

TITLE 13

ZONING AND LAND USE

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Chapter 1

Zoning Code

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SEC. 13-1-1 APPLICABILITY AND PURPOSE

- a) **Applicability.** This code, established under sections 60.62, 61.35, and 62.23 of the Wisconsin Statutes, shall be known as the Zoning Code for the Town of Fond du Lac and shall apply to:
- 1) The regulation and restriction of the height, number of stories and size of buildings and other structures;
 - 2) The percentage of lot that may be occupied;
 - 3) The size of yards, courts and other open spaces;
 - 4) The density of population;
 - 5) The regulating of nonconforming uses;
 - 6) The location and use of buildings, structures and land for trade, industry, residence or other purposes, provided that there shall be no discrimination against temporary structures.
- b) **Purpose.** The purpose of this Zoning Code is to promote the public health, safety and general welfare of the community through provisions designed to:
- 1) Encourage the most appropriate use of the land;
 - 2) Conserve the taxable value of land and buildings;
 - 3) Prevent the overcrowding of land and the congestion of streets;
 - 4) Provide adequate light and air;
 - 5) Secure safety from fire, panic and other dangers;
 - 6) Avoid undue concentration of population;
 - 7) Facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements;
 - 8) Preserve and promote the general attractiveness and character of the Town environment.

SEC. 13-1-2 DEFINITION OF TERMS

- a) **General.** For the purpose of this Zoning Code, the following shall apply as indicated throughout the Code:
- 1) The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual;
 - 2) The present tense includes the future tense and the singular includes the plural;
 - 3) The word "shall" is mandatory, the word "may" is permissive;
 - 4) The words "used" or "occupied" also mean intended, designed or arranged to be used or occupied.
- b) **Definition of Terms.** For the purpose of this Zoning Code, the following terms are defined:
- 1) Acceptable Standards: Standards of care or workmanship that are of good quality, free from faults and defects and are in conformance with community and trade practices. It is the intent of this definition that the standards of care or workmanship are of a type that do not create a nuisance or cause a property or an area to appear in a blighted condition or tend to depreciate property values in the neighborhood or area.
 - 2) Accessory Use or Structure: A use or structure on the same lot with the principal use or structure, and of a nature customarily incidental and subordinate to the principal structure.
 - 3) Alteration: A change or rearrangement in the structural parts of a structure, an enlargement of a structure, whether by extending on the side or by increasing the height, or the movement of a structure from one location to another.
 - 4) Base Farm Tract: All land, whether one parcel or two or more contiguous parcels, that is in the farmland preservation zoning district and that is part of a single farm on the date the Department under Wis. Stat., § 91.36(1) first certifies the farmland preservation zoning ordinance covering the land regardless of any subsequent changes in the size of the farm.
 - 5) Bed & Breakfast Establishment: Any place of lodging that provides 8 or fewer rooms for rent to no more than a total of 20 tourists or other transients for more than 10 nights in a 12-month period, is the owner's residence, is occupied by the owner at the time of rental, and in which the only meal served to guests is breakfast.
 - 6) Billboard: A "Billboard" means any outdoor advertising sign, display, device, notice, figure, painting, drawing, mural, message, placard, poster or other thing which is designed, intended or used to advertise or inform, any part of which is visible from any place on the traveled way of any Town, County or State Highway or Roadway and which is larger than 75 square feet in total area.

- 7) Boarding House: An establishment where meals and/or lodging is provided for compensation by prearrangement other than in dwelling units, without limitation on time periods involved, and for a total of five to ten roomers and/or boarders.
- 8) Building: A structure having one or more stories with a roof and having three or more sides or a rounded shape that is intended to be used or is actually used for shelter or enclosure of persons, property or domesticated animals. "Building" also includes canopies, carports, and other shelters that consist of a covering intended to provide protection against sun or weather and which are mounted on a rigid frame and supported by posts resting on or attached to a fixed location on the ground.
- 9) Clinic: An office or group of offices for one or more physicians or dentists engaged in treatment of persons.
- 10) Condominium: A form of ownership authorized by Chapter 703 of the Wisconsin Statutes, as amended.
- 11) Contiguous: Adjacent to or sharing a common boundary. Contiguous land includes land that is separated only by a river, stream, section line, public road, private road, railroad, pipeline, transmission line, or transportation or transmission right-of-way. Parcels are not contiguous if they meet only at a single point.
- 12) Convalescent Home, Children's Home, Nursing Home: A place where regular care is provided to two or more infirm persons who are not members of the family which resides on the premises.
- 13) Day Nursery, Kindergarten: A place where day care is provided to five or more children who are not members of the family which resides on the premises, provided this definition shall not include public or private schools organized, operated, or approved under Wisconsin law.
- 14) Debris: Any junk, wood, bricks, cement, concrete blocks, abandoned vehicles, or machinery or parts thereof, refrigerators, furnaces, washing machines, stoves, and other appliances or any other unsightly accumulation of items or materials such as may tend to depreciate property values in the area, or create a blighted condition, or create a nuisance or hazard (except when such items are properly housed and out of public view).
- 15) Development: Any man-made change to improved or unimproved real estate, including but not limited to construction of or additions or substantial improvements to buildings, other structures, or accessory uses, mobile homes, mining, dredging, filling, grading, paving, excavation or drilling operations, and deposition of materials.
- 16) Dog Kennel: A place where more than two adult dogs are boarded for a fee on a recurrent basis, or a place where more than five adult dogs are kept for any purpose.

- 17) Drive-In Restaurant: Any establishment dispensing or serving food in automobiles including those establishments where customers serve themselves and may eat or drink in the building or in their automobiles on the premises.
- 18) Dwelling Unit: A room or rooms connected together, constituting a separate, independent housekeeping establishment for one family only, for owner occupancy or for rental, lease, or other occupancy on a weekly or longer basis, physically separated from any other rooms or dwelling units, and containing independent cooking and sleeping facilities.
- 19) Dwelling, Single-Family Detached: A building containing not more than one dwelling unit, entirely separated from structures on adjacent lots. The term "detached dwelling" shall not include mobile homes, travel trailers, or other forms of portable or temporary housing.
- 20) Dwelling, Single-Family Attached: A building containing not more than one dwelling unit attached at the side or sides in a series or group of three or more buildings each containing not more than one dwelling unit. Each building shall be separated from the adjoining building or buildings by a party wall or walls extending from footings through roofs. The term attached dwelling is intended to imply townhouses, patio, or atrium houses or any form which conforms to this definition.
- 21) Dwelling, Two-Family: One building containing not more than two dwelling units or two buildings, attached at the side, with not more than one dwelling unit per building. The term "two-family dwelling" is intended to imply single-family semidetached buildings and duplexes or any form which conforms to this definition.
- 22) Dwelling, Multiple-Family: A building containing three or more dwelling units. The term "multifamily dwelling" shall include cooperative apartments, condominiums, apartments and the like. Regardless of how rental units are equipped, any multifamily dwelling in which units are available for rental periods of less than one week shall be considered a motel.
- 23) Dwelling, Mobile Home: A building transportable in one or more sections, built on a permanent chassis, with body width exceeding eight feet or body length exceeding 32 feet, designed to be used as a single dwelling with a permanent foundation when connected to the required utilities.
- 24) Dwelling, Modular Home (Manufactured Home): A dwelling structure or component thereof fabricated in an offsite manufacturing facility for installation or assembly at the building site which is certified and labeled as a manufactured home under 42 USC Secs. 5401-5426, which, when placed on the site:
 - a. Is set on an enclosed continuous foundation in accordance with Wis. Stat. § 70.43(1) and ILHR 21, Subchapters III, IV and V, Wis. Adm. Code, or is set on a comparable enclosed continuous foundation system approved by the Building Inspector, who may

- require a plan for such foundation to be certified by a registered architect or engineer to ensure proper support for such structure;
- b. Is installed in accordance with the manufacturer's instructions;
 - c. Is properly connected to utilities; and
 - d. Meets other applicable standards of this chapter.
- 25) Family: One or more persons occupying a single dwelling unit provided that unless all members are related by blood or marriage, no such family shall contain over five persons, but further provided that domestic servants employed on the premises may be housed on the premises without being counted as family.
- 26) Farm: All land under common ownership that is primarily devoted to agricultural use.
- 27) Farm Acreage: The size of a farm in acres.
- 28) Farm Residence: Any of the following structures located on a farm:
- a. A single-family or duplex residence that is the only residential structure on the farm or is occupied by either of the following:
 - 1. An owner or operator of the farm.
 - 2. A parent or child of an owner or operator of the farm.
 - b. A migrant labor camp that is certified under Wis. Stat., § 103.92, as amended.
- 29) Fence: A structure which is a barrier and used as a boundary or means of protection or confinement.
- 30) Fence, Open: A fence including gates which has, for each one-foot wide segment extending over the entire length and height of the fence, 50 percent of the surface area in open spaces which afford a direct view through the fence.
- 31) Fence, Solid: A fence, including gates, which conceals from view from adjoining properties, streets, or alleys, activities conducted behind it.
- 32) Filling Station: Buildings and premises where gasoline, oil, grease, batteries, tires, and automobile accessories may be supplied and dispensed at retail and where, in addition, minor repair work may be performed, such as ignition service, tire repair, repair and replacement of minor parts such as pumps and filters, brake service and the like. A filling station is not a repair or body shop.

- 33) Height, Building: A building's vertical measurement, from the mean level of the finished grade in front of the building to the highest point on the roof line of a flat roof and to the peak of all other roofs.
- 34) Home Occupations: An occupation conducted in a dwelling unit provided:
- a. No person other than members of the family residing on the premises shall be engaged in such occupation;
 - b. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use as a residence and not more than 25 percent of the floor area of the dwelling unit shall be used in the conduct of such occupation;
 - c. There shall be no change in the outside appearance of the building other than one sign limited to five square feet in area and mounted flat against the building;
 - d. No home occupation shall be conducted in any accessory building;
 - e. No equipment or process shall be used which creates noise, vibration, glare, fumes, odors or electrical interference detectable outside of the dwelling unit.
- 35) Hotel: An establishment where lodging is provided for compensation other than in dwelling units and for 11 or more persons. Hotels may serve meals to both occupants and others. The term hotel is also intended to imply motel, motor court, motor lodge, tourist court or any form which conforms to this definition.
- 36) Livestock. Bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, camelids, ratites, and farm-raised fish.
- 37) Lot: A parcel of land used or set aside and available for use as the site for one or more buildings and buildings necessary thereto or for any other purpose, not divided by a street nor including any land within the limits of a public or private street right-of-way. The term "record lot" shall mean land designated as a distinct and separate parcel on a legally recorded deed, certified survey map or plat in the office of the Register of Deeds of Fond du Lac County.
- 38) Lot Area: The total horizontal area within the lot lines of the lot.
- 39) Lot Coverage: The percentage of the lot area covered by the principal structure.
- 40) Lot Frontage: The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage.
- 41) Lot Line: The line on the official map that indicates lot boundaries, provided any street right-of-way line shall be considered lot lines for the purposes of this zoning code.

42) Lot Types:

- a. Corner lot is a lot located at the intersection of two or more streets. A lot abutting a curved street shall be considered a corner lot when the projected tangents of the lot lines along those streets meet at an interior angle less than 135 degrees;
- b. Interior lot is a lot with only one frontage on a street;
- c. Through lot is a lot other than a corner lot with frontage on two streets.

43) Lot Width: The width of a lot shall be considered to be the average distance between straight lines connecting front and rear lot lines at each side of the lot, measured as straight lines between the foremost points of the side lot lines in front (where they intersect with the street right-of-way) and the rear most points of the side lot lines in the rear, provided however that the width between the side lot lines at their foremost points in the front shall not be less than eighty (80%) percent of the required lot width except in the case of lots on the turning circle of a cul-de-sac, where the width shall not be less than sixty (60%) percent of the required lot width. See diagram at end of Title 13.

44) Mobile Home Park: A site designed and maintained for the location of two or more mobile homes under a continuing local general management and including special facilities for common use by the occupants, such as open space areas and recreational areas and buildings.

45) Net Acre: The total acreage of a lot, tract or parcel excluding land in existing and proposed streets and street rights-of-way.

46) Nonfarm Residence: A single-family or multi-family residence other than a farm residence.

47) Nonfarm Residential Acreage: The total number of acres of all parcels on which nonfarm residences are located.

48) Open Space Parcel. A parcel on which no buildings, other than hunting blinds or small sheds, have been constructed or approved for construction.

49) Prime Farmland. Any of the following:

- a. An area with a class I or class II land capability classification as identified by the Natural Resources Conservation Service of the Federal Department of Agriculture.
- b. Land, other than land described in (a), that is identified as prime farmland in a certified farmland preservation plan.

50) Protected Farm Land. Land that is located in a farmland preservation zoning district, is covered by a farmland preservation agreement, or is otherwise legally protected from nonagricultural development.

51) Reconstruction: Repairs or the replacement of structural components of a structure exceeding fifty (50%) percent of the replacement cost of the structure.

52) Rooming House: An establishment where lodging is provided for compensation other than in dwelling units, without meal service, and for a total of five to ten persons.

53) Sign: A "sign" means any outdoor advertising, display, device, notice, figure, painting, drawing, mural, message, placard, poster or other thing which is designed, intended or used to advertise or inform, and in which any part of the advertising or informative contents is visible from any place on the traveled way of any portion of a Town, County or State highway or roadway and is less than seventy-five (75) square feet in total area. The following signs shall not be included in the application of sign regulations herein:

- a. Signs not exceeding three square feet in area and bearing only property numbers, postbox numbers, names of occupants of the premises, or other identification not having commercial connotations;
- b. Flags and insignia of any government except when displayed in connection with a commercial promotion;
- c. Legal notices, identification, informational, or directional signs erected or required by governmental agencies;
- d. Integral or architectural features of buildings except letters, trademarks, moving parts or moving lights;
- e. Signs directing or guiding traffic and parking on private property, but bearing no advertisement matter and not exceeding nine square feet in area;
- f. Temporary signs, including election signs, advertising a cultural or civic matter for up to 45 days before such an event and for 7 days after such an event.
- g. Dissolve: A mode of message transition accomplished by varying light intensity or pattern where the first message gradually appears to dissipate and lose legibility simultaneously with the gradual appearance and legibility of the second message.

Scroll: A mode of message transition where the message appears to move vertically across the display surface.

Travel: A mode of message transition where the message appears to move horizontally across the display surface.

- 54) Sign Area: A sign or billboard area shall be measured by the smallest square, rectangle, triangle, circle or combination thereof which encompasses the entire sign, including border and trim, but excluding supports. The profile of a building is bounded by the outer edges of its structure as they appear to an observer positioned in the area to which the sign is directed.
- 55) Sign, Number of: For the purposes of determining number of signs, a sign shall be considered to be a single display surface or device containing elements organized, related and composed to form a unit. Where subject matter is displayed randomly without any organization of the elements, each element shall be considered to be one sign.
- 56) Solid Waste Disposal Sites and Facilities: Land and facilities used for the collection, storage, treatment, utilization, processing or final disposal of solid waste as defined by Chapter NR 500.03(215), General Solid Waste Management Requirements, Wisconsin Administrative Code and section 289.01(33), Wisconsin Statutes.
- 57) Special Exception: A use that would not be appropriate in a zoning district but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, morals, order, comfort, convenience, appearance, property or general welfare. Such uses may be permitted in a zoning district if they meet the requirements of this Zoning Code.
- 58) Story: That portion of a building, other than a basement, that is between the surface of any floor and the surface of the next floor above it or, if there is not a floor above, then the space between such floor and the ceiling next above it.
- 59) Structure: Any building constructed or erected with a fixed location on the ground, or attached to something with a fixed location on the ground, which is intended to be used or is actually used for the shelter or enclose of persons, property, or domesticated animals. For purposes of this definition, “fixed location on the ground” does not require that the structure be affixed or physically attached to the ground but rather that it have a generally established location on the ground. The structure may be fastened or anchored to a foundation or the ground or it may simply rest on a foundation or the ground or on blocks, jacks, wheels, or other supports that rest on the ground. Roadworthy, licensed vehicles are exempted from this definition.
- 60) Variance: An exception to the terms of the Zoning Code where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Code would result in unnecessary and undue hardship. Variances may be granted only if they meet the requirements of this Code.
- 61) Yard: An open space other than a court, on a lot, unoccupied and unobstructed from the ground upward provided however, that fences, walls, poles, posts and other customary yard accessory ornaments and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

62) Yard, Front: A yard extending across the front of a lot between the side lot lines and extending from the street right-of-way to the nearest principal building or projection of a building. Notwithstanding the preceding, no accessory building shall occupy any portion of the front yard.

63) Yard, Rear: A yard extending across the rear of a lot between the side lot lines, and extending from the rear lot line to the nearest line of the principal structure or projection of the principal structure.

64) Yard, Side: A yard extending between the nearest principal building or projection thereto and the side lot line, and extending from the front yard to the rear yard.

SEC. 13-1-3 GENERAL PROVISIONS

a) **Establishment of Districts.** For the purpose of this Zoning Code, the Town is hereby divided into the following districts:

- 1) FP – Farmland Preservation District;
- 2) GA – General Agriculture District;
- 3) RR - Residential District (Rural);
- 4) RM - Residential District (Medium Density);
- 5) RL - Residential District (Low Density);
- 6) RO - Residential District (Open Density)
- 7) C - Commercial District;
- 8) I - Industrial District.

b) **Establishment of Zoning Map.** The locations and boundaries of the districts established shall be as shown on the map entitled the Official Zoning Map of the Town. The Official Zoning Map with all notations, dimensions, designations, references and other data shall accompany and be part of this Zoning Code. Amendments to the Official Zoning Map shall be approved by the Town Board and shall promptly be portrayed on the Official Zoning Map. The Map shall be available for public inspection in the Town Hall.

c) **Interpretation of District Boundaries.** Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

- 1) Boundaries as indicated as approximately following the center lines of streets, highways, alleys or a railroad right-of-way shall be construed to follow such center lines;

- 2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
 - 3) Where boundaries do not follow property lines and distances are not specified on the Official Zoning Map boundaries shall be determined by the use of the scale on the Official Zoning Map;
- d) **Application of Regulations.** The regulations set by this Zoning Code shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:
- 1) No land, building or structure shall hereafter be used or occupied, and no building, structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all the regulations herein specified for the district in which it is located. The permitted principal uses and structures, permitted accessory uses and structures and special exception uses and structures are intended to be exclusive. Uses and structures not specifically listed are excluded;
 - 2) No sign shall hereafter be erected, hung, placed, painted, altered or moved except in conformity with regulations of the district in which it is located;
 - 3) No part of a yard, open space or off-street parking space required about or in connection with any building for the purpose of complying with this zoning code shall be included as part of a yard, open space or off-street parking space similarly required for any other building;
 - 4) No lot or yard existing at the effective date of adoption of the Town's original zoning ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Lots or yards created after the effective date of adoption of this Zoning Code shall meet the minimum requirements established by this Code;
 - 5) No accessory building shall be constructed upon a lot until the construction of the principal building has actually commenced. No accessory building shall be used unless the principal building on the lot is also being used. No cellar or basement shall be used as a dwelling prior to substantial completion of the dwelling of which it is a part;
 - 6) No building shall hereafter be erected, constructed, reconstructed, moved or structurally altered on land which is not adequately drained at all times or which is subject to periodic flooding.
- e) **County Zoning Ordinances.** In addition to the regulations established herein, no land, water, building or structure shall hereafter be used or occupied, and no building, structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformance with all of the regulations established in the Fond du Lac County Shoreland Zoning Ordinance, Fond du Lac County Floodplain Zoning Ordinance, Fond du Lac

County Subdivision Control Ordinance, Fond du Lac County Sanitary and Private Sewage System Ordinance, and the Fond du Lac County Automobile, Tire and Junk Ordinance in effect as amended from time to time.

SEC. 13-1-4 NONCONFORMING USES

- a) **Applicability and Intent.** Any use of land or structures, or any lot or structure which lawfully existed at the effective date of adoption or amendment of the Town's zoning ordinance which would not be permitted or permissible by the provisions of that ordinance or of this Zoning Code as adopted or amended, shall be deemed nonconforming. It is the intent of this Zoning Code to permit such nonconformities to continue, subject to restrictions.
- b) **Nonconforming Uses of Land and Structure.** No such nonconforming use of any land or structure shall be extended or enlarged. If such nonconforming use is discontinued for a period of twelve consecutive or eighteen accumulative months during any three year period, any future use of such land or structure shall conform to the Zoning Code. The total structural repairs or alterations to a nonconforming use of land or structure may not during its life exceed 50% of its assessed value unless permanently changed to a conforming use.
- c) **Nonconforming Structures.** No such structure may be altered in any manner that would increase the degree of nonconformity. A nonconforming structure may be restored to the size and use that it had immediately before the damage or destruction occurred if the nonconforming structure was damaged or destroyed on or after May 2, 2006 and the damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation. In addition, a nonconforming structure may be constructed to be larger than the size it was immediately before the damage or destruction if necessary for the structure to comply with applicable state or federal requirements.
- d) **Nonconforming Lots of Record.**
 - 1) In any residential district, a single-family dwelling and customary accessory structures may be erected on a single lot of record at the effective date of adoption or amendment of the Town's zoning ordinance. This provision shall apply even though such lot fails to meet the requirements of lot area, lot width or both for the district in which it is located, provided such lot shall be in separate ownership and not of continuous frontage with other lots in the same ownership. Variance of yard requirements shall be obtained only through action of the Board of Appeals.
 - 2) If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership were of record at the effective date of adoption of the Town's zoning ordinance, the lands involved shall be considered to be an individual parcel for the purpose of this Zoning Code and no portion of such parcel shall be used, divided or sold which does not meet the lot area and lot width requirements for the district in which it is located.

- e) **Repairs and Maintenance.** Nothing in this Zoning Code shall be deemed to prevent normal maintenance or repair of any structure or to prevent restoring to a safe condition any structure declared to be unsafe.
- (f) **Existing Special Exceptions.** Any use or structure lawfully existing at the effective date of adoption of the Town's zoning ordinance which is classified as a special exception in the district in which it is located shall be deemed to have been granted approval by the Board of Appeals, subject to maintaining the character and extent of such use or structure existing on that date. Any extension, enlargement or change in such use or structure shall require approval of the Board of Appeals as provided in this Zoning Code.

SEC. 13-1-5 SCHEDULE OF DISTRICT REGULATIONS

a) FP FARMLAND PRESERVATION DISTRICT

1) Purpose.

a. The purposes of the FP District are to:

- 1) Preserve productive agricultural land for food and fiber production;
- 2) Preserve productive farms by preventing land use conflicts between incompatible uses;
- 3) Maintain a viable agricultural base to support agricultural processing and service industries;
- 4) Pace and shape urban growth;
- 5) Implement the provisions of the Fond du Lac County Farmland Preservation Plan; and
- 6) Comply with the provisions of the Farmland Preservation Law to permit eligible land owners to receive tax credits under Chapter 91 of the Wisconsin Statutes.

2) Permitted Uses.

- a. Agricultural Uses. Any of the following activities conducted for the purpose of producing an income or livelihood:
 - 1) Crop or forage production;
 - 2) Keeping livestock of less than 500 animal units;

- 3) Keeping livestock at a new or expanded livestock facility of 500 or more animal units, subject to the issuance of a license under Section 13-1-12 of this ordinance.
- 4) Beekeeping;
- 5) Nursery, sod, or Christmas tree production;
- 6) Floraculture;
- 7) Aquaculture;
- 8) Fur farming
- 9) Forest management;
- 10) Residences, regardless of occupancy, existing as of January 1, 2014.
- 11) Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program; and
- 12) Any other use that DATCP, by rule, identifies as an agricultural use.

b. Accessory Uses.

- 1) A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use, including, but not limited to:
 - a. A facility used to store or process raw agricultural commodities, all of which are produced on the farm.
 - b. A facility used to keep livestock on the farm.
 - c. A facility used to store or process inputs primarily for agricultural uses on the farm.
 - d. A facility used to keep or service vehicles or equipment primarily employed in agricultural uses on the farm.
 - e. A manure digester, bio-fuel facility, or other facility that produces energy primarily from materials grown or produced on the farm, primarily for use on the farm.
 - f. A waste storage or processing facility used to store or process animal waste produced solely from livestock kept on the farm.

- 2) An activity or business operation that is an integral part of, or incidental to, an agricultural use.
 - 3) Riding stables and boarding facilities that comply with the requirements of Wis. Stat. § 91.01(1)(d).
 - 4) Dog Kennels that comply with the requirements of Wis. Stat. § 91.01(1)(d).
 - 5) A farm residence.
 - 6) A business, activity, or enterprise, whether or not associated with an agricultural use, that is conducted by the owner or operator of the farm, that requires no buildings, structures, or improvements other than those described in subsections 1) or 5), that employs no more than four full-time employees annually, and that does not impair or limit the current or future agricultural use of the farm or of other protected farmland.
 - 7) any other use that DATCP, by rule, identifies as an accessory use.
- c. Undeveloped natural resource and open space areas.
 - d. A transportation, utility, communication or other use that is required under state or federal law to be located in a specific place or that is authorized to be located in a specific place under a state or federal law that preempts the requirement of a special use permit for that use.
 - e. Other uses identified by DATCP rule.

3) Special Exception Uses.

- a. Agriculture-related use, including:
 - 1) An agricultural equipment dealership, facility providing agricultural supplies, facility for storing agricultural products, or facility for processing agricultural wastes; or
 - 2) Any other use that DATCP, by rule, identifies as an agriculture-related use.
- b. Transportation, communication, pipeline, electric transmission, utility, or drainage uses, if all of the following apply:
 - 1) The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.

- 2) The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
 - 3) The uses reasonably designed to minimize conversion of land at and around the site of the use, from agricultural use or open space use.
 - 4) The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
 - 5) Construction damage to land remaining an agricultural use is minimized and repaired, to the extent feasible.
- c. Governmental, institutional, religious, or non-profit community uses, if all of the following apply:
- 1) The use and its location are consistent with the purposes of the farmland preservation zoning district.
 - 2) The use and its location are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
 - 3) The use is reasonably designed to minimize the conversion of land at and around the site of the use, from agricultural use or open space use.
 - 4) The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
 - 5) Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.
- d. Non-metallic mineral extraction, if all of the following apply:
- 1) The operation complies with subchapter I of Chapter 295, Wisconsin Statutes, and rules promulgated under that subchapter, with applicable provisions of all Town of Fond du Lac ordinances, and with any applicable requirements of the Department of Transportation concerning the restoration of non-metallic mining sites.
 - 2) The operation and its location are consistent with the purposes of the farmland preservation zoning district.

- 3) The operation and its location are reasonable and appropriate, considering alternative locations outside the farmland preservation zoning district, or are specifically approved under state or federal law.
 - 4) The operation is reasonably designed to minimize the conversion of land around the extraction site from agricultural use or open space use.
 - 5) The operation does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
 - 6) The owner agrees to restore the land to agricultural use, consistent with any required locally approved reclamation plan, when extraction is completed.
- e. Nonfarm residences, or a proposal to convert a farm residence to a nonfarm residence through a change of occupancy, if all of the following apply:
- 1) The ratio of nonfarm residential acreage to farm acreage on the base farm tract on which the residence is or will be located will not be greater than 1 to 20 after the residence is constructed or converted to a nonfarm residence.
 - 2) There will not be more than 2 dwelling units in nonfarm residences, nor, for a new nonfarm residence, more than 5 dwelling units in residences of any kind, on the base farm tract after the residence is constructed or converted to a nonfarm residence.
 - 3) The location and size of the proposal nonfarm residential parcel, and, for a new nonfarm residence, the location of the nonfarm residence on that nonfarm residential parcel, will not do any of the following:
 - a) Convert prime farmland from agricultural use or convert land previously used as cropland, other than a woodlot, from agricultural use if on the farm there is a reasonable alternative location or size for a nonfarm residential parcel or nonfarm residence. Driveways may be limited to 1,000 feet and shared driveways are not permitted.
 - b) Significantly impair or limit the current or future agricultural use of other protected farmland.

4) Dimensional Requirements.

- a. Minimum lot size: 1 acre for all uses. However, no lot 3 acres or smaller may contain any agricultural-related accessory buildings or any livestock without a special exception unless the lot was created for use by a parent or child of the owner of the parent lot.
- b. Minimum lot width: 150 feet.

c. Side and rear yard setbacks:

- 1) 12 feet from the nearest lot line for residences, but in no case less than 30-foot combined side yards.
- 2) At least 50 feet from the nearest lot line for non-residential buildings in which animals are not housed.
- 3) At least 100 feet from the nearest lot line for animal waste and feed storage structures and for buildings housing animals other than fur-bearing animals.
- 4) At least 300 feet from the nearest lot line for structures or pens housing fur-bearing animals.

d. Maximum building height: 35 feet.

5) Permitted Signs.

- a. Two accessory identification signs limited in area to 25 square feet each (farms only).
- b. Temporary signs advertising the sale or lease of real estate or in conjunction with special events not to exceed 180 days.
- c. Signs identified in section 13-1-2 b) a-f.

6) Off-Street Parking.

- a. Dwellings: two per unit.
- b. Other uses: sufficient off-street parking so that no public street shall be used for parking.

7) Rezoning Land Out of Farmland Preservation Districts: Land may only be rezoned out of the Farmland Preservation Zoning District if the following findings are made by the Town Board following a public hearing:

- a. The land is better suited for a use not allowed in the Farmland Preservation Zoning District.
- b. The rezoning is consistent with any applicable comprehensive plan.
- c. The rezoning is substantially consistent with the Fond du Lac County Certified Farmland Preservation Plan.
- d. The rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.

By March 1 of each year, the Town shall provide to the Wisconsin Department of Agriculture, Trade and Consumer Protection a report of the number of acres that the Town has rezoned out of the Farmland Preservation Zoning District during the previous year and a map that clearly shows the location of those areas.

By March 1 of each year, the Town shall provide the information and maps that it reports to the Wisconsin Department of Agriculture, Trade and Consumer Protection to Fond du Lac County.

b) G-A GENERAL AGRICULTURAL DISTRICT

1) Purpose.

a. The purposes of the G-A General Agricultural District are to:

- 1) Provide for the orderly transition of agricultural land to other uses in areas planned for eventual urban expansion;
- 2) Defer urban development until the appropriate local governmental bodies determine that adequate public services and facilities can be provided at a reasonable cost;
- 3) Insure that urban development is compatible with local land use plans and policies;

2) Permitted Principal Uses and Structures.

- a. All permitted uses set forth in the Farmland Preservation District and commercial greenhouses and nurseries, adult family homes as defined Wis. Stats. § 50.01, and community-based residential facilities as designed in § 50.01 of the Wisconsin Statutes.
- b. Residences, regardless of occupancy, existing as of January 1, 2014.

3) Special Exception Uses and Structures.

- a. All special exception uses and structures set forth in the Farmland Preservation District except non-metallic mining operations.

4) Dimensional Requirements.

- a. Dimensional requirements in the Farmland Preservation District.

5) Permitted Signs.

- a. Permitted signs in the Farmland Preservation District.

6) Off-Street Parking.

- a. Off-street parking in the Farmland Preservation District.

c) RR RESIDENTIAL DISTRICT (RURAL)

1) Purpose.

- a. To establish and maintain areas of the Town for large-lot, low-density single-family development where public sanitary sewers are not available.

2) Permitted Principal Uses and Structures.

- a. Single-family detached dwellings.
- b. Public and semipublic nonprofit institutional uses including churches, schools, libraries and the like.
- c. Parks and playgrounds.
- d. Gardens, nurseries and orchards.
- e. Family day care homes as defined by Section 66.1017 of the Wisconsin Statutes, as amended.

3) Permitted Accessory Uses and Structures.

- a. Home occupations.

4) Special Exception Uses and Structures.

- a. Clubs and organizations not conducted as a gainful business.
- b. Convalescent or nursing homes.
- c. Public utility installations.
- d. Cemeteries.
- e. Airports.
- g. Agricultural uses including general farming, pasture, grazing, truck farming, forestry, and other agricultural uses of a similar nature. Animals allowed under this subsection are limited to chickens (excluding roosters), rabbits, sheep, domestic turkeys, ducks, fish, pot-bellied pigs, goats, racing/homing pigeons, and horses kept for pleasure and hobby purposes.

h. Family day care homes as defined by Section 66.1017 of the Wisconsin Statutes, as amended.

i. Two-family Dwellings, provided that the following minimum requirements are met in addition to any other requirements that may be imposed by the Plan Commission:

1) Dimensional Requirements.

a) Minimum lot area: 26,000 sq. ft.

b) Minimum lot width: 130 feet.

c) Minimum front: 40 feet, except that the setback for lots in platted subdivisions shall be as identified in the Final Plat as approved by the Town Board;

d) Minimum rear yard: 30 feet.

e) Minimum side yard: 10 feet, but in no case less than 30-foot combined side yards.

f) Maximum height: 35 feet (2 ½ stories).;

2) Soil tests performed by a certified soil tester, and approved or confirmed by the County Sanitarian, indicate that the parcel is suitable for installation of a private sewerage system capable of handling waste from a two-family dwelling, and that there is sufficient area of suitable soils for construction of both an original and a replacement system adequate to serve a two-family dwelling;

3) If a single private sewerage system is to serve the two-family dwelling, covenants, restrictions, or a joint sewerage system agreement approved by the Plan Commission is or will be imposed upon the parcel allocating maintenance, repair and replacement responsibilities for the sewerage system among the dwelling owners.

5) Dimensional Requirements.

a. Single-Family Detached Dwellings.

1) Minimum: lot area: 20,000 sq. ft.

2) Minimum lot width: 100 feet.

3) Minimum front yard: 40 feet, except that the setback for lots in platted subdivisions shall be as identified in the Final Plat as approved by the Town Board;

4) Minimum rear yard: 30 feet.

5) Minimum side yard: 12 feet, but in no case less than 30-foot combined side yards.

6) Maximum height: 35 feet (2 1/2 stories).

b. Other Permissible Principal Uses and Structures.

4) Minimum lot area: one acre.

2) Minimum lot width: 150 feet.

3) Minimum front yard: 40 feet.

4) Minimum rear yard: 35 feet.

5) Minimum side yard: 20 feet, but in no case less than 50-foot combined side yards.

6) Maximum height: 35 feet (2 1/2 stories).

6) Permitted Signs.

a. Permitted signs in the FP District.

b. Temporary signs advertising the sale or lease of the subject real estate provided such sign is displayed for a period not to exceed 180 days.

c. Signs defined in section 13-1-2(b)(50) a-g.

7) Off-Street Parking.

a. Applicable requirements as specified in the FP District.

b. Convalescent and nursing homes: one per five beds plus one per employee.

d) RM RESIDENTIAL DISTRICT (MEDIUM DENSITY)

1) Purpose.

a. To establish and maintain areas of the Town for medium-density residential development where public sewer facilities are available.

b. To provide appropriate buffering by the use of increased setbacks where multi-family development is proposed to abut existing single- or two-family development.

2) Permitted Principal Uses and Structures.

- a. Single-family detached dwellings.
 - b. Two-family dwellings.
 - c. Family day care homes as defined by section 66.1017, Wisconsin Statutes, as amended.
 - d. Parks and playgrounds on land dedicated to the Town.
- 3) Permitted Accessory Uses and Structures.
- a. Home occupations.
- 4) Special Exception Uses and Structures.
- a. Single-family attached dwellings.
 - b. Multiple-family dwellings provided principal access is available on a public street.
 - c. Unified Development (see section 13-1-6 (i)).
 - d. Public Utility Installations.
 - e. Public and semipublic nonprofit institutional uses including churches, schools, libraries and the like.
 - f. Convalescent or nursing homes.
- 5) Dimensional Requirements.
- a. Single-Family Detached Dwellings.
 - 1) Minimum lot area: 16,000 sq. ft.
 - 2) Minimum lot width: 90 feet.
 - 3) Minimum front yard: 40 feet, except that the setback for lots in platted subdivisions shall be as identified in the Final Plat as approved by the Town Board;
 - 4) Minimum rear yard: 25 feet.
 - 5) Minimum side yard: 10 feet, but in no case less than 25-foot combined side yards.
 - 6) Maximum height: 35 feet (2 1/2 stories).
 - b. Two-Family Single-Story Dwellings.

- 1) Minimum lot area: 18,000 sq. ft.
 - 2) Minimum lot width: 100 feet.
 - 3) Minimum front yard: 40 feet, except that the setback for lots in platted subdivisions shall be as identified in the Final Plat as approved by the Town Board;
 - 4) Minimum rear yard: 25 feet.
 - 5) Minimum side yard-10 feet, but in no case less than 25-foot combined side yards.
 - 6) Maximum height: 35 feet (2 ½ stories)
- c. Two-Family Two-Story Dwellings.
- 1) Minimum: lot area: 14,000 sq. ft.
 - 2) Minimum lot width: 100 feet.
 - 3) Minimum front yard: 40 feet, except that the setback for lots in platted subdivisions shall be as identified in the Final Plat as approved by the Town Board;
 - 4) Minimum rear yard: 25 feet.
 - 5) Minimum side yard: 10 feet, but in no case less than 25-foot combined side yards.
 - 6) Maximum height: 35 feet (2 ½ stories).
- d. Multiple-Family Dwellings.
- (1) Minimum lot area: 18,000 sq. ft. regardless of the number of units, minimum of 3,000 sq. ft. for each dwelling unit if more than 5 units (e.g., 20-unit development requires minimum of 60,000 sq. ft. lot area).
 - (2) Minimum lot width: 100 feet.
 - (3) Minimum front yard: 40 feet, except that the setback for lots in platted subdivisions shall be as identified in the Final Plat as approved by the Town Board.
 - (4) Minimum rear yard: 30 feet.
 - (5) Minimum side yard: 20 feet each side. Yard minimum must be increased by 30 feet on the abutting side if the development abuts, or will abut, planned, single-family or two-family dwellings.
 - (6) Maximum: height: 45 feet (3 stories).

- (7) Maximum lot coverage: 20 percent.
- 6) Permitted Signs.
 - a. Signs defined under section 13-1-2(b)(50) a-g.
 - b. Temporary signs advertising the sale or lease of the subject real estate provided such sign is displayed for a period not to exceed 180 days.
- 7) Off-Street Parking.
 - a. Applicable requirements as specified in the FP District.
 - b. Single-Family dwellings: 2 per unit.
 - c. Multiple-family dwellings: 2 ½ per unit (if a garage is provided for a unit, it shall be counted as one of the required parking spaces for that unit). Parking areas for multiple-family developments must be paved, with parking spaces marked.
- 8) Animal Housing. There shall be a limit of two animals (dogs or cats only) per dwelling unit. All animals must be kept under control and shall remain on the owner's property. All animals must be kept and controlled so that no nuisance is created.

e) RL RESIDENTIAL DISTRICT (LOW DENSITY)

- 1) Purpose.
 - a. To establish and maintain areas of the Town for lower-density residential development.
- 2) Permitted Principal Uses and Structures.
 - a. Single-family detached dwellings.
 - b. Family day care homes as defined by Section 66.1017 of the Wisconsin Statutes, as amended.
 - c. Parks and playgrounds.
- 3) Permitted Accessory Uses and Structures.
 - a. Home occupations.
- 4) Special Exception Uses and Structures.

- a. Single-family attached dwellings.
- b. Two-family Dwellings, provided that the following minimum requirements are met in addition to any other requirements imposed by the Town Board:
 - 1) Dimensional requirements.
 - a) Minimum: lot area: 30,000 sq. ft.(15,000 sq. ft. per dwelling unit).
 - b) Minimum lot width: 150 feet.
 - c) Minimum front yard: 40 feet, except that the setback for lots in platted subdivisions shall be as identified in the Final Plat as approved by the Town Board;
 - d) Minimum rear yard: 30 feet.
 - e) Minimum side yard: 15 feet each side, but in no case less than 35-foot combined side yards.
 - f) Maximum height: 35 feet (2 ½ stories).
 - 2) If the property is to be served by a private sewerage system, soil tests performed by a certified soil tester, and approved or confirmed by the County Sanitarian, indicate that the parcel is suitable for installation of a private sewerage system capable of handling waste from a two-family dwelling, and that there is sufficient area of suitable soils for construction of both an original and a replacement system adequate to serve a two-family dwelling;
 - 3) If a single private sewerage system is to serve the two-family dwelling, covenants, restrictions, or a joint sewerage system agreement approved by the Town Board is or will be imposed upon the parcel allocating maintenance, repair and replacement responsibilities for the sewerage system among the dwelling owners;
 - 4) Two-family dwellings shall be interspersed with single-family dwellings within the subdivision or development and no more than three (3) lots adjacent to each other may be developed with two-family dwellings. Any 3-lot block of two-family dwellings must be separated from another 3-lot block of two-family dwellings by at least 3 single-family dwelling lots. This provision may be waived only where two-family dwellings are used to buffer a residential development from a Commercial or Industrial District or a commercial or industrial lot or use.
- c. Unified Development (see section 13-1-6(i)).
- d. Public utility installations.

- e. Clubs and organizations not conducted as a gainful business.
- f. Cemeteries.
- g. Private Airports.
- h. Public and semipublic nonprofit institutional uses including churches, schools, libraries and the like.
- i. Agricultural uses including general farming, pasture, grazing, truck farming, forestry and other agricultural uses of a similar nature. Animals allowed under this subsection are limited to chickens (excluding roosters), rabbits, sheep, domestic turkeys, ducks, fish, pot-bellied pigs, goats, racing/homing pigeons, and horses kept for pleasure and hobby purposes.

5) Dimensional Requirements.

a. Single-Family Detached Dwellings.

- 1) Minimum lot area: 30,000 sq. ft.
- 2) Minimum lot width: 150 feet.
- 3) Minimum front yard: 40 feet, except that the setback for lots in platted subdivisions shall be as identified in the Final Plat as approved by the Town Board;
- 4) Minimum rear yard: 30 feet.
- 5) Minimum side yard - 15 feet each side, but in no case less than 35- foot combined side yards.
- 6) Maximum height: 35 ft. (2 ½ stories).

6) Permitted Signs.

- a. Signs defined under section 13-1-2(b)(50) a-g.
- b. Temporary signs advertising the sale or lease of the subject real estate provided such sign is displayed for a period not to exceed 10 days after the closing on the sale or lease of the premises.
- c. Platted subdivision signs at the main entrance to the subdivision, no larger than 32 sq. ft., permitted only until all lots in the subdivision are sold.

7) Off-Street Parking.

- a. Applicable requirements as specified in the FP District.
 - b. Two-family dwellings: 3 per unit (if a garage is provided for a unit, it shall be counted as one of the required parking spaces for that unit).
- 8) Animal Housing. There shall be a limit of four animals (dogs or cats only) per single-family dwelling unit and a limit of two animals (dogs or cats only) per family per two-family dwelling unit. All animals must be kept under control and shall remain on the owner's property. All animals must be kept and controlled so that no nuisance is created.

f) RO RESIDENTIAL DISTRICT (OPEN DENSITY)

1) Purpose.

- a. To establish and maintain areas of the Town for large-lot, low-density residential development.
- b. To provide areas for residential development while preserving a “rural” character in portions of the Town.

2) Permitted Principal Uses and Structures.

- a. Single-family detached dwellings.
- b. Family day care homes as defined by section 66.1017, Wisconsin Statutes, as amended.
- c. Parks and playgrounds.

3) Permitted Accessory Uses and Structures.

- a. Home occupations.

4) Special Exception Uses and Structures.

- a. Single-family attached dwellings.
- c. Two-family Dwellings, provided that the following minimum requirements are met in addition to any other requirements imposed by the Town Board:

1) Dimensional requirements.

- a) Minimum: lot area: 1 acre
- f. Minimum lot width: 150 feet.

- g. Minimum front and rear yards: 50 feet.
 - h. Minimum side yard - 20 feet each side, but in no case less than 45-foot combined side yards.
 - i. Maximum: height: 42 ft.
- 2) If the property is to be served by a private sewerage system, soil tests performed by a certified soil tester, and approved or confirmed by the County Sanitarian, indicate that the parcel is suitable for installation of a private sewerage system capable of handling waste from a two-family dwelling, and that there is sufficient area of suitable soils for construction of both an original and a replacement system adequate to serve a two-family dwelling;
 - 3) If a single private sewerage system is to serve the two-family dwelling, covenants, restrictions, or a joint sewerage system agreement approved by the Town Board is or will be imposed upon the parcel allocating maintenance, repair and replacement responsibilities for the sewerage system among the dwelling owners;
 - 4) Two-family dwellings shall be interspersed with single-family dwellings within the subdivision or development and no more than three (3) lots adjacent to each other may be developed with two-family dwellings. Any 3-lot block of two-family dwellings must be separated from another 3-lot block of two-family dwellings by at least 3 single-family dwelling lots. This provision may be waived only where two-family dwellings are used to buffer a residential development from a Commercial or Industrial District or a commercial or industrial lot or use.
- c. Unified Development (see section 13-1-6(i)).
 - d. Public utility installations.
 - e. Clubs and organizations not conducted as a gainful business.
 - f. Cemeteries.
 - g. Private Airports.
 - h. Public and semipublic nonprofit institutional uses including churches, schools, libraries and the like.
 - i. Agricultural uses including general farming, pasture, grazing, truck farming, forestry and other agricultural uses of a similar nature. Animals allowed under this subsection are limited to chickens (excluding roosters), rabbits, sheep, domestic turkeys, ducks, fish, pot-bellied pigs, goats, racing/homing pigeons, and horses kept for pleasure and hobby purposes.

5) Dimensional Requirements.

a. Single-Family Detached Dwellings.

- 1) Minimum: lot area: 55,000 sq. ft.
- 2) Minimum lot width: 150 feet.
- 3) Minimum front and rear yards: 50 feet.
- 4) Minimum side yard: 15 feet each side, but in no case less than 35- foot combined side yards.
- 5) Maximum height: 42 feet.

6) Permitted Signs.

- a. Signs defined under section 13-1-2(b)(50) a-g.
- b. Temporary signs advertising the sale or lease of the subject real estate provided such sign is displayed for a period not to exceed 10 days after the closing on the sale or lease of the premises.
- c. Platted subdivision signs at the main entrance to the subdivision, no larger than 32 sq. ft., permitted only until all lots in the subdivision are sold.

7) Off-Street Parking.

- a. Applicable requirements as specified in the FP District.
- b. Two-family dwellings: 3 per unit (if a garage is provided for a unit, it shall be counted as one of the required parking spaces for that unit).

8) Animal Housing. There shall be a limit of four animals (dogs or cats only) per single-family dwelling unit and a limit of two animals (dogs or cats only) per family per two-family dwelling unit. All animals must be kept under control and shall remain on the owner's property. All animals must be kept and controlled so that no nuisance is created.

g) C COMMERCIAL

1) Purpose. To establish and maintain areas of the Town for general commercial use.

2) Permitted Principal Uses and Structures.

- a. Retail establishments including department, grocery, specialty, hardware and drugstores and uses of a similar nature.

- b. Personal and general service establishments including banks, barbers, cleaners, restaurants, taverns, repair shops and uses of a similar nature.
 - c. Wholesale, warehouse and building supply establishments.
 - d. Automobile, farm implement and boat dealers and repair shops.
 - e. Offices and public buildings.
 - f. Public and private institutional uses.
 - g. Printing and publishing.
 - h. Mobile home sales and service establishments.
 - i. Theaters, except drive-in theaters.
 - j. Motels.
 - k. Transportation terminals.
 - l. Automobile filling stations.
 - m. Funeral homes.
 - n. Gardens, orchards and nurseries including where a store is maintained on the premises.
 - o. Recreational establishments including bowling alleys, skating rinks, billiard parlors, dance halls and uses of a similar nature.
- 3) Permitted Accessory Uses and Structures.
- a. Uses and structures customarily accessory and clearly incidental to permissible principal uses and structures.
- 4) Special Exception Uses and Structures.
- a. Public utility installations.
 - b. Agricultural related businesses such as feedmills, farm coops, creameries, milk processing and cheese factories.
 - c. Temporary exposition, carnival or fair.
 - d. Light manufacturing uses including bottling, packaging, laboratories, and the like.

- e. Billboards or signs in excess of twenty-five (25) square feet.
- f. Clinics.
- g. Mobile Home Parks, where sanitary sewers are available.
- h. Dog Kennels.
- i. All "Permitted Principal", "Permitted Accessory" and "Special Exception" uses and structures in the RR, RM and RH residential district schedules, with the applicable "Dimensional", "Permitted Signs" and "Off-Street Parking" requirements.

5) Dimensional Requirements and Lot Screening.

a. All Permissible Principal Uses and Structures.

- 1) Minimum: lot area-16,000 sq. ft. for lots served by public sanitary sewers and 20,000 sq. ft. for lots not served by public sanitary sewers;
- 2) Minimum lot width: 100 feet.
- 3) Minimum front yard: 50 feet.
- 4) Minimum rear yard: 25 feet.
- 5) Minimum side yard: 20 feet, but in no case less than 40-foot combined side yards. All minimum side yard requirements shall be increased in width one foot for every two feet the principal building exceeds 50 feet in height.
- 6) Any yard within the commercial district which is directly adjacent to a residential district without an intervening street shall provide a landscaped strip not less than seven ft. in depth if at the rear and seven ft. in width if at the side.
- 7) Any commercial use may be required to be appropriately screened from adjoining residential districts by a fence, wall or shrubs.

6) Permitted Signs. Must be reviewed and approved by the Planning Commission and the Town Board.

- a. One (1) sign limited to 25 square feet in area, either single-faced or double-faced, not to exceed 25 square feet on either side. Moving, flashing or blinking lighted signs are not permitted. No sign shall be erected within ten (10) feet of any front lot line or ten (10) feet of any side lot line.
- b. Temporary signs, either lighted (whether blinking or flashing lights) or unlighted may be erected only with the express, written permission of the Town Building Inspector

who shall issue a permit for a fee of twenty dollars (\$20.00), which shall cover a period not to exceed ten (10) days, unless further extended by the Building Inspector for a period not to exceed three (3) months. The Building Inspector's decision regarding whether to extend the permit duration may not be based on the content of the sign. The Building Inspector's decision shall be unappealable.

- c. Signs defined under section 13-1-2(b)(50)a-g.
- d. Temporary signs advertising the sale or lease of the subject real estate.
- e. Dissolve: A mode of message transition accomplished by varying the light intensity or pattern where the first message gradually appears to dissipate and lose legibility simultaneously with the gradual appearance and legibility of the second message.

Scroll: A mode of message transition where the message appears to move vertically across the display surface.

Travel: A mode of message transition where the message appears to move horizontally across the display surface.

7) Off-Street Parking.

- a. Applicable parking requirements as specified in the FP District.
- b. Retail and personal service establishments other than restaurants: one per 200 square feet of floor area.
- c. Restaurants and recreational establishments other than theaters: one per 100 square feet of floor area.
- d. Theaters and taverns: one per three persons of maximum capacity.
- e. General service establishments, printing and publishing: one per employee.
- f. Offices, clinics, public and private institutional uses: one per 200 square feet of floor area.
- g. Hotels: one per sleeping room.
- h. Funeral homes: one per three seats.
- i. Wholesale, warehouse, and building supply establishments: minimum of four, plus one additional for each 3,000 square feet over 12,000 square feet of floor area.
- j. Light manufacturing: one per employee.

h) I INDUSTRIAL DISTRICT

- 1) Purpose. To establish and maintain areas of the Town for general industrial use.
- 2) Permitted Principal Uses and Structures.
 - a. Wholesale, warehouse, and building supply establishments.
 - b. Automobile, farm implement and boat dealers and repair shops.
 - c. Offices and office buildings.
 - d. Printing and publishing.
 - e. Mobile homes sales and service.
 - f. Automobile filling stations.
 - g. Transportation terminals.
 - h. Public utility installations.
 - i. Agricultural-related businesses such as feedmills, farm coops, creameries, milk processing and cheese factories.
 - j. Light manufacturing uses including bottling, packaging, laboratories and the like.
 - k. Manufacturing uses including production, processing, cleaning, testing and the distribution of materials and goods provided:
 - 1) No activity or operation shall transmit any noise exceeding a sound level of 75 dBA when measured within a property boundary outside of the Industrial District. (Noises not directly under the control of the property user, from temporary construction or maintenance and from emergency, safety or warning devices shall be exempt.);
 - 2) No operation or activity shall transmit any physical vibration that is above the vibration perception threshold of an individual within a property boundary outside of the Industrial District;
 - 3) No operation or activity shall emit any substance or combination of substances in such quantities that create an objectionable odor as defined in Chapter NR 429.03, Wisconsin Administrative Code;

- 4) No operation or activity shall emit any particulate matter into the ambient air which exceeds the limitations as established in Chapter NR 436, Wisconsin Administrative Code;
 - 5) No operation or activity shall emit into the ambient air from any direct or portable source any matter that will affect visibility in excess of the limitations established in Chapter NR 431, Wisconsin Administrative Code;
 - 6) No operation or activity shall emit any hazardous substances in such quantity, concentration or duration as to be injurious to human health or property and all estimates shall not exceed the limitations established in Chapter NR 445, Wisconsin Administrative Code.
- 3) Permitted Accessory Uses and Structures.
- a. Uses and structures customarily accessory and clearly incidental to permissible principal uses and structures.
- 4) Special Exception Uses and Structures.
- a. Motor vehicle salvage yard.
 - b. Storage or warehousing of volatile substances.
 - c. Mobile Home Parks, where sanitary sewers are available.
 - d. Solid Waste Disposal Sites and Facilities.
 - e. Dog Kennels.
 - f. All "Permitted Principal", "Permitted Accessory" and "Special Exception" uses and structures in the RR and RM, residential districts and C, Commercial District schedules, with the applicable "Dimensional", "Permitted Signs" and "Off-Street Parking" requirements.
- 5) Dimensional Requirements and Lot Screening
- a. All Permissible Principal Uses and Structures.
 - 1) Minimum lot area: 16,000 sq. ft. for lots served by public sanitary sewers and 20,000 sq. ft. for lots not served by public sanitary sewers.
 - 2) Minimum lot width: 100 feet.
 - 3) Minimum front yard: 40 feet.
 - 4) Minimum rear yard: 25 feet.

- 5) Minimum side yard: 20 feet, but in no case less than 40-foot combined side yards. All minimum side yard requirements shall be increased in width one foot for every two feet the principal building exceeds 50 feet in height.
 - 6) Any yard within the industrial district which is directly adjacent to a residential district without an intervening street shall provide a landscaped strip not less than seven feet in depth if at the rear and seven feet in width if at the side.
 - 7) Any industrial use may be required to be appropriately screened from adjoining residential districts by a fence, wall or shrubs.
- 6) Permitted Signs.
- a. As specified in the C Commercial District.
- 7) Off-Street Parking.
- a. As specified in the C Commercial District.
 - b. Manufacturing: one per employee on maximum shift.

SEC. 13-1-6 SUPPLEMENTARY DISTRICT REGULATIONS

a) General Application

The regulations set forth herein shall supplement or modify the regulations set forth in section 13-1-5, Schedule of District Regulations. Unless the context of a particular section indicates otherwise, all activities and construction shall be performed to acceptable standards, as defined above.

b) Lots and Yards

- 1) More Than One Building on a Lot. In any district, more than one building housing a principal use may be erected on a single lot provided that yard and other requirements of this Zoning Code shall be met for each building as though it were on an individual lot.
- 2) Through Lots. On through lots or lots with double frontage, the required front yard shall be provided on each street. On corner lots the street side yard shall equal the required front yard for lots fronting on that street.
- 3) Development on Mapped Streets. Where an official line has been established for the future widening or opening of a street, the depth of a front yard or the width of a side yard shall be measured from such official line to the nearest line of the building.

- 4) Access. Every building housing a principal use hereafter erected or moved shall be on a lot with direct access to a public or private street and all such buildings shall be so located as to provide safe and convenient access for servicing and off-street parking.
- 5) Building Groups. In any nonresidential district a group of buildings separated only by common or party walls shall be considered as one building.
- 6) Residential Lot Area. In districts permitting two-family or multiple-family dwellings where the area of property is such that a portion remains after full requirements have been met for other dwelling units on the same property, the following rules shall guide the Building Inspector in issuing permits, and no relaxation will be permitted by a variance:
 - a. Two units shall be permitted on a lot containing area required for one unit and ninety (90%) percent of the area for a second unit;
 - b. Three units shall be permitted on a lot containing area required for two units and eighty-five (85%) percent of the area required for a third unit;
 - c. One additional unit shall be permitted on a lot containing area required for three or more units and eighty (80%) percent of the area required for the additional unit.

c) Accessory Buildings in Residential Districts and Certain Agricultural Districts.

- 1) Accessory uses or structures are permitted uses in the residential districts subject to the following limits on accessory structures:
 - a. No lot may contain more than two accessory structures.
 - b. No accessory structures may be built in the front yard of a lot.
 - c. Accessory structures are limited to one story in height.
 - d. Accessory structures are limited to 9' in wall height. Wall height shall be measured from grade. Accessory structures must match the principal residence on the lot in architectural style, roof pitch, and color.
 - e. Accessory structures shall be set back a minimum of 10' from the rear and side yard lot lines.
 - f. On buildable lots of less than .75 acres, accessory structures may not exceed 600 square feet in size.
 - g. On buildable lots of .75 acres to 2.0 acres, accessory structures may not exceed 700 square feet in size.

- h. On buildable lots of more than 2.0 acres, accessory structures may not exceed 800 square feet in size without a special exception granted by the Board of Appeals.
- i. No accessory structure located in a side yard may exceed 100 square feet in size.
- j. Accessory structure size shall be measured from outer wall to outer wall.
- k. No roof line may extend beyond two feet from the outer wall of an accessory structure.
- l. No flooring surface may extend beyond two feet from the outer wall of an accessory structure.
- m. If a lot contains two accessory structures, their combined size cannot exceed the size limit that would apply to a single accessory structure on that lot.
- n. Dog houses and children's play equipment are exempt from the provisions of this section.
- o. The restrictions set forth in this section also apply to accessory structures on lots zoned Farmland Preservation or General Agricultural if those lots are three acres in size or less.

d) Fences.

1) Open Fences.

a. Residence Districts.

- i. Three feet maximum height in front yard.
- ii. Six feet maximum height in side and rear yard.
- iii. No maximum side or rear yard height where adjacent to nonresidential uses or districts.
- iv. No minimum setback from property line, except that fences constructed of hedgerows must be at least three feet from the property line, hardwood trees used for screening must be at least 10 feet from the property line, and conifers used for screening must be at least 15 feet from the property line.
- v. The finished side of the fence must face away from the property.

- b. Non-residence districts: ten feet maximum height.
- c. Schools in any district: unlimited height.
- d. No barbed wire fencing may be used in a residence district.
- e. Electric fences (other than wireless dog fences) are prohibited in all residential district except upon approval of a special exception by the Town Board.

2) Solid Fences.

a. Residence Districts.

- i. Three feet maximum height in front yard.
- ii. Six feet maximum height in side and rear yards.
- iii. Ten feet maximum height where adjacent to nonresidential uses or districts.
- iv. No minimum setback from property line, except that fences constructed of hedgerows must be at least three feet from the property line, hardwood trees used for screening must be at least 10 feet from the property line, and conifers used for screening must be at least 15 feet from the property line.
- v. The finished side of the fence must face away from the property.

b. Non-residence districts: Ten feet maximum height.

- c. No barbed wire fencing may be used in a residence district.
- d. Electric fences (other than wireless dog fences) are prohibited in all residential districts except upon approval of a special exception by the Town Board.

3) Permits.

- a. All fences shall be properly maintained both as to structure and appearance. The Building Inspector shall have the authority to order the repair of fences. Fences shall be repaired within thirty days of the Building Inspector's Order. Failure to comply with the Building Inspector's Order shall subject the property owner to the penalties under section 13-1-8 of this Zoning Code.
- b. No building permit is required for fences of a maximum height of two and one half feet and less than fifty feet in total length.

- c. No building permit is required for temporary, seasonal fences (e.g. snow fences).
- d. No building permit is required for fences located within agricultural districts when used for the purpose of containing livestock.
- e) **Height.** The height limitations contained in section 13-1-5 do not apply to belfries, cupolas, antennas, water tanks, elevator bulkheads, chimneys, spires, flagpoles or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.
- f) **Storage of Junk, Refuse, Debris and Disabled or Damaged Motor Vehicles.** The open storage of junk, refuse, scrap, debris, disabled or damaged motor vehicles (whether awaiting repair or not; whether licensed or not) is prohibited in all zoning districts. Enclosed storage, when permitted within a zoning district, shall be completely surrounded by a solid fence or wall which completely obscures the vision of the storage from beyond the property.
- g) **Mobile Homes, Trailers, Boats, Snowmobiles, Etc.** Except in established mobile home parks and tourist camps, mobile homes, travel trailers, camping trailers and slide-on campers shall not be occupied for dwelling purposes. No more than one camping trailer or slide-on camper or travel trailer or motor home or snowmobile and snowmobile trailer as a unit or boat and boat trailer as a unit or utility trailer may be parked or stored in the open, and then only at the side or rear of the principal structure, without a permit from the zoning code enforcing officer. No cargo or storage trailers or containers shall be allowed in any residential or agricultural district. Semi-trailer and semi-truck parking shall not be permitted in any residential district or agricultural district (unless used for agricultural purposes in the agricultural district).
- h) **Parking and Storage of Motor Vehicle, Boats, Snowmobiles, Cargo Trailers, Recreation Vehicles and Similar Vehicles.** Boats, snowmobiles, cargo trailers, motor vehicles, recreation vehicles and similar vehicles may be parked or stored in the open when customary in the operation of a lawfully established principal use, and one such vehicle may be stored or parked on a residential lot provided that it is not located in any required front yard and no major repair, disassembly or rebuilding operations are conducted thereon.
- i) **Unified Development**
 - 1) **Intent.** The purpose of the unified development regulations is to promote the maximum benefit which can be derived from coordinated area site planning, diversified location of structures and a mixture of compatible uses conceived and implemented as a comprehensive and cohesive project. It is further intended to encourage the preservation of open land and natural features such as woods, streams and wetlands as integral components of the development. To this end, the regulations provide for the development of land on a comprehensive and unified basis rather than through the application of fixed formulas.
 - 2) **Non-Applicability.** These unified development procedures and standards do not apply within the Farmland Preservation District.

3) Permitted Uses

- a. In a unified development, any uses permitted in any of the other districts of this Zoning Code may be permitted provided, however, that no use shall be permitted except in conformity with a precise development plan pursuant to the criteria for approval and the procedural requirements of the unified development provisions.
- b. Specific lot size, density, open space, building location, height, size, floor area and other such requirements shall be based upon determination as to their appropriateness to the proposed uses or structures as they relate to the total environmental concept of the planned development consistent with the criteria set forth herein and with those generally accepted basic standards necessary to insure the protection of the public health, safety and welfare.
- c. Such requirements as are made a part of an approved precise development plan shall be, along with the plan itself, construed to be and enforced as a part of this Zoning Code.

4) Design Standards. Design standards for streets, sidewalks, street lighting, storm drainage, lot size, lot arrangement, or other elements of the development shall be based upon a determination of specific function and relationship to the total development and compatibility with the existing pattern in areas peripheral to the development. In no case shall minimal construction standards be less than those necessary to protect the public health, safety and welfare. Precise standards shall be made a part of the approved plan, and shall be construed to be and enforced as part of this Zoning Code.

5) Criteria for Approval. Approval of a unified development shall be based upon determination of the following criteria:

- a. The proposed development is consistent with the spirit and intent of these regulations, has been prepared with competent professional advice and guidance and produces significant benefits in terms of improved environmental design to justify the application of the "unified development" concept;
- b. The development reflects sensitive consideration of the physical nature of the site with particular concern for conservation of natural features, preservation of open space, proper drainage and preservation of natural terrain wherever appropriate;
- c. The development is internally consistent by type and intensity of use and compatible with development in the surrounding area;
- d. The development can be provided with appropriate municipal services and would not conflict with or cause overload on such facilities as schools, highways, police, fire or utility services;

- e. The development has appropriate design standards to facilitate adequate circulation, parking, emergency services, delivery service and snowplowing;
- f. Adequate provision has been made to insure proper maintenance and preservation of any common areas provided for the recreation and aesthetic enhancement of the development.

6) Procedure

- a. Pre-application Conference. Prior to submitting an application for a special exception, it is recommended that the applicant confer with the Planning Commission in order to establish mutual understanding of the concept proposed and the requirements applicable to a unified development.
- b. General Development Plan. A general development plan shall be submitted concurrently with an application for a special exception with the Town Board. The Town Board shall refer the proposed general development plan to the Plan Commission for its recommendation. The general development plan shall contain the following information:
 - 1) The title of the project and names of the professional project planner and the developer;
 - 2) The pattern of proposed uses including the size and arrangement of lots and use areas, the density of development and the environmental character of the site;
 - 3) The basic street and utility pattern;
 - 4) The location, size, and character of recreational and open space areas;
 - 5) The number of dwelling units and the lot area and floor area of the dwelling units and the location of nonresidential uses;
 - 6) An outline of intended organizational structure of property owners' association and all easements, deed restrictions and covenants.
- c. Findings and Recommendations. The Planning Commission may recommend to the Town Board that the special exception for a unified development be approved, approved subject to stated conditions or disapproved. The Town Board shall make the final decision to grant or deny the special exception. All terms, conditions or safeguards made at the time of approval of a special exception shall be binding upon the applicant or any successor in interest.
- d. Implementation Plan. Implementation plans for development of land approved as a unified development shall be processed in accordance with standard subdivision review procedures. Implementation plans shall be in substantial compliance with the approved general development plan and shall include the following information:

- 1) Building locations and architectural definitions of all structures proposed;
 - 2) Master landscape plan;
 - 3) Specific designation of proposed uses including public and private roads, parking facilities, walkways and specific treatment of any common open space or recreational areas;
 - 4) Detailed storm drainage, sanitary sewer and water system plans;
 - 5) Proposed engineering standards for all streets and walkways;
 - 6) Agreements, bylaws, covenants and easements.
- 7) **Building Permits.** Approval of a unified development plan does not constitute approval for the construction of individual buildings or structures in the development. Separate approval shall be required upon application for building permits.
- j) **Buffers in New Subdivisions.** The Plan Commission, in its sole discretion, may of a new subdivision in order to seclude the subdivision, maintain the seclusion of an adjoining subdivision or existing residential development, or to provide a buffer against an adjoining, nonresidential land use. The Plan Commission may make the recommendation that a berm be constructed only upon unanimous vote of the Plan Commission. The Town Board shall make the final decision as to whether a conservancy strip, berm or other buffer is required.
- k) **Two-Family Dwelling Architectural Controls.** Design of two-family homes in subdivisions, developments and neighborhoods shall be well balanced. Patterns, rhythms, and articulation of architectural elements are encouraged. Owners or builders are encouraged to vary and mix brick, other masonry materials, trim, siding, roofing and paint color of two-family homes. It is the intent of this zoning code to vary color, hue and texture as much as reasonably feasible.

The identical front exterior brick or other masonry materials color or siding color may not be duplicated on dwellings within two lots of that home. For example: a dwelling on lot 7 may have the same brick color or other masonry material color, or siding as the dwelling on lot 10, but not on lot 9, and the same brick or other masonry material color, siding color as on lot 4 but not on lot 5, nor on a lot directly across the street from lot 7.

No exterior color may be exactly duplicated on any two-family dwellings directly contiguous to each other and on the same side of the street. Exterior trim and roof colors may be duplicated directly contiguous to each other.

- l) **Development Within the “Red Corridor”.**

- 1) Red Corridor Defined. The Red Corridor is the area adjacent to the East Branch of the Fond du Lac River (“the River”) between the Wisconsin Central Railroad tracks where they cross the East Branch of the Fond du Lac River and C.T.H. D.
- 2) Conservancy Area Defined. A “Conservancy Area” is an area in which no structures may be constructed and cutting of vegetation and native trees is prohibited except where a view or recreation corridor is permitted or required.
- 3) Applicability. The provisions of this subsection (k) apply only to land use and development within the Red Corridor. Where the provisions of this subsection (k) conflict with other provisions of this Zoning Code related to lot size and building setbacks, this subsection (k) shall control.
- 4) Conservancy Area Required. A 150-foot Conservancy Area setback, measured from the ordinary high water mark of the East Branch of the Fond du Lac River, is required for all development within the Red Corridor. No native trees (trees indigenous to Fond du Lac County) or grass may be cut within a Conservancy Area except in required or permitted view/recreation corridors. Noxious weeds may be cut within the Conservancy Area.
- 5) View/Recreation Corridor. Residential subdivision plats may provide a view/recreation corridor to the River, in a location and configuration approved by the Plan Commission. The view/recreation corridor may not exceed 25% of the River frontage included in the plat. The view/recreation corridor may be maintained in lawn-type grass. Gravel or paved paths are not permitted in the view/recreation corridor. No view/recreation corridor shall be permitted in commercial, industrial or future farm developments.
- 6) Lot Size and Setback. Lots with River frontage shall have a minimum width of 150 feet, a minimum Conservancy Area building setback of 150 feet from the ordinary high water mark of the River, and a minimum buildable lot area of 20,000 square feet. ”Buildable area” means the total lot area remaining after deducting the 150-foot Conservancy Area setback. A view/recreation corridor to the River not to exceed 35 feet in width per lot shall be permitted. Lots of record in existence prior to the date of adoption of this amendment (being February 10, 2003) are exempt from the Conservancy Area building setback requirement.
- 7) Lots of Record. Lots in existence prior to the date of adoption of this amendment (February 10, 2003) are exempt from the provisions of this amendment. No further encroachment on to the river will be permitted in the Conservancy Area on lots of record. Agricultural farm fields shall not be considered lots of record.
- 8) Municipal Park Areas. A Conservancy Area is not required in any municipal park within the Red Corridor. The River bank in any park shall be maintained to prevent erosion and inflow from areas outside of the park. An area not less than 75 feet from the ordinary high water mark of the River must be maintained as lawn, or in a natural state with only noxious weeds being cut. No native trees larger than 4 inches in diameter may be removed, and no

paved or graveled paths, boat ramps, piers or other similar structures or improvements are permitted within the 75-foot natural corridor.

- 9) Agricultural Uses Within the Red Corridor. Existing agricultural uses shall be allowed in the Red Corridor setback requirement. Agricultural use may not be extended farther into the 150-foot required setback than they are at date of adoption of this amendment. Ordinary maintenance of field tile, ditches and etc. will be allowed within the 150-foot setback. Operations sanctioned under other DNR or other Federal or State Government Programs will be allowed. If agricultural use of the area within the required 150-foot setback is discontinued for a period of one (1) year all requirements of this amendment shall apply.
- 10) Existing Buildings Within the Red Corridor. Notwithstanding any other provision of this Zoning Code, existing buildings located within the red corridor at the date of adoption of this amendment may be rebuilt and repaired if partially or totally destroyed by an act of God or nature.
- m) **Screening of Dumpsters**. All dumpsters located on property within the Town's Commercial or Industrial zoning districts or on property that includes a multi-family residential dwelling shall be screened in a manner that prevents the dumpster from being viewed from any public road right-of-way and from any abutting lot. Screening shall be in the form of either landscaping that is acceptable to the Town Board or fencing that matches the color and material of the principal structure on the property, includes a self-closing gate, and otherwise complies with the requirements applicable to fences under the Town's Code of Ordinances.

SEC. 13-1-7 PERMITS

- a) **Applicability**. No structure (except signs exempt from the provisions of this Zoning Code defined in section 13-1-2(b)(40) and no building shall be erected, constructed, reconstructed, altered, moved or enlarged until a building permit has been obtained from the Building Inspector.
- b) **Application for Building Permit**. Application for a building permit shall be made in writing upon a form furnished by the Building Inspector and shall include the following information:
 - 1) Name and address of the owner of the land or the owner of the building or structure if different;
 - 2) Statement as to the proposed use of the structure, building or land;
 - 3) Site layout drawn to scale showing the location and dimensions of all proposed buildings and uses;
 - 4) Lot dimensions and the location, dimensions and arrangements of all open spaces, yards, parking and signs. Methods to be used for screening shall be included where applicable;

- 5) Other information as required by this Zoning Code or necessary for the Building Inspector to enforce the provisions of this Zoning Code.
- c) **Approval of Permit.** If the Building Inspector determines that the proposed building or structure will comply with the provisions of this Zoning Code and all applicable laws and orders of the State of Wisconsin, he shall officially approve and sign one set of plans and return it to the Permit Issuer who shall issue a building permit which shall be kept on display at the site of the proposed building.
- d) **Use as Provided in Application and Plans.** Building permits issued on the basis of plans and applications approved by the Building Inspector authorizes only the use, arrangement and construction set forth in such approved plans and applications. Use, arrangement or construction at variance with that authorized shall be deemed a violation of this Zoning Code.
- e) **Improper Issuance.** A permit which was improperly issued or not issued in accordance with the standards and procedures as set forth in this Zoning Code shall not create any right in said permit and the Town shall be entitled to revoke said permit.
- f) **Prior Permits.** No building permit lawfully issued by the Building Inspector prior to the effective date of adoption or amendment of this Zoning Code shall be invalidated by the adoption or amendment of this Zoning Code. Such permit shall remain valid and subsisting subject only to its own terms.
- g) **Time Limit On Permits.** Building permits issued pursuant to this section are valid for a period of twelve months from the date of issuance. The permittee shall initiate substantial work or improvements prior to the termination of twelve months from date of issuance. If substantial work or improvements have not begun prior to twelve months from date of issuance, the building permit issued pursuant to this section shall lapse and the permittee shall be required to reapply as set forth above in this section. Consideration of "substantial work or improvements" shall include but is not limited to the following factors: amount of labor; expenditures; economic value of materials and labor; hardship to the owner; reasons for delay in construction; and such other factors as the Building Inspector deems relevant. The Building Inspector's decision on this matter may be appealed to the Board of Appeals.

SEC. 13-1-8 ENFORCEMENT, REMEDIES AND PENALTIES

- a) **Building Inspector: Duties and Powers.** The provisions of this Zoning Code shall be administered and enforced by the Building Inspector who shall be appointed by the Town Board Chairman and confirmed by the Town Board. The Building Inspector shall:
- 1) Examine all applications for building permits and approve such permits only where there is compliance with the provisions of this Zoning Code. Permits requiring a special exception shall be referred to the Board of Appeals for action thereon and shall be issued only upon order of the Board of Appeals;

- 2) Conduct inspections to determine compliance or noncompliance with the provisions of this Zoning Code;
 - 3) Issue stop, cease and desist orders, and orders requiring the correction of all conditions found to be in violation of the provisions of this zoning code. Such written orders shall be served personally or by certified mail upon persons deemed by the Building Inspector to be violating the provisions of this Zoning Code. It shall be unlawful for any person to violate any such order issued by the Building Inspector;
 - 4) With the approval of the Town Board, or when directed by them, institute in the name of the Town any appropriate action or proceedings to prevent any violation of this Zoning Code;
 - 5) Revoke by order any building permit approved under a misstatement of fact or contrary to the law or provisions of this Zoning Code;
 - 6) Maintain a map or maps of all nonconformities and special exceptions, and maintain a file on each;
 - 7) Upon the request of the Town Board, Town Board Chairman, Planning Commission or Board of Appeals, present to such persons or bodies, facts, records or reports which they may request to assist them in making decisions, or assist them in any other way as requested.
- b) **Remedies.** In the event any building or structure is or is proposed to be erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is or is proposed to be used in violation of this Zoning Code, the appropriate authorities of the Town, and any adjacent or neighboring property owners who would be damaged by such violation may, in addition to other remedies, institute appropriate action or proceedings to prevent, restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.
- c) **Penalties.** Any person who violates any provision of this Zoning Code or any order, rule or regulation made hereunder shall, upon conviction, be fined not less than \$25.00, nor more than \$500.00 for each offense, together with the costs of prosecution and, in default of payment of such fine and costs of prosecution, shall be imprisoned in the Fond du Lac County jail until such fine and forfeitures are paid, but not to exceed thirty days. Whenever a person shall have been notified in writing by the Building Inspector that he is in violation of the provisions of this Zoning Code, such person shall commence correction of all violations within seven days after notice, and shall correct all violations within thirty days after notice. If corrections are not commenced within seven days of written notice or not corrected within thirty days of written notice, each day that a violation continues shall be considered a separate offense.

SEC. 13-1-9 BOARD OF APPEALS

a) **Establishment of Board.** In order that the objectives of this Zoning Code may be more fully and equitably achieved and a means for interpretation provided, there is established a Board of Appeals (hereinafter referred to in this section as the Board).

b) **Membership and Terms of Office.**

- 1) Board Members. The Board shall consist of five members appointed by the Town Board. Not more than one Town Board Supervisor may be a member of the Board of Appeals. The Town Board shall designate one member Chairman and one member Secretary. Board members may be removed from office by the Town Board for cause.
- 2) Alternate Members. The Town Chairman may appoint three alternate members to the Board. Annually, the Town Board Chairman shall designate one of the alternate members as first alternate, the next as second alternate, and the last as third alternate. The first alternate shall act, with full power, only when a member of the Board is absent or refuses to vote because of a conflict of interest. The second or third alternate, respectively, shall act only when the first or second alternate refuses to act, is absent, or when more than one member of the Board so refuses or is absent. No more than two alternates may serve at a hearing at the same time.
- 3) Terms. Board members shall be appointed to three year terms, except for those first appointed, in which case, one member shall serve for one year, two members for two years and two members for three years. Alternate members shall serve staggered terms of three years.
- 4) Vacancies. Vacancies shall be filled for the unexpired terms of members whose terms become vacant.

c) **Procedures, Meetings, Records and Decisions.**

- 1) Meetings. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. Such Chairman or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public.

Three members of the Board of Appeals or alternate members of the Board of Appeals shall be necessary to comprise a quorum.

- 2) Records and Decisions. The Board 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 as public records.

All actions or decisions shall be taken by resolution in which a majority of the members present during the proceedings must concur. Each resolution or decision shall contain

findings of fact supporting the basis of such resolution or decision. The Chairman shall notify the Town Board of all decisions and resolutions. The foregoing notwithstanding, the concurring vote of 4 members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Building Inspector, or to grant a variance or special exception under this Zoning Code.

- 3) Public Hearing. Upon the filing with the Board of an application for an appeal, variance or special exception, the Board shall fix a reasonable time (not more than sixty days from the filing date) for a public hearing. A Class 1 notice pursuant to Chapter 985, Wisconsin Statutes, shall be published in the official newspaper of the Town specifying the date, time and place of the hearing and the matters to come before the Board. Notices shall also be mailed to the parties at interest, as determined by the Board.
- 4) Fees. Appellants and applicants for a variance or special exception shall pay a designated fee as determined by the Town Board to the Secretary of the Board of Appeals upon filing an appeal or application. No action shall be taken on any appeal or application until such fee has been paid.

d) Appeals.

- 1) Power and Duties. The Board shall have the power to hear and decide appeals by any person aggrieved or by any officer, department, board or bureau of the Town affected by any decision of the Building Inspector. The Board may reverse or affirm, wholly or partly, or may modify the decision appealed from, and issue, or direct the issuance of a permit.
- 2) Procedure. An appeal from any decision of the Building Inspector shall be made within thirty days of such decision. The appeal shall be filed with the Building Inspector and with the Board of Appeals on a form provided by the Board specifying the grounds for the appeal.
- 3) Preliminary Review. The Secretary of the Board of Appeals shall, as promptly as possible, inform the Board concerning the appeal, and the Board may either discuss the matter with the applicant if the applicant desires or proceed directly to order public notice of a hearing.

If the applicant elects to withdraw the appeal any time before final determination is made by the Board, this fact shall be noted on the application, with the signature of the applicant, attesting withdrawal. Copies of the withdrawn application shall be returned to the Secretary for the files of the Board, to the Permit Issuer and to the applicant.

If the appeal is not withdrawn, the Board may request the applicant to provide such additional information as may be needed to determine the case and shall instruct the Secretary to proceed with public notice of a hearing on the case.

- 4) Amendments. Amendment of an appeal by the applicant may be permitted at any time prior to or during the public hearing, provided that no such amendment shall be such as to make the case materially different from its description in the notice of public hearing. If

the amended notice can be published within the time frame specified for the public hearing, the hearing on the amended appeal may be held on that date, otherwise the chairman shall announce that the hearing originally scheduled on the case will be deferred to a future meeting, before which appropriate public notice will be given, and will state the reasons for the deferral.

e) **VariANCES.**

- 1) Powers and Duties. The Board shall have the power to authorize upon appeal a variance from the terms of the Zoning Code where a literal enforcement of the provisions of the Zoning Code will result in practical difficulty or unnecessary hardship.
- 2) Requirements for a Variance. No variance shall be granted for actions which require an amendment to this Zoning Code. The Board shall consider the following factors in its consideration of requests for variances:
 - a. The variance is not contrary to the public interest and that such a variance will be in general harmony with the purposes and intent of this Zoning Code and the area;
 - b. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not generally applicable to other lands, structures or buildings in the same district;
 - c. The variance will not permit the establishment of a use which is not permitted in the district;
 - d. The hardship results from the strict application of this Zoning Code and is not the result of self-created or self-imposed circumstances;
 - e. Greater profitability, lack of knowledge of restrictions, and other variances granted under similar circumstances are not being considered as sufficient cause for a variance;
 - f. Nonconforming uses of neighboring lands, structures or buildings in the same district, and permitted or nonconforming uses of lands, structures or buildings in other districts are not being considered as grounds for issuance of a variance;
 - g. Granting the variance will not impair the adequate supply of light or air to adjacent property, nor will it substantially increase the danger of fire or otherwise endanger the public safety;
 - h. The Board may place conditions and restrictions upon the variance and the use of the premises as it deems justified under the circumstances.

f) **Special Exceptions**

- 1) Powers and Duties. The Board shall have the power to hear and decide the following special exceptions under this Zoning Code:
 - b. In the RR Rural Residential District:
 - (1) Airports
 - c. In the C Commercial District:
 - (1) Temporary exposition, carnival or fair;
 - (2) Light manufacturing uses including bottling, packaging, laboratories, and the like;
 - (3) Dog kennels.
 - d. In the I Industrial District:
 - (1) Motor vehicle salvage yard;
 - (2) Solid Waste disposal Sites and Facilities;
 - (3) Dog kennels.
- 2) Authorizing Special Exceptions. Special exceptions may be authorized by the Board when it appears:
 - a. That it is reasonably necessary for the public convenience at that location.
 - b. That it is so designed, located, and proposed as to be operated so that it will not be injurious to the district in which it shall be located or otherwise detrimental to the public welfare.
 - c. That it conforms to the applicable regulations and standards of and preserves the essential character of the district in which it shall be located.
- 3) Application Requirements. The applicant shall provide the following information when applying for a special exception:
 - a. Applicant and property owner's name, address, and telephone number.
 - b. Parcel information including tax key number, legal description, street address, dimensions, and existing zoning and land use designations.
 - c. Description of special exception being requested.

- d. Written statement in support of the application describing the reasons why the applicant believes the special exception conforms to the provisions of this Ordinance and should be granted.
 - e. The applicable application fee.
- 4) Requirements for a Special Exception. In granting a special exception, the Board shall make findings of fact consistent with the terms of this Zoning Code. The Board shall not grant a special exception except in conformity with the conditions and standards outlined herein. In addition to the requirements and conditions specified herein, the Board may impose additional conditions as deemed necessary to insure the proposed use will secure substantially the objectives of the Zoning Code.
- g) **Appeal of Board Decisions**. 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 Town, may present to a court of record a petition, duly verified, setting forth that such a decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty days after the receipt of the decision by the person aggrieved.

SEC. 13-1-10 AMENDMENTS

a) Power of Amendment.

- 1) Town Board Authority. The Town Board may from time to time on its own motion or on petition, amend, supplement or change this Zoning Code, including the Official Zoning Map. There is hereby established a Plan Commission consisting of five members and two alternates, all with staggered terms. The Plan Commission shall serve at the pleasure of the Town Board in order to fulfill the functions defined below.

b) Procedures.

- 1) Zoning Code Amendments. The Board shall refer every proposed amendment of this Zoning Code to the Plan Commission for a report and recommendation. If the Town does not receive a report and recommendation from the Plan Commission within sixty days of submitting the proposed amendments, the Board may proceed with the necessary hearing.
- 2) Special Exception Review. The Board shall refer the following enumerated special exceptions under this Zoning Code to the Plan Commission for a report and recommendation. If the Board does not receive a report and recommendation from the Plan Commission within sixty days of submitting the proposed special exception to the Plan Commission, it may proceed to determine whether to grant or deny the special exception. Applications for the following enumerated special exceptions shall be filed with the Town Clerk. Subsections 2 through 4 of Section 13-1-9 f) 4) apply to the following special exceptions.

- a. In the FP and AT Districts:
 - 1) All special exceptions.
- b. In the RR Rural Residential District:
 - 1) Clubs and organizations not conducted as a gainful business;
 - 2) Public utility installations;
 - 3) Cemeteries;
 - 4) Agricultural Uses including general farming, pasture, grazing, truck farming, forestry, and other agricultural uses of a similar nature; and horses kept for pleasure and hobby purposes;
 - 5) Two-family dwellings, in accordance with the minimum requirements set forth under section 13-1-5(c) and any additional requirements that may be imposed as a condition to the special exception.
- c. In the RM Residential Medium Density District:
 - 1) Single-family attached dwellings;
 - 2) Multiple-family dwellings provided that principal access is available on a public street;
 - 3) Public utility installations.
- d. In the C Commercial District:
 - 1) Public utility installations;
 - 2) Agriculturally related businesses such as feedmills, farm coops, creameries, milk processing and cheese factories;
 - 3) Clinics;
 - 4) Mobile home parks, where sanitary sewers are available.
- e. In the I Industrial District:
 - 1) Mobile home parks, where sanitary sewers are available.

- f. In the event the Town requires a landscaping or screening berm in connection with the approval of a special exception, the owner of the subject property shall also record against the subject property, a berm maintenance agreement, in a form acceptable to the Town, regarding the ongoing maintenance of the berm. Failure to do so renders the special exception approval void.

c) **Public Hearing and Notice.**

- 1) Required Hearing. No amendment of this Zoning Code shall become effective until a public hearing is held before the Town Board where parties in interest and citizens shall have the opportunity to be heard.
- 2) Notice of Hearing. A Class 2 notice in accordance with Chapter 985, Wisconsin Statutes, shall be published in the Town's official newspaper once during each of the two weeks prior to such hearing.

At least ten days before the public hearing, a written notice of such hearing shall also be given to the Clerk of any municipality whose boundaries are within 1,000 feet of any lands included in the proposed amendment. Failure to give such notice shall not invalidate such amendment.

- d) **Final Approval by Town Board.** An amendment shall become effective upon a majority vote of the members of the Town Board voting on the proposed change. However, in case of a protest against such amendment, duly signed and acknowledged by the owners of twenty (20%) percent or more of the land included in such proposed amendments or by the owners of twenty (20%) percent or more of the area immediately adjacent extending 100 feet therefrom, or by the owners of twenty (20%) percent or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment shall not become effective except by a unanimous vote of the members of the Board voting on the proposal.

SEC. 13-1-11 INTERPRETATION AND SEVERABILITY

- a) **Interpretation.** In their interpretation and application, the provisions of this Zoning Code shall be considered minimum requirements. Where the provisions of this Zoning Code impose greater restrictions than any statute, other regulation, ordinance, code or covenant, the provisions of this Zoning Code shall prevail. Where the provisions of any statute, other regulation, ordinance, code or covenant impose greater restrictions than the provisions of this Zoning Code, the provisions of such statute, other regulation, ordinance, code or covenant shall prevail.
- b) **Severability.** If any section, subsection, sentence, or phrase of this Zoning Code shall be held invalid, illegal, unenforceable, or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall

not affect the validity of the remaining portions hereof; and there shall be substituted for the provision at issue a valid and enforceable provision as similar as possible to the provision at issue. All ordinances and codes or parts of ordinances and codes of the Town inconsistent with or contrary to this Zoning Code are hereby repealed; provided however, that nothing in this Zoning Code shall be interpreted so as to conflict with other Town ordinances or codes not mentioned or made inapplicable by the express provisions of this Zoning Code.

SEC. 13-1-12 LIVESTOCK FACILITY SITING

- a) **Authority.** This section is adopted pursuant to the powers granted to the Town Board under Wis. Stat., § 93.90.
- b) **Findings and Purpose.** The purpose of this ordinance is to comply with the requirements of Wis. Stat., § 93.90 and Chapter ATCP 51 of the Wisconsin Administrative Code and to establish standards and authority to protect the public health and safety of the people of the Town of Fond du Lac. This ordinance sets forth the procedures for obtaining a license for the siting of new and expanded livestock facilities in the Town of Fond du Lac.
- c) **Definitions.** The definitions set forth in ATCP 51 are hereby incorporated by reference without reproducing them in full in this ordinance.
- d) **License Required.**
 - 1) General. A license issued by the Town of Fond du Lac is required for new or expanded livestock facilities that will have 500 or more animal units.
 - 2) Licenses for Existing Livestock Facilities. A license 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:
 - a) The applicable size threshold for license.
 - b) The maximum number previously approved or, if no maximum number was previously approved, a number that is 20% higher than the number kept on the effective date of the license requirement.
 - 3) A license is not required for a livestock facility that existed before the effective date of the license requirement in this ordinance, except as provided in Sec. 1.
 - 4) A license is not required for a livestock facility that was previously issued a conditional use permit, license, or other local approval, except as provided in subsection (1).
- e) **Licensing Standards.**
 - 1) The standards for issuing a license are as follows:

- a) The state livestock facility siting standards enacted under ATCP 51, inclusive of all appendixes and worksheets and any future amendments to that chapter, are incorporated by reference in this ordinance.
- b) The following setbacks shall apply 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. This 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 Road Right-of-Way. Except as provided for waste storage structures, livestock structures must be located a minimum of 100 feet from public road right-of-way if the livestock facility will have fewer than 1,000 animal units, and 150 feet from a public road right-of-way if the livestock facility will have 1,000 or more animal units. This 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 road 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 road right-of-way. Notwithstanding the foregoing, a single new waste storage structure may be constructed closer to the property line or public road if the new structure is:
 - a) Located on the same tax parcel as a waste storage structure in existence before May 1, 2006.
 - b) No larger than the existing structure.
 - c) No further than 50 feet from the existing structure.
 - d) No closer to the road or property line than the existing structure.
 - 4) The setback requirements set forth in subsection 3 do not apply to existing waste storage structures, except that an existing structure within 350 feet of a property line or road may not expand toward that property line or road.
- f) **License Application.**

- 1) A livestock operator must complete the application form and worksheets prescribed by ATCP 51.
 - 2) The operator must file four duplicate copies of the application form, including worksheets, maps, and documents included in the application.
- g) **License Application Fee.** A non-refundable application fee of \$1,000 payable to the Town of Fond du Lac shall accompany any application for the purpose of offsetting the Town's costs to review and process the application.
- h) **Application Procedure.**
- 1) 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 political subdivision shall notify the applicant that the application is complete. This notice does not constitute an approval of the proposed livestock facility.
 - 2) 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 by first class mail a written notice to each adjacent landowner.
 - 3) Upon determination of completeness the Town Clerk shall give notice of a public hearing to receive information from the applicant and receive public input on the application. Public notice shall be a Class II notice, the last of which is published at least one week before the date of the public hearing. The public hearing may be continued, but a final decision shall be made within the time limits described in paragraph 4, below.
 - 4) The Town shall grant or deny an application within 90 days after the Town gives notice that the application is complete under paragraph 2, above. The Town may extend this time limit for good cause, including that the Town needs additional information to act on the application, or that the applicant materially modifies the application or agrees to an extension.
 - 5) 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.
- i) **Criteria for Issuance of License.**
- 1) A license shall be issued if the application for the proposed livestock facility:
 - a) Complies with this ordinance, and

- b) Is complete, and
 - c) 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.
- 2) A license shall be denied if any of the following apply:
- a) The application, on its face, fails to meet the standard for approval in paragraph 1, above.
 - b) 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.
 - c) Other grounds authorized by Wis. Stat., § 93.90 warrant denying the proposed livestock facility.

j) Record of Decision.

- 1) The Town shall issue its decision in writing. The decision must be based on written findings of fact supported by evidence in the record. Findings may be based in part on the presumptions created by ATCP 51.
- 2) If the Town approves the application, it shall give the applicant a duplicate copy of the approved application, marked “approved.” The duplicate copy shall include worksheets, maps, and other documents included in the application.
- 3) The Town Clerk, as required by ATCP 51.36, within 30 days of the Town decision on the application, shall do all of the following:
 - a) Give the 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.
 - c) If the Town has withdrawn a local approval under this ordinance, file with the Department a copy of the Town’s final notice or order withdrawing the local approval.

k) Transferability of License.

- 1) A license and the privileges granted by it run with the land approved under the license 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 local approval.
- 2) Upon change of ownership of the livestock facility, the new owner of the facility shall file information with the Town Clerk including, but not limited to, the name and address of the new owner and date of transfer of ownership.

l) **Expiration of License.**

- 1) The Town may treat a license as lapsed and withdraw the license if the license holder fails to do all of the following within two years after issuance of the license:
 - a) Begin populating the new or expanded livestock facility.
 - b) Begin constructing all of the new or expanded livestock housing or waste storage structures proposed in the application for local approval.

m) **License Terms and Modification.** A license and the privileges granted by a license 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 license. A violation of the license or a failure to comply with the commitments made in an application may result in suspension and/or termination of the license.

n) **Compliance Monitoring.**

- 1) The Town may monitor compliance with the ordinance as follows:
 - a) Upon notice to the livestock facility owner, the Town may request the right to personally view the licensed premises at a reasonable time and date to ensure the all commitments of the application as approved are being complied with.
 - b) If the livestock facility owner refuses to allow the Town to view the licensed premises, the Town may request the assistance of the sheriff or a deputy sheriff to obtain an inspection warrant from the circuit court to inspect the licensed premises for the purpose of protection of the public health and safety under Wis. Stat., § 66.0119.
 - c) If a licensed premises is found not to be 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 with the commitments of the approved application and license be established within a reasonable amount of time as stated in the notice.

- d) If non-compliance with the license continues past the date stated in the written notice, the Town may take further action including, but not limited to, seeking of forfeitures or injunctive relief.

o) **Penalties.**

- 1) Any person who violates any of the provisions of this section, or who fails, neglects or refuses to comply with the provisions of this section, or who knowingly makes any material false statement or knowing omission in any document required to be submitted under the provisions hereof, shall be subject to the following penalties:
 - a) Upon conviction by a court of law, pay forfeitures of not less than \$100 nor more than \$1,000, plus the applicable surcharges, assessments, costs, and attorneys' fees for each violation.
 - b) Each day a violation exists or continues shall be considered a separate offense.
 - c) The Town Board may seek injunctive relief from a court to enjoin further violations.
 - d) The Town Board may suspend or revoke the local approval of a license after notice to the livestock facility owner and a public hearing.
 - 2) In addition to any other penalty imposed in this ordinance, the cost of abatement of any public nuisance on the licensed premises by the Town may be collected under this ordinance or Wis. Stat., § 823.06 against the owner of the real estate upon which the public nuisance exists. Such costs of abatement may be recovered against the real estate as a special charge under Wis. Stat., § 66.0627 unless paid earlier.
- p) **Severability.** If any provision of this section or its application to any person is held invalid, the invalidity does not affect the other provisions or applications of this section that can be given effect without the invalid provision or application, and to that end, the provisions of this ordinance are severable.

Chapter 2

Solar Energy Systems

13-2-1	Purpose
13-2-2	Definitions
13-2-3	Permit Required
13-2-4	Application
13-2-5	Review of Solar Energy System Permit Application
13-2-6	Solar Energy System Restrictions
13-2-7	Revocation

SEC. 13-2-1 PURPOSE.

The purpose of this Section is to provide regulatory scheme for the construction and operation of Solar Energy Systems other than ground or wall mounted solar powered light fixture and solar powered electric fences in the Town of Fond du Lac, Fond du Lac County, Wisconsin. All regulations contained herein are adopted to preserve and protect the public health and safety.

SEC. 13-2-2 DEFINITIONS.

Solar Energy System. Equipment which directly converts and then transfers or stores solar energy into usable forms of thermal or electrical energy. "Solar Energy System" excludes solar powered light fixtures that are ground or wall mounted and solar powered electric fences.

SEC. 13-2-3 PERMIT REQUIRED

No Solar Energy System may be installed or maintained in the Town of Fond du Lac without a Solar Energy System Permit granted pursuant to this ordinance.

SEC. 13-2-4 APPLICATION

Every application for a Solar Energy System Permit shall be made in writing and shall include the following information:

- a) Name and address of the applicant.
- b) Evidence that the applicant is the owner of the 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 that will be affected by the Solar Energy System.

- e) Documentation showing that no reasonable alternative location exists for the Solar Energy System that would result in less impact on neighboring lots.
- f) Documentation showing that removing or trimming vegetation on the applicant's lot will not permit an alternative location for the Solar Energy System that would result in less impact on neighboring lots.
- g) Such additional information as may be reasonably requested.
- h) Any of the information required by this section may be waived by the Town at its discretion.

SEC. 13-2-5 REVIEW OF SOLAR ENERGY SYSTEM PERMIT APPLICATION

The Town will consider each Solar Energy System on a case-by-case basis. The Town may deny a permit for a Solar Energy System or may impose restrictions on a Solar Energy System if the Town finds that the denial or restrictions satisfy one of the following conditions:

- a) The denial or restriction serves to preserve or protect the public health or safety.
- b) The denial or restriction does not significantly increase the cost of the system or significantly decrease its efficiency.
- c) The denial or restriction allows for an alternative system of comparable cost efficiency.

SEC. 13-2-6 SOLAR ENERGY SYSTEM RESTRICTIONS

The Town may impose restrictions on a Solar Energy System relating to any of the following:

- a) Location of the Solar Energy System.
- b) Setbacks from inhabited structures, property lines, public roads, communication and electrical lines, and other sensitive structures and locations.
- c) Wiring and electrical controls of the Solar Energy System.
- d) Reimbursement for emergency services required as a result of the Solar Energy System.
- e) Solar Energy System ground clearance.
- f) Solar Energy System height.
- g) Any other matters that the Town finds appropriate.

SEC. 13-2-7 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.

Chapter 3

Mobile Tower Siting

13-3-1	Purpose
13-3-2	Definitions
13-3-3	Siting and Construction of Any New Mobile Service Support Structure and Facilities
13-3-4	Class 1 Collocation
13-3-5	Class 2 Collocation

SEC. 13-3-1 PURPOSE.

The purpose of this section is to regulate by a 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.

SEC. 13-3-2 DEFINITIONS.

All definitions contained in Wis. Stat. § 66.0404(1) are hereby incorporated by reference.

SEC. 13-3-3 SITING AND CONSTRUCTION OF ANY NEW MOBILE SERVICE SUPPORT STRUCTURE AND FACILITIES.

A. Application Process.

- (1) A 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 this permit.
- (2) A written permit application must be completed by any applicant and submitted to the Town Clerk. The application must contain the following information:
 - (a) The name and business address of, and the contact individual for, the applicant.
 - (b) The location of the proposed or affected support structure.
 - (c) The location of the proposed mobile service facility.

- (d) 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.
 - (e) 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.
 - (f) 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.
- (3) A permit application will be provided by the Town Clerk upon request to any applicant.
- (4) If an applicant submits to the Town Clerk 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 Clerk 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:
- (a) Review the application to determine whether it complies with all applicable aspects of the political subdivision's building code and, subject to the limitations in this section, zoning ordinances.

- (b) Make a final decision whether to approve or disapprove the application.
 - (c) Notify the applicant, in writing, of its final decision.
 - (d) If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
- (6) The 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 Section 13-3-3.A.(2)(f).
- (7) The fee for the permit is \$3,000.

B. Limitations. The Town may impose any conditions on its approval, except that it cannot include any condition prohibited by Wis. Stat. § 66.0404(4).

SEC. 13-3-4 CLASS 1 COLLOCATION.

A. Application Process.

- (1) A conditional use 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 any applicant and submitted to the Town Clerk. The application must contain the following information:
 - (a) The name and business address of, and the contact individual for, the applicant.
 - (b) The location of the proposed or affected support structure.
 - (c) The location of the proposed mobile service facility.
 - (d) 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.
 - (e) 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.

- (f) 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 class 1 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.
- (3) A permit application will be provided by the Town Clerk upon request to any applicant.
 - (4) If an applicant submits to the Town Clerk 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:
 - (a) Review the application to determine whether it complies with all applicable aspects of the political subdivision's building code and, subject to the limitations in this section, zoning ordinances.
 - (b) Make a final decision whether to approve or disapprove the application.
 - (c) Notify the applicant, in writing, of its final decision.
 - (d) If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
 - (6) The Town may disapprove an application if an applicant refuses to evaluate the feasibility of collocation with the applicant's search ring and provide the sworn statement describe under Section 13-3-3.A.(2)(f).

(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 setback 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) The fee for the permit is \$3,000.

B. Limitations. The Town may impose any conditions on its approval, except that it cannot include any condition prohibited by Wis. Stat. § 66.0404(4).

SEC. 13-3-5 CLASS 2 COLLOCATION.

A. Application Process.

(1) A conditional use 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 conditional use permit.

(2) A written permit application must be completed by any applicant and submitted to the Town Clerk. The application must contain the following information.

(a) The name and business address of, and the contact individual for, the applicant.

(b) The location of the proposed or affected support structure.

(c) The location of the proposed mobile service facility.

(3) A permit application will be provided by the Town Clerk 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 Clerk 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.

(a) Make a final decision whether to approve or disapprove the application.

(b) Notify the applicant, in writing, of its final decision.

(c) If the application is approved, issue the applicant the relevant permit.

(d) If the decision is to disapprove the application, include in the written notification substantial evidence which support the decision.

(7) The fee for the permit is \$500.

B. Limitations. The Town may impose any conditions on its approval, except that it cannot include any condition prohibited by Wis. Stat. § 66.0404(4).

Chapter 4

Ordinance Regulating the Use of Wind Energy Systems

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13-4-27	Directive to Town Clerk and Town Attorney

SEC. 13-4-1 PURPOSE.

The purpose of this Ordinance is to provide a regulatory scheme for the construction and operation of Wind Energy Systems in the Town of Fond du Lac, Fond du Lac County, Wisconsin. This Ordinance is adopted pursuant to Wis. Stat. § 66.0401 and PSC 128 and pursuant to the Town’s general police powers. All regulations contained herein are adopted to preserve and protect the public health and safety.

SEC. 13-4-2 DEFINITIONS.

- a) Wind Energy System: Has the meaning given in Wis. Stat. § 66.0403(1)(m) and is used to convert wind energy to electrical energy. “Wind Energy System” includes Small Wind Energy Systems.

- b) Small Wind Energy System: A Wind Energy System that has a total installed nameplate capacity of 300 kilowatts or less and that consists of individual wind turbines that have an installed nameplate capacity of not more than 100 kilowatts.
- c) Other Definitions: The remaining definitions set forth in PSC 128.01 are incorporated by reference as though fully set forth herein.

SEC. 13-4-3 PERMIT REQUIRED.

No Wind Energy System may be installed, constructed or expanded in the Town without a Wind Energy System Permit granted pursuant to this Ordinance.

SEC. 13-4-4 APPLICATION.

Every application for a wind Energy System Permit shall be made in writing accompanied by the fees required by this Ordinance and shall include the following information:

- a) Wind Energy System description and maps showing the locations of all proposed wind energy facilities.
- b) Technical description of wind turbines and wind turbine sites.
- c) Timeline and process for constructing the Wind Energy System.
- d) Information regarding anticipated impact of the Wind Energy System on local infrastructure.
- e) Information regarding noise anticipated to be attributable to the Wind Energy System.
- f) Information regarding shadow flicker anticipated to be attributable to the Wind Energy System.
- g) Information regarding the anticipated effects of the Wind Energy System on existing land uses within 0.5 mile of the Wind Energy System.
- h) Information regarding the anticipated effects of the Wind Energy System on airports and air space.
- i) Information regarding the anticipated effects of the Wind Energy System on line-of-sight communications.
- j) A list of all state and federal permits required to construct and operate the Wind Energy System.
- k) Information regarding the planned use and modification of roads within the Town during the construction, operation, and decommissioning of the Wind Energy System, including a

process for assessing road damage caused by Wind Energy System activities and for conducting road repairs at the owner's expense.

- l) A copy of all emergency plans developed in collaboration with appropriate first responders under PSC 128.18(4)(b). An owner may file plans using confidential filing procedures as necessary.
- m) A decommissioning and site restoration plan providing reasonable assurances that the owner will be able to comply with PSC 128.19.
- n) A representative copy of all notices issued under Section 7 and PSC 128.105(1)(a) and 128.42(1).
- o) Any other information necessary to understand the construction, operation or decommissioning of the proposed Wind Energy System.

SEC. 13-4-5 ACCURACY OF INFORMATION.

The owner shall certify that the information contained in an application is accurate. The Town may reject or deny the application if it contains false, misleading, or inaccurate information.

SEC. 13-4-6 DUPLICATE COPIES.

The applicant shall file an original and three copies of the application with the Town. One copy shall be an electronic copy. Each copy shall include, but is not limited to, all worksheets, maps, and other attachments included in the application.

SEC. 13-4-7 NOTICE TO PROPERTY OWNERS AND RESIDENTS.

- a) On the same day an owner files an application for a Wind Energy System, the owner shall, under Wis. Stat. § 66.0401(4)(a)3, use commercially reasonable methods to provide written notice of the filing of the application to property owners and residents located within one mile of the proposed location of any Wind Energy System facility. At the same time, a copy shall be provided to the Town. The notification shall include all of the following:
 - 1) A complete description of the Wind Energy System, including the number and size of the wind turbines.
 - 2) A map showing the locations of all proposed Wind Energy System facilities.
 - 3) The proposed timeline for construction and operation of the Wind Energy System.
 - 4) Locations where the application is available for public review.
 - 5) Owner contact information.

- b) After the Town receives an application for a Wind Energy System, the Town shall publish the notice required by Wis. Stat. § 66.0401(4)(a)(1), which shall include a brief description of the proposed Wind Energy System and its proposed location, the locations where the application is available for public review, the method and time period for the submission of public comments to the Town, and the approximate schedule for review of the application by the Town.

SEC. 13-4-8 PUBLIC PARTICIPATION.

- a) The Town shall make a copy of an application for a Wind Energy System available for public review at a local library and at the Town Hall and the Town website.
- b) The Town shall accept written public comments on an application for a Wind Energy System filed with the Town Clerk and shall make them part of the record at the public hearing held pursuant to subsection (c).
- c) The Town shall hold at least one public meeting to obtain comments on and to inform the public about a proposed Wind Energy System.

SEC. 13-4-9 JOINT APPLICATION REVIEW PROCESS.

If a Wind Energy System is proposed to be located in the Town and at least one other municipality with jurisdiction over the Wind Energy System, the Town may participate in the joint application review process set forth in PSC 128.30(7).

SEC. 13-4-10 APPLICATION COMPLETENESS.

- a) COMPLETE APPLICATIONS.
 - 1) An application is complete if it meets the filing requirements set by this Ordinance and PSC 128.50(1).
 - 2) The Town shall determine the completeness of an application, and shall notify the owner in writing of the completeness determination, no later than 45 days after the day the application is filed. An application is considered filed the day the owner notifies the Town in writing that all the application materials have been filed. If the Town determines that the application is incomplete, the notice provided to the owner shall state the reasons for the determination.
 - 3) The owner may file a supplement to an application that the Town has determined to be incomplete. There is no limit to the number of times that an owner may re-file an application. For incomplete applications, the owner shall provide additional information as specified in the notice under par. 2).
 - 4) An additional 45-day completeness review period shall begin the day after the Town receives responses to all items identified in the notice under par. 2).

- 5) If the Town does not make a completeness determination within the applicable review period, the application is considered to be complete.

b) **REQUESTS FOR ADDITIONAL INFORMATION.**

The Town may request additional information necessary to understand the Wind Energy System after determining that an application is complete. An owner shall provide additional information in response to all reasonable requests. An owner shall respond to all inquiries made subsequent to a determination of completeness in a timely, complete and accurate manner.

SEC. 13-4-11 OWNER REQUIREMENTS.

Pursuant to PSC 128.10(1), the Town incorporates by reference all owner requirements set forth in Subchapter II of PSC 128.

SEC. 13-4-12 WRITTEN DECISION.

- a) The Town shall issue a written decision to grant or deny an application. The Town shall provide its written decision to the owner and to the Public Service Commission of Wisconsin. If the Town approves an application for a Wind Energy System, the Town shall provide the owner with a duplicate original of the decision.
- b) The owner shall record the duplicate original of a decision approving an application with the Register of Deeds for Fond du Lac County, Wisconsin.
- c) The Town shall keep a complete written record of its decision-making relating to an application for a Wind Energy System. The record of a decision shall include all of the following:
 - 1) The approved application and all additions or amendments to the application.
 - 2) A representative copy of all notices issued under ss. PSC 128.105(1)(a), 128.30(5) and 128.42(1).
 - 3) A copy of any notice or correspondence that the Town issues related to the application.
 - 4) A record of any public meeting under s. PSC 128.30(6)(c) and any hearing related to the application. The record shall include any documents or evidence submitted by meeting or hearing participants.
 - 5) Copies of any correspondence or evidentiary material that the Town considered in relation to the application, including copies of all written public comments filed under s. PSC 128.30(6)(b).

- 6) Minutes of any Town Board or committee meetings held to consider or act on the application.
 - 7) A copy of the written decision under s. PSC 128.32(3)(a).
 - 8) Other materials that the Town prepared to document its decision-making process.
 - 9) A copy of any Town ordinance cited in or applicable to the decision.
- d) If the Town denies an application, the Town shall keep the record for at least seven (7) years following the year in which it issues the decision.
 - e) If the Town approves an application, the Town shall keep the record for at least seven (7) years after the year in which the Wind Energy System is decommissioned.
 - f) The Town may deny without a hearing an application for approval of a Wind Energy System with a nominal capacity of at least one megawatt if the proposed site of the Wind Energy System is in an area primarily designed for future residential or commercial development as shown on a map adopted as part of the Town's comprehensive plan prior to June 2, 2009 or on such maps adopted by the Town after December 31, 2015 under Wis. Stat. § 66.1001(2)(I).

SEC. 13-4-13 EFFECT OF OWNERSHIP CHANGE ON APPROVAL.

Approval of a Wind Energy System remains in effect if there is a change in ownership of the Wind Energy System. However, a Wind Energy System owner must provide timely notice to the Town of any change of ownership of the Wind Energy System.

SEC. 13-4-14 FEES.

- a) The Town requires at the time of the application a deposit of \$5,000. All costs incurred by the Town relating to the review and processing of the application shall be billed against the deposit and a minimum of \$2,000 shall remain in the account until the review process and construction (if approved) is completed. The Town will refund any remaining balance in the account within 60 days after final inspection of the constructed Wind Energy System.
- b) The Town's fee or reimbursement requirement under par. a) is based on the actual and necessary cost of the review and processing of the Wind Energy System application, and may include the cost of services necessary to review an application that is provided by outside engineers, attorneys, planners, environmental specialists, and other consultants or experts.

SEC. 13-4-15 ADDITIONAL REQUIREMENTS.

The Town requires the following as conditions for approval of an application to construct a Wind Energy System:

- a) **INFORMATION.** The owner shall inform the Town in writing whether the owner has consulted with and received any non-binding recommendations for constructing, operating or decommissioning the Wind Energy System from a state or federal agency, and whether the owner has incorporated such non-binding recommendations into the design of the Wind Energy System.
- b) **STUDIES.** The owner shall cooperate with any study of the effects of Wind Energy Systems coordinated by a state agency.
- c) **MONETARY COMPENSATION.** The owner of a Wind Energy System shall offer an agreement that includes annual monetary compensation to the owner of a nonparticipating residence, if the residence is located within 0.5 mile of a constructed wind turbine. For one turbine located within 0.5 mile of a nonparticipating residence, the initial annual monetary compensation shall be \$600. For two turbines located within 0.5 mile of a nonparticipating residence, the initial annual monetary compensation shall be \$800. For three or more turbines located within 0.5 mile of a nonparticipating residence, the initial annual monetary compensation shall be \$1,000. The initial monetary compensation under this subsection shall apply to agreements entered into in 2011. For agreements entered into in 2012 and thereafter, the initial annual amounts shall increase each year by the greater of two percent or the increase in the Consumer Price Index, as described in Wis. Stat. § 196.374(5)(bm)2.b., from the previous year. An agreement offered under this subsection shall specify in writing any waiver of a requirement or right under PSC 128 and whether the landowner's acceptance of payment establishes the landowner's property as a participating property under PSC 128.
- d) **AERIAL SPRAYING.** The owner of a Wind Energy System shall offer an agreement that includes monetary compensation to a farm operator farming on a nonparticipating property located within 0.5 mile of a constructed wind turbine if the farm operator demonstrates all of the following:
 - 1) Substantial evidence of a history, before the Wind Energy System owner gives notice under s. PSC 128.105(1), of using aerial spraying for pest control or disease prevent for growing potatoes, peas, snap beans or sweet corn on all or part of a farm field located within 9.5 mile of a constructed wind turbine.
 - 2) 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 0.5 mile of a constructed wind turbine as a result of the Wind Energy System's effect on aerial spraying practices.
- e) **PERMITS.** The owner shall submit to the Town copies of all necessary county, state, and federal permits and approvals.
- f) **ANNUAL REPORTS.** The owner shall file an annual report with the Town documenting the operation and maintenance of the Wind Energy System during the previous calendar year.

SEC. 13-4-16 POST-CONSTRUCTION FILING REQUIREMENT.

Within 90 days of the date a Wind Energy System commences operation, the owner shall file with the Town an as-built description of the Wind Energy System, an accurate map of the Wind Energy System showing the location of all Wind Energy System facilities, geographic information system information showing the location of all Wind Energy System facilities and current information identifying the owner of the Wind Energy System. An owner shall in the filings under this subsection label each wind turbine location with a unique identifier consistent with the information posted at the wind turbine location under s. PSC 128.18(1)(g).

SEC. 13-4-17 MODIFICATIONS TO AN APPROVED WIND ENERGY SYSTEM.

MATERIAL CHANGE.

- a) An owner may not make a material change in the approved design, location or construction of a Wind Energy System without the prior written approval of the Town, unless the Town automatically approves the material change by taking either of the steps specified in s. PSC 128.32(2)(b)1. or 2.
- b) An owner shall submit to the Town an application for a material change to an approved Wind Energy System.

REVIEW LIMITED.

- a) The Town, upon notice of receiving an application for a material change to a Wind Energy System shall not reopen the merits of the earlier approval but shall consider only those issues relevant to the proposed change.
- b) An application for a material change is subject to ss. PSC 128.30(1), (3) to (5), (6)(a) and (b) and (7) and 128.31 to 128.34.
- c) An application for a material change shall contain information necessary to understand the material change as determined by the Town.
- d) The Town may hold at least one public meeting to obtain comments on and to inform the public about a proposed material change to an approved Wind Energy System.

SEC. 13-4-18 MONITORING COMPLIANCE.

- a) **MONITORING PROCEDURE.** The Town may establish a procedure to monitor compliance by the owner with any condition on an approved Wind Energy System or to assess when Wind Energy System facilities are not maintained in good repair and operating condition. The procedure may include timelines, provide for payment of reasonable fees for conducting an assessment, and provide for notification to the public. Such procedures shall be included in the permits granted under this Ordinance. The owner shall cooperate with the Town during its monitoring.

- b) **THIRD-PARTY INSPECTOR DURING CONSTRUCTION.** The Town may require an owner to pay a reasonable fee for a third-party inspector to monitor and report to the Town regarding the owner's compliance with permit requirements during construction. An inspector monitoring compliance under this subsection shall also report to a state permitting authority upon the state permitting authority's request.

SEC. 13-4-19 NOTICE OF COMPLAINT PROCESS.

- a) **NOTICE OF PROCESS FOR MAKING COMPLAINTS.** Before construction of a Wind Energy System begins, an owner shall provide written notice of the process for making complaints and obtaining mitigation measures to all residents and landowners within 0.5 mile of any Wind Energy System facility. An owner shall include in the notice the requirements under PSC 128.40(1) for submitting a complaint to the owner, a petition for review to the Town, and an appeal to the Commission, and shall include a contact person and telephone number for the owner for receipt of complaints or concerns during construction, operation, maintenance, and decommissioning.
- b) **NOTICE TO TOWN.** An owner shall provide a copy of the notice provided under subsection a) to the Town, and the owner shall keep the contact person and telephone number current and on file with the Town.

SEC. 13-4-20 SMALL WIND ENERGY SYSTEMS.

- a) All of the provisions of this Ordinance apply to Small Wind Energy Systems except for provisions adopted under the following subsections of PSC 128: PSC 128.14(4)(d), 128.15(1)(c), (3)(b) to (e), and (5), 128.16(2) to (4), 128.18(1)(g), (2)(b) and (c), (3)(am), (b) and (c), and (4)(b) to (f), 128.19(1)(c) to (e), (3), and (4), 128.30(2)(L) and (m), 128.33(1) to (3m) and (5), 128.34(3), 128.36, 128.40(2)(b) to (e), 128.41, and 128.42.
- b) The standards in this Ordinance applicable to Wind Energy Systems are modified for Small Wind Energy Systems as follows:
 - 1) The pre-application notice shall be filed at least sixty (60) days before an owner files an application to construct a Small Wind Energy System and the notice shall be provided only to adjacent landowners and the Town.
 - 2) Setback distances for Small Wind Energy Systems are as set forth in PSC 128.61(3).
 - 3) An owner shall provide notice of the requirements of PSC 128.14 only to each adjacent nonparticipating residence or occupied community building before the initial operation of the Small Wind Energy System.
 - 4) For purposes of PSC 128.19(1) a Small Wind Energy System is presumed to be at the end of its useful life if it generates no electricity for a continuous 540-day period.

- 5) For purposes of PSC 128.30(2)(g), the information regarding the anticipated effects of the Small Wind Energy System on existing land uses shall be only for parcels adjacent to the Wind Energy System.
- 6) Written notice of the filing of an application shall be provided only to property owners and residents located adjacent to the Small Wind Energy System.
- 7) Under PSC 128.30(6)(c) the Town may hold at least one public meeting to obtain comments on and to inform the public about a proposed Small Wind Energy System.

SEC. 13-4-21 REVOCATION.

Any permit granted for the installation, construction or expansion of a Wind Energy System may be revoked by the Town if the permit holder, its heirs, or assigns, violates the provision of this Ordinance or the provisions of a Wind Energy System Permit granted pursuant to this Ordinance.

SEC. 13-4-22 SEVERABILITY.

If any section, subsection, sentence or phrase of this Ordinance shall be held invalid, illegal, unenforceable, or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance; and there shall be substituted for the provision at issue a valid and enforceable provision as similar as possible to the provision at issue.

SEC. 13-4-23 RELATIONSHIP OF PARTIES.

By filing an application, the owner agrees that neither the owner nor the Town is an agent, employee, contractor, vendor, representative, or partner of the other and that neither shall owe a fiduciary duty to the other or hold itself out to third parties that it is capable of binding the other party to any obligation or liability. The Town's approval of an application does not create or constitute a partnership, joint venture, or any other form of business organization or arrangement between the Town and the owner.

SEC. 13-4-24 INTERPRETATION.

In their interpretation and application, the provisions of this Ordinance shall be considered minimum requirements. Where the provisions of this Ordinance impose greater restrictions than any statute, other regulation, ordinance or covenant, to the extent allowed by law the provisions of this Ordinance shall prevail. Where the provisions of any statute other regulation, ordinance, or covenant impose greater restrictions than the provisions of this Ordinance, to the extent allowed by law the provisions of such statute, other regulation, ordinance or covenant shall prevail. All references to statutes and regulations in this Ordinance refer to the current version of the statute or regulation referenced, as amended from time to time.

SEC. 13-4-25 GUARANTY/WARRANTY

Nothing in this Ordinance may be interpreted as guaranteeing or warranting that any method, construction, product, service, building, or structure is free from risk. No issuance of a license or permit, approval, inspection, or other action by any Town official, employee, or agent shall constitute a warranty or guaranty that any method, construction, product, service, building, or structure is free from risk.

SEC. 13-4-26 EFFECTIVE DATE.

This Ordinance shall take effect and be in force upon its passage and publication as required by law.

SEC. 13-4-27 DIRECTIVE TO TOWN CLERK AND TOWN ATTORNEY.

The Town Clerk and the Town Attorney are directed to make all changes necessary to the current Code of Ordinance to implement the terms of this Ordinance.