This setback requirement does not apply to an existing or new utility pole, or wireless support structure in a right-of-way that supports a small wireless facility, if the pole or facility does not exceed the greater of the following height limitations:

1. A height that is 10 percent taller than the tallest existing utility pole as of July 12, 2019, that is located within 500 feet of the new or modified utility pole in the same right-of-way.
2. A height that is 10 percent taller than the existing utility pole or wireless support structure on which the small wireless facility is located.
3. Fifty feet above ground level.

3.19 Wind Energy Facilities

A. Purpose:

- (1) The purpose of this Section is to incorporate the provisions of Wis. Stat. § 66.0401 and Wis. Adm. Code ch. PSC 128 as a Town ordinance and to establish Town regulations for the installation and use of large and small wind energy systems that are authorized by, compliant with, and no more restrictive than the rules promulgated by the Wisconsin Public Service Commission. This Section is also intended to preserve and protect public health and safety, to not significantly increase the cost of the system or significantly decrease wind energy system efficiency, and to allow for an alternative system of comparable cost and efficiency.
- (2) This Ordinance requires an owner to obtain a zoning conditional use permit from the Town before:
 - (a) Construction of a wind energy system;
 - (b) Expansion of an existing or previously-approved wind energy system; and/or

- (c) A material change in the approved design, location or construction of a wind energy system.

B. Adoption of State Laws:

Wis. Stat. § 66.0401 and Wis. Adm. Code ch. PSC 128, and as from time to time they are amended, are hereby adopted and incorporated into this Ordinance by reference as if fully set forth herein.

C. Definitions:

Terms used herein shall have the meanings described in Wis. Adm. Code § PSC 128.01. In addition, “large wind energy system” in this Ordinance means all wind energy systems that are not small wind energy systems.

D. Applications:

1. Applications for proposed wind energy systems shall be reviewed by the Zoning Administrator for a determination of completeness in accordance with the requirements of Wis. Adm. Code § PSC 128.31. Following a determination of completeness by the Zoning Administrator, the applicant shall provide 10 copies of the complete application to the Town. The Town Clerk shall forward one copy of a complete application to the Town Public Library, in accordance with Wis. Adm. Code § PSC 128.30(6). One copy of the application shall be made available for public review at the Town Hall during normal Town Hall business hours.
2. As soon as possible after receiving an application for a wind energy system, the Town Clerk shall cause to be published a Class 1 notice stating that an application has been filed, in accordance with Wis. Stat. § 66.0401(4)(a). The notice shall include the information required by Wis. Adm. Code § PSC 128.30(5)(b).
3. The Town reserves the right to request additional information necessary to understand the wind energy system. This provision still applies after a determination that an application is complete. An owner shall provide additional information to all reasonable Town requests in a timely, complete, and accurate manner.
4. The Town requires an owner to reimburse the Town for reasonable expenses relating to the review and processing of the application. The reimbursement shall be based on the actual and necessary cost of the review of the application and shall include the cost of services necessary to review an application that are provided by outside engineers, attorneys, planners, environmental specialists, and other consultants or experts. The Town requires an owner to submit fifty percent (50%) of the total estimated amount of the costs before the Town issues a written decision on the application. The Town shall give an owner written notice within ten (10) days of the date that the application is deemed complete with an estimate of the relevant reimbursement amounts.

E. Criteria for All Wind Energy Systems:

1. Wind energy systems shall comply with all applicable State and Federal laws, including but not limited to Wis. Stat. § 66.0401 and Wis. Adm. Code ch. PSC 128.
2. Wind energy systems are exempt from Town height and setback requirements except as is provided in Table 1 for large wind energy systems and Table 2 for small wind energy systems in Wis. Adm. Code ch. PSC 128. However, an applicant may utilize larger setbacks as necessary to meet other standards contained in Wis. Adm. Code ch. PSC 128, including but not limited to: noise, shadow flicker, signal interference, and stray voltage limitations.
3. An owner shall design a wind energy system to reasonably minimize the conversion of land from agricultural use.
4. The Town reserves the right to establish a decommissioning review process to determine when a wind energy system has reached the end of its useful life.
5. Owners shall submit to the Town a copy of all necessary State and Federal permits and approvals.

F. Additional Criteria Applicable Only to Large Wind Energy Systems

1. Pursuant to Wis. Stat. § 66.0401(4)(f)2, the Town may deny an application if a wind energy system has a nominal capacity of at least one megawatt and the proposed site of the wind energy system is in an area primarily designated for future residential or commercial development, as shown in a map that is adopted as part of a comprehensive plan pursuant to Wis. Stat. § 66.1001.
2. The Town reserves the right to establish reasonable requirements designed to minimize soil compaction, topsoil mixing, and damage to drainage systems on agricultural land.
3. Owners shall use shielding or control systems approved by the federal aviation administration to reduce the visibility of wind energy system lighting to individuals on the ground.
4. Owners shall provide annual training for all applicable fire, police, or other first responder agencies that provide such services to the Town. An owner shall provide at least eight hours of training during each calendar year and is responsible for all direct training costs.
5. Owners shall provide information about whether the owner has consulted with and received any non-binding recommendations for construction, operating, or decommissioning the wind energy system from any Federal or State agency and whether the owner has incorporated the non-binding recommendation(s) into the design of the wind energy system.

6. Owners shall cooperate with any study of the effects of wind energy systems coordinated by a state agency.
7. Monetary compensation:
 - a. Owners shall offer an agreement to the owner of a nonparticipating residence, if the residence is located within one-half mile of a constructed wind turbine, that includes an initial annual monetary compensation of \$600 for one turbine located within one-half mile of a nonparticipating residence, \$800 for two turbines located within one-half mile of a nonparticipating residence, and \$1,000 for three or more turbines located within one-half mile of a nonparticipating residence.
 - b. The initial annual monetary compensation under this subsection shall furthermore be calculated by the application of increases since the year 2012 of the greater of either two percent (2%) or the increase in the Consumer Price Index as described in Wis. Stat. § 196.374(5)(bm)2, for each year since 2012, to arrive at the initial amounts applicable to the year that any agreements are created. Such agreements shall also provide for such further increases to apply during the term of the agreement.
 - c. An agreement offered under this subsection shall specify in writing any waiver of a requirement or right under Wis. Adm. Code ch. PSC 128 and whether acceptance of payment by the owner of the nonparticipating residence will establish it as a participating property pursuant to Wis. Adm. Code ch. PSC 128.
8. Aerial Spraying. An owner shall offer an agreement that includes monetary compensation to a farm operator farming on a nonparticipating property located within one-half mile of a constructed wind turbine if the farm operator demonstrates all of the following:
 - a. Substantial evidence of a history, before the wind energy system owner gives notice under Wis. Adm. Code § PSC 128.105(1), of using aerial spraying for pest control or disease prevention for growing potatoes, peas, snap beans, or sweet corn on all or part of the farm field located within one-half mile of a constructed wind turbine.
 - b. A material reduction in potato, pea, snap bean, or sweet corn production or a material increase in application costs on all or part of a farm field located within one-half mile of a constructed wind turbine as a result of the wind energy system's effect on aerial spraying practices.
9. Reports and Reviews:
 - a. An owner of a wind energy system within the Town shall submit an annual report to the Town Zoning Committee by January 31 of each year documenting the operation and maintenance of the wind energy system during the previous calendar year.

- b. The Town Zoning Committee shall conduct a review of the annual reports submitted, in part to determine if a wind energy system has reached the end of its useful life.
 - c. The Town reserves the right to establish a procedure to monitor compliance by the owner with any condition on an approved wind energy system or to assess when wind energy systems facilities are not maintained in good repair and operating condition. This procedure may include timelines, payment by the owner of reasonable fees to conduct assessments, and notification to the public.
 - d. The Town may require the owner to pay a reasonable fee for a third-party inspector to monitor and report regarding an owner's compliance with permit requirements during construction.
 - e. An owner shall monthly provide the Town with a copy of the owner's complaint log.
10. Financial Responsibility:
- a. An owner with a nameplate capacity of one megawatt or larger shall provide the Town with financial assurance of the owner's ability to pay the actual and necessary cost to decommission the wind energy system before commencing major civil construction activities.
 - b. An owner shall provide the Town with three estimates of the actual and necessary cost to decommission the wind energy system. The cost estimates shall be prepared by third parties agreeable to the owner and the Town. The amount of financial assurance required by the Town will be the average of the three estimates.
 - c. An owner shall establish financial assurance that is acceptable to the Town and that places the Town in a secured position. The financial assurance must provide that the secured funds may be used for decommissioning the wind energy system, or at such time as the Town determines that the wind energy system has been decommissioned, as provided for in Wis. Adm. Code § PSC 128.19(5)(b), or the Town approves the release of the funds, whichever occurs first. The financial assurance must also provide that the Town may access the funds for the purpose of decommissioning the wind energy system if the owner does not decommission the system when decommissioning is required.
 - d. The Town may periodically request information from the owner regarding industry costs for decommissioning the wind energy system. If the Town finds that the future anticipated cost to decommission the wind energy system is at least 10 percent more or less than the amount of financial assurance provided under this Section, the Town may correspondingly increase or decrease the amount of financial assurance required. The Town shall not adjust the financial assurance under this paragraph more often than once in a 5-year period.

- e. The Town may require an owner to submit a substitute financial assurance of the owner's choosing if an event occurs that raises material concern regarding the viability of the existing financial assurance.
11. Signal Interference. An owner shall, under a protocol established by Wis. Adm. Code § PSC 128.50(2), implement a new technology solution that becomes commercially available before the wind energy system is decommissioned to address interference for which mitigation is required under Wis. Adm. Code §§ PSC 128.16(2) and (3) and for which the original mitigation solution is only partially effective.

G. Review Process:

1. The Town Zoning Committee shall have 90 days from the date that the Zoning Administrator notifies the owner that the application is complete in which to approve or disapprove the application, unless the time is extended in accordance with Wis. Stat. § 66.0401(4)(e).
2. The Town Zoning Committee shall hold a public hearing on the proposed wind energy system in accordance with Town Code § 4.07. Any written comments submitted shall be considered at the public hearing. A record of the hearing shall be created either by stenographer or an electronic recording.
3. Following the public hearing, the Town Board shall issue a written decision to grant or deny a zoning conditional use permit for a wind energy system and any conditions of approval. The written decision shall include findings of fact supported by evidence in the record. If an application is denied, the decision must specify the reason for the denial.
4. The Town Clerk shall provide a duplicate original of the Town Zoning Committee written decision to the applicant.
5. The Town shall maintain a record of the permit review and decision as required by Wis. Adm. Code § PSC 128.34.

3.20 Livestock Facility Siting

- (1) Title: this Ordinance shall be referred to as the Livestock Facility Siting Ordinance.
- (2) Authority: This Ordinance is enacted pursuant to the authority granted in Wis. Stat. §§60.10, 60.22, 60.62, 62.23, 93.90 and Wis. Adm. Code Ch. ATCP 51.
- (3) The Town shall use zoning **conditional use permits** to regulate the siting of new or expanding livestock facilities that exceed 500 animal units. Conditions of approval and procedural practice follow Wis. Stat. § 93.90 and Wis. Adm. Code Ch. ATCP 51. If there is any conflict between this Ordinance and elsewhere within this Zoning Code, this Ordinance controls on the topic of livestock facility siting.
- (4) Property Development Standards

A. General setbacks (Applies to livestock structures)

1. Property lines

Except as provided for waste storage structures, livestock structures must be located a minimum of 100 feet from the property line if the livestock facility will have fewer than 1,000 animal units, and 200 feet from the property line if the livestock facility will have 1,000 or more animal units.

The setback requirement does not prevent the use or expansion of a livestock structure that was located within the setback area prior to the effective date of the setback requirement, except that a structure may not be expanded closer to the property line.

2. Public highway right-of-way

Except as provided for waste storage structures, livestock structures must be located a minimum of 100 feet from public highway right-of-way if the livestock facility will have fewer than 1,000 animal units; and 150 feet from a public highway right-of-way if the livestock facility will have 1,000 or more animal units.

The setback requirement does not prevent the use or expansion of a livestock structure that was located within the setback area prior to the effective date of the setback requirement, except that a structure may not be expanded closer to the public highway right-of-way.

3. Waste Storage Structure

A New waste storage structure may not be located within 350 feet of a property line, or within 350 feet of the nearest point of any public highway right-of-way. A single new waste storage structure may be constructed closer to the property line or public highway if a new structure is:

- Located on the same tax parcel as a waste storage structure in existence before May 1, 2006.
- No larger than the existing structure.
- No further than 50 feet from the existing structure.
- No closer to the highway or property line than the existing structure.

This setback requirement does not apply to existing waste storage structures, except that an existing structure within 350 feet of a property line or highway may not expand toward that property line or highway.

B Water quality related setbacks

1. Navigable Waters and Wetlands

A livestock facility shall comply with setback and related requirements in any applicable shoreland or wetland zoning ordinances enacted within the scope of authority granted under Wis. Stat. §§ 59.692, 61.351 or 62.231.

2. Floodplain

A livestock facility shall comply with setback and related requirements in any applicable floodplain zoning ordinance that is enacted within the scope of statutory authority under Wis. Stat. § 87.30.

3. Wells

All wells located within in a livestock facility shall comply with Wis. Adm. Code chs. NR 811 and 812. New or substantially altered livestock structures shall be separated from existing wells by the distances required in chs. NR 811 and 812, regardless of whether the livestock facility operator owns the land on which the wells are located. A livestock structure in existence on May 1, 2006 may be altered as long as the alteration does not reduce the distance between the livestock structure and an existing well.

(4) Approval Required

These procedures apply to livestock facilities that require a conditional use permit under this Ordinance.

(5) Permits for Existing Livestock Facilities

- A. A permit is required for the expansion of a pre-existing or previously approved livestock facility if the number of animal units kept at the expanded livestock facility will exceed all of the following:
1. The applicable size threshold for a conditional use permit established in the zoning district where the facility is located, or 500 animal units.
 2. The maximum number previously approved or, if no maximum number was previously approved, a number that is 20% higher than the number kept on (May 1, 2006 or on the effective date of the permit requirement, whichever date is later).
- B. A permit is not required for a livestock facility that existed before May 1, 2006 or before the effective date of the permit requirement in this Ordinance (except as provided in Section (5)A).
- C. A permit is not required for livestock facility that was previously issued a conditional use permit or other local approval (except as provided in Section (5)A). A prior approval for the construction of a livestock facility implies approval for the maximum number of

animal units that the approved livestock facility was reasonably designed to house, except as otherwise clearly provided in the approval. Prior approval of a single livestock structure, such as a waste storage structure, does not constitute prior approval of an entire livestock facility.

(6) Application Procedure

A livestock operator must complete the application and worksheets prescribed by Wis. Adm. Code ch. ATCP 51, including any authorized local modifications. The application requirements specified in ATCP 51 are hereby incorporated into this Ordinance by reference as if fully set forth herein and as from time to time amended. The application form and worksheets establish compliance with the standards in ATCP 51 and this Ordinance.

The operator must file 4 duplicate copies of the application form, including worksheets, maps and documents (other than engineering design specifications) included in the application.

(7) Application Fee

A non-refundable application fee of \$1,000.00 shall accompany an application.

(8) Application Review Procedure

- A. Within 45 days after the Town receives an application, it shall notify the applicant whether the application is complete. If the application is not complete, the notice shall describe the additional information needed. Within 14 days after the applicant provides all of the required information, the Town shall notify the applicant that the application is complete. This notice does not constitute an approval of the proposed livestock facility.
- B. Within 14 days after the Town notifies an applicant that the application is complete, the Town shall notify adjacent landowners of the application. The Town shall use the approved notice form in ATCP 51, and mail a written notice to each adjacent landowner.
- C. The Town shall grant or deny an application within 90 days after the notice of a complete application is provided as required by (8)B above. However, the Town may extend this time limit for good cause, including any of the following:
 - 1. The Town needs additional information to act on the application.
 - 2. The applicant materially modifies the application or agrees to an extension.

The Town shall give written notice of any extension. The notice shall specify the reason for the extension, and the extended deadline date by which the Town will act on the application.

(9) Public Hearing

The Town may schedule a public hearing on the application within 90 days after issuing notice of a complete application.

(10) Standards. The standards for issuing a permit are as follows:

- A. The state livestock facility siting standards adopted under Wis. Adm. Code ch. ATCP 51. These standards are hereby incorporated into this Ordinance by reference as if fully set forth herein and as from time to time amended, and include the following:
 - 1. The site must be located in a zoning district that is an agricultural zoning district.
 - 2. The proposed livestock facility must comply with all valid local ordinances adopted under certain state laws related to shoreland zoning, floodplain zoning, construction site erosion control or stormwater management, to include the following: Wis. Stat. §§ 59.692, 59.693, 60.627, 61.351, 61.353, 61.354, 62.231, 62.233, 62.234, or 87.30.
 - 3. The proposed livestock facility must comply with a building, electrical or plumbing code that is consistent with the state building, electrical or plumbing code for that type of facility.
 - 4. Regulations on odor and air emissions, nutrient management, waste storage facilities, and runoff management.
- B. The setbacks authorized within this Ordinance.
- C. More stringent standards required to protect public health or safety that are based on reasonable and scientifically defensible findings of fact adopted after a public hearing, if any. If such standards consistent with Wis. Stat. § 93.90(3)(ar) are found, they shall be added by amendment to this Ordinance before they can apply to an applicant.

(11) Criteria for Issuance of a Permit

- A. A permit shall issue if the application for the proposed livestock facility contains sufficient credible information to show, in the absence of clear and convincing information to the contrary, that the proposed livestock facility meets the standards specified in this Ordinance.
- B. A permit may be denied if any of the following apply:
 - 1. The application, on its face, fails to meet the standard for approval.
 - 2. The Town finds, based on other clear and convincing information in the record, that the proposed livestock facility does not comply with applicable standards in this Ordinance.

3. Other grounds authorized under Wis. Stat. § 93.90, that warrant disapproving the proposed livestock facility.
- C. No conditions may be imposed on a permit other than standards provided in this Ordinance.

(12) Record of Decision

- A. The Town Board shall issue its decision in writing. Its decision shall be based on written findings of fact supported by evidence in the record.
- B. In the event that a permit is approved, the applicant shall receive a duplicate copy of the approved application, marked “approved.” The duplicate copy must include worksheets, maps and other documents (other than engineering specifications) included in the application.

(13) Notice to the Department

The Town Clerk, as required by Wis. Adm. Code § ATCP 51.34(5), within 30 days of the Town decision on the application shall do all of the following:

- A. Give the Wisconsin Department of Agriculture, Trade and Consumer Protection written notice of the Town decision.
- B. File with the Department a copy of the final application granted or denied, if the Town has granted or denied an application under this Ordinance. (The copy shall include all of the worksheets, maps and other attachments included in the application, except that it is not required to include the engineering design specifications.)
- C. If the Town has withdrawn a local approval under this Ordinance, file with the Department a copy of the Town final notice or order withdrawing the local approval.

(14) Expiration of Permit

- A. A permit remains in effect regardless of the amount of time that elapses before the livestock operator exercises the authority granted under the permit, and regardless of whether the livestock operator exercises the full authority granted by the approval. However, the Town may treat a permit as lapsed and withdraw the permit if the permit holder fails to do all of the following within 2 years after issuance of permit:
 1. Begin populating the new or expanded livestock facility.
 2. Begin constructing all of the new or expanded livestock housing or waste storage structures proposed in the permit application.

(15) Permit modifications

The operator may make reasonable changes that maintain compliance with the standards in this Ordinance, and the Town shall not withhold authorization for such changes.

- (16) Compliance Monitoring. The Town shall monitor compliance with the Ordinance as follows:
- A. Upon notice to the livestock facility owner request the right of the Town to personally view the permitted facility at a reasonable time and date to ensure that all commitments of the application as approved are being complied with.
 - B. If the livestock facility owner refuses the Town the right to view the permitted facility, the Town may request the assistance of the Sheriff or Sheriff's deputy to obtain an inspection warrant from the circuit court to inspect the permitted facility for the purpose of protection of the public health and safety under Wis. Stat. § 66.0119.
 - C. If a permitted facility is found not in compliance with the commitments made in the approved application, the Town shall issue a written notice to the livestock facility owner stating the conditions of non-compliance and directing that compliance of the commitments of the approved application and be complied with in a reasonable amount of time stated in this written notice.
 - D. If non-compliance of the permit conditions as described in the written notice given by the Town continue past the stated reasonable time to comply, the Town may take further action as provided in the Town's Ordinances, including but not limited to the issuance of a citation or the seeking of injunctive relief.
 - E. If the livestock facility owner disputes that the conditions of the permit have not been complied with, the livestock facility owner may request a hearing in writing within not more than five days of receipt of the notice of non-compliance. The Town Board shall schedule a hearing within not more than 30 days to determine if the conditions of the permit have been complied with or whether non-compliance of the commitments of the approved application and Town approval exists.

(17) Terms of the Permit

A permit and the privileges granted by a permit issued under this Ordinance is conditioned on the livestock operator's compliance with the standards in this Ordinance, and with commitments made in the application for a permit. The Town is authorized to suspend a permit or seek other redress provided in this Ordinance for non-compliance.

(18) Transferability

A permit and the privileges granted by the permit run with land, and remain in effect, despite a change in ownership of the livestock facility, as long as the new operator does not violate the terms of the Town's approval. An applicant may record with the register of deeds, at the applicant's expense, the duplicate copy of the approved application.

Upon change of ownership of the livestock facility, the new owner of the facility shall file information with the Town Clerk providing pertinent information, including but not limited to such information as the name and address of the new owner and date of transfer of ownership.

(19) Variance limitation.

The Town is not authorized to grant a variance from the state requirements related to livestock facility siting, except as provided in Wis. Stat. § 93.90 and Wis. Adm. Code ch. ATCP 51.

(20) Definitions applicable to this Ordinance

The definitions of various words used within and applicable to this Ordinance are contained within Wis. Stat. § 93.90 and Wis. Adm. Code ch. ATCP 51, which are hereby incorporated into this Ordinance by reference as if fully set forth herein and as from time to time amended.

3.21 RADIO BROADCAST SERVICE FACILITY REGULATIONS AND AMATEUR RADIO ANTENNAS

(1) Purpose:

- A. The purpose of this Ordinance is to establish Town regulations for the placement, construction, or modification of Radio Broadcast Service Facilities. Amateur Radio Antennas are also regulated.
- B. This Ordinance requires Owner(s) to obtain a zoning conditional use permit from the Town before:
 - 1. Construction of Radio Broadcast Service Facilities;
 - 2. Expansion of an existing or previously approved Radio Broadcast Service Facilities; and/or
 - 3. A material change in the approved design, location, or construction of Radio Broadcast Service Facilities.
- C. The Town may place any condition upon a permit as long as it satisfies all of the following:
 - 1. Serves a reasonable and clearly defined public health or safety objective;
 - 2. Reflects the minimum practical regulation that is necessary to accomplish that objective; and
 - 3. Reasonably accommodates Radio Broadcast Services and does not prohibit, or have the effect of prohibiting, the provision of such services in the Town.
- D. The Town shall consider each permit application on a case-by-case basis.

(2) Definitions. In this Ordinance:

- A. "Amateur radio antennas" means antennas, or antenna support structures, that are used for amateur radio communications.
 - B. "Decommissioning" means removal of all of the above ground and below ground portions to a depth of at least four (4) feet of the Radio Broadcast Service Facilities and its supporting facilities.
 - C. "Owner" means:
 - 1. A person with a direct ownership interest in a Radio Broadcast Service Facilities, regardless of whether the person was involved in acquiring the necessary rights, permits, and approvals or otherwise planning for the construction and operation of a Radio Broadcast Service Facilities.
 - 2. At the time a Radio Broadcast Service Facilities is being developed, a person who is acting as a Radio Broadcast Service Facilities developer by acquiring the necessary rights, permits and approvals for or by planning for the construction and operation of a Radio Broadcast Service Facilities, regardless of whether the person will own or operate the Radio Broadcast Service Facilities.
 - D. "Radio Broadcast Services" means the regular provision of a commercial or noncommercial service involving the transmission, emission, or reception of radio waves for the transmission of sound or images in which the transmissions are intended for direct reception by the general public.
 - E. "Radio Broadcast Service Facilities" means commercial or noncommercial facilities, including antennas and antenna support structures, intended for the provision of radio broadcast services.
- (3) Applications for a Radio Broadcast Service Facilities permit are required to contain the following:
- A. Name and address of all Owner(s) of the Radio Broadcast Service Facilities, and the name and contact information for a designated representative, if any.
 - B. Evidence that the applicant is the owner of the real property involved or has the written permission of the owner to make such an application.
 - C. Scaled drawing of the Radio Broadcast Service Facilities and its dimensions, its location, its height above ground level, orientation, and slope from the horizontal.
 - D. Site plan showing lot lines and dimensions of the Radio Broadcast Service Facilities user's lot and neighboring lots within 1,000 feet of the Radio Broadcast Service Facilities.
 - E. The Town reserves the right to establish a Decommissioning review process to determine when a Radio Broadcast Service Facilities has reached the end of its useful life.

- F. Owner(s) shall submit to the Town a copy of all necessary State and Federal permits and approvals.
 - G. A finished landscape plan that includes proposed structures, topography, grubbing, clearing, plantings, and final vegetation.
 - H. Such additional information as the Town may reasonably request, if any.
 - I. A fee bearing a reasonable relationship to the Town's anticipated review and processing of the application that shall include the reasonable, direct cost of services necessary for review of the application provided by outside engineers, attorneys, planners, environmental specialists, and/or other consultants or experts. Additional fees may be required as necessary, and any fees unused at the end of the application process shall be returned to the applicant. The Town Board shall determine and monitor the fee(s).
 - J. As-built plans upon completion of construction.
- (4) Radio Broadcast Service Facilities Restrictions. The Town may impose restrictions on Radio Broadcast Service Facilities including but not limited to any of the following:
- A. Location, setbacks, ground clearance, and height.
 - B. Anticipated costs related to emergency services required as a result of the Radio Broadcast Service Facilities, such as for e.g., additional training and/or equipment.
 - C. Decommissioning.
 - D. Financial security, such as bonds, cash deposits, or letters of credit.
- (5) Revocation. Any permit granted for the installation or maintenance of Radio Broadcast Service Facilities may be revoked by the Town if the permit holder, its heirs, or assigns, violates the provisions of this Ordinance or the provisions of a permit granted pursuant to this Ordinance.
- (6) Reports and Reviews:
- A. An Owner of Radio Broadcast Service Facilities within the Town shall submit an annual report to the Town Zoning Committee by January 31 of each year documenting the operation and maintenance of the Radio Broadcast Service Facilities during the previous calendar year.
 - B. The Town Zoning Committee shall conduct a review of the annual reports submitted, in part to determine if Radio Broadcast Service Facilities has reached the end of its useful life.

- C. The Town reserves the right to establish a procedure to monitor compliance by the Owner with any condition on approved Radio Broadcast Service Facilities or to assess when Radio Broadcast Service Facilities are not maintained in good repair and operating condition. This procedure may include timelines, payment by the Owner of reasonable fees to conduct assessments, and notification to the public.
- D. The Town may require the Owner to pay a reasonable fee for a third-party inspector to monitor and report regarding an Owner's compliance with permit requirements.
- E. An Owner shall provide the Town with a copy of any third-party complaints regarding the Radio Broadcast Service Facilities.

(7) Financial Responsibility:

- A. An Owner shall provide the Town with financial assurance of the Owner's ability to pay the actual and necessary cost to Decommission the Radio Broadcast Service Facilities before commencing major civil construction activities.
- B. An Owner shall provide the Town with three estimates of the actual and necessary cost to decommission the Radio Broadcast Service Facilities. The cost estimates shall be prepared by third parties agreeable to the Owner and the Town. The amount of financial assurance required by the Town will be the average of the three estimates.
- C. An Owner shall establish financial assurance that is acceptable to the Town and that places the Town in a secured position. The financial assurance must provide that the secured funds may be used for Decommissioning the Radio Broadcast Service Facilities, or at such time as the Town determines that the Radio Broadcast Service Facilities has been Decommissioned, or the Town approves the release of the funds, whichever occurs first. The financial assurance must also provide that the Town may access the funds for the purpose of Decommissioning the Radio Broadcast Service Facilities if the Owner does not Decommission the system when Decommissioning is required.
- D. The Town may periodically request information from the Owner regarding industry costs for Decommissioning the Radio Broadcast Service Facilities. If the Town finds that the future anticipated cost to Decommission the Radio Broadcast Service Facilities is changing in a material way, the Town may correspondingly increase or decrease the amount of financial assurance required.
- E. The Town may require an Owner to submit a substitute financial assurance if an event occurs that raises material concern regarding the viability of the existing financial assurance.

(8) Denial of placement, construction, or modification of facilities.

- A. A denial of a permit application by the Town shall be based only on the Town's public health or safety concerns.

- B. The Town shall provide the requester with a written denial of the requester's request, and the Town shall provide the requester with substantial written evidence which supports the reasons for the Town's action.
- (9) Amateur radio antennas. The Town regulates the placement, screening, and height of antennas, or antenna support structures, that are used for amateur radio communications. Any condition imposed on amateur radio antennas shall meet all of the following:
- A. Satisfy a reasonable and clearly defined aesthetic, public health, or safety objective;
 - B. Be the minimum practical regulation that is necessary to accomplish the objective(s); and
 - C. Reasonably accommodates amateur radio communications.
 - D. Absolute amateur radio antenna height limits by zoning district:
 - 1. Residential District: 40 feet.
 - 2. Commercial District: 45 feet if the lot is adjacent to a lot zoned in the Residential District, and in all other cases 60 feet.
 - 3. Industrial District: 45 feet.
 - 4. Agricultural District: 60 feet.
 - 5. Amateur radio antennas are prohibited in the Special Purpose and Conservation Districts.

3.22 SMALL WIRELESS COMMUNICATION FACILITIES IN THE RIGHT-OF-WAY

- (1) Definitions. For the purposes of this Ordinance, the terms below shall have the following meanings. Definitions in this Section may contain quotations or citations to 47 C.F.R. §§ 1.6100 and 1.6002, and Wis. Stat. § 66.0414. In the event that any referenced law is amended, the definition in the referenced law, as amended, shall control.
- A. "Administrator" means the Director of Public Works or his or her designee.
 - B. "Application" means a formal request, including all required and requested documentation and information, submitted by an applicant to the Town for a wireless permit.
 - C. "Applicant" means a person or entity filing an application for a wireless permit under this Ordinance.

- D. “Base Station,” consistent with 47 C.F.R. § 1.6100(b)(1), means a structure or wireless equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. This definition does not include towers or any equipment associated with a tower.
- E. “Eligible Facilities Request,” consistent with 47 C.F.R. § 1.6100(b)(3), means any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving: collocation of new transmission equipment; removal of transmission equipment; or replacement of transmission equipment.
- F. “FCC” means the Federal Communications Commission.
- G. “Governmental Pole,” consistent with Wis. Stat. § 66.0414(1)(n), means a utility pole that is owned or operated by the Town in the right-of-way.
- H. “Historic District,” consistent with Wis. Stat. § 66.0414(3)(c)5, means an area designated as historic by the Town, listed on the national register of historic places in Wisconsin, or listed on the state register of historic places.
- I. “Right-of-Way” means the surface of, and the space above and below the entire width of an improved or unimproved public roadway, highway, street, bicycle lane, landscape terrace, shoulder, side slope, public sidewalk, or public utility easement over which the Town exercises any rights of management and control or in which the Town has an interest.
- J. “Small Wireless Facility,” consistent with 47 C.F.R. § 1.6002(l), means a facility that meets each of the following conditions:
1. The structure on which antenna facilities are mounted, measured from ground level:
 - a. Is 50 feet or less in height; or
 - b. Is no more than 10 percent taller than other adjacent structures; or
 - c. Is not extended to a height of more than 50 feet or by more than 10 percent above its preexisting height, whichever is greater, as a result of the collocation of new antenna facilities.
 2. Each antenna (excluding associated antenna equipment) is no more than three cubic feet in volume;
 3. All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is cumulatively no more than 28 cubic feet in volume;

4. The facility does not require antenna structure registration under 47 C.F.R. part 17;
 5. The facility is not located on Tribal land as defined in 36 C.F.R. § 800.16(x); and
 6. The facility does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified by federal law.
- K. “Support Structure” means any structure in the right-of-way (other than an electric transmission structure) capable of supporting wireless equipment, including a utility pole, a wireless support structure as defined in Wis. Stat. § 66.0414(1)(zp), or a base station.
- L. “Tower,” consistent with 47 C.F.R. § 1.6100(b)(9), means any structure built for the sole or primary purpose of supporting any Federal Communication Commission (FCC) licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. This definition does not include utility poles.
- M. “Transmission Equipment,” consistent with 47 C.F.R. § 1.6100(b)(9), means equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
- N. “Underground District,” consistent with Wis. Stat. § 66.0414(3)(c)5, means an area designated by the Town in which all pipes, pipelines, ducts, wires, lines, conduits, or other equipment, which are used for the transmission, distribution, or delivery of electrical power, heat, water, gas, sewer, or telecommunications equipment, are to be located underground.
- O. “Utility Pole,” means a pole that is used in whole or in part by a communications service provider; used for electric distribution, lighting, traffic control, signage, or a similar function; or used for the collocation of small wireless facilities. “Utility pole” does not include a wireless support structure or an electric transmission structure.
- P. “Utility Pole for Designated Services” means a utility pole owned or operated in a right-of-way by the Town that is designed to, or used to, carry electric distribution lines, or cables or wires for telecommunications, cable, or electric service.
- Q. “Wireless Equipment” means an antenna facility at a fixed location that enables wireless services between user equipment and a communications network, and includes all of the following:

1. Equipment associated with wireless services;
2. Radio transceivers, antennas, or coaxial, metallic, or fiber-optic cable located on, in, under, or otherwise adjacent to a support structure;
3. Regular and backup power supplies; and
4. Equipment that is comparable to equipment specified in this definition regardless of technical configuration.

“Wireless Equipment” does not include any of the following:

1. The structure or improvements on, under, or within which the equipment is collocated; or
2. Wireline backhaul facilities; or
3. Coaxial, metallic, or fiber-optic cable that is between utility poles or wireless support structures or that is not adjacent to a particular antenna.

The definition of “Wireless Equipment” in this Ordinance is consistent with the definition of “wireless facility” in Wis. Stat. § 66.0414(1)(z).

- R. “Wireless Facility” or “Facility” means an installation at a fixed location in the right-of-way consisting of wireless equipment and the support structure, if any, associated with the wireless equipment.
- S. “Wireless Infrastructure Provider” means any person or entity, other than a wireless services provider, that builds or installs wireless communications transmission equipment, antenna equipment, or wireless support structures.
- T. “Wireless Permit” or “Permit” means a permit issued pursuant to this Ordinance and authorizing the placement or modification of a wireless facility of a design specified in the permit at a particular location within the right-of-way, and the modification of any existing support structure to which the wireless facility is proposed to be attached.
- U. “Wireless Provider” means a wireless infrastructure provider or a wireless services provider.
- V. “Wireless Regulations” means those regulations adopted pursuant to Section (5)B.1. to implement the provisions of this Ordinance.
- W. “Wireless Services” means any service using licensed or unlicensed wireless spectrum, including the use of a Wi-Fi network, whether at a fixed location or by means of a mobile device.
- X. “Wireless Service Provider” means a person or entity that provides wireless services.

(2) Purpose

In the exercise of its police powers, the Town has priority over all other uses of the right-of-way. The purpose of this Ordinance is to provide the Town with a process for managing, and uniform standards for acting upon, requests for the placement of wireless facilities within the right-of-way consistent with the Town's obligation to promote the public health, safety, and welfare; to manage the right-of-way; and to ensure that the public's use is not obstructed or incommoded by the use of the right-of-way for the placement of wireless facilities. The Town recognizes the importance of wireless facilities to provide high quality communications and internet access services to residents and businesses within the Town. The Town also recognizes its obligation to comply with applicable Federal and State laws regarding the placement of wireless facilities in the right-of-way including, without limitation, the Telecommunications Act of 1996 (47 U.S.C. § 151 et seq.), Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Wis. Stat. §§ 182.017, 196.58, and 66.0414, as amended, and this Ordinance shall be interpreted to be consistent with such laws.

(3) Scope

- A. Applicability. Unless exempted by Section (3)B., below, every person who wishes to place a wireless facility in the right-of-way or modify an existing wireless facility in the rightof-way must obtain a wireless permit under this Ordinance.
- B. Exempt Facilities. The provisions of this Ordinance, other than Sections (10)-(13), shall not be applied to applications for the following:
 - 1. Installation, maintenance, operation, or replacement of a small wireless facility strung on cables between two existing utility poles in compliance with the National Electrical Safety Code, provided that the small wireless facility does not exceed 24 inches in length, 15 inches in width, and 12 inches in height and has no exterior antenna longer than 11 inches.
 - 2. Installation of a mobile cell facility (commonly referred to as "cell on wheels" or "cell on truck") for a temporary period in connection with an emergency or event, but no longer than required for the emergency or event, provided that installation does not involve excavation, movement, or removal of existing facilities.
 - 3. Placement or modification of a wireless facility by Town staff or any person performing work under contract with the Town.
 - 4. The replacement of an existing small wireless facility with a small wireless facility that is substantially similar to, or the same size or smaller than, the existing small wireless facility, provided that there is no change to the support structure on which the small wireless facility is placed.
 - 5. Routine maintenance of a wireless facility.
- C. Placement on Town-Owned or -Controlled Support Structures. Any applicant who wishes to place wireless equipment on a support structure owned or controlled by the Town, including governmental poles and utility poles for designated services, must obtain a wireless permit under this Ordinance and enter into an attachment agreement with the Town. The agreement

shall include provisions regarding make-ready work and specify the compensation to be paid to the Town for use of the support structure in accordance with the standards set out in Wis. Stat. § 66.0414(4), as amended. Unless prohibited by state or federal law, the person or entity seeking the agreement shall reimburse the Town for all costs the Town incurs in connection with its review of and action upon the request for an agreement.

(4) Nondiscrimination

In establishing the rights, obligations, and conditions set forth in this Ordinance, it is the intent of the Town to treat each applicant and right-of-way user in a competitively neutral and nondiscriminatory manner, to the extent required by law, while taking into account the unique technologies, situation, and legal status of each applicant or request for use of the right-of-way.

(5) Administration

A. Administrator. The Administrator is responsible for administering this Ordinance.

B. Powers. As part of the administration of this Ordinance, the Administrator may:

1. Adopt wireless regulations governing the placement and modification of wireless facilities in addition to but consistent with the requirements of this Ordinance, including regulations governing collocation, the resolution of conflicting applications for placement of wireless facilities, and aesthetic standards. The regulations must be published in advance of their enforcement.
2. Interpret the provisions of Ordinances and other wireless regulations.
3. Develop forms and procedures for submission of applications for wireless permits consistent with this Ordinance.
4. Collect any fee required by this Ordinance.
5. Establish deadlines for submission of information related to an application, and extend or shorten deadlines where appropriate and consistent with federal laws and regulations.
6. Issue notices of incompleteness or requests for information in connection with any wireless permit application.
7. Select and retain an independent consultant or attorney with expertise in telecommunications to review any issue that involves specialized or expert knowledge in connection with any permit application.
8. Coordinate and consult with other Town staff, committees, and governing bodies to ensure timely action on all other required permits under Section (6)B.11. of this Ordinance.

9. Negotiate attachment agreements for the placement of wireless equipment on governmental poles or utility poles.
10. Subject to appeal as provided in Section (8)D. of this Ordinance, determine whether to grant, grant subject to conditions, or deny an application.
11. Take such other steps as may be required to timely act upon wireless permit applications, including issuing written decisions and entering into agreements to mutually extend the time for action on an application.

(6) Application

- A. Format. Unless the wireless regulations provide otherwise, the applicant must submit both a paper copy and an electronic copy (in a word-searchable format) of any application, as well as any amendments or supplements to the application or responses to requests for information regarding an application, to the Administrator. An application is not complete until both the paper and electronic copies are received by the Administrator.
- B. Content. In order to be considered complete, an application must contain:
 - (1) All information required pursuant to the wireless regulations.
 - (2) A completed application cover sheet signed by an authorized representative of the applicant.
 - (3) The name of the applicant (including any corporate or trade name), and the name, address, email address, and telephone number of a local representative and of all duly authorized representatives and consultants acting on behalf of the applicant with respect to the filing of the application. If the applicant is a wireless infrastructure provider, the name and contact information for the wireless service provider(s) that will be using the wireless facility must also be provided.
 - (4) A statement of which state or federal deadline(s) apply to the application.
 - (5) A separate and complete description of each proposed wireless facility and the work that will be required to install or modify it, including but not limited to detail regarding proposed excavations, if any; detailed site plans showing the location of the facility and technical specifications for each element of the facility, clearly describing the site and all structures and equipment at the site before and after installation or modification and identifying the owners of such preexisting structures and equipment; and describing the distance to the nearest residential dwelling unit. Before and after 360-degree photo simulations must be provided for each facility.
 - (6) A certification by the applicant that the wireless facility will not materially interfere with the safe operation of traffic control equipment or sight lines or clear zones for transportation of pedestrians, and will fully comply with the federal

Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement.

- (7) A certification by the applicant that the wireless facility will comply with relevant FCC regulations concerning radio frequency emissions from radio transmitters and unacceptable interference with public safety spectrum, including compliance with the abatement and resolution procedures for interference with public safety spectrum established by the FCC set forth in 47 C.F.R. §§ 22.97 to 22.973 and 47 C.F.R. §§ 90.672 to 90.675.
- (8) A statement that the wireless facility will comply with the state electrical wiring code, as defined in Wis. Stat. § 101.80(4), as amended; the state plumbing code specified in Wis. Stat. § 145.13, as amended; the fire prevention code under Wis. Admin. Code § SPS 314, as amended; the Wisconsin commercial building code under Wis. Admin. Code §§ SPS 361 to 366, as amended; the Wisconsin uniform dwelling code under Wis. Admin. Code §§ SPS 320 to 325, as amended; and all local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons.
- (9) A structural report performed by a professional engineer registered in the State of Wisconsin evidencing that the support structure on which the wireless equipment will be mounted will structurally support the equipment, or that the structure may and will be modified to meet structural requirements, in accordance with applicable codes, including the National Electric Safety Code and the National Electric Code.
- (10) If the support structure on which the wireless equipment will be mounted is owned by a third party, a certification that the applicant has permission from the owner to mount its equipment on the structure. This is not required if the support structure is a governmental pole or a utility pole for designated services, as permission will be evidenced by the executed attachment agreement referenced in Section (3)C.
- (11) To the extent that filing of the wireless permit application establishes a deadline for action on any other permit that may be required in connection with the wireless facility, the application must include complete copies of applications for every required permit (including without limitation electrical permits, building permits, traffic control permits, and excavation permits), with all engineering completed.
- (12) Payment of all required fees.

C. Waivers. Requests for waivers from any requirement of this Section shall be made in writing to the Administrator. The Administrator may grant a request for waiver if it is demonstrated that, notwithstanding the issuance of the waiver, the Town will be provided with all information necessary to understand the nature of the construction or other activity to be conducted pursuant to the wireless permit sought.

- D. Eligible Facilities Requests. If the applicant asserts in writing that its application is an eligible facilities request, the Town will only require the applicant to provide that information set forth in Section (6)B. to the extent reasonably related to determining whether the request meets the definition of “eligible facilities request” under 47 C.F.R. § 1.6100(b)(3). The applicant will be required to submit evidence that the application relates to an existing tower or base station that has been approved by the Town. Before and after 360-degree photo simulations must be provided with detailed specifications demonstrating that the modification does not substantially change the physical dimensions of the existing approved tower or base station.
- E. Fees. Applicant must pay an application fee in an amount set by the Town Board to allow recovery of the Town’s direct costs of processing the application, subject to the limits contained in state and federal law, including Wis. Stat. § 66.0414(3)(d), as amended.
- F. Public Records. Applications are public records that may be made publicly available pursuant to state and federal public records laws. Notwithstanding the foregoing, the applicant may designate portions of the application materials that it reasonably believes contain proprietary or confidential information by clearly marking each portion of such materials accordingly, and the Town shall endeavor to treat the information as proprietary and confidential, subject to applicable state and federal public records laws and the Administrator’s determination that the applicant’s request for confidential or proprietary treatment of the application materials is reasonable. The Town shall not be required to incur any costs to protect the application from disclosure.

(7) General Standards

- A. Generally. Wireless facilities shall meet the minimum requirements set forth in this Ordinance and in any other applicable law or regulation.
- B. Regulations. The wireless regulations and decisions on wireless permits shall, at a minimum, ensure that the requirements of this Ordinance are satisfied, unless it is determined that the applicant has established that denial of an application would, within the meaning of federal law, prohibit or effectively prohibit the provision of telecommunications or personal wireless services, or otherwise violate applicable laws or regulations. If that determination is made, the requirements of this Ordinance and the wireless regulations may be waived, but only to the extent required to avoid the prohibition.
- C. Standards.
 - 1. Wireless facilities shall be installed and/or modified in a manner that:
 - a. Minimizes risks to public safety;
 - b. Ensures that placement of wireless equipment on existing support structures is within the tolerance of those structures;
 - c. Ensures that new support structures will not be installed when the applicant has the right to place its wireless facility on an existing

structure on reasonable terms and conditions and placement in that location is technically feasible and not materially more expensive;

- d. Avoids installation or modification of a utility pole that would exceed the height limits set forth in Wis. Stat. § 66.0414(2)(e)2, as amended;
- e. Avoids placement of aboveground wireless facilities in historic districts and underground districts (except for placing equipment on or replacing preexisting support structures, so long as the collocation or replacement reasonably conforms to the design aesthetics of the original support structure);
- f. Avoids placement of wireless facilities in residential areas when commercial or industrial areas are reasonably available;
- g. Maintains the integrity and character of the neighborhoods and corridors in which the facilities are located;
- h. Ensures that the Town bears no risk or liability as a result of the installations; and
- i. Ensures that applicant's use does not obstruct or hinder travel, drainage, maintenance, or the public health, safety, and general welfare; inconvenience the public; interfere with the primary uses of the right-of-way; or hinder the ability of the Town or other government entities to improve, modify, relocate, abandon, or vacate the right-of-way or any portion thereof, or to cause the improvement, modification, relocation, vacation, or abandonment of facilities in the right-of-way.

- 2. In no event may ground-mounted equipment interfere with pedestrian or vehicular traffic and at all times must comply with the requirements of the Americans with Disabilities Act of 1990.

D. Standard Permit Conditions. All wireless permits, whether granted under this Ordinance or deemed granted by operation of state or federal law, are issued subject to the following minimum conditions:

- 1. Compliance. The permit holder shall at all times maintain compliance with all applicable Federal, State, and local laws, regulations, and other rules.
- 2. Construction Deadline. The permit holder shall commence the activity authorized by the permit no later than 365 days after the permit is granted and shall pursue work on the activity until completion.
- 3. Contact Information. The permit holder shall at all times maintain with the Town accurate contact information for the permit holder and all wireless service providers making use of the facility, which shall include a phone number, mailing address, and email address for at least one natural person.

4. **Emergencies.** The Town shall have the right to support, repair, disable, or remove any elements of the facilities in emergencies or when the facility threatens imminent harm to persons or property.
5. **Indemnification.** The permit holder, by accepting a permit under this Ordinance, agrees to indemnify and hold harmless the Town, its elected and appointed officials, officers, employees, agents, representatives, and volunteers (collectively, the “Indemnified Parties”) from and against any and all liability and loss from personal injury or property damage resulting from or arising out of, in whole or in part, the use or occupancy of rights-of-way by the permit holder or anyone acting under its direction or control or on its behalf arising out of the rights and privileges granted under this Ordinance, even if liability is also sought to be imposed on one or more of the Indemnified Parties. The obligation to indemnify, and hold harmless the Indemnified Parties shall be applicable even if the liability results in part from an act or failure to act on the part of one or more of the Indemnified Parties. However, the obligation does not apply if the liability results from the sole negligence or willful misconduct of an Indemnified Party.
6. **Adverse Impacts on Adjacent Properties.** The permit holder shall undertake all reasonable efforts to avoid undue adverse impacts to adjacent properties and/or uses that may arise from the construction, operation, maintenance, modification, or removal of the facility.
7. **General Maintenance.** The wireless facility and any associated structures shall be maintained in a neat and clean manner and in accordance with all approved plans and conditions of approval.
8. **Graffiti Removal.** All graffiti on facilities shall be removed at the sole expense of the permit holder within 48 hours after notification from the Town.
9. **Relocation.** At the request of the Town pursuant to Section (10) of this Ordinance, the permit holder shall promptly and at its own expense permanently remove and relocate its wireless facility in the right-of-way.
10. **Abandonment.** The permit holder shall promptly notify the Town whenever a facility has not been in use for a continuous period of 60 days or longer and must comply with Section (11) of this Ordinance.
11. **Restoration.** A permit holder who removes or relocates a facility from the right-ofway or otherwise causes any damage to the right-of-way in connection with its activities under this Ordinance must restore the right-of-way in accordance with Section (12) of this Ordinance.
12. **Record Retention.** The permit holder shall retain full and complete copies of all permits and other regulatory approvals issued in connection with the facility, which includes without limitation all conditions of approval, approved plans, resolutions, and other documentation associated with the permit or regulatory approval. In the event the Town cannot locate any such full and complete permits

or other regulatory approvals in its official records, and the permit holder fails to retain full and complete records in the permit holder's files, any ambiguities or uncertainties that would be resolved through an examination of the missing documents will be conclusively resolved against the permit holder.

13. Radio Frequency Emissions. Every wireless facility shall at all times comply with applicable FCC regulations governing radio frequency emissions, and failure to comply with such regulations shall be treated as a material violation of the terms of the permit.
14. Certificate of Insurance. A certificate of insurance sufficient to demonstrate to the satisfaction of the Administrator that the applicant has the capability to cover any liability that might arise out of the presence of the facility in the right-of-way.

(8) Application Processing and Appeal

- A. Rejection for Incompleteness. Notices of incompleteness shall be provided in conformity with state, local, and federal law, including 47 C.F.R. § 1.6003(d) and Wis. Stat. § 66.0414(3)(c), as amended.
- B. Processing Timeline. Wireless permit applications (including applications for other permits under Section (6)B.11. necessary to place or modify the facility) and appeals will be processed in conformity with the deadlines set forth in state, local, and federal law, as amended, unless the applicant and the Town agree to an extension.
- C. Written Decision. In the event that an application is denied (or approved with conditions beyond the standard permit conditions set forth in Section (7)D.), the Administrator shall issue a written decision with the reasons therefor, supported by substantial evidence contained in a written record. If the permit is for a small wireless facility, the applicant may cure the deficiencies identified in the written decision denying the permit and re-submit the application no later than 30 days after receipt without being required to pay an additional application fee.
- D. Appeal to Town Board. Any person adversely affected by the decision of the Administrator may appeal that decision to the Town Board, which may decide the issues *de novo*, and whose written decision will be the final decision of the Town. An appeal by a wireless infrastructure provider must be taken jointly with the wireless service provider that intends to use the wireless facility. If an applicant contends that denial of the application would prohibit or effectively prohibit the provision of service in violation of federal law, or otherwise violate applicable law, the documentation accompanying the appeal must include that contention and provide all evidence on which the applicant relies in support of that claim.
- E. Deadline to Appeal.
 1. Appeals that involve eligible facilities requests must be filed within three business days of the written decision of the Administrator.

2. All other appeals not governed by Section (8)E.1., above, must be filed within seven business days of the written decision of the Administrator, unless the Administrator extends the time therefore. An extension may not be granted where extension would result in approval of the application by operation of law.

D. Decision Deadline. All appeals shall be conducted so that a timely written decision may be issued in accordance with the applicable deadline.

(9) Revocation

- A. Revocation for Breach. A wireless permit may be revoked for failure to comply with the conditions of the permit or applicable federal, state, or local laws, rules, or regulations. Upon revocation, the facilities for which the permit has been revoked must be removed within 30 days of receipt of written notice from the Town. All costs incurred by the Town in connection with the revocation, removal, and right-of-way restoration shall be paid by the permit holder.
- B. Failure to Obtain Permit. Unless exempted from permitting by Section (3)B. of this Ordinance, a wireless facility installed without a wireless permit must be removed within 30 days of receipt of written notice from the Town. All costs incurred by the Town in connection with the notice, removal, and right-of-way restoration shall be paid by the entities who own or control any part of the wireless facility.

(10) Relocation

Except as otherwise prohibited by state or federal law, a permit holder must promptly and at its own expense, with due regard for seasonal working conditions and as directed by the Town, permanently remove and relocate any of its wireless facilities in the right-of-way whenever such relocation is necessary to prevent the wireless facility from interfering with a present or future Town use of the right-of-way; a public improvement undertaken by the Town; an economic development project in which the Town has an interest or investment; when the public health, safety, or welfare require it; or when necessary to prevent interference with the safety and convenience of ordinary travel over the right-of-way. Notwithstanding the foregoing, a permit holder shall not be required to remove or relocate its facilities from any right-of-way that has been vacated in favor of a non-governmental entity unless and until that entity pays the reasonable costs of removal or relocation to the permit holder.

(11) Abandonment

- A. Cessation of Use. In the event that a permitted facility within the right-of-way is not in use for a continuous period of 60 days or longer, the permit holder must promptly notify the Town and do one of the following:
 1. Provide information satisfactory to the Administrator that the permit holder's obligations for its facilities under this Ordinance have been lawfully assumed by another permit holder.

2. Submit to the Administrator a proposal and instruments for dedication of the facilities to the Town. If a permit holder proceeds under this Section (11)A.2., the Town may, at its option:
 - a. Accept the dedication for all or a portion of the facilities;
 - b. Require the permit holder, at its own expense, to remove the facilities and perform the required restoration under Section (12); or
 - c. Require the permit holder to post a bond or provide payment sufficient to reimburse the Town for reasonably anticipated costs to be incurred in removing the facilities and undertaking restoration under Section (12).
3. Remove its facilities from the right-of-way within one year and perform the required restoration under Section (12), unless the Administrator waives this requirement or provides a later deadline.

B. Abandoned Facilities. Facilities of a permit holder who fails to comply with Section (11)A. and which, for one year, remain unused shall be deemed to be abandoned. Abandoned facilities are hereby designated a nuisance. In addition to any remedies or rights it has at law or in equity, the Town may, at its option:

1. Abate the nuisance and recover the cost from the permit holder or the permit holder's successor in interest;
2. Take possession of the facilities; and/or
3. Require removal of the facilities by the permit holder or the permit holder's successor in interest.

(12) Restoration

In the event that a permit holder removes or is required to remove a wireless facility from the right-of-way under this Ordinance (or relocate it pursuant to Section (10)), or otherwise causes any damage to the right-of-way in connection with its activities under this Ordinance, the permit holder must restore the right-of-way to its prior condition in accordance with Town specifications. However, a support structure owned by another entity authorized to maintain that support structure in the right-of-way need not be removed but must instead be restored to its prior condition. If the permit holder fails to make the restorations required by this Section (12), the Town at its option may do such work after providing 15 days' written notice to the permit holder. In that event, the permit holder shall pay to the Town, within 30 days of billing therefore, the cost of restoring the right-of-way.

(13) Severability

If any section, subsection, clause, phrase, or portion of this Ordinance is for any reason held to be illegal or otherwise invalid by any court or administrative agency of competent jurisdiction,

such illegal or invalid portion shall be severable and shall not affect or impair any remaining portion of this Ordinance, which shall remain in full force and effect.

SECTION 4.00

ZONING DISTRICTS AND ZONING MAP

4.01 ZONING MAP

The Official Zoning District Map is an integral part of this Ordinance. The single official copy of this map entitled "Town of Dexter, Wood County, Wisconsin Official Zoning District Map" together with a copy of this Ordinance shall be made available for public inspection at the Town Hall, by appointment.

4.02 ZONING DISTRICTS

(1) Six basic zoning districts are provided, as follows:

- A. Residential (R)
- B. Commercial (C)
- C. Industrial (I)
- D. Special Purpose (SP)
- E. Agricultural (A)
- F. Conservancy (CON)

4.03 DISTRICT BOUNDARIES

- (1) Where the designation on the map indicates that the various districts are approximately bounded by a street, road or alley line, such street, road or alley line shall be interpreted to be the district boundary line, unless provisions to the contrary be expressly indicated.
- (2) Where the district boundaries are not otherwise indicated, and where the district boundaries approximately follow section lines, quarter section lines, or other logical subdivisions of sections, such section lines or other such lines shall be intended to be the district boundary line.
- (3) Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be interpreted to be lot lines, and where the designations on the map are approximately bounded by lot lines, said lot line shall be interpreted to be the boundary of the district.
- (4) In unsubdivided property, the district boundary shown on the map shall be determined by use of the scale shown on such map.
- (5) The land uses and minimum standards set forth in the following sections of the Article apply to the districts specified as such on the Zoning District Map.

4.04 RESIDENTIAL DISTRICT (R)

- (1) The following uses of land are permitted in this district:
- A. Single-family dwellings and two-family dwellings.
 - B. One private garage for each residential parcel.
 - C. Accessory buildings.
 - D. Churches and their affiliated uses.
 - E. Cemeteries.
- (2) The following are permitted as conditional uses within this district: A. Customary home occupations.
- B. Libraries, museums, and art galleries.
 - C. Hospitals and clinics.
 - D. Funeral homes.
 - E. Recreational grounds and buildings.
 - F. Graded schools.
 - G. Public buildings, except sewage plants, garbage incinerators, warehouses, garages, shops and storage yards.
 - H. Water-storage facilities and their accessory uses.
- (3) Within the R District the following standards shall apply:
- A. Maximum Building Height _____ 40 ft.
 - B. Minimum Front Yard Setback ____ See Section 3.06 (Highway Setback)
 - C. Minimum Rear Yard Setback _____ 25 ft.
 - D. Minimum Side Yard Setback _____ 25 ft.
 - E. Minimum Lot Width _____ 208 ft.
 - F. Minimum Lot Area per Family _____ 2 sq. acre

4.05 COMMERCIAL DISTRICT (C)

(1) The following uses of land are permitted in this district:

- A. Automobile Repair Shop
- B. Automobile Service Station
- C. Club or lodge
- D. Farm equipment sales and service
- E. Food Store
- F. Gift Shop
- G. Radio or TV Shop
- H. Taverns
- I. Trucking for hire, construction and excavating.
- J. Solar Energy Systems

(2) Within the C District the following standards shall apply:

- A. Maximum Building Height
 - Principle Buildings 45 ft. where adjacent to an R zone; otherwise 60 ft.
 - Accessory Buildings 2 stories, but not more than 15 ft. where adjacent to an R zone.
- B. Minimum Front Yard Setback_____25 ft.
- C. Minimum Side Yard Setback_____25 ft.
- D. Minimum Rear Yard Setback_____25 ft.

4.06 INDUSTRIAL DISTRICT (1)

(1) This district is intended to provide an area for manufacturing and industrial activities. It is also intended to provide an area for a variety of uses which require relatively large installations, facilities or land areas; or which would create or tend to create conditions of public or private nuisance, hazard, or other undesirable, equipment, processes, barriers,

or other forms of protection, including spatial distance, in order to reduce, eliminate, or shield the public from such conditions.

- (2) All uses within a Industrial District shall be the same as within a commercial district. Those uses shall be subject to the consideration of the Town Board with regard to such matters as the creation of nuisance conditions for the public or for the users of nearby areas, the creation of traffic hazards, the creation of health hazards, or other factors.
- A. Manufacturing establishments, in which raw materials are transformed into finished products and establishments engaged in assembling component parts of manufactured products.
 - B. Other industrial or commercial activities which possess the special problem characteristics described above relating to the creation of hazards or nuisance conditions.
 - C. The outdoor storage of industrial products, machinery, equipment or other materials, provided that such storage be enclosed by a suitable fence or other manner of screening.
 - D. Railroad, railroad yards and structures normally incident to the operation of railroads, not including warehouses owned by establishments other than railroad companies.
 - E. Stockyards, or any establishment providing facilities for receiving, shipping, weighing, or feeding livestock temporarily held either pending sale or while in transit.
 - F. A dwelling unit provided for a caretaker or superintendent, in the case of an industrial use which requires constant supervision.

(3) Within the I District the following standards shall apply:

- A. Maximum Building Height _____ 45 ft.
- B. Maximum Building Area _____ None
- C. Minimum Front Yard Setback__50 ft. (75 ft. if parking is permitted in the front yard)
- D. Minimum Rear Yard Setback __50 ft.
- E. Minimum Side Yard Setback__25 ft.
- F. Minimum Lot Width_____208 ft.
- G. Minimum Parking Provided_____1 space per two employees
- H. Truck Unloading Area_____Sufficient space so that no highways, streets or alleys need be blocked.

4.07 SPECIAL PURPOSE DISTRICT (SP)

- (1) This district is intended to provide for uses which present special problems, hazards, or other circumstances with regard to the use of land. Included are those uses of land which require extremely large expanses of land; those which afford very severe hazards to health, safety, or other aspects of the general welfare; those for which it is inappropriate or undesirable to have more than one instance of a given land use within one community or governmental jurisdiction.
- (2) All such uses shall be subject to the consideration and approval of the Town Board with regard to such matters as the creation of nuisance conditions for the public or for users of nearby areas, the creation of hazards to health or safety, or other factors affecting the general welfare.
 - A. Sanitary landfill operations.
 - B. Sand or gravel quarries.
- (3) Within the SP District, the following standards shall apply:

A.	Maximum Building Height	None
B.	Minimum Front Yard Setback	See Section 3.06 (Highway Setback)
C.	Minimum Rear Yard Setback	50 ft.
D.	Minimum Side Yard	25 ft.

4.08 AGRICULTURAL DISTRICT

- (1) This district provides exclusively for agricultural uses and uses compatible with agriculture. The intent is to help conserve good farming areas and prevent uncontrolled, uneconomical spread of residential development which results in excessive costs to the community for premature provision of essential public improvements and services (such as sewer and water lines).
- (2) The following uses are permitted in this district:
 - A. Agriculture, including animal and poultry husbandry, bee-keeping, dairying and grazing, field crops, forestry, greenhouses, orchards and wild crop harvesting, truck farming, horticulture, or viticulture.
 - B. In-season, roadside stands for the sale of farm products produced on the premises.
 - C. Farm dwellings for those resident owners and workers actually engaged in the principle permitted operations.
 - D. Only one residence shall be permitted within 660 feet (measured at right angles to the centerline of any highway).

- E. Ponds used for agricultural purposes, provided the soil taken in the construction of the pond remains on the premises. If removed from the premises, the pond shall be considered to be a quarry as defined in Section 2(53), which is allowable as a conditional use under the provisions of Section 4.07, Special Purpose District.
- F. Camping Vehicles are not considered as a single-family home or residence and can be occupied no more than 30 days beyond the initial 30 (see 4.08 3-P)

(3) Only the following are permitted as conditional uses within this district

- A. Churches, schools, cemeteries, community parks, and recreational areas.
- B. Public and semi -public buildings, such as town hall and municipal building.
- C. Fur farms, kennels, greenhouses, cheese factories, or dairy processing plants, grain elevators, and other agricultural uses that may cause noxious odors or noise, or create health or sanitation hazards.
- D. Trap or skeet shooting facilities, target ranges, gun clubs, shooting preserves.
- E. Stable, Commercial
- F. Airport.
- G. Christmas tree sales.
- H. Club or lodge.
- I. Farm equipment sales and/or service.
- J. Fish hatchery -- commercial.
- K. Livestock Facility Siting under Section 3.20.
- L. Maple syrup processing plant.
- M. Communication broadcasting studio
- N. Manufactured and Mobile homes are considered as single-family dwellings or residences and are subject to the same regulations as other single-family residences.
- O. Camping Vehicles occupied over 30 days.
- P. Campground
- Q. Deer and Elk Farming

(4) Within Agricultural District the following standards shall apply.

- A. Minimum Front Yard Setback...See Section 3.06 (Highway Setback)
 - Excavation_____25 ft.
- B. Minimum Rear Yard Setback
 - Principle and accessory buildings_____25 ft.
 - Excavation_____25 ft.
- C. Minimum Side Yard Setback

Principal Buildings _____ 25 ft.
Accessory Buildings _____ 25 ft.
Excavation _____ 25 ft.

D. Minimum Lot Area per Family

In areas with no public water and no public sewer, 2 sq. acres.
Parcels less than two (2) acres that, at the time of adoption, have a residence on them, are exempt from the two (2) acre requirement.
However, all other zoning requirements apply.

E. Maximum Side Slopes of Farm Ponds _____ 3:1

4.09 CONSERVANCY DISTRICT (CON)

- (1) This district is intended to preserve the natural state of scenic areas in the town and to help discourage intensive development of marginal lands so as to prevent hazards to public and private property.
- (2) The following uses of land are permitted in this district:
 - A. Harvesting of wild crops, such as wild rice, marsh hay, ferns, moss, berries, tree fruit and tree seeds.
 - B. Forestry and the management of forests.
 - C. Wildlife preserves.
 - D. The management of wildlife, including waterfowl, fish, and other similar lowland animals, and non-residential buildings used solely in conjunction with such activities.
 - E. Public and private parks, picnic areas, and similar uses.
 - F. Hiking, snowmobile, horseback, and bicycle trails.
 - G. Preservation of areas of scenic, historic, or of scientific value.
 - H. Solar Energy Systems
- (3) There are no setbacks, lot size, or other dimensional standards applicable in the CON District.

SECTION 5.00

CONDITIONAL USES

5.01 GENERAL

- (1) Uses listed as permitted by conditional use permit may be authorized in the zone in which permitted upon application to the Planning Commission and subject to the Town Board's authorization of a conditional use permit.
- (2) In all cases of proposed establishment of a conditional use specified in this Ordinance, the Planning Commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems and other aspects of the proposed use and make recommendations to the Town Board.

5.02 PROCEDURE

- (1) A request for a conditional use permit shall be submitted in writing to the Town Clerk who shall promptly refer the application to the Planning Commission. The request shall be accompanied by scale maps or drawings prepared to the best of the applicant's ability, showing legibly and accurately, the location, size and shape.

of the lot(s) involved, and of any proposed structures, including the relation to abutting streets and any abutting lakes or streams, and the existing and proposed use of each structure and lot, and the number of families to be accommodated, or the number of persons that would normally occupy the building or structure.

- (2) Upon receipt of a conditional use permit application, and following of a class 2 notice under Ch. 985, the Planning Commission shall hold a public hearing on the application.

5.03 STANDARDS

- (1) No permit for a conditional use shall be granted unless the Planning Commission shall notify the Town Board that the following conditions are present:
 - A. That the establishment, maintenance, or operation of the conditional use, to the extent practicable and measurable, will not be detrimental to or endanger the public health, safety, comfort or general welfare.
 - B. That the uses, values and enjoyment of other property in the neighborhood used for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use.
 - C. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

- D. That adequate utilities, access roads, drainage, and other necessary site improvements have been or are being provided.
- E. That adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion and traffic hazards in the public streets.

5.04 CONDITIONS AND GUARANTEES

- (1) Prior to granting a permit for a conditional use, the Planning Commission shall make recommendation to the Town Board and the Town Board may stipulate such conditions and restrictions upon the establishment, maintenance, and operation of the conditional use as it may find necessary to secure compliance with the standards specified in Section 5.03. Establishment, maintenance and operation shall be construed to include, but shall not be limited to, landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, operational control, hours of operation, traffic circulation, deed restrictions, access restrictions, yard and parking requirements, insofar as the Town Board shall find that conditions applying to these factors are necessary to fulfill the purpose and intent of this Ordinance. In all cases in which a permit for conditional use is granted, the Town Board shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with.
- (2) Conditional uses shall comply with all other provisions of this Ordinance such as lot width and area, yards, height, parking and loading.

5.05 DETERMINATION

- (1) The Town Board shall report its decision within 90 days after the filing of the application. Its decision shall include an accurate description of the use permitted, and the property on which it is permitted, and any and all conditions made applicable thereto.
- (2) The Town Board may authorize the Town Clerk to issue a conditional use permit for conditional uses specified in this Ordinance after review by the Planning Commission and a public hearing, provided such uses are in accordance with the purpose and intent of this Ordinance.
- (3) Whether to grant or deny the conditional use permit, the decision shall be supported by substantial evidence.

5.06 TERMINATION

- (1) Where a permitted conditional use does not continue in conformity with the conditions of the original approval, the conditional permit shall be terminated by action of the Town Board and may be considered by the Town Board as a violation of this Ordinance.

- (2) No application for a conditional use which has been denied wholly or in part by the Town Board shall be resubmitted for a period of one year from the date of said denial, except on the grounds that substantial new evidence or proof of change to compliance with the applicable conditions is included in the resubmitted application.

5.07 FILLING & GRADING

- (1) Filling and Grading operations in shore land and floodplain areas shall conform to standards as set forth in the Wood County Shoreland Zoning Ordinance #704 and Wood County Floodplain Ordinance #703.
- (2) Filling may be permitted in areas not under the jurisdiction of the Wood County Shore Land Zoning Ordinance, provided that the fill material:
 - A. Shall be suitable for its intended use; no fill intended for supporting buildings shall consist of junk, wood, paper, mulch, peat or any similar materials which could cause subsidence.
 - B. Is protected from erosion so as to not cause siltation of adjacent lands or navigable waters. The use of a temporary ground cover or other conservation practices such as sediment catch basins or diversion terraces may be required in order to prevent erosion.
 - C. Shall rest on a firm bottom and is stabilized according to accepted engineering standards.
 - D. Shall not impede the drainage from adjacent lands as to create significant harm without the adjacent landowner's written consent.
 - E. Shall not in any manner alter the course of a waterway on property belonging to other than the applicant.
- (3) Grading of an area greater than the specified area may be permitted, provided that:
 - A. The smallest amount of bare ground shall be exposed for the shortest time feasible and permanent ground cover shall be established as soon as practical.
 - B. Precautions shall be taken to prevent erosion and sedimentation through the use of silting basins, diversion, terraces, or similar practices used individually or in combination where circumstances warrant such.
 - C. It shall conform to Section 6 of the Wood County Shore Land Zoning Ordinance #704.

SECTION 6.00

SIGNS

6.01 ENACTMENT

- (1) All signs hereafter located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered, shall be in conformity with the provisions of this Ordinance and Wis. Admin. Code Ch. Trans 200.
- (2) The size, type and location of signs shall be as provided by this section as affecting each zoning district, except that this Ordinance is not intended to prohibit signs not larger than six square feet in gross area.
- (3) Existing signs are permitted by this Ordinance.

6.02 SIGN PERMIT FEE AND NUMBER

- (1) Sign permits shall be issued by the Zoning Commissioner. There is a fee for each sign. See "Town of Dexter Schedule of Permit Fees" 2022.3.1 for fee amount.

6.03 SIGNS

(1) Signs in Residential district

One sign not to exceed six square feet in gross area.

(2) TEMPORARY SIGNS

Temporary signs shall be permitted for each lot frontage. Such signs shall be kept in good repair and removed when the indicated temporary purpose is completed. One temporary sign not exceeding sixty-four (64) square feet shall be permitted for each lot frontage of one hundred fifty (150) feet or less.

Temporary signs not exceeding one hundred sixty (160) square feet shall be permitted for each lot frontage of more than one hundred fifty (150) feet, provided however, that no two signs shall be located closer than three hundred (300) feet on any one lot. Where lot frontage is sufficient to permit two signs, one sign may be used in substitution, provided the total area does not exceed two hundred forty (240) square feet. Only one side of a double-faced sign shall count toward total temporary sign area permitted.

(3) Signs in all other districts

- A. The number of signs shall be unlimited; provided, however, that the surface area of such sign shall not exceed six (6) square feet.

- B. Signs, except those accessories to parking and loading areas, shall be set back in accordance with the building setback lines required by the zoning district for the lot.

(4) Billboards adjacent to highways

- A. Area: The maximum surface area of such sign shall be one (1) square foot for each lineal foot of frontage of the lot, but not to exceed six hundred (600) square feet.
- B. Height: The sign structure shall not project higher than forty (40) feet above grade level (at base of sign structure).

6.04 GENERAL SIGN PROVISIONS

- (1) All signs and sign structures shall be kept in good repair and in proper state of preservation.
- (2) Except as otherwise provided in this Ordinance, sign sizes and setbacks shall conform to applicable state codes.

SECTION 7.00

AMENDMENTS

7.01 AUTHORITY

The regulations imposed and the zoning districts created under authority of this Ordinance may be amended from time to time in accordance with Section 62.23 (7) Wisconsin Statutes. An amendment shall be granted or denied by the Town Board only after a public hearing before the Town Planning Commission and a report of its findings and recommendations has been submitted to the Town Board.

7.02 INITIATION

A petition for change or amendment may be made by any property owner in the area to be affected by the change or amendment, by the Town Board, or by the Planning Commission.

7.03 PETITIONS

Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the Town Clerk and shall describe the premises to be rezoned (including legal descriptions) or the regulations to be amended, list the reasons justifying the petition, specify the proposed use, and list the owner's names and addresses of all properties lying within (1,000) feet of the area proposed to be rezoned. The petitioner shall provide additional information as may be required by the Planning Commission or Town Board.

7.04 PROCESSING

A petition for amendment (see Town of Dexter Schedule of Permit Fees 2022.3.1 for cost) shall be filed with the Town Clerk (and include a check for cost of the meeting). Such petition shall be forwarded from the Town Clerk to the Planning Commission with a request to hold a public hearing.

7.05 RECOMMENDATIONS

The Planning Commission shall review all such proposed changes or amendments and shall recommend that the petition be granted as requested, modified or denied. Recommendation shall be made in a written statement to the Town Board.

7.06 PUBLIC HEARINGS

A public hearing shall be held prior to adoption or denial of any alteration, amendment or change in this Ordinance. A Class 2 notice, under Chapter 985, Wisconsin Statutes, shall be published in the town prior to the hearing.

7.07 TOWN BOARD ACTION

The Town Board, after receiving the recommendation of the Planning Commission or Appeals Board, and without further public hearing, may grant or deny any proposed amendment in accordance with applicable Statutes of the State of Wisconsin, or it may refer it back to the Planning Commission for further consideration.

COUNTY BOARD ACTION

Pursuant to Wis. Stat. § 60.62(3)(a), No town zoning ordinance or amendment of a zoning ordinance may be adopted unless approved by the Wood County Board of Supervisors. This requirement applies to town map amendments/rezones and ordinance amendments. All zoning amendments shall be forwarded to the Wood County Board of supervisors (c/o Wood County Dept. of Planning and Zoning) with a request for approval from the County Board.

7.08 EFFECTIVE DATE OF AMENDMENT AND THE ORDINANCE

Any alteration, change or amendment of this Ordinance shall become effective immediately upon action by the Town Board, approval of the Wood County Board, and notice to the public of the enactment.

SECTION 8.00

BOARD OF APPEALS

8.01 ESTABLISHMENT

There is hereby established a Board of Appeals for the Town of Dexter for the purpose of hearing appeals and applications, and granting variances from the provisions of this Ordinance in harmony with the general purpose and intent of this Ordinance.

8.02 MEMBERSHIP

- (1) The Board of Appeals shall consist of five (5) members appointed by the Chairperson of the Town Board and confirmed by the Town Board. No town supervisor shall be a member of the Board of Appeals.
- (2) The members of the Board of Appeals shall all reside within the Town of Dexter. Terms shall be staggered for three-year periods. Successors shall be appointed in a like manner at the expiration of each term and their term shall be three (3) years in all cases. Two alternate members may be appointed by the Town Chairperson for a term of three (3) years and shall act only when a regular member is absent or refuses to vote because of interest. Vacancies shall be filled for the unexpired term in the same manner as appointments for a full term.
- (3) The Chairperson of the Board of Appeals shall be designated by the Town Chairperson.
- (4) The members of the Board of Appeals shall receive such compensation as shall be determined by the Town Board, and shall be removable by the Town Chairperson for cause upon written charges and after public hearing.

8.03 DUTIES

The Board of Appeals is hereby delegated the following duties and responsibilities:

- (1) To correct errors or abuses in the administration of the Ordinance by the Zoning Commissioner,
- (2) To grant relief when hardship results from strict application of the provisions of the Ordinance;
- (3) To consider applications for exceptions and variances from the Ordinance;
- (4) To grant or deny applications for variances from the Ordinance;
- (5) To interpret the zoning regulations or the zoning district map.

8.04 PRINCIPLES GUIDING BOARD DECISIONS

The following are principles that shall guide the Board of Appeals:

- (1) The burden is upon the appellant to prove the need for a variance.
- (2) Pecuniary hardship, loss of profit, self-imposed hardships, such as that caused by ignorance, deed restrictions, proceeding without a permit, or illegal sales, are not sufficient reasons for granting a variance.
- (3) The Board is bound to accept the zoning ordinance and map, as being correct.
- (4) The plight of the appellant must be unique, such as shallow or steep parcel of land, or situation caused by other than his own action.
- (5) The hardship justifying a variance must apply to individual appellant's parcel or structure and not generally to other properties in the same district.
- (6) The variance must not be detrimental to adjacent properties.
- (7) The Board of Appeals in fulfilling its duties may modify, alter, or change any application with the agreement of the applicant.

8.05 RULES, MEETINGS, MINUTES

- (1) The Town Board shall adopt rules of procedure in accordance with the provisions of this Ordinance.
- (2) Meetings of the Board of Appeals shall be held at the call of the chairperson and at such other times as the Board of Appeals may determine. Such chairperson, or in his absence the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public.
- (3) The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Appeals and shall be a public record.

8.06 APPEALS TO BOARD AND APPEAL FEES

Appeals to the Board of Appeals may be taken by any person aggrieved or by an officer, department or board of the town affected by any decision of the Zoning Commissioner or other administrative officer. Such appeal shall be taken within ten (10) calendar days, by filing with the officer from whom the appeal is taken and with the Board of Appeals a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. This fee shall be paid to the Town Treasurer.

8.07 STAYS

An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Appeals after the notice of appeal

shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his 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, on notice to the officer from whom the appeal is taken, and on due cause shown.

8.08 HEARING APPEALS

The Board of Appeals shall fix a reasonable time for the hearing of the appeal and publish a Class 2 notice thereof under Chapter 985 of the Wisconsin Statutes, as well as notify parties of interest and adjoining property owners by certified mail, and decide the same within a reasonable time. Upon the hearing, any party may appear in person, or by agent, or by attorney.

8.09 POWERS OF THE BOARD

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 the Zoning Commissioner.
- (2) To hear and decide special exceptions to the terms of the Ordinance upon which such board is required to pass under such Ordinance.
- (3) To authorize upon appeal in specific cases such variance from the terms of the Ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship, and so that the spirit of the Ordinance shall be observed and substantial justice done.

8.10 ORDER ON APPEAL

In exercising the above-mentioned powers such board may, in conformity with the provisions of this section, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all powers of the officer from whom the appeal is taken, and may issue or direct the issue of a permit.

8.11 CONCURRING VOTE

The concurring vote of 4 members of the board of appeals shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such Ordinance, or to affect any variation in such Ordinance. The grounds of every such determination shall be stated.

8.12 COURT REVIEW

Any person or persons, jointly or severally aggrieved by any decision of the Board of Appeals, or any taxpayer, or any officer, department, board, or bureau of the municipality, 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 grounds of illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision of the Board of Appeals.

8.13 CERTIORARI

Upon the presentation of such petition the court may allow a writ of certiorari directed to the Board of Appeals to review such decision of the Board of Appeals, and shall prescribe therein the time within which a return thereto must be made and served upon the realtor's allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board, and on due cause shown, grant a restraining order.

8.14 RETURN TO WRIT

The Board of Appeals shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from, and shall be verified.

8.15 COURT DECISION

If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence, or appoint a referee to take such evidence as it may direct and to report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify, the decision brought up for review.

8.16 COSTS

Costs shall not be allowed against the Board unless it shall appear to the court that it acted with gross negligence or in bad faith, or with malice, in making the decision appealed from. All issues in any proceeding under this section shall have preference over all civil action and proceedings.

SECTION 9.00

SEPARABILITY

If any provision of this Ordinance is found invalid or unconstitutional by a Court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the provision(s) or application(s) of this Ordinance which can be given effect without the invalid or unconstitutional provision(s) or application(s).

SECTION 10.00

CONFLICTING PROVISIONS REPEALED

All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

SECTION 11.00

EFFECTIVE DATE

This Ordinance shall be in force from and after its passage, approval, publication, and recording according to law.

AS PROVIDED BY STATUTE

ADOPTED THIS 18th DAY OF April, 2023.

Paul Schooley

(Town Board Chairman)

ATTESTED *Diana Schooley, Clerk*

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