

Town of Lowell
Dodge County, Wisconsin

TITLE 13
Chapter 1

ZONING CODE

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Article A: Introduction

Sec. 13-1-1 Authority.

These regulations are adopted under the authority granted by Sees. 60.18 and 62.23(7), Wis. Stats.

Sec. 13-1-2 Short Title.

This Chapter shall be known as, referred to or cited as the "Zoning Code, Town of Lowell, Dodge County, Wisconsin."

Sec. 13-1-3 Purpose.

The purpose of this Chapter is to promote the health, safety, prosperity, aesthetics and general welfare of the Town of Lowell.

Sec. 13-1-4 Intent.

It is the general intent of this Chapter to:

- (a) Regulate and restrict the use of all structures, lands and waters;
- (b) Regulate and restrict lot coverage, population distribution and density, and the size and location of all structures so as to lessen congestion in and promote the safety and efficiency of the streets and highways;
- (c) Secure safety from fire, flooding, panic and other dangers;
- (d) Provide adequate light, air, sanitation and drainage;
- (e) Prevent overcrowding; avoid undue population concentration;
- (f) Facilitate the adequate provision of public facilities and utilities;
- (g) Stabilize and protect property values;
- (h) Further the appropriate use of land and conservation of natural resources;
- (i) Preserve and promote the beauty of the Town of Lowell;
- (j) Implement the Town Land Use Plan or plan components;
- (k) Provide for the administration and enforcement of this Chapter and to provide penalties for its violation.

Sec. 13-1-5 Abrogation and Greater Restrictions.

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

of the Chapter shall govern.

Sec. 13-1-6 Interpretation.

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

Sec. 13-1-7 Definitions.

- (a) General Terms. For the purposes of this Chapter, certain words and terms are defined as follows: Words used in the present tense include the future; the singular number includes the plural number and the plural number includes the singular number; the word "building" includes the word "structure"; the word "shall" is mandatory and not directory.
- (b) Definitions. For the purposes of this Chapter, the following definitions shall be used:
- (1) **Accessory Uses of Structure.** A use or detached structure subordinate to the principal use on a' structure, land, or water and located on the same lot or parcel serving a purpose customarily incidental to the principal use or the principal structure. Accessory uses include, but are not limited to, incidental repairs; gardening; guests', servants', owners', itinerant agricultural laborers' quarters not for rent; private swimming pools; and private emergency shelters.
 - (2) **Adult-Oriented Establishment.** Any premises including, without limitation, "adult bookstores," or "adult motion picture theaters." It further means any premises to which public patrons or members are invited or admitted and which are so physically arranged so as to provide booths, cubicles, rooms, compartments, or stalls separate from the common area of the premises for the purposes of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron, or a member, whether or such adult entertainment is held, conducted, operated, or maintained for a profit, direct or indirect. "Adult-Oriented Establishment" further includes, without limitation, any premises physically arranged and used as such whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio, or any other term of like import.
 - (3) **Advertising Sign, Outdoor.** A structural poster panel or painted sign, either free standing or attached to the outside of a building, for the

- purpose of conveying information, knowledge or ideas to the public about a subject either related or unrelated to the premises upon which located.
- (4) **Advertising Structure, Outdoor.** Anything constructed or erected, either free standing or attached to the outside of a building, for the purpose of conveying information, knowledge or ideas to the public about a subject either related or unrelated to the premises upon which located.
- (5) **Airport, Public.** Any airport which complies with the definition contained in Sec. 114.013(3), Wis. Stats., or any airport which serves or offers to serve common carriers engaged in air transport.
- (6) **Alley.** A way which affords only a secondary means of access to abutting property and which is not more than twenty-four (24) feet wide.
- (7) **Apartment.** A portion of a residential or commercial building used as a separate housing unit.
- (8) **Apartment House.** See "Dwelling, Multiple."
- (9) **Arterial Street.** A public street or highway used or intended to be used primarily for fast or heavy through traffic. Arterial streets and highways shall include freeways and expressways as well as arterial streets, highways and parkways.
- (10) **Assessed Value.** The full market value placed upon the structure or lot by the Town Assessor as of the date that the nonconformity came into being. Such valuation by the Town Assessor shall be prima facie evidence of the assessed value of the structure or lot.
- (11) **Automobile Wrecking Yard.** Any properly zoned premises on which any inoperable or unlicensed automotive vehicles are stored in the open.
- (12) **Awning Sign.** A non-illuminated projecting identification sign painted on or affixed flat to the surface of an awning and which does not extend vertically or horizontally from the awning.
- (13) **Banner.** A non-illuminated elongated fabric used for temporary display for the announcement of a coming event.
- (14) **Basement or Cellar.** A story partly underground but having at least one-half (1/2) of its height, or more than five (5) feet, below the mean level of the adjoining ground. See COMM Chapters 20, 21 and 22, Wis. Adm. Code.
- (15) **Boarding House.** A building other than a hotel or restaurant where meals or lodging are regularly furnished by prearrangement for compensation for four (4) or more persons not members of a family, but not exceeding twelve (12) persons and not open to transient customers.
- (16) **Boathouse.** Any structure designed for the purpose of protecting or

- storing boats for noncommercial purposes. Boathouses shall not be used for human habitation.
- (17) **Building.** Any structure have a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery or materials.
- (18) **Building, Alterations Of.** Any change or rearrangement of the supporting members such as bearing walls, beams, columns or girders of a building, an addition to a building, or movement of a building from one location to another.
- (19) **Building Area.** The total living area bounded by the exterior walls of a building all the floor levels, but not including basement, utility areas, garages, porches, breezeways, and unfinished attics.
- (20) **Building, Front Line Of.** A line parallel to the street intersecting the foremost point of the building, excluding uncovered steps.
- (21) **Building, Height Of.** The vertical distance from the mean elevation of a finished grade along the front of the building to the highest point of a flat roof, or to the deck line of a mansard roof, or to the mean height between eaves and ridge for gable, hip or gambrel roofs.
- (22) **Building, Principal.** A building in which is conducted the main use of the lot on which said building is located.
- (23) **Bulkhead Line.** A boundary line established along any section of the shore of any navigable waters by a municipal ordinance approved by the State Department of Natural Resources, pursuant to Sec. 30.11, Wis. Stats. Filling and development is only permitted to the landward side of such bulkhead line.
- (24) **Business.** Includes the commercial, limited industrial and general industrial uses and districts as herein defined.
- (25) **Carport.** See "Garage."
- (26) **Center Line.** A line connecting points on highways from which setback lines shall be measured, at any point on the highway.
- (27) **Channel.** A natural or artificial watercourse of perceptible extent, with definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow thus is that water which is flowing within the limits of the defined channel.
- (28) **Clinic.** A building used by a group of doctors for the medical examination or treatment of persons on an outpatient or non-boarding basis only.
- (29) **Club.** A building owned, leased or hired by a nonprofit association of persons who are bona fide members, the use of which is restricted to said members and their guests.
- (30) **Community Living Arrangement.** The following facilities licensed or operated, or permitted under the authority of Wisconsin Statutes:

Child welfare agencies under Sec. 48.60, Wis. Stats., group foster homes for children under Sec. 48.02(7m), Wis. Stats., and community-based residential facilities under Sec. 50.01, Wis. Stats.; but does not include nursing homes, general hospitals, special hospitals, prisons and jails. The establishment of a community living arrangement shall be in conformity with applicable sections of the Wisconsin Statutes, including Sees. 46.03(22), 69.97(15), 62.23(7)(i), and 62.23(7a), and amendments thereto, and also the Wisconsin Administrative Code.

- (31) **Conditional Use.** A use of land, water or building which is allowable only after the issuance of a special permit by the Town Board under conditions specified in this Chapter.
- (32) **Conforming Use.** Any lawful use of a building or lot which complies with the provisions of this Chapter.
- (33) **Court.** An open, unoccupied space other than a yard, on the same lot with a building, and which is bounded on two (2) sides by the building.
- (34) **Curb Break.** Any interruption or break in the line of a street curb in order to connect a driveway to a street or otherwise to provide vehicular access to abutting property.
- (35) **Curb Level.** The level of the established curb in the front of the building measured at the center of such front.
- (36) **Day Care Center.** A place or home which provides care for four (4) or more children under the age of seven (7) years for less than twenty-four (24) hours a day and is licensed as provided for in Sec. 48.65, Wis. Stats.
- (37) **District Basic.** A part or parts of the Town for which the regulation of this Zoning Code governing the use and location of land and buildings are uniform.
- (38) **Dog.** A canine five (5) months or older is considered a dog.
- (39) **Dog Shelter.** A structure with four (4) sides, a waterproof roof, and a floor used for keeping dogs.
- (40) **Dwelling Efficiency.** A dwelling unit consisting of one principal room with no separate sleeping rooms.
- (41) **Dwelling Unit.** A building or portion thereof used exclusively for human habitation, including single-family, two-family and multi-family dwellings, but not including hotels, motels or lodging houses.
- (42) **Dwelling, One-Family.** A detached building designed, arranged or used for and occupied exclusively by one (1) family, whether attached, detached or semi-attached. Shall include specially designed buildings covered by earth and manufactured homes.
- (43) **Dwelling, Two-Family.** A building designed, arranged or used for, or occupied exclusively by, two (2) families living independently of

- each other.
- (44) **Dwelling, Multiple.** A building or portion thereof used or designated as a residence for three (3) or more families as separate housekeeping units, including apartments, attached townhouses and condominiums.
- (45) **Dwelling Group.** A group of two (2) or more multi-family dwellings occupying a lot in one (1) ownership with any two (2) or more dwellings having any yard or court in common.
- (46) **Emergency Shelters.** Public or private enclosures designed to protect people from aerial, radiological, biological or chemical warfare; fire; flood; windstorm; riots; or invasions.
- (47) **Essential Services.** Services provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface, or overhead gas, electrical, steam, water, sanitary sewage, storm water drainage, and communication systems and accessories thereto, such as service poles, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, and hydrants, but not including buildings.
- (48) **Family.** One (1) or more persons immediately related by blood, marriage, adoption or guardianship and living as a single housekeeping unit in one (1) dwelling unit shall constitute a family. A family may include in addition thereto two (2) but not more than two (2) persons not related by blood, marriage, adoption or guardianship. A person shall be considered to be related for the purpose of this Section if he is dwelling for the purpose of adoption or for a foster care program.
- (49) **Family Immediate.** Persons related by blood, adoption or marriage, and extending to parents and children, brothers and sisters, and grandparents.
- (50) **Farm.** Land consisting of thirty-five (35) acres or more on which produce, crops, livestock or flowers are grown primarily for off-premise consumption, use or sale, or are rented to others for such purposes or are enrolled in federal or state conservancy or set-aside programs.
- (51) **Farm Operator.** Any person who owns land and raises crops or livestock on that land; or a person who rents land to another for agricultural purposes and who lives on the land having day-to-day contact with the farm operation; or a person who lives on land that he/she has historically farmed. For the purpose of this ordinance, any person who has farmed land for five (5) consecutive years is deemed to have farmed it historically.

- (52) **Farmette.** A small farm of over five (5) acres but less than thirty-five (35) acres, created by a land division involving existing farm buildings as part of a farm consolidation, and typically used for hobby farming or other small-scale agricultural endeavors.
- (53) **Flags or Pennants.** Devices generally made of flexible materials, such as cloth, paper, or plastic and displayed on strings or wires.
- (54) **Floor Area.** The sum of the gross horizontal areas of the several floors of a dwelling unit, exclusive of porches, balconies, garages, basements and cellars, measured from the exterior faces of the exterior walls or from the center lines of walls or portions separating dwelling units. For uses other than residential, the floor area shall be measured from the exterior faces of the exterior walls or from the centerline of walls or partitions separating such uses, and shall include all floors, lofts, balconies, mezzanines, cellars, basements and similar areas devoted to such uses.
- (55) **Foster Family Home.** The primary domicile of a foster parent which is for four (4) or fewer foster children and which is licensed under Sec. 48.62, Wis. Stats., and amendments thereto.
- (56) **Frontage.** The smallest dimension of a lot abutting on a public street measured along the street line.
- (57) **Garage.** An accessory building or portion thereof used exclusively for parking or temporary storage of self-propelled vehicles.
- (58) **Garage, Public.** A building other than a private or storage garage used for the care, repair or storage of self-propelled vehicles or where such vehicles are left for remuneration, hire or sale. This includes premises commonly known as gasoline stations or service stations.
- (59) **Garage, Storage.** Any building or premises used for the storage only of motor-driven vehicles or motor-driven machinery, pursuant to previous arrangements and not to transients, and where no equipment, parts, fuel, grease or oil is sold.
- (60) **Gasoline Station.** Any area of land, including structures thereon, that is used for the sale of gasoline or other motor vehicle fuel and oil and other lubricating substances; sale of motor vehicle accessories; and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning or otherwise cleaning or servicing such vehicles.
- (61) **Group Foster Home.** Any facility operated by a person required to be licensed by the State of Wisconsin under Sec. 48.62, Wis. Stats., for the care and maintenance of five (5) to eight (8) foster children.
- (62) **Home Occupation.** Any business or profession carried on only by a member of the immediate family residing on the premises, carried on wholly within the principal building thereto and meeting the

- standards of Section 13-1-72.
- (63) **Horse Boarding Facility.** An establishment to operate a facility housing horses where grooming, breeding, boarding, training, or selling of horses is conducted as a business.
- (64) **Hotel.** A building occupied as the more or less temporary abiding place of individuals who are lodged, with or without meals, and in which there are more than six (6) sleeping rooms, usually occupied singly, and no provision made for cooking in the individual apartments.
- (65) **House Trailer.** A non self-propelled vehicle, containing living or sleeping accommodations which is designed and used for highway travel.
- (66) **Junk Yard.** An open space where waste, used or second-hand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber, tires and bottles. A "junk yard" also includes an auto wrecking yard, but does not include uses established entirely within enclosed buildings.
- (67) **Kennel.**
- a. Commercial. An establishment licensed to operate a facility housing dogs, cats or other household pets where grooming, breeding, boarding, training, or selling of animals is conducted as a business.
 - b. Private. Any building(s) or land designated or arranged for the care of dogs and cats belonging to the owner of the principle use, kept for purpose of show, breeding, hunting, or as pets.
 - c. Boarding Kennel. A facility housing dogs, cats or other household pets where boarding, grooming, breeding or training is conducted, either for profit or not, primarily for animals not owned by the operator.
- (68) **Loading Area.** A completely off-street space or berth on the same lot for the loading or unloading of freight carriers having adequate ingress and egress to a public street or alley.
- (69) **Lot.** A parcel of land having frontage on a public street, occupied or intended to be occupied by a principal structure or use, and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area and other open space provisions of this Chapter.
- (70) **Lot Corner.** A lot located:
- a. At the junction of and abutting two (2) or more intersecting streets; or
 - b. At the junction of and abutting a street and the nearest shoreline or high-water line of a storm or floodwater runoff

- channel or basin; or
- c. At the junction of and abutting two (2) or more storm or flood water runoff channels or basins; or
 - d. At and abutting the point of abrupt change of a single street where the interior angle is less than one hundred thirty-five degrees (135°) and the radius of the street is less than one hundred (100) feet.
- (71) **Lot Depth.** The average distance from the front to the rear lot lines measured in the general direction of the side lot lines.
- (72) **Lot Interior.** A lot other than a corner lot.
- (73) **Lot Lines and Area.** The peripheral boundaries of a parcel of land and the total area lying within such boundaries.
- (74) **Lot Width.** The distance between side lines of the lot at the building line. In the case of a shoreland lot, the lot width is the width of the lot seventy-five (75) feet from the waterline.
- (75) **Lot, Reversed Corner.** A corner lot, the street side lot line of which is substantially a continuation of the front lot line of the first lot to its rear.
- (76) **Lot, Through.** A lot having a pair of opposite lot lines along two (2) or more parallel public streets and which is not a corner lot. On a through lot both street lines shall be deemed front lot lines.
- (77) **Lot, Zoning.** A single tract of land located within a single block which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed, or built upon as a unit under single ownership or control.
- (78) **Marquee or Canopy.** A roof-like structure of permanent nature which projects from the wall of a building.
- (79) **Manufactured Dwelling.** A dwelling structure or component thereof as is defined in the Wisconsin Administrative Code One- and Two-Family Uniform Dwelling Code Section 20.07(52), which bears the Wisconsin Department of Commerce insignia certifying that it has been inspected and found to be in compliance with Subchapter V of said Uniform Dwelling Code.
- (80) **Manufactured Home.** A dwelling structure or component thereof fabricated in an off-site manufacturing facility for installation or assembly at the building site which is certified and labeled as a manufactured home under 42 USC Sees. 5401-5426, which, when placed on the site:
- a. Is set on an enclosed continuous foundation in accordance with Sec. 70.43(1), Wis. Stats., and COMM 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.
- (81) **Minor Structures.** Any small, movable accessory erection or construction such as bird houses, tool sheds, pet houses, play equipment, arbors, walls and fences under four (4) feet in height; and name, occupation and warning signs less than four (4) square feet in area.
- (82) **Mobile Home.** A transportable factory built structure, being eight (8) feet or more in width (not including roof overhang) or thirty-two (32) feet or more in length (not including roof overhang), designed for long term occupancy built prior to enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976, and which is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway, and designed, equipped and used primarily for sleeping, eating and living quarters, or is intended to be so used; including any additions, attachments, annexes, foundations and appurtenances. In the purpose of this Section, a mobile home shall remain classified as a mobile home regardless of whether its wheels or other rolling devices have been removed or not, and even though assessable value of additions, attachments, annexes, foundations and appurtenances or other added investments to the mobile home equal or exceed fifty percent (50%) of the assessable value of the mobile home. Excluded from this definition are "manufactured homes" as defined above.
- (83) **Mobile Home Park.** Any plot or tract of ground upon which two (2) or more mobile homes, occupied for dwelling or sleeping purposes are located, regardless of whether or not a charge is made for such accommodations.
- (84) **Motel.** A series of attached, semi-attached or detached sleeping units for the accommodation of transient guests.
- (85) **Motor Freight Terminal.** A building or area in which freight brought by motor truck is assembled and/or stored for routing in intrastate and interstate shipment by motor truck.
- (86) **Motor Vehicle.** Any passenger vehicle, truck, truck-trailer, trailer or semi-trailer propelled or drawn by mechanical power.
- (87) **Nonconforming Building or Structure.** Any building or structure which does not comply with all of the regulations of this Chapter or of any amendment hereto regulating any building or structure for the Zoning District in which such building or structure is located.

- (88) **Nonconforming Lot.** A nonconforming or substandard lot is defined as a parcel of land legally created prior to the effective date of this Chapter or subsequent amendments thereto having frontage on a public street or approved way, or intended to be occupied by a principal building or structure, together with accessory buildings and uses having insufficient size to meet the lot width, lot area, or other related provisions of this Chapter.
- (89) **Nonconforming Use.** Any use of land, buildings or structures which does not comply with all of the regulations of this Chapter or of any amendment hereto governing use for the Zoning District in which such use is located.
- (90) **Nudity.** The showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the areola, or the human male genitals in a discernible turgid state even if completely or opaquely covered.
- (91) **Nuisance.** An injurious effect on the safety, health, or morals of the public, or use of property which works some substantial annoyance, inconvenience, or injury to the public and which causes hurt, inconvenience or damage.
- (92) **Nursery.** Any building or lot, or portion thereof, used for the cultivation or growing of plants and including all accessory buildings.
- (93) **Nursery School.** Any building used routinely for the daytime care and education of preschool age children and including all accessory buildings and play areas other than the child's own home or the homes of relatives or guardians.
- (94) **Nursing Home.** Any building used for the continuous care, on a commercial or charitable basis, of persons who are physically incapable of caring for their own personal needs.
- (95) **Off-Premise Direction/Sales.** Signs which are intended to advertise places of business not located on the same parcel or land ownership as the off-premise sign.
- (96) **Overlay Zone/District.** Zoning requirements that are described in the ordinance text, mapped, and is imposed in addition to those of the underlying district. Developments within the overlay zone must conform to the requirements of both zones or the more restrictive of the two.
- (97) **Parking Area, Semi-Public.** An open area other than a street, alley or place used for temporary parking of more than four (4) self-propelled vehicles and available for public uses, whether free, for compensation, or as an accommodation for clients or customers.

- (98) **Parking Space.** An off-street space available for the parking of a motor vehicle and which is exclusive of passageways and driveways, appurtenant thereto and giving access thereto.
- (99) **Parties in Interest.** Includes all abutting property owners, all property owners within five hundred (500) feet, and all property owners of opposite frontages.
- (100) **Pier head Line.** A boundary line established along any section of the shore of any navigable waters by a municipal ordinance approved by the State Department of Natural Resources, pursuant to Sec. 30.13, Wis. Stats. Piers and wharves are only permitted to the landward side of such pier head line unless a permit has been obtained pursuant to Sec. 30.12(2), Wis. Stats.
- (101) **Place.** An open unoccupied space other than a street or alley, permanently reserved as the principal means of access to abutting property.
- (102) **Planned Residential Development.** A tract of land which contains or will contain two (2) or more principal buildings, developed under single ownership or control, the development of which is unique and of a substantially different character than that of surrounding areas.
- (103) **Principal Use or Structure.** The main use of land or structure as distinguished from a secondary or accessory use. Such use could be a dwelling in a residential district, a store in a business district, a factory in an industrial district, or crops or farm buildings or farm dwellings in an agricultural district.
- (104) **Property Lines.** The lines bounding a platted lot as defined herein.
- (105) **Public Way.** Any sidewalk, street, alley, highway or other public thoroughfare.
- (106) **Professional Home Office.** The office of a doctor, practitioner, clergy, dentist, architect, landscape architect, professional engineer, lawyer, author, musician, beauty parlor or barbershop or other recognized profession meeting the standards in Section 13-1-72. When established in a commercial district, a beauty parlor shall be limited to three (3) licensed operators working at any one time, and a barbershop to two (2) licensed barbers operating in not to exceed two (2) barber chairs at any one time; and provided further that a beauty parlor or barbershop shall not occupy over five hundred (500) square feet of floor area, including lavatories and waiting room, and only one (1) unlighted name plate, not exceeding four (4) square feet in area, containing the name and profession of the occupant of the premises shall be exhibited.
- (107) **Road.** A public right-of-way, not less than fifty (50) feet wide, providing primary access to abutting properties.

- (108) **Railroad Right-of-Way.** A strip of land with tracks and auxiliary facilities for track operation, but not including freight depots or stations, loading platforms, train sheds, warehouses, car or locomotive shops, or car yards.
- (109) **Recreational Vehicle.** Means any of the following, whether it is dependent (requires camp facilities for toilet and lavatory) or self-contained (can operate independent of connections to sewer, water and electrical systems):
- a. Camping trailer. A canvas or folding structure mounted on wheels and designed for travel, recreation and vacation use.
 - b. Motor home. A portable temporary dwelling to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle.
 - c. Pickup coach. A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.
 - d. Travel trailer. A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses and permanently identified as a travel trailer by the manufacturer of the trailer.
 - e. Tent. A portable lodge of canvas or strong cloth stretched and sustained by poles.
 - f. Unclassified Uses. Any similar vehicle, unit, etc., which is less than forty-five (45) feet in length.
- (110) **Retention Basin.** A pond-type facility which provides for storage of storm-water runoff and controlled release of this runoff during and after a flood or storm.
- (111) **Roadside Stand.** A structure not permanently fixed to the ground that is readily removable in its entirety covered or uncovered and not wholly enclosed, and used solely for the sale of farm products produced on the premises. No such roadside stand shall be more than fifty (50) square feet in ground area and there shall not be more than one (1) roadside stand on any one (1) premises.
- (112) **Sanitary Sewer.** A constructed conduit for the collection and carrying of liquid and solid sewage wastes from two (2) or more premises, other than storm water, to a sewage treatment plant, and which is approved by the Wisconsin Department of Natural Resources.
- (113) **School, Private.** An elementary or intermediate school other than a parochial school giving regular instruction capable of meeting the requirements of state compulsory education laws and approved as such and operating at least five (5) days a week for a normal school year and supported by other than public funds, but not

- including a school for mentally disabled persons or a college or other institution of higher learning.
- (114) **School, Commercial.** A school limited to special instruction such as business, art, music, trades, handicraft, dancing or riding.
- (115) **Setback.** Lines established along highways at specified distances from the center line, which permitted buildings or structures shall be set back of, or outside of, and within which they may not be placed except as hereinafter provided. "Within the setback lines" means between the setback line and the highway.
- (116) **Shoreland Lot.** A lot abutting a lake or stream. Normally the lot abuts a street on one side, the lake or stream on the opposite side, and the remaining lot lines are side lot lines. The aforescribed lot has no rear lot line. If, however, the lake or stream abuts the lot on the lot line perpendicular to the street, that lot has only one side lot line and a rear lot line opposite the lot line abutting the street.
- (117) **Shore yard.** A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the high-water mark of the lake or stream upon which the lot abuts and a line parallel thereto through the nearest point of the principal structure.
- (118) **Sign.** Any structure or device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge, or insignia of any government or governmental agency, or any civic, charitable, religious, patriotic, fraternal or similar organization, or any sign indicating address. Each display surface of a sign shall be considered a sign.
- (119) **Sign, Directional.** A sign erected for the purpose of directing persons to a place of business, recreation or public building, school or church.
- (120) **Sign Area.** The area of the largest single face of the sign within a perimeter which forms the outside shape, but excluding the necessary supports or uprights on which the sign may be placed. If the sign consists of more than one section or module, all areas will be totaled. Any irregular shaped sign area shall be computed using the actual sign face surface.
- (121) **Signable Area.** The signable area of a building is estimated as the area of the façade of the building facing or abutting upon a street right-of-way up to the ceiling line of the top floor and which is free of windows and doors or major architectural detail on which signs may be displayed.
- (122) **Soil Mapping Unit Lines.** The boundaries of soils shown on the operational soil survey maps prepared by the USDA Soil

- Conservation Service.
- (123) **Stable.** An accessory building or structure in which horses are kept for commercial use, including boarding, training, riding, hire, and sale.
- (124) **Story.** That portion of a building included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, then the space between such floor and the ceiling next above it.
- (125) **Story, Half.** A story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than two (2) feet above the floor of such story.
- (126) **Street.** A public or private thoroughfare which affords the principal means of access to abutting property.
- (127) **Street Line.** A dividing line between a lot, tract or parcel of land and a contiguous street.
- (128) **Structural Alteration.** Any change in the bearing walls, columns, beams, girders, or supporting members of a structure; any change or rearrangement in the floor area of a building, any enlargement of a structure whether by extending horizontally or by increasing in height, and/or any movement of a structure from one (1) location or position to another.
- (129) **Structure.** Anything constructed or erected, the use of which requires a more or less permanent location on or in the ground. Includes but is not limited to objects such as buildings, factories, sheds, cabins, wells, septic tanks and disposal fields.
- (130) **Temporary Structure.** A structure which is built of such materials and in such a way that it would commonly be expected to have a relatively short useful life, or is built for a purpose that would commonly be expected to be relatively short-term and not to be habitable.
- (131) **Total Sign Structure.** Includes the "Sign Area" plus any exposed area or members of the supporting structure on or to which the sign (sign message) is affixed.
Decorative, landscaped earth berms or structures which are composed principally of exposed earth and/or landscape (plant) materials shall not be included as part of a total sign structure but shall meet sign setback requirements as set forth herein.
- (132) **Traffic Lane.** A strip of roadway intended to accommodate a single lane of moving vehicles.
- (133) **Trailer Park.** Any lot on which are parked two (2) or more house trailers or mobile homes for longer than forty-eight (48) hours.
- (134) **Use.** The use of property is the purpose or activity for which the land or building thereon is designed, arranged or intended, or for

which it is occupied or maintained, and shall include any manner of standards of this Chapter.

- (135) **Use, Conditional.** See definition (32) above.
- (136) **Use, Principal.** The main use of land or buildings as distinguished from a subordinate or accessory use. A principal use may be "permitted" or "conditional."
- (137) **Use, Permitted.** A use which may be lawfully established in a particular district or districts, provided it conforms to all requirements, regulations and performance standards, if any, of such districts.
- (138) **Vending Machine.** A retail business device, electrically or manually operated, used by the general public to obtain dairy products, cigarettes, foodstuffs or other merchandise without entering a public shop, store, market or other such building.
- (139) **Yard.** An open space on the same lot with a structure, unoccupied and unobstructed from the ground upward, except for vegetation as permitted. The front and rear yards extend the full width of the lot.
- (140) **Yard, Front.** A yard extending along the full length of the front lot line between the side lot lines.
- (141) **Yard, Rear.** A yard extending along the full length of the rear lot line between the side lot lines.
- (142) **Yard, Side.** A yard extending along a side lot line from the front yard to the rear yard.
- (143) **Yard, Corner Side.** A side yard which adjoins a public street.
- (144) **Yard, Interior Side.** A side yard which is located immediately adjacent to another zoning lot or to an alley separating such yard from another zoning lot.
- (145) **Yard, Street.** Yard abutting a street.
- (146) **Yard, Transitional.** That yard which must be provided on a zoning lot in a Business District which adjoins a zoning lot in a Residential District, or that yard which must be provided on a zoning lot in an Industrial District which adjoins a zoning lot in either a Residential or Business District.
- (147) **Zoning District.** An area or areas within the corporate limits for which the regulations and requirements governing use, lot and bulk of buildings and premises are uniform.

Sec. 13-1-8 through Sec. 13-1-19 Reserved for Future Use.

Article B: General Provisions

Sec. 13-1-20 Jurisdiction and Compliance.

- (a) Jurisdiction. The jurisdiction of this Chapter shall include all lands and water within the Town of Lowell, Dodge County, Wisconsin, lying outside the limits of incorporated cities and villages. In those areas under the dual jurisdiction of the Town of Lowell and Dodge County, both ordinances shall be in full effect and all requirements shall be met.
- (b) Compliance. No structure, land or water shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a zoning permit, except minor structures, and full compliance with the provisions of this Chapter and all other applicable Town, county and state regulations.

Sec. 13-1-21 Use Restrictions.

The following use restrictions and regulations shall apply:

- (a) Principal Uses. Only, those principal uses specified for a district and their essential services shall be permitted in that district.
- (b) Conditional Uses. Provisions applicable to conditional uses generally:
 - (1) Conditional uses and their accessory uses are considered as special uses requiring, for their authorization, review, public hearing and approval by the Town Board in accordance with Article D of this Chapter excepting those existent at time of adoption of the Zoning Code.
 - (2) Those existing uses which are classified as "conditional uses" for the district(s) in which they are located at the time of adoption of this Code require no action by the Town Board to continue as valid conditional uses.
 - (3) Proposed change from permitted use in a district to conditional use shall require review, public hearing and approval by the Town Board in accordance with Article D.
 - (4) Conditional use(s), when replaced by permitted use(s), shall terminate. In such case(s), the reestablishment of any previous conditional use(s), or establishment of new conditional use(s) shall require review, public hearing and approval by the Town Board in accordance with Article D.
 - (5) Provisions in this Chapter relating generally to conditional uses shall, except when in conflict with specific provisions relating to either regular or limited conditional uses (which specific provision would

- then control), be deemed to be applicable to both regular and limited conditional uses.
- (6) Conditional uses authorized by Town Board resolution shall be established for a period of time to a time certain or until a future happening or event at which the same shall terminate.
 - (7) Conditional uses authorized by the Town Board shall not be subject to substitution with other conditional uses, either regular or limited, whether similar type or not, without Board approval and the procedures required in Article D.
- (c) **Accessory Uses and Structures.** Accessory uses and structures are permitted in any district but not until their principal use or structure is present or under construction. Residential accessory uses shall not involve the conduct of any business, trade, or industry, except for home occupations/professional home offices as defined in this Chapter.
- (d) **Temporary Uses.**
- (1) The Town Plan Commission may permit temporary uses, which may include, but not be limited to, real estate sales field offices or shelters for materials and equipment being used in the construction of a permanent structure, seasonal structure or temporary sales structures, etc. Mobile homes having a floor area of at least seven hundred (700) square feet may also be permitted as temporary uses when provided under the following circumstances:
 - a. As emergency shelter in the R-1, RC-1 or AG-1 Districts where an uninhabitable residence is under construction from damage resulting from wind, fire or other disaster; or
 - b. For temporary shelter in the R-1, RC-1 or AG-1 Districts where construction of a new residence is underway.
 - (2) In addition, the Plan Commission shall require that all temporary mobile homes shall be firmly anchored per state regulations to resist movement caused by high winds, floodwaters, or other forces. All mobile homes shall meet the minimum construction requirements of the Mobile Home Manufacturing Association.
 - (3) The authorization of a temporary use by the Plan Commission shall remain in effect for a period of up to one (1) year; however, where deemed appropriate, the Plan Commission may extend the permit for six (6) months. No temporary permit shall exceed eighteen (18) months. In authorizing a temporary use, the Plan Commission shall find that such use is reasonably compatible with adjacent properties and the surrounding neighborhood in terms of operation and appearance. Temporary uses shall meet the applicable requirements for principal structures and uses in the district they are located in and shall meet any additional requirements affecting the

operation, appearance or location which may be established by the Plan Commission.

- (e) Unclassified or Unspecified Uses. Unclassified or unspecified uses may be recommended by the Plan Commission and approved by the Town Board, provided that such uses are similar in character to the principal uses existing in the district, and that no material detriment to adjoining property will result; such uses shall be reviewed and processed as a conditional use.

Sec. 13-1-22 Reduction or Joint Use.

No lot, yard, parking area, building area or other space shall be reduced in area or dimension so as not to meet the provisions of this Chapter. No part of any lot, yard, parking area or other space required for a structure or use shall be used for any other structure or use.

Sec. 13-1-23 Site Regulations.

- (a) Site Suitability. No land shall be used or structure erected where the land is held unsuitable for such use or structure by the Town Board by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics and general welfare of this community. The Town Board, in applying the provisions of the Section, shall in writing recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he so desires.
- (b) Street Frontage. All lots shall abut upon a public street or other officially approved means of access, and each lot shall have a minimum frontage of seventy-five (75) feet; however, to be buildable, the lot shall comply with the frontage requirements of the Zoning District in which it is located. All lots shall also have a minimum width at the street yard setback as prescribed for the particular zoning district in which the lot is located.
- (c) Principal Structures. All principal structures shall be located on a lot. Only one (1) principal structure shall be located, erected or moved onto a lot, except that the Town Board, upon the recommendation of the Plan Commission, may permit as a conditional use more than one (1) principal structure per lot in any district where more than one (1) such structure is needed for the orderly development of the parcel. Where additional structures are permitted, the Town Board, may impose additional yard

- requirements, landscaping requirements or parking requirements, or require a minimum separation distance, between principal structures.
- (d) Dedicated Street. No zoning permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width and located on that side thereof from which the required dedication has not been secured.
- (e) Decks. For purposes of this Chapter, decks shall be considered a part of a building or structure for setback purposes, but shall not be counted for purposes of determining dwelling square footage.
- (f) Frontline Projections. No alterations to any building, except uncovered steps, shall project into the front yard established at the time of the original construction of such building beyond a line connecting the nearest points on the setback lines of the next existing buildings on each side of such building.
- (g) Floor Size; Foundation. All dwellings shall conform to a minimum floor size and be set upon a permanent footed foundation or a permanent footed slab.
- (h) Height and Yard Exceptions. The regulations contained herein relating to the heights of buildings and the size of yards and other open spaces shall be subject to the following exceptions:
- (1) Churches, schools, hospitals, sanatoriums and other public and quasi-public buildings may be erected to a height not exceeding sixty-five (65) feet nor five (5) stories, provided the front, side and rear yards required in the district in which such building is to be located are each increased at least one (1) foot for each foot of additional building height above the height limit otherwise established for the district in which such building is to be located.
 - (2) Chimneys, cooling towers, elevator bulkheads, fire towers, silos, monuments, penthouses, setbacks, scenery lofts, tanks, water towers, ornamental towers, spires, wireless, television or broadcasting towers, masts or aerials, telephone, telegraph and power poles and lines, microwave radio relay structures, and necessary mechanical appurtenances are hereby excepted from the height regulations of this Section and may be erected in accordance with the other regulations or ordinances of the Town of Lowell.
 - (3) Residences in the Residence and Agricultural Districts may be increased in height by not more than ten (10) feet when all yards and other required open spaces are increased by one (1) foot for each foot by which such building exceeds the height limit of the district in which it is located.
 - (4) Where a lot abuts on two (2) or more streets or alleys having different average established grades, the higher of such grades

- shall control only for a depth of one hundred twenty (120) feet from the line of the higher average established grade.
- (5) Buildings on through lots and extending from street to street may waive the requirements for a rear yard by furnishing an equivalent open space on the same lot in lieu of the required rear yard provided that the setback requirements on both streets be complied with.
 - (6) Open or enclosed fire escapes and fire towers may project into a required yard not more than five (5) feet provided they be so located as not to obstruct light and ventilation.
- (i) Private Sewer and Water. In any district where public sewerage service is not available, the width and area of all lots shall be sufficient to permit the use of an on-site soil absorption sewage disposal system designed in accordance with the Wisconsin Administrative Code. In any district where a public water service or public sewage service is not available, the lot width and area shall be increased in accordance with the Wisconsin Administrative Code.
 - (j) Professional Assistance. The Plan Commission may request expert assistance from regional, state, or federal agencies which are assisting such district under a "Memorandum of Understanding."
 - (k) Landscaping and Decorative Uses. Accessory structures and vegetation used for landscaping and decorating may be placed in any required yard area. Permitted structures and vegetation include flag poles, ornamental light standards, lawn furniture, sun dials, bird baths, trees, shrubs and flowers and gardens.
 - (l) Outdoor Lighting. Outdoor lighting installations shall not be permitted closer than three (3) feet to an abutting property line and, where not specifically otherwise regulated, shall not exceed thirty (30) feet in height and shall be adequately shielded or hooded so that no excessive glare or illumination is cast upon the adjoining properties.
 - (m) Lawn Accessories. Walks, drives, paved terraces and purely decorative garden accessories such as pools, fountains, statuary, flag poles, etc., shall be permitted in setback areas but not closer than three (3) feet to an abutting property ;line other than a street line.
 - (n) Retaining Walls. Retaining walls may be permitted anywhere on the lot, provided, however, that no individual wall shall exceed six (6) feet in height, and a terrace of at least three (3) feet in width shall be provided between any series of such walls and provided further that along a street frontage no such wall shall be closer than three (3) feet to the property line.

Sec. 13-1-24 Highway Setback Lines.

- (a) Purpose. In order to promote and enhance the public safety, general welfare and convenience, it is necessary that highway setback lines be and they are hereby established in the Town of Lowell, Dodge County, Wisconsin, outside the limits of incorporated cities and villages; along all public highways; at the intersections of highways with highways and highways with railways as hereafter provided, and at the waters edge on riparian lands.
- (b) Riparian Land Setbacks. The setback line on riparian lands shall be the water line as defined in the Dodge County Shoreland Zoning Ordinance.
- (c) Classes of Highways and Center Lines. Highways are classified and the position of the center line shall be determined as follows:
- (1) Class 1 Highways.
 - a. Town roads not otherwise classified that have not been improved in accordance with engineering surveys and plans accepted by the County or Town Board. The center line is the midway point between the edges of the road surface.
 - b. Town roads not otherwise classified that have been improved in accordance with engineering surveys and plans accepted by the County or Town Board. The center line is at the center of the surfacing or pavement, or, if there be none, the center of graded roadbed.
 - c. Roads and streets in platted subdivisions not otherwise classified. The center line is the midpoint between the edges of the road surface.
 - d. Private roads. The center line is at the mid-point between the edges of the road surface.
 - (2) Class 2 Highways.
 - a. County trunk highways that have not been improved in accordance with engineering surveys or plans accepted by the County Board or their agent, the County Highway Committee. The center line is at the midway point between fences or other markers indicating the boundary on opposite sides thereof.
 - b. County trunk highways that have been improved according to engineering surveys and plans accepted by the County Board or their agent, the County Highway Committee. The center line is the center of the surfacing or pavement, or if there be none, the center of the graded roadbed.
 - (3) Class 3 Highways. State Trunk Highways, except as hereinafter provided, that have been approved according to surveys and plans of the State Highway Commission or plans accepted by the

County Board, and United States highways. The center line is the center of the roadbed, or the center of the surfacing or pavement of the adjacent lane if the highway is to be paved as a double-divided road.

- (d) Structures Prohibited Within Setback Lines. No new building, mobile home, new sign or other structure or part thereof shall be placed between the setback lines established this Section and the highway, except as provided by this Section, and no building, mobile home, sign or structure or part thereof existing within such setback lines on the original effective date of this Chapter shall be altered, enlarged or added to in any way that increases or prolongs the permanency thereof, or be reconstructed in its original existing location after having been destroyed by fire, storm or other catastrophe to the extent of fifty percent (50%) or more of its current value as determined by the Town Assessor Structures Permitted Within Setback Lines. The following kinds of structures may be placed between the setback line and the highway:
- (1) Open fences.
 - (2) Telephone, telegraph and power transmission poles and lines and microwave radio relay structures may be constructed within the setback lines, and additions to and replacements of existing structures may be made, provided the owner files with the Town Board an agreement in writing to the effect that the owner will remove all new construction, additions and replacements erected after the adoption of this Section at his expense, when necessary for the improvement of the highway.
 - (3) Underground structures not capable of being used as foundations for future prohibited over ground structures.
 - (4) Access or service highways constructed according to plans as approved by the Board of Appeals. In giving such approval, the Board of Appeals shall give due consideration to highway safety and maximum sight distances.
 - (5) Sanitary drain fields.
 - (6) This Section shall not be interpreted so as to prohibit the planting and harvesting of field crops, shrubbery or trees; provided, however, that no building or structure, trees or shrubbery, shall be so located, maintained or permitted to grow so that the view across the sectors at the intersections shall be obstructed.
- (e) Setback Distances. Except as otherwise provided, the distances from the center line to the setback line applicable to the various classifications of highways as defined in Subsection (c) above, shall be as provided by the following paragraphs of this Subsection, respectively:
- (1) Improved Highways. Whenever a highway is improved to a classification requiring a greater setback distance than that

- required by this Section prior to such improvement, the setback distance shall be that applicable to the latter classification.
- (2) Conflicting Setbacks. In cases where the provisions of this Section may be interpreted to provide for different setback distances, the greater setback distance shall prevail.
 - (3) Along Highways Generally. The setback distances at any point for the respective classes of highways-; shall be as follows:
 - a. Class 1 highway (designated and undesignated town roads): seventy-five (75) feet from the centerline or forty-two (42) feet from the nearest edge of the right-of-way, whichever is greater.
 - b. Class 2 and Class 3 highways (federal, state, and county highways): one hundred (100) feet from the centerline or sixty-seven (67) feet from the nearest edge of the right-of-way, whichever is greater.
 - (4) At Ordinary Highway Intersections. At-grade intersections of highways with highways, except those roads and streets in platted subdivisions which do not intersect Class 2 Highways or Class 3 Highways, there shall be vision clearance triangles in each sector of such intersections. Each such vision clearance triangle shall be established by a supplementary setback line, which shall be a straight line connecting points on the setback lines along the intersecting highways and fifty (50) feet back from the intersection of such setback lines.
 - (5) At Highway Intersections with Transitional Widening. At intersections provided with transitional widening of pavement or surfacing, such transitional widening shall be considered as additional width, and the setback line on the side which is widened shall be increased by an amount equal to the width of the additional pavement.
 - (6) At Highway Intersections with Curve Connections. At intersections where the intersecting highways are connected with pavement or surfacing constructed on a curve, the setback distance along the curve shall be measured from the center of the curved section.
 - (7) At Railroad Grade Crossings. At railroad grade crossings there shall be vision clearance triangles in each sector of such intersection. Each such vision clearance triangle shall be established by a supplementary setback line which shall be a straight line connecting points on the railway right-of-way line and the highway setback line and seventy-five (75) feet back from the intersection of such highway setback lines and such railway right-of-way line.

Sec. 13-1-25 Minimum Residential Dwelling Standards.

- (a) All residential dwellings shall be covered with a roof pitched at a minimum slope of three inches to twelve inches (3:12) which is permanently covered with non-reflective material. Such homes shall have a pitched roof and overhang eaves with a minimum twelve (12) inch overhang, measured from the vertical sides of the structure. Carports shall be excluded from this requirement.
- (b) Dwellings shall have a roofing material of a type customarily found on conventionally constructed dwellings, including wood shakes or shingles, asphalt composition shingles, fiberglass composition shingles, but not reflective corrugated metal or corrugated fiberglass.
- (c) The Building Inspector may issue exceptions to the requirements in of the above subsections when warranted by design considerations and technical information is provided supporting the feasibility of the exception, provided that such exception shall not exceed twenty-five percent (25%) of the structure's roof area (excluding carports).
- (d) Footings and foundations shall be constructed in accordance with the requirements of the Town Building Code.
- (e) The minimum residential building square footage shall be one thousand two hundred (1,200) square feet.
- (f) Substandard Dwellings Prohibited.
 - (1) After the effective date of this Ordinance, the construction, installation and/or moving of dwellings within the Town that do not meet the minimum requirements established in 13-1-25 herein, including traditional mobile homes, manufactured homes, modular homes, or any other building or structure intended to be occupied as a dwelling unit, are prohibited.
 - (2) This restriction is not intended to affect the replacement of an existing mobile home that was legally installed or located on a lot or parcel prior to August 1, 2010, provided that the replacement mobile home is:
 - a. equal or greater in size, value, structural condition and appearance;
 - b. served by a legally installed and operational septic system; and
 - c. replacing an existing mobile home that was occupied and used for dwelling purposes on the effective date of this Ordinance.
 - (3) To ensure dwellings moved into the Town meet the requirements herein, an inspection permit shall be required with an inspection conducted by a sub-committee of the Plan Commission prior to

moving the dwelling into the Town.

Sec. 13-1-26 Storage Standards.

- (a) Abandoned Motor Vehicles. The storage of a motor vehicle which is abandoned, junked or mechanically inoperative and not currently licensed shall be prohibited in all districts when not fully in compliance with Section 10-4-1 with the exception of AG-I unless such a vehicle is completely enclosed in a permitted structure or is stored outside and is fully screened so as not to be visible from the street or road.
- (b) Outdoor Storage.
 - (1) Applicability. This Section is intended to apply to outdoor storage areas which are legal, nonconforming uses as of the effective date of this Chapter. This Section does not legalize any outdoor storage that was illegal as of the effective date of this Chapter.
 - (2) Outdoor Storage Standards. Outdoor storage on residential lots less than five (5) acres in an unenclosed or unsheltered area, of any goods, materials, merchandise, and vehicles is allowed as a conditional use provided that:
 - a. Front Yard Storage. No storage of items is allowed in the front yard except on lake lots.
 - b. Side/Rear Yard Requirements. The stored items shall be maintained in an orderly fashion in side or rear yards and shall be a minimum of twenty (20) feet from the side and rear property lines. Items stored in the side and rear yards shall be screened from public view by a fence, landscaping, or wall so they are not viewed from the street within fifty (50) feet of the buildings.

Sec. 13-1-27 Surface Water Drainage.

- (a) Adequate Drainage Required. No principal building shall be erected, structurally altered, or relocated on land which is not adequately drained at all times nor which is subject to periodic flooding, nor so that the lowest floor level is less than two (2) feet above the highest anticipated seasonal ground water level.
- (b) Obstruction to Drainage Prohibited. The damming, filling, relocating or otherwise interfering with the natural flow of surface water along any surface water drainage channel or natural water course shall not be permitted except with approval of the Plan Commission, Dodge County, DNR and Army Corps of Engineers.
- (c) Building Restricted Adjacent to Drainage Channels or Watercourses which are Navigable by Fact. No building other than a bridge, dam or

revetment subject to the aforesaid approval, shall be erected, structurally altered or relocated within seventy-five (75) feet of the ordinary high water line of such surface water drainage channel or natural watercourse nor so that the lowest floor of said building is less than two (2) feet above the ordinary high water line and meet county and state regulations.

- (d) Storm water Management Plan Required. A storm water management plan shall be prepared for new development projects and shall include, but not be limited to, the following:
- (1) Existing and proposed topography at two (2) foot contour intervals of the proposed development.
 - (2) Proposed elevations of all streets, internal sidewalks, drives, and off-street parking areas.
 - (3) Proposed drainage swales.
 - (4) Proposed storm sewers, manholes, and inlets.
 - (5) Construction site erosion facilities.
 - (6) A report and map(s) showing the drainage basin for the entire area where the development is located, including an estimate of the total acreage in the drainage basin and percentage of the drainage basin within the proposed development.
 - (7) Location of any planned storm water detention and/or retention basins and applicable calculations for their sizing and design. Drainage of on-site storm water shall not be in excess of the storm water which existed before the development.
 - (8) Calculations relating to the amount of runoff from the site of the proposed development prior to development and anticipated runoff following the development of the site.

Sec. 13-1-28 through Sec. 13-1-39 Reserved for Future Use.

Article C: Zoning Districts

Sec. 13-1-40 Zoning Districts Designated.

For the purpose of this Chapter, the Town of Lowell, Dodge County, is hereby divided into the following seven (7) districts:

- (a) R-I Rural Residential District
- (b) RC-1 Rural Cluster Residential Overlay District
- (c) B-I Commercial/Mixed Use District
- (d) M-I Manufacturing/Industrial District
- (e) AG-1 General Agricultural District
- (f) C-I Conservancy Overlay District
- (g) P-I Park District

Sec. 13-1-41 District Boundaries.

- (a) Zoning Map. The boundaries of the districts enumerated in Section 13-1-40 above are hereby established as shown on a map entitled "Zoning Map, Town of Lowell, Wisconsin," dated June, 2000, as amended periodically, which is adopted by reference and made a part hereof. The map shall bear upon its face the attestation of the Town Chairperson and the Town Clerk and shall be available to the public in the office of the Town Clerk.
- (b) Boundary Lines. The boundaries shall be construed to follow corporate limits; U.S. Public Land Survey lines; lot or property line; center lines of streets, highways, alleys, easements and railroad rights-of-way; or such lines extended unless otherwise noted on the Zoning Map.
- (c) Vacation. Vacation of public streets and alleys shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts.
- (d) Amendments. Amendments to the zoning map shall take effect upon adoption by the Town Board, after proof of posting or publication thereof is duly filed in the office of the town Clerk and after approval by the Dodge County Board of Supervisors. All amendments shall be duly entered and attested on the certified copy of the Zoning Map. Changes to the zoning map should conform to the Town of Lowell Land Use Plan.

Sec. 13-1-42 R-I Rural Residential District.

- (a) Purpose and Characteristics. The R-I Residential District is primarily intended to provide for single-family residential areas existing at the time of adoption of this Zoning Code and new single-family development lying

in the Village Corridor between Lowell and Reeseville as shown on the Land Use Planning Map, dated July, 1999. Densities shall not exceed one (1) dwelling unit per two (2) acres of land. Proposed lots shall be served by on-site absorption sanitary sewage disposal systems (septic tanks) and private wells.

(b) Permitted Uses.

- (1) Single-family dwellings and essential services.
- (2) Community living arrangements and day care centers which have a capacity for eight (8) or fewer persons.
- (3) Foster family care.
- (4) Home occupations, professional home offices and residential businesses.

(c) Conditional Uses. The following residential and quasi-residential uses shall be conditional uses and may be permitted as specified:

- (1) Conversion of a single-family dwelling to a two-family dwelling provided that:
 - a. The dwelling being converted was constructed prior to 1960.
 - b. The dwelling shall have a minimum total building area of two thousand four hundred (2,400) square feet.
- (2) Two-family dwelling, provided that:
 - a. The proposed two-family dwelling is architecturally compatible with the character of a single-family residential development typically permitted in the District.
 - b. The proposed two-family dwelling shall have a minimum total building area of two thousand four hundred (2,400) square feet.
- (3) Multi-family residential structure, provided that:
 - a. The proposed multi-family residential structure is architecturally compatible with the character of the District.
 - b. The proposed multi-family structure shall provide a minimum lot area of two (2) acres or ten thousand (10,000) square feet per dwelling unit, whichever is greater.
 - c. The proposed multi-family dwellings shall have a minimum total building area of one thousand (1,000) square feet per dwelling unit.
 - d. The multi-family structure has no more than eight (8) units per building.
- (4) Clubs, lodges, and meeting places of a noncommercial nature, provided all principal structures and uses are:
 - a. Not less than one hundred (100) feet from any lot line.
 - b. Of a compatible use within the rural setting
- (5) Rest homes, nursing homes, homes for the aged, clinics, and children's nurseries, provided all principal structures and uses are not

- less than one hundred (100) feet from any lot line.
- (6) Utilities.
 - (7) Agricultural uses.
 - (8) Dog kennels and horse boarding.
- (d) R-I Site Regulations.
- (1) Lot Width. Minimum seventy-five (75) feet.
 - (2) Lot Area. Minimum two (2) acres; maximum three (3) acres.
 - (3) Building Area. Minimum one thousand two hundred (1,200) square feet.
 - (4) Building Height. Maximum thirty-five (35) feet.
 - (5) Setbacks for Primary Structures.
 - a. Street: Seventy-five (75) feet from center line*
 - b. Side: Twenty-five (25) feet.
 - c. Back: Twenty-five (25) feet.
- * 75' unless otherwise specified due to the highway classification.
- (e) Accessory Uses and Detached Accessory Structures.
- (1) Accessory uses and detached accessory structures are permitted in the rear and side yards only. Such uses and structures shall not exceed twenty (20) feet in height; shall not be closer than twenty-five (25) feet to any side yard; and shall not be closer than twenty-five (25) feet to a rear lot line. Accessory structures shall not be larger than five percent (5%) of the lot size. *Example: If the total property is five (5) acres, the accessory structure cannot be larger than ten thousand eight hundred ninety (10,890) square feet, which is a building of one hundred feet by one hundred eight feet (100' x 108').*
 - (2) Accessory structures shall be of matching materials and color to those of the principal structure and have a similar roof pitch.
- (f) Drainage and On-Site Storm water Management. The following standards shall apply to all development:
- (1) Sewerage facilities for development may consist of any system meeting the requirements of the Wisconsin Department of Commerce for private sewerage systems and the Wisconsin Department of Natural Resources for public sewerage systems. Acceptable systems may include:
 - a. Private, individual on-site systems serving a single lot.
 - b. Public, community systems consisting of dispersed community systems shared by two (2) or more dwellings or centralized systems serving the entire development.
 - (2) Drainage of on-site storm water shall not be in excess of the Storm water which existed before the development.
 - (3) Adequate storm water management shall be provided on-site, i.e., detention or retention ponds.

Sec. 13-1-43 RC-1 Rural Cluster Residential Overlay District.

- (a) Purpose and Characteristics. The RC-1 Rural Cluster Residential Overlay District is primarily intended to provide for the creation and development of individual non-farm residential lots or multiple non-farm residential lots clustered in small groups in order to preserve the rural and natural environment. The RC-1 District is intended to be applied to undeveloped land currently in the AG-1: Agricultural and C-1: Conservancy Districts where the overall densities of such development shall not exceed one (1) dwelling unit per twenty-five (25) acres of land. The RC-1 District cannot be applied to undeveloped land currently in the AE: Agricultural Enterprise or FP: Farmland Preservation Districts.
- (b) Permitted Uses.
- (1) Single-family dwellings and essential services.
 - (2) Community living arrangements and day care centers which have a capacity for eight (8) or fewer persons.
 - (3) Foster family care.
 - (4) Minor Home occupations and professional home offices (see Section 13-1-72).
 - (5) Agricultural activities on non-farm lots limited to:
 - a. The cultivation, harvesting and sale of crops and related farm products.
 - b. The raising and sale of livestock or fowl, with associated pasture and barnyards (subject to the animal unit restrictions in Section 13-1-43(f) herein)
 - c. Orchards, nurseries, greenhouses and related horticultural uses.
 - d. Growing and sale of Christmas trees.
 - (6) Open space uses, primarily passive including:
 - a. Hiking and walking trails, picnic areas and similar uses.
 - b. Conservation of natural areas in their existing state.
 - c. Easements for access, drainage, sewer and water lines or other public purposes.
 - d. Storm water management facilities for the proposed development, including detention and retention ponds.
 - (7) Dog kennels and horse boarding (see Section 13-1-76).
- (c) Conditional Uses.
- (1) Conversion of single-family dwelling to a two-family dwelling, provided that:

- a. The dwelling shall have a minimum total building area of two thousand (2,400) square feet.
- (2) Two-family dwelling, provided that:
 - a. The proposed two-family dwelling is architecturally compatible with the character of a single-family residential development typically permitted in the RC-1 District.
 - b. The proposed two-family dwelling shall have a minimum total building area of two thousand four hundred (2,400) square feet.
- (3) Bed & Breakfast or other similar establishments (see Section 13-1-71).
- (4) Commercial Dog kennels and horse boarding (see Section 13-1-76).
- (5) Utilities (see Section 13-1-73).
- (6) Major Home occupations and professional home offices (see Section 13-1-72).
- (7) Agricultural uses listed under (b)(5) above on parcels less than three (3) acres in area.
- (8) Governmental and cultural uses (see Section 13-1-73)
- (9) Residential lots are allowable on substandard lots if they:
 - a. Were created before the adoption of this Chapter; and
 - b. Are a minimum of one (1) acre.
- (d) RC-1 Site Regulations.
 - (1) Parent Tract Size.
 - a. Minimum twenty-five (25) acres.
 - b. If a parent tract proposed for land division is forty (40) acres or less in size:
 - i. the entire parent tract must be included in the land division document (certified survey map or subdivision plat) and ordinance attaching the RC-1 Overlay District.
 - c. If a parent tract proposed for land division is greater than forty (40) acres:
 - i. only the lot being created is required to be included in the land division document provided that the entire parent tract is included in the zoning ordinance assigning the RC-1 District; and
 - ii. a deed or other legal document restricting the remaining land from further division or development that has been reviewed and approved by the Town Board shall be recorded with the land division document (CSM or plat).

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- (2) Density.
- a. the number of non-farm lots that can be divided from a parent tract (i.e. one "development right") shall be limited to one (1) lot for each twenty-five (25) contiguous acres.
 - b. All land within a parent tract that is currently zoned AG-1 or C-1 can be used in the calculation of the total number of "development rights" for a parent tract.
 - c. If a parent tract contains more than fifty (50) acres, two (2) or more "development rights" may be combined so that one, larger lot may be created and developed. When two or more "development rights" are proposed for combination, the lot being created can be increased up to three (3) additional acres for each "development right" used.
 - d. The number of non-farm lots that can be created from land already located in the RC-1 District was determined at the time the rezoning of such land was approved and is available from the Town.
- (3) Lot Size.
- a. Minimum: Two (2) acres.
 - b. Maximum: Three (3) acres (except that the maximum lot size may be increased up to five (5) acres where the creation of a lot equal or less than three (3) acres would result in the creation of outlots that cannot be logically included as part of the original agricultural land or reasonably used for agricultural purposes, or, in the opinion of the Plan Commission an increase in the maximum lot size will result in a more logical layout or parcel configuration depending on natural boundaries, fence lines, ditches, etc.).
- (4) Lot Location and Layout.
- a. where and when practical, lots should be created from that portion of a parent tract that is less suitable for agricultural uses by virtue of:
 - i. having relatively less productive soils,
 - ii. being wooded, having relatively steeper topography,
 - iii. having an odd shape or limited width due to natural or other fixed boundaries,
 - iv. being located relatively farther away and/or naturally buffered from existing agricultural operations on adjacent land that could adversely affect the proposed residential lot(s) and future residents.
 - b. the configuration and layout of lots should:
 - i. follow existing tree lines, stone fences or similar features;

- ii. preserve such features as a natural buffer between the lot(s) and agricultural uses of adjacent areas
 - iii. accommodate existing buildings and structures with sufficient setback to property lines.

- (5) Transfer of Development Rights.
 - a. The transferring of one or more “development rights” between adjoining and/or non-adjoining parent tracts that are located in the Town of Lowell and under the same or common ownership may be permitted provided that:
 - i. Only “development rights” attached to land currently zoned AG-1 can be transferred (development rights attached to C-1 zoned land is not transferrable);
 - ii. a Transfer of Development Rights (TDR) Agreement affecting both parcels involved in the transfer that is mutually agreed to by the property owner(s) and the Town Board is submitted to and approved by the Town Board and recorded with the CSM or subdivision plat;
 - iii. the Town board agrees that the transfer of development rights and the subsequent development of residential lots is consistent with and furthers the intent of this Ordinance in terms of:
 - 1. preserving natural resources, environmentally sensitive and/or prime agricultural land on the “sending” parcel; and
 - 2. not adversely impacting the adjacent property, natural resources, environmentally sensitive and/or prime agricultural land on the “receiving” parcel.

- (6) Dwelling Unit Area.
 - a. Minimum one thousand two hundred (1,200) square feet.

- (7) Dwelling Unit Height.
 - a. Maximum thirty-five (35) feet.

- (8) Setbacks for Primary Structures.
 - a. Street Yard: Seventy-five (75) feet unless otherwise specified in Section 13-1-24 due to the highway classification whichever is greater.
 - b. Side Yard: Twenty-five (25) feet.
 - c. Rear Yard: Twenty-five (25) feet.

- (e) Accessory Uses and Detached Accessory Structures.
- (1) Residential Lots.
- a. Accessory uses and detached accessory structures:
- i. are permitted in the rear and side yards only.
 - ii. shall not exceed fifteen (15) feet in sidewall height and twenty-five (25) feet in overall height.
 - iii. shall not be closer than twenty-five (25) feet to a rear lot line.
 - iv. shall not be larger than five (5) percent of the lot size in square feet.
 - v. shall be of materials and color which matches those of the principal structure and shall have a similar roof pitch.
- (f) Animal Unit Restrictions. Unless otherwise specifically allowed or restricted as part of a conditional use permit, variance or existing as a legal non-conforming use prior to January 1, 2010, the number of animal units (see "animal unit" definition in Section 13-1-7) allowed to be kept on a non-farm parcel of land shall be limited as follows:
- (1) Non-farm Parcel < 3 acres: One (1) animal unit.
- (2) Non-farm Parcel =>3 acres: Two (2) animal units for the first three (3) acres plus one (1) additional animal unit per each additional acre.
- (3) Farm Parcel: No restriction.
- (g) Cluster Subdivision Design Standards. The following standards shall apply to all cluster groups of five (5) lots or more created by a subdivision:
- (1) Layout.
- a. All dwelling units shall be grouped into cluster groups.
 - b. Cluster groups shall be defined by the outer perimeter of contiguous lot areas or abutting streets and may contain lots, streets, and cluster group open space.
 - c. Clusters shall be a minimum of one hundred (100) feet from another cluster with a significant open space or natural feature creating the separation.
 - d. Clusters shall be defined and separated by common open space in order to provide direct access to common open space and privacy to individual lots.
 - e. Cluster groups containing eight (8) or more dwelling units shall provide internal open space at a minimum of two thousand (2,000) square feet per dwelling unit. This open space may

count toward the overall open space requirement for the development and shall meet the following standards:

- i. The open space shall be configured as a cul-de-sac island, an island within a larger loop or semicircular loop, an island in a boulevard street, or a common green area.
 - ii. The open space shall have a minimum street frontage of one hundred (100) feet.
 - iii. All lots in a cluster group shall abut common open space to the front or rear where common open space across a street shall qualify for this requirement.
 - iv. Disturbance to woodlands, hedgerows, and individual mature trees shall be minimized. However, when the objective is to preserve prime farm land soils and large areas of contiguous land suitable for agricultural use, dwelling units may be located within the woodlands, provided that no more than thirty (30) percent of a single wooded lot is cleared.
- (2) Landscaping.
- a. Preserve existing natural landscape.
 - b. Installation of street trees is required along internal streets within the cluster development. Street trees may be planted, but are not required, along internal streets which pas through common open space.
 - c. Buffers between the cluster development and external streets are required. A planted buffer area at least thirty (30) feet wide shall be established. Planting should occur as follows:
 - i. The landscape screen must include vegetation of a size and type that will disrupt views of residential homes within the cluster from outside of the development.
 - ii. The landscape screen must blend into the natural landscape of the Town.
 - iii. The landscape screen must include a mixture of deciduous and evergreen trees that will provide year-round screening. The Town may consult with a landscape architect or forester in reviewing the landscape plan. The cost of this consultation will be billed to the developer.
 - iv. Retain any existing trees and shrubs and add additional plantings when necessary to obstruct the view between the external street and the cluster development.

- (3) Ownership of Common Facilities and Open Space. The following methods may be used, either individually or in combination, to own common facilities and open space:
- a. Homeowner's Association. Common facilities and open space shall be held in common ownership as undivided proportionate interests by the members of the association (i.e. all lot owners in the development). The homeowner's association shall be governed according to the following:
 - i. The applicant shall provide to the Town a description of the organization, including any bylaws, and all documents governing maintenance requirements and use restrictions for the common areas.
 - ii. Membership in the association shall be mandatory for all purchasers of dwelling units.
 - iii. The members of the association shall share equitably the costs of maintaining and operating the common facilities and open space.
 - iv. The association shall have or hire adequate staff to maintain the common facilities and open space.
 - v. The association is responsible for the maintenance of the common facilities and open space. In the event the association does not maintain the common facilities and open space, the Town may maintain the common properties and assess the association members the cost of doing so as necessary.
 - vi. The association shall hold a conservation easement or deed restriction on the common open space and common facilities to protect them from further land division or development.
 - b. Transfer of Ownership.
 - i. Transfer of easements to a private conservation organization or land trust is acceptable if approved by the Town Board.
 - ii. Ownership may be retained by the original landowner if the Town and residents of the development hold conservation easements on the land protecting it from any further development.
- (4) Sanitary Sewer, and On-site Storm water Management.
- a. Sewerage facilities for cluster development may consist of any system meeting the requirements of the Wisconsin Department of Commerce for private sewerage system and the Wisconsin Department of Natural Resources for public sewerage systems. Acceptable systems may include:

- i. Private individual on-site systems serving a single lot.
 - ii. Public community systems shared by two (2) or more dwelling units or a centralized system serving the entire development.
- b. Adequate storm water management facilities shall be provided as part of all cluster developments as set forth in the Town's storm water management regulations.

Sec. 13-1-44 B-I Commercial/Mixed-Use District.

- (a) Purpose and Characteristics. The B-I Commercial/Mixed-Use District is intended to provide for orderly and attractive business development in appropriate locations along arterial highways in the Town which can provide the necessary infrastructure and services. The B-I Commercial/Mixed-Use District is also intended to provide for business and customer service establishments which serve the convenience and general retail needs of the Town, as well as establishments which are logically related to and dependent upon highway traffic or designed to serve the needs of such traffic. Such business development should provide ample off-street parking and loading areas, safe vehicular access to the arterial highway system, landscape planting screens in areas adjacent to non-business development and, when appropriate, a development character and intensity of use which is compatible with the rural character of the Town.
- (b) Permitted Uses.
- (1) Antique shop.
 - (2) Art gallery.
 - (3) Appliance store.
 - (4) Bakery.
 - (5) Barber shop.
 - (6) Beauty shop.
 - (7) Boutiques and specialty goods store.
 - (8) Business and professional office.
 - (9) Clinic.
 - (10) Clothing store.
 - (11) Coffee shop.
 - (12) Confectionery.
 - (13) Craft store.
 - (14) Crockery store.
 - (15) Delicatessen.
 - (16) Drugstore.
 - (17) Financial institution.

- (18) Florist.
- (19) Fruit store.
- (20) Furniture store.
- (21) Gift store.
- (22) Grocery store.
- (23) Hardware store.
- (24) Health club.
- (25) Laundry and dry cleaning establishments employing not more than seven persons.
- (26) Meat market.
- (27) Newspaper office.
- (28) Music store.
- (29) Office supply and stationary store.
- (30) Optical store.
- (31) Pet shop.
- (32) Photo supply store.
- (33) Printing shop.
- (34) Studios for photography, painting, music, sculpture, dance and other recognized fine arts.
- (35) Sporting goods store.
- (36) Tobacco store.
- (37) Variety store.
- (38) Vegetable store.
- (c) Conditional Uses.
 - (1) Automotive sales and services.
 - (2) Automotive repair shop.
 - (3) Auto and truck rental.
 - (4) Bars and clubs.
 - (5) Drive-in establishments.
 - (6) Driving range.
 - (7) Funeral home.
 - (8) Gas station.
 - (9) Miniature golf.
 - (10) Multi-family apartment.
 - (11) Rifle range.
 - (12) Skating rink.
 - (13) Theater.
 - (14) Construction contracting.
 - (15) Governmental and cultural uses (see Section 13-1-73).
 - (16) Public passenger and transportation terminals (see Section 13-1-73).
 - (17) Public, parochial, and private elementary and secondary schools and churches (see Section 13-1-73).
 - (18) Dog kennels and horse boarding.

- (19) Applicant may request or apply for amendments to add uses to the conditional-use list.
- (d) B-1 Site Regulations.
- (1) Lot Width. Minimum one hundred fifty (150) feet.
 - (2) Lot Area. Minimum one and one-half (1.5) acres.
 - (3) Building Area. Minimum none.
 - (4) Building Height. Maximum thirty-five (35) feet.
 - (5) Setbacks.
 - a. Street: One hundred (100) feet from center line.
 - b. Side: Twenty (20) feet.
 - c. Back: Twenty (20) feet.
- (e) Plans and Specifications to Be Submitted to Plan Commission. The builder of any building hereafter erected or structurally altered in the B-1 Commercial/Mixed-Use District shall, before a building permit is issued, present detailed plans and specification of the proposed structure to the Plan Commission, who will approve said plans only after determining that the proposed building will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or traffic congestion, or otherwise endanger the public health or safety, or substantially diminish or impair, property values within the Town. The Plan Commission's review of the plans and specifications shall be concerned with such items as general site layout and building design, vehicular ingress and egress, off-street parking, loading and unloading and landscape planting plans.
- (f) Landscaping.
- (1) Roadside Edge.
 - a. Landscaping and fencing shall be designed to establish a clear edge along the edge of the site that is visible to motorists and others passing by or viewing the site.
 - b. The only openings or breaks in this edge, or surfaces designed for parking or vehicular movement, shall be those allowed for entries, signage, or other provisions described in these standards.
 - c. The ground surface shall be grass or other planting material unless otherwise noted.
 - d. Edges shall consist of a facade of the building located within, and parallel to the location of the roadside edge (designed in accordance with the architectural regulations) or a row of trees thirty (30) feet to forty (40) feet apart, planted on center, that create a visual rhythm along the edge of the site or one row of such trees plus any of the following:
 - i. A masonry or split-rail fence at least forty-eight (48) inches high with masonry posts at least twenty (20) feet

- on center.
 - ii. An ornamental metal fence at least forty-eight (48) inches high with a coniferous hedge at least thirty-six (36) high planted on one side of the fence. All hedges shall be planted a minimum of twenty-four (24) inches on center.
 - iii. An evergreen hedge or series of continuous shrubs and bushes at least thirty-six (36) inches thick and forty-eight (48) inches high with no open space between plants. All hedges shall be planted a minimum of twenty-four (24) inches on center.
- (2) Roadside Court.
- a. Parking lots should have strong edges to define them as spaces. This can be achieved with building, landscaping, fencing, light fixtures, or combinations of these elements.
 - b. The geometry of parking lots should be orthogonal and parallel to major buildings.
 - c. The parking lot shall be designed as a series of parking areas each separated by significant landscape features. Each individual parking area cannot exceed two hundred (200) feet in width (there is no limitation for length).
- (3) Significant Landscapes.
- a. Create significant landscapes between buildings.
 - b. Include seating areas to encourage the use of the space.
 - c. Landscaping should be grouped together to create a significant place (e.g., groves or gardens) instead of scattered throughout the parking.
 - d. Each significant landscape feature shall be no less than twenty (20) feet wide and no less than two thousand (2,000) square feet in total area.
 - e. The total amount of significant landscaped area shall be no less than one tree for every four (4) parking spaces. Trees and areas planted as part of the roadside edge or side yard edges shall not be included as part of the calculations for significant landscape areas.
 - f. Significant landscape areas less than five thousand (5,000) square feet should have simple geometric forms such as rectangles, ovals, and semi-circles. Connect the landscape to existing landscape in and around the site.
- (4) Encourage Landscaping Continuity.
- a. Landscape plans should use as limited number of tree and shrub species for the edge which are native, low maintenance, resistance to salt, and have a relatively fast

- growth rate. A variety of colors and/or species may be used as design features but should not dominate the simple form of the landscape.
- b. Use a limited number of tree and shrub species for the edge which are native, low maintenance, resistant to salt, and have a relatively fast growth rate.
- (5) Integrate Road Drainage with the Site Design. Allow for proper drainage, but consider options that allow for landscaping near the road edge. Encourage the use of paving systems that allow for easy drainage.
- (g) Drainage and On-Site Storm water Management. The following standards shall apply to all development:
- (1) Sewerage facilities for development may consist of any system meeting the requirements of the Wisconsin Department of Commerce for private sewerage systems and the Wisconsin Department of Natural Resources for public sewerage systems. Acceptable systems may include:
 - a. Private, individual on-site systems serving a single lot.
 - b. Public, community systems consisting of dispersed community systems shared by two (2) or more dwellings or centralized systems serving the entire development.
 - (2) Drainage of on-site storm water shall not be in excess of the storm water which existed before the development.
 - (3) Adequate storm water management shall be provided on-site, i.e., detention or retention ponds.

Sec. 13-1-45 M-I Manufacturing/Industrial District.

- (a) Purpose and Characteristics. The M-I Manufacturing/Industrial District is intended to provide for the orderly development of manufacturing, fabrication or other similar industrial operations, which are appropriate to rural surroundings and not requiring public sewer or water service, nor high weight capacity highways, and which on the basis of actual physical and operational characteristics, would not be detrimental to the surrounding area or to the Town as a whole, by reason of smoke, noise, dust, odor, traffic, physical appearance or other similar factors. Accordingly, the M-I Manufacturing/Industrial District establishes such regulatory controls as will reasonably insure the compatibility of manufacturing development with surrounding areas. All uses in this District must meet all applicable State of Wisconsin industrial standards.
- (b) Permitted Uses.
- (1) Agriculture.

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- (2) Automotive body repairs.
 - (3) Commercial bakeries.
 - (4) Commercial greenhouses.
 - (5) Distributors.
 - (6) Farm machinery.
 - (7) Truck repair facilities and truck or trailer parking.
 - (8) Laboratories.
 - (9) Machine shops.
 - (10) Manufacture and bottling of beverages.
 - (11) Painting.
 - (12) Printing and/or publishing.
 - (13) Storage and sale of machinery and equipment.
 - (14) Trade and contractors' offices.
 - (15) Warehousing for manufacturing, fabrication, packaging, and assembly of products from furs, glass, leather, metals, paper, plaster, plastics, textiles, and wood.
 - (16) Warehousing for manufacturing, fabrication, processing, packaging, and packing of confections, cosmetics, electrical appliances, electronic devices, food, instruments, jewelry, Pharmaceuticals, tobacco, and toiletries, essential services, or similar uses.
- (c) Conditional Uses.
- (1) Airports, aircraft landing fields and hangers.
 - (2) Disposal and recycle areas.
 - (3) Farms operated for the disposal of sewage, rubbish or offal.
 - (4) Mineral extraction, quarrying (see Section 13-1-73).
 - (5) Oil and coal refineries.
 - (6) Sewage treatment facilities.
 - (7) Utilities.
 - (8) Veterinarian services.
 - (9) Airports.
 - (10) Governmental and cultural uses (see Section 13-1-73).
 - (11) Public passenger transportation terminals (see Section 13-1-73).
 - (12) Dog kennels and horse boarding.
- (d) M-I Site Regulations.
- (1) Lot Width. Minimum two hundred (200) feet.
 - (2) Lot Area. Minimum three (3) acres.
 - (3) Building Area. Minimum none.
 - (4) Building Height. Maximum fifty (50) feet.
 - (5) Setbacks.
 - a. Street: One hundred (100) feet from center line.
 - b. Side: Twenty-five (25) feet.
 - c. Back: Fifty (50) feet

- (e) Plans and Specifications to Be Submitted to Plan Commission. The builder of any building hereafter erected or structurally altered in the M-1 Manufacturing/Industrial District shall, before a building permit is issued, present detailed plans and specifications of the proposed structure to the Plan Commission, who will approve said plans only after determining that the proposed building will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or traffic congestion, or otherwise endanger the public health or safety, or substantially diminish or impair property values within the Town. The Plan Commission review of the plans and specifications shall be concerned with such items as general site layout and building design, vehicular ingress and egress, off-street parking, loading and unloading and landscape planting plans.
- (f) Drainage and On-Site Storm water Management. The following standards shall apply to all development:
- (1) Sewerage facilities for development may consist of any system meeting the requirements of the Wisconsin Department of Commerce for private sewerage systems and the Wisconsin Department of Natural Resources for public sewerage systems. Acceptable systems may include:
 - a. Private, individual on-site systems serving a single lot.
 - b. Public, community systems consisting of dispersed community systems shared by two (2) or more dwellings or centralized systems serving the entire development.
 - (2) Drainage of on-site storm water shall not be in excess of the storm water which existed before the development.
 - (3) Adequate storm water management shall be provided on site, i.e., detention or retention ponds.

Sec. 13-1-46 AG-I General Agricultural District.

- (a) Purpose and Characteristics. The AG-I General Agricultural District is intended to provide for, maintain, preserve, and enhance agricultural lands historically utilized for crop production and maintain the existing rural character.
- (b) Permitted Uses.
- (1) Dairy farming (limited to operations with less than 500 animal units; see Section 13-1-7).
 - (2) Floriculture and florists.
 - (3) Forestry.
 - (4) Grazing and pasturing.
 - (5) Greenhouses and plant nurseries.

- (6) Fish Hatcheries.
 - (7) Fur farms.
 - (8) Horticulture.
 - (9) Livestock raising (limited to operations with less than 500 animal units; see Section 13-1-7).
 - (10) Orchards and vineyards.
 - (11) Paddocks and stables.
 - (12) Poultry raising (limited to operations with less than 500 animal units; see Section 13-1-7).
 - (13) Essential services for farming.
 - (14) Single family residences and necessary appurtenant structures on any operating farm for occupancy by those employed in connection with the farm operation and their families.
 - (15) Minor Home occupations and professional home offices (see Section 13-1-72).
- (c) Conditional Uses.
- (1) Aircraft landing fields and hangars (see Section 13-1-73).
 - (2) Commercial greenhouse, landscape and nursery business.
 - (3) Sanitary landfill that serves the needs of Town residents.
 - (4) Duplexes (two-family dwellings) subject to the provisions of the RC-1 district.
 - (5) Farm machinery repair businesses.
 - (6) Governmental and cultural uses (see Section 13-1-73).
 - (7) Utilities (see Section 13-1-73).
 - (8) Gravel pits and quarries, but not including the manufacture of products other than the production of crushed stone, gravel or sand (see Section 13-1-74).
 - (9) Dog kennels and horse boarding (see Section 13-1-76).
 - (10) Major Home occupations and professional home offices (see Section 13-1-72).
 - (11) Landscape contracting.
 - (12) Storing, manufacturing and sale of explosives (limited to such uses existing as of January 1, 2009 and which are deemed to be non-conforming uses subject to Section 13-1-80).
 - (13) Agricultural and other compatible uses of existing farm structures.
 - (14) Farmettes (see Section 13-1-46(f)).
 - (15) Agricultural operations listed as permitted or conditional uses on substandard lots existing prior to the adoption of this ordinance.
 - (16) Rifle/shotgun ranges.
- (d) AG-1 Site Regulations (Principal Structure).
- (1) Lot Width.
 - a. Minimum: Two hundred fifty (250) feet.

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- (2) Lot Size.
 - a. Minimum: Thirty-Five (35) acres. (except lots created under the provisions of the RC-1 Rural Cluster Overlay District).
 - (3) Agriculture Structure Height.
 - a. Maximum: None.
 - (4) Residential Structure Height.
 - a. Maximum: Thirty-five (35) feet.
 - (5) Setbacks for Primary Agricultural Structures.
 - a. Street Yard: Seventy-five (75) feet unless otherwise specified in Section 13-1-24 due to the highway classification whichever is greater.
 - b. Side Yard: Twenty-five (25) feet.
 - c. Rear Yard: Twenty-five (25) feet.
 - (6) Setbacks for Secondary Agricultural Structures (non residential).
 - a. Street Yard: Seventy-five (75) feet unless otherwise specified in Section 13-1-24 due to the highway classification whichever is greater.
 - b. Side Yard: Seventy-five (75) feet.
 - c. Rear Yard: Seventy-five (75) feet.
- (e) Farmette Regulations. A farmette is a small farm containing pre-existing farm buildings that is at least five (5) acres in size created by a land division usually because of a farm consolidation. A farmette is intended to be used for hobby farm or other small-scale agricultural uses.
- (1) Lot Size.
 - a. Minimum: Five (5) acres.
 - b. Maximum: to be determined by the Plan Commission but not to exceed fifteen (15) acres based on the suitability of the land and existing buildings for the intended use and the required setbacks surrounding the existing buildings deemed necessary by the Plan Commission to buffer adjacent uses and parcels.
 - (2) Lot Width.
 - a. Minimum: None.
 - (3) Agriculture Structure Height.
 - a. Minimum: None.
 - (4) Residential Structure Height.
 - a. Maximum: Thirty-five (35) feet.
 - (5) Minimum Setbacks.
 - a. Street Yard: Seventy-five (75) feet unless otherwise specified in Section 13-1-24 due to the highway classification whichever is greater.

- b. Side Yard: Twenty-five (25) feet.
 - c. Rear Yard: Twenty-five (25) feet.
- (f) Animal Unit Restrictions. Unless otherwise specifically allowed or restricted as part of a conditional use permit, variance or previously existing as a legal non-conforming use prior to January 1, 2010, the number of animal units (see "animal unit" definition in Section 13-1-7) allowed to be kept on a parcel of land shall be limited as follows:
- (1) Parcel \leq 3 acres: One (1) animal unit.
 - (2) Parcel 3 to 15 acres: One (1) animal unit for the first three (3) acres plus one (1) additional animal unit per each additional acre.
 - (3) Parcel $>$ 15 acres: No limit.

Sec. 13-1-47 C-I Conservancy Overlay District.

- (a) Purpose and Characteristics. The C-I Conservancy Overlay District is intended to be used to prevent destruction of valuable natural or man-made resources and to protect watercourses and areas that are not adequately drained, or which are subject to periodic flooding, where development would result in hazards to health or safety, or would deplete or destroy natural resources or be otherwise incompatible with the public welfare. The District includes county-designated primary environmental corridors. The C-I District provides for additional uses which are not permitted in the underlying districts but also sets forth additional regulations.
- (b) Permitted Uses.
- (1) Hiking, fishing, trapping, hunting, swimming, and boating, unless prohibited by other ordinances or laws.
 - (2) Harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops and that does not involve filling, flooding, draining, dredging, ditching, tiling, or excavating.
 - (3) Silviculture, including the planting, thinning, and harvesting of timber.
 - (4) Pasturing of livestock and the construction and maintenance of fences, provided that no filling, flooding, draining, dredging, ditching, tiling, or excavating is done.
 - (5) Cultivation of agricultural crops if cultivation can be accomplished without filling, flooding, or artificial drainage of the wetland through ditching, tiling, dredging or excavating except that flooding, dike and dam construction, and ditching shall be allowed for the purpose of growing and harvesting cranberries.
 - (6) Ditching, tiling, dredging, excavating, or filling done to maintain or repair an existing agricultural drainage system only to the extent necessary to maintain the level of drainage required to continue the existing agricultural use.
 - (7) Construction and maintenance of piers, docks, walkways, observation decks, and trail bridges, including those buildings on pilings, provided that no filling, flooding, dredging, draining, ditching, tiling, or excavating is done, except limited filling for access ramps.
 - (8) Maintenance, repair, replacement, and construction of existing streets, roads, highways, and bridges.
- (c) Conditional Uses. The following public and private recreational facilities shall be conditional uses and may be permitted as specified (provided that the lot area is not less than three (3) acres and all structures are not

less than fifty (50) feet from any district boundary):

- (1) Archery ranges.
 - (2) Boating.
 - (3) Camps.
 - (4) Conservatories.
 - (5) Utilities (see Section 13-1-73).
 - (6) See Section 13-1-75.
 - (7) Rifle/shotgun ranges.
 - (8) Other agricultural use as approved by the Plan Commission that does not significantly destroy or negatively impact the environment and does not include structures in county-designated floodplains.
- (d) Structures Prohibited. No structures shall be placed or moved onto lands lying in the C-I District, except structures not exceeding an area of five hundred (500) square feet which are accessory to principal or conditional uses. Habitable buildings or structures used for dwelling purposes are prohibited.
- (e) Filling and Draining Improvements Prohibited. Except as otherwise provided in this Section, filling, flooding, draining, dredging, ditching, tiling or excavating is prohibited in the C-I District.
- (f) Incompatible Uses Prohibited. No on-site soil absorption sanitary sewage system, holding tank, or private well used to obtain water for ultimate human consumption shall be constructed in the C-I District.

Sec. 13-1-48 P-I Park District.

- (a) Purpose and Characteristics. The Park District is intended to provide for areas where the recreational needs, both public and private, of the populace can be met without undue disturbance of natural resources and adjacent uses.
- (b) Permitted Uses.
- (1) Public and private parks for passive use.
 - (2) Arboretum.
 - (3) Playgrounds.
 - (4) Fishing.
 - (5) Swimming beaches.
 - (6) Skating.
 - (7) Sledding.
 - (8) Skiing.
 - (9) Sustained yield forestry.
 - (10) Wildlife preserves.
 - (11) Soil and water conservation.
 - (12) Water measurement.

- (13) Water control facilities and essential services.
- (c) Conditional Uses. The following public and private recreational uses shall be conditional uses and may be permitted as specified:
- (1) Archery ranges.
 - (2) Boating.
 - (3) Camps.
 - (4) Conservatories.
 - (5) Driving ranges.
 - (6) Golf courses.
 - (7) Hunting.
 - (8) Ice skating rinks.
 - (9) Sporting fields.
 - (10) Swimming pools, provided that the lot area is not less than three (3) acres and all structures are not less than fifty (50) from any District boundary.

13-1-49 AE Agricultural Enterprise District.

- (a) Purpose and Characteristics. The AE Agriculture Enterprise District is intended to preserve and promote a full range of agricultural uses, secure land for livestock production and other agricultural uses that may be more intensive than crop production. The AE District is intended to implement the requirements of and be consistent with Wisconsin's Livestock Facility Siting Law established in Wis. Stats. 93.90 and Wis. Admin. Code ATP 51. The AE District is intended to implement applicable 2020 Comprehensive Plan goals, objectives and policies by encouraging livestock and other agricultural uses in areas where conditions are best suited for these agricultural uses and discourage non-farm residential development to avoid potential land use conflicts. The AE district is generally compatible with the "Agricultural" areas designated on the Future Land Use Plan Map in the 2020 Comprehensive Plan. Due to the more intensive nature of uses allowed, the AE district is not intended to be applied within the "Agricultural Transition" areas designated on the Future Land Use Plan Map in the 2020 Comprehensive Plan.
- (b) Permitted Uses.
- (1) General Agricultural uses, including: floriculture, forestry, grazing and pasturing, greenhouses, florists, plant nurseries, orchards, hatcheries, horticulture, viticulture.
 - (2) Livestock facilities with less than 500 animal units; see Section 13-1-__.
 - (3) Paddocks and stables.

- (4) Single-family residences and accessory structures thereto for occupancy by those employed in connection with the agricultural operation and their families.
 - (5) Minor Home occupations and professional home offices (see Section 13-1-72).
- (c) Conditional Uses.
- (1) Aircraft landing fields and hangars (see Section 13-1-73).
 - (2) Livestock facilities and animal confinement facilities with more than 500 animal units (see Section 13-1-73).
 - (3) Commercial greenhouse, landscape and nursery business.
 - (4) Sanitary landfill that serves the needs of Town residents.
 - (5) Governmental and cultural uses (see Section 13-1-73).
 - (6) Utilities (see Section 13-1-73).
 - (7) Rifle/shotgun ranges.
 - (8) Gravel pits and quarries, but not including the manufacture of products other than the production of crushed stone, gravel or sand (see Section 13-1-74).
 - (9) Major Home occupations and professional home offices (see Section 13-1-72).
 - (10) Agricultural operations listed or permitted as conditional uses herein on substandard lots in existence prior to the adoption of this ordinance.
- (d) AE Site Regulations.
- (1) Lot Size.
 - a. Minimum: One Hundred (100) acres.
 - (2) Lot Width.
 - a. Minimum: One Thousand Three Hundred Twenty (1,320) feet.
 - (3) Agriculture Structure Height.
 - a. Maximum: One hundred (100) feet.
 - (4) Non-Agricultural Structure Height.
 - a. Maximum: Thirty-five (35) feet.
 - (5) Setbacks for Primary Structures except for Livestock Facilities and Waste Storage Structures serving Livestock Facilities.
 - a. Street Yard: Seventy-five (75) feet.
 - b. Side Yard: Twenty-five (25) feet.
 - c. Rear Yard: Twenty-five (25) feet.
 - (6) Setbacks for Livestock Facilities.
 - a. < 1,000 animal units:
 - i. (100) feet from property lines
 - ii. (100) feet from rights-of-way

- b. => 1,000 animal units:
 - i. (200) feet from all property lines
 - ii. (150) feet from rights-of-way

- (7) Setbacks for Waste Storage Structures serving Livestock Facilities.
 - a. All property lines: Three hundred-fifty (350) feet.
 - b. Rights-of-way: Three hundred-fifty (350) feet.

NOTE: The setback requirements under (6) and (7) above do not prevent the use or expansion of a livestock facility or waste storage structure that was located within the setback area prior to the effective date of this ordinance, except that a structure may not be expanded closer to the property line and/or right-of-way.

- (8) Water quality and related setbacks
 - a. Navigable Waters and Wetlands
 - i. A livestock facility shall comply with setback and related requirements in any applicable shoreland or wetland zoning ordinances enacted within the scope of authority granted under s. 59.692, 61.351 or 62.231, Stats.
 - b. Floodplain
 - i. A livestock facility shall comply with setback and related requirements in any applicable floodplain zoning ordinance that is enacted within the scope of statutory authority under s. 87.30, Stats.

- c. Wells
 - i. All wells located within in a livestock facility shall comply with Wis. Admin. Code NR 811 and NR 812. New or substantially altered livestock structures shall be separated from existing wells by the distances required in NR 811 and 812, regardless of whether the livestock facility operator owns the land on which the wells are located. A livestock structure in existence on May 1, 2006 may be altered as long as the alteration does not reduce the distance between the livestock structure and an existing well.
- (e) Supplemental Conditional Use Permit Application Requirements & Review Procedures for Livestock Facilities
- (1) Permits Required.
 - a. A permit is required for a new livestock facility if the number of animal units kept at the facility exceeds five hundred (500).
 - b. A permit is required for the expansion of a pre-existing or previously approved livestock facility if the number of animal units kept at the expanded livestock facility will exceed all of the following:
 - i. Five hundred (500) animal units.
 - ii. The maximum number previously approved or, if no maximum number was previously approved, a number that is 20% higher than the number kept on May 1, 2006, or on the effective date of the permit requirement, whichever date is later
 - c. A permit is not required for livestock facility that existed before May 1, 2006 or before the effective date of the permit requirement in this ordinance (except as provided in sub. b).
 - d. A permit is not required for livestock facility that was previously issued a conditional use permit or other local approval (except as provided in sub. b). A prior approval for the construction of a livestock facility implies approval for the maximum number of animal units that the approved livestock facility was reasonably designed to house, except as otherwise clearly provided in the approval. Prior approval of a single livestock structure, such as a waste storage structure, does not constitute prior approval of an entire livestock facility.
 - (2) Application Procedure
 - a. A livestock operator must complete the application and worksheets prescribed by ATCP 51, including any authorized

- local modifications. The application requirements specified in ATCP 51, Wis. Adm. Code are incorporated by reference, without reproducing them in full. The application form and worksheets establish compliance with the standards in ATCP 51 and this ordinance.
- b. The operator must file four (4) duplicate copies of the application form, including all worksheets, maps and documents (other than engineering design specifications) included in the application.
- (3) Application Fee
 - a. A non-refundable application fee of \$1,000 shall accompany each application.
 - (4) Application Review Procedure
 - a. Within 45 days after the Town receives an application, it shall notify the applicant whether the application is complete. If the application is not complete, the notice shall describe the additional information needed. Within 14 days after the applicant provides all of the required information, the Town shall notify the applicant that the application is complete. This notice does not constitute an approval of the proposed livestock facility.
 - b. Within 14 days after the Town notifies an applicant that the application is complete, the Town shall notify adjacent landowners of the application. The Town shall use the approved notice form in ATCP 51, and mail a written notice to each adjacent landowner.
 - c. The Town shall grant or deny an application within 90 days after the notice of a complete application is provided as required by b. above. The Town may extend this time limit for good cause, including any of the following:
 - i. The Town needs additional information to act on the application.
 - ii. The applicant materially modifies the application or agrees to an extension.
 - iii. 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.
 - d. Public Hearing
 - i. The Town may schedule public hearing on the application within 90 days after issuing notice of a complete application.
 - (5) Standards

- a. The standards for issuing a permit are as follows:
 - i. The state livestock facility siting standards adopted under ATCP 51, Wis. Adm. Code. These standards are incorporated by reference, without reproducing them in full.
 - ii. Setbacks established by this ordinance.
- (6) Criteria for Issuance of a Permit
- a. A permit shall issue if the application for the proposed livestock facility contains sufficient credible information to show, in the absence of clear and convincing information to the contrary, that the proposed livestock facility meets the standards specified in this ordinance.
 - b. A permit may be denied if any of the following apply:
 - i. The application, on its face, fails to meet the standard for approval.
 - ii. 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.
 - iii. Other grounds authorized by s. 93.90, Wis. Stats., that warrant disapproving the proposed livestock facility.
 - c. No conditions may be imposed on permit other than standards provided herein.
- (7) Record of Decision
- a. The Town shall issue its decision in writing. Its decision shall be based on written findings of fact supported by evidence in the record.
 - b. In the event that a permit is approved, the applicant shall receive a duplicate copy of the approved application, marked "approved." The duplicate copy must include worksheets, maps and other documents (other than engineering specifications) included in the application.
- (8) Notice to the Department
- a. The clerk as required by ATCP 51.36 within 30 days of the town/county decision on the application shall do all of the following:
 - i. Give the Department of Agriculture, Trade and Consumer Protection written notice of the Town's decision.
 - ii. File with the Department a copy of the final application granted or denied, if the town/county has granted or denied an application under this ordinance. (The copy shall include all of the worksheets, maps and other

- attachments included in the application, except that it is not required to include the engineering design specifications.)
- iii. If the Town has withdrawn a local approval under this ordinance, file with the department a copy of the town/county final notice or order withdrawing the local approval.
- (9) Expiration of Permit
- a. A permit remains in effect regardless of the amount of time that elapses before the livestock operator exercises the authority granted under permit, and regardless of whether the livestock operator exercises the full authority granted by the approval. However, the political subdivision may treat a permit as lapsed and withdraw the permit if the permit holder fails to do all of the following within 2 years after issuance of permit:
 - i. Begin populating the new or expanded livestock facility.
 - ii. Begin constructing all of the new or expanded livestock housing or waste storage structures proposed in the permit application.
- (10) Permit modifications
- a. The operator may make reasonable changes that maintain compliance with the standards in this ordinance, and the Town shall not withhold authorization for those changes.
- (11) Compliance Monitoring
- a. The Town shall monitor compliance with the ordinance as follows:
 - i. Upon notice to the livestock facility owner request the right of the Town to personally view the permitted facility at a reasonable time and date to insure that all commitments of the application as approved are being complied with.
 - ii. If the livestock facility owner refuses the Town the right to view the permitted facility, the Town may request the assistance of the Dodge County Sheriff or a deputy Sheriff to obtain an inspection warrant from the circuit court to inspect the permitted facility for the purpose of protection of the public health and safety under Sec. 66.0119 of Wis. Statutes.
 - iii. If a permitted facility 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 of the commitments of the approved application and be complied with in a reasonable amount of time stated in this written notice.
- iv. If non-compliance of the permit conditions as described in the written notice given by the Town continue past the stated reasonable time to comply, the Town may take further action as provided in this ordinance, including but not limited to issuance of a citation or seeking of injunctive relief.
 - v. If the livestock facility owner disputes that the conditions of the permit have not been complied with, the livestock facility owner may request a hearing in writing within five days of receipt of the notice of noncompliance. The Town shall schedule a hearing within five days to determine if the conditions of the permit have been complied with or whether non-compliance of the commitments of the approved application and local approval exists.
- (12) Terms of the Permit
- a. A permit and the privileges granted by a permit issued under this ordinance is conditioned on the livestock operator's compliance with the standards in this ordinance, and with commitments made in the application for a permit. The Town is authorized suspend a permit or seek other redress provided in this ordinance for non-compliance.
- (13) Transferability
- a. A permit and the privileges granted by the permit run with land, and remain in effect, despite a change in ownership of the livestock facility, as long as the new operator does not violate the terms of the local approval. An applicant may record with the register of deeds, at the applicant's expense, the duplicate copy of the approved application. Upon change of ownership of the livestock facility, the new owner of the facility shall file information with the Town providing pertinent information, including but not limited to such information as the name and address of the new owner and date of transfer of ownership.
- (f) Definitions. For purposes of administering this section the following definitions shall apply:

- (1) "Adjacent" means located on land parcels that touch each other, or on land parcels that are separated only by a river, stream, or transportation or utility right-of-way.
- (2) "Agriculture, Animal" means the use of land for animal feeding operations, including areas for the storage, treatment and disposal of manure and other related waste products.
- (3) "Agriculture, Crop" means the use of land for the production of row crops, field crops, tree crops, timber, bees, apiary productions, and fur-bearing mammals.
- (4) "Agricultural use" means beekeeping; commercial feedlots; dairying; egg production; floriculture; fish or fur farming; forest and game management; grazing; livestock raising; orchards; plant greenhouses and nurseries; poultry raising; raising of grain, grass, mint and seed crops; raising of fruits, nuts and berries; sod farming; and vegetable raising.
- (5) "Agriculturally Related Residence" means a residence which are occupied by (1) a person who, or a family at least one member of which, earns a substantial part of his or her livelihood from farm operations on the land, or (2) a parent or child of the owner of the farm.
- (6) "Agricultural Processing and Packaging" means an establishment primarily engaged in refining, processing or otherwise adding value to raw agricultural goods, including but not limited to washing, sorting, cutting, bagging, freezing, canning, packing, bottling or butchering.
- (7) "Agricultural Research and Development" means the use of land or buildings for agriculture research and the cultivation of new agricultural products.
- (8) "Agricultural Sales and Service" means an establishment primarily engaged in (1) the sale or rental of farm tools and implements, feed and grain, tack, animal care products, farm supplies and the like, or (2) performing agricultural or horticultural services on a fee or contract basis, including but not limited to crop dusting and spraying services, harvesting and plowing services, agricultural land grading services, farm equipment service and repair, and large animal veterinary services.
- (9) "Agricultural Storage" means grain elevators and other facilities for the warehousing and storage of agricultural products.
- (10) "Animal Unit" means a unit of measure used to determine the total number of single animal types or combination of animal types, as specified in s. NR 243.11, Wisconsin Administrative Code, which are fed, confined, maintained or stabled in an animal feeding operation. The total number of animal units for a given type of

animal shall be calculated by multiplying the number of animals for each animal type by the appropriate equivalency factor from the following table, and summing the products. The number of combined animal units shall be the sum of the number of animal units for each animal type. For animal types not listed in the following table, the equivalency to animal units shall be based on live animal weights. In these cases, 1,000 pounds of live weight is equivalent to one animal unit.

| Animal Unit Calculation Table | | |
|---------------------------------------|---|---------------------------|
| Number Equivalent to 500 Animal Units | | |
| Number Equivalent to 500 Units | Animal Type | Animal Equivalency Factor |
| Dairy Cattle: | | |
| 350 | Milking and Dry Cows | 1.4 |
| 455 | Heifers (800 to 1200 lbs) | 1.1 |
| 835 | Heifers (400 to 800 lbs) | 0.6 |
| 2500 | Calves (under 400 lbs) | 0.2 |
| Beef Cattle: | | |
| 500 | Steers or Cows (600 lbs to Mkt.) | 1.0 |
| 1000 | Calves (under 600 lbs) | 0.5 |
| 350 | Bulls | 1.4 |
| Swine: | | |
| 1250 | Pigs (55 lbs to Mkt.) | 0.4 |
| 5000 | Pigs (up to 55 lbs) | 0.1 |
| 1250 | Sows | 0.4 |
| 1000 | Boars | 0.5 |
| Sheep: | | |
| 5000 | Per Animal | 0.1 |
| Horses: | | |
| 250 | Per Animal | 2.0 |
| Ducks: | | |
| 2500 | Per Bird (Wet Lot) | 0.2 |
| 50000 | Per Bird (Dry Lot) | 0.01 |
| Chickens: | | |
| 50000 | Layers | 0.01 |
| 100000 | Broilers | 0.005 |
| 50000 | Broilers (continuous over flow watering) | 0.01 |
| 15000 | Layers or Broilers (Liquid Manure System) | 0.033 |
| Turkeys: | | |
| 27500 | Per Bird | 0.018 |

- (11) "Complete application for local approval" means an application that contains everything required under ss. ATCP 51.30(1) to (4).
- (12) "Department" means the Department of Agriculture, Trade, and Consumer Protection.

- (13) "Expanded livestock facility" means the entire livestock facility that is created by the expansion, after May 1, 2006.
- (14) "Expanded livestock facility" includes all livestock structures in the expanded facility, regardless of whether those structures are new, existing or altered.
- (15) **NOTE:** This chapter applies to local approvals of *new or expanded* livestock facilities that will have 500 or more animal units. Although this chapter covers all livestock structures in an "expanded livestock facility," existing structures are subject to less rigorous standards than new or expanded structures, and are completely exempt from certain requirements.
- (16) "Expansion" means an increase in the largest number of animal units kept at a livestock facility on at least 90 days in any 12-month period. The acquisition of an existing livestock facility, by the operator of an adjacent livestock facility, does not constitute an "expansion" unless that operator increases the largest number of animal units kept at the combined livestock facilities on at least 90 days in any 12-month period.
- (17) "Livestock" means domestic animals traditionally used in this state in the production of food, fiber or other animal products. "Livestock" includes cattle, swine, poultry, sheep and goats. "Livestock" does not include equine animals, bison, farm-raised deer, fish, captive game birds, ratites, camelids or mink.
- (18) "Livestock facility" means a feedlot, dairy farm or other operation where livestock are or will be fed, confined, maintained or stabled for a total of 45 days or more in any 12-month period. A "livestock facility" includes all of the tax parcels of land on which the facility is located, but does not include a pasture or winter grazing area. Related livestock facilities are collectively treated as a single "livestock facility" for purposes of this chapter, except that an operator may elect to treat a separate species facility as a separate "livestock facility."
- (19) "Livestock structure" means a building or other structure used to house or feed livestock, to confine livestock for milking, to confine livestock for feeding other than grazing, to store livestock feed, or to collect or store waste generated at a livestock facility.
- (20) "Livestock structure" includes a barn, milking parlor, feed storage facility, feeding facility, animal lot or waste storage facility. "Livestock structure" does not include a pasture or winter grazing area, a fence surrounding a pasture or winter grazing area, a livestock watering or feeding facility in a pasture or winter grazing area, or a machine shed or like facility that is not used for livestock.

- (21) "Navigable waters" has the meaning given in s. 30.01(4m), Wis. Stats.
- (22) "New livestock facility" means a livestock facility that will be used as a livestock facility for the first time, or for the first time in at least 5 years. "New livestock facility" does not include an expanded livestock facility if any portion of that facility has been used as a livestock facility in the preceding 5 years.
- (23) "Operator" means a person who applies for or holds a local approval for a livestock facility.
- (24) "Person" means an individual, corporation, partnership, cooperative, limited liability company, trust or other legal entity.
- (25) "Populate" means to add animal units for which a permit or other local approval is required.
- (26) "Property line" means a line that separates parcels of land owned by different persons.
- (27) "Qualified nutrient management planner" means a person qualified under s. ATCP 50.48.
- (28) "Related livestock facilities" means livestock facilities that are owned or managed by the same person, and related to each other in at least one of the following ways:
- a. They are located on the same tax parcel or adjacent tax parcels of land.
 - i. **NOTE:** A mere acquisition of a neighboring livestock facility does not constitute an "expansion" unless more animal units are added to the combined facilities.
 - b. They use one or more of the same livestock structures to collect or store manure.
 - c. At least a portion of their manure is applied to the same land spreading acreage.
 - i. **NOTE:** Compare definition of "animal feeding operation" under s. NR 243.03(2). "Related livestock facilities" are treated as a single livestock facility for purposes of local approval, except that a "separate species facility" may be treated as a separate livestock facility.
- (29) "Separate species facility" means a livestock facility that meets all of the following criteria:
- a. It has only one of the following types of livestock, and that type of livestock is not kept on any other livestock facility to which the separate species facility is related (see definition of a "related livestock facility"):
 - i. Cattle.
 - ii. Swine.

- iii. Poultry.
 - iv. Sheep.
 - v. Goats.
 - b. It has no more than 500 animal units.
 - c. Its livestock housing and manure storage structures, if any, are separate from the livestock housing and manure storage structures used by livestock facilities to which it is related.
 - d. It meets one of the following criteria:
 - i. Its livestock housing and manure storage structures, if any, are located at least 750 feet from the nearest livestock housing or manure storage structure used by a livestock facility to which it is related.
 - ii. It and the other livestock facilities to which it is related have a combined total of fewer than 1,000 animal units.
- (30) "Roadside Stand" means a building or part of a building no more than 500 square feet used for the retail sale of agricultural and related incidental products, excluding livestock, produced on the farm where the stand is located.
- (31) "Stable, Commercial" means a building or land where horses are kept for remuneration, hire, sale, boarding, riding, or show.
- (32) "Signage" mean outdoor advertising attached to, made a part of, or placed in front, rear, sides, or top of any structure or on any land to announce the name or nature of a farm business including a roadside stand. Signs are limited to 8 square feet of panel area, not to exceed eight feet (8') in height above grade, unlighted.
- (33) "Single Family Residence" means the principal use of a lot only for one dwelling unit.
- (34) "Value Added Agriculture" means a small commercial, manufacturing or service operation, which is accessory to an agricultural use. Examples of value added agriculture include small scale food processing, handcrafting, product packaging and marketing, and agricultural tourism. These farm-based activities cannot exceed a certain size and scale, but may involve new structures. Additional permits and licenses may be required to carry on these activities.
- (35) "Waste" means manure, milking center waste and other organic waste generated by a livestock facility.
- (36) "Waste storage facility" means one or more waste storage structures. "Waste storage facility" includes stationary equipment and piping used to load or unload a waste storage structure if the equipment is specifically designed for that purpose and is an

- integral part of the facility. "Waste storage facility" does not include equipment used to apply waste to land.
- (37) "Waste storage structure" means a waste storage impoundment made by constructing embankments, excavating a pit or dugout, or fabricating a structure. "Waste storage structure" does not include equipment used to apply waste to land. For purposes of ATCP 51.12(2) and 51.14, "waste storage structure" does not include any of the following:
- a. A structure used to collect and store waste under a livestock housing facility.
 - b. A manure digester consisting of a sealed structure in which manure is subjected to managed biological decomposition.
- (38) "Winter grazing area" means cropland or pasture where livestock feed on dormant vegetation or crop residue, with or without supplementary feed, during the period October 1 to April 30.
- (39) "Winter grazing area" does not include any of the following:
- a. An area, other than a pasture, where livestock are kept during the period from May 1 to September 30.
 - b. An area which at any time has an average of more than 4 livestock animal units per acre.
 - c. An area from which livestock have unrestricted access to navigable waters of the state, such that the livestock access prevents adequate vegetative cover on banks adjoining the water.
 - d. An area in which manure deposited by livestock causes nutrient levels to exceed standards in ATCP 51.16.
- (40) "WPDES permit" means a Wisconsin pollutant discharge elimination system permit issued by DNR under NR 243.

Sec. 13-1-50 through Sec. 13-1-59 Reserved for Future Use.

Article D: Conditional Uses

Sec. 13-1-60 Statement of Purpose.

- (a) For the purpose of this Chapter, the conditional use permit is a flexible device designed to cope with situations where a particular use, although no inherently inconsistent with the use classification of a particular district, could create special problems and hazards if allowed to develop and locate as a matter of right and therefore is in need of special consideration. Often the effects of these uses on the surrounding environment cannot be foreseen until a specific site has been proposed. The nature, character or circumstances of these uses are so unique or do dependent upon specific contemporary conditions that predetermination of permissibility by right or the detailing in the Zoning Code of all of the specific standards, regulations or conditions necessary or appropriate to such permissibility is not practicable.
- (b) The development and execution of this Article is based upon the division of the Town of Lowell into districts, within which districts the use of land and buildings, and bulk and location of buildings and structures in relation to the land, are mutually compatible and substantially uniform. However, there are certain uses which, because of their unique characteristics, cannot be properly classified as unrestricted permitted uses in any particular district or districts, without consideration, in each case, of the impact of those uses upon neighboring land or public facilities, and of the public need for the particular use of a particular location. Such uses, nevertheless, may be necessary or desirable to be allowed in a particular district provided that due consideration is given to location, development and operation of such uses. Such uses are classified as conditional uses.

Sec. 13-1-61 Authority of the Plan Commission and Town Board; Requirements.

- (a) The Town Board hereby authorizes the Zoning Administrator to issue a conditional use permit after review, public hearing, and recommendation from the Plan Commission, and approval from the Town Board, provided that such conditional use and involved structure(s) are found to be in accordance with the purpose and intent of this Zoning Code and are further found to be not hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or the community. Such Town Board and Plan Commission action, and the resulting conditional use permit shall specify the period of time for which effective, if specified, the name of the permittee, the location and legal

description of the affected premises. Prior to the granting of a conditional use, the Town Board and Plan Commission shall make findings based upon the evidence presented that the standards herein prescribed are being complied with.

- (b) Any development within five hundred (500) feet of the existing or proposed rights-of-way of freeways, expressways and within one-half (1/2) mile of their existing or proposed interchange or turning lane rights-of-way shall be specifically reviewed by the highway agency that has jurisdiction over the traffic way. The Town Board or Plan Commission shall request such review and await the highway agency's recommendation for a period not to exceed twenty (20) days before taking final action.
- (c) Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operation control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or parking requirements may be required by the Town Board upon its finding that these are necessary to fulfill the purpose and intent of this Chapter.
- (d) Compliance with all other provisions of this Chapter, such as lot width and area, yards, height, parking, loading, traffic, highway access and performance standards shall be required of all conditional uses.

Sec. 13-1-62 Initiation of Conditional Use.

Any person, firm, corporation or organization having a freehold interest or a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest, or an exclusive possessory interest, and which is specifically enforceable in the land for which a conditional use is sought may file an application to use such land for one (1) or more of the conditional uses provided for in this Article in the zoning district in which such land is located.

Sec. 13-1-63 Application for Conditional Use.

- (a) Application. Upon payment of fees prescribed by Section 1-3-1, applications for conditional use permits shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator or designee and shall include the following:
 - (1) Name and address of the applicant, owner of the site, architect, professional engineer, contractor, and all opposite and abutting property owners of record.
 - (2) Description of the subject site by lot, block, and recorded subdivision or by metes and bounds; address of the subject site;

- type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
- (3) Plat of survey prepared by registered land surveyor, or where deemed appropriate by the Zoning Administrator, a location sketch drawn to scale. The scale shall not be smaller than 1" = 50'. The plat or sketch shall show all the information required for a zoning permit.
 - (4) Proposed water and sanitary survey plan, showing the location of any private well, if municipal water service is not available. Site plan shall illustrate sanitary sewer systems, including distance from proposed and existing buildings.
- (b) Standards Statement. An application for a conditional use shall be filed on a form prescribed by the Town, with the required fee payment. The application shall include a statement in writing by the applicant and adequate evidence showing that the proposed conditional use shall conform to the standards set forth in Section 13-1-66 hereinafter.
- (c) Additional Information. The Town Board, Plan Commission or Zoning Administrator (or designee) may require such other information as may be necessary to determine and provide for an enforcement of this Chapter, including a plan showing contours and soil types; high-water mark and groundwater conditions; bedrock, vegetative cover, specifications for areas of proposed filling, grading, and lagooning; location of buildings, parking areas, traffic access, driveways, walkways, open spaces and landscaping; plans of buildings, sewage disposal facilities, water supply systems and arrangements of operations.

Sec. 13-1-64 Hearing on Application.

All requests for conditional uses shall be applied for with the Zoning Administrator, or the Town Board or Plan Commission can, on its own motion, apply conditional uses when applications for rezoning come before it. Nothing in this Chapter shall prohibit the Town Board on its own motion from referring the request for conditional use to the Plan Commission. Upon receipt of the application and statement referred to in Section 13-1-63 above, the Plan Commission shall hold a public hearing on each application for a conditional use at such time and place as shall be established by the Commission. The hearing shall be conducted and a record of the proceedings shall be preserved in such a manner and according to such procedures as the Plan Commission shall, by rule, prescribe from time to time.

Sec. 13-1-65 Notice of Hearing on Application; Determination.

- (a) Notice of the time, place and purpose of such hearing shall be given by publication of a Class 1 Notice under the Wisconsin Statutes in the official Town newspaper. Notice of the time, place and purpose of such public hearing shall also be sent to the applicant, the Zoning Administrator, members of the Town Board and Plan Commission, and the owners of record as listed in the office of the Town Assessor who are owners of property in whole or in part situated within one hundred (100) feet of the boundaries of the properties affected, said notice to be sent at least ten (10) days prior to the date of such public hearing.
- (b) The Plan Commission shall report its action to the Town Board within forty-five (45) days after a matter has been referred to it, recommending that the application be approved, conditionally approved, or denied, after which the Town Board shall take formal action.

Sec. 13-1-66 Standards.

- (a) Standards. No application for a conditional use shall be granted by the Town Board or recommended by the Plan Commission unless the Town Board or Plan Commission shall find all of the following conditions are present:
 - (1) That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
 - (2) That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use and the proposed use is compatible with the use of adjacent land.
 - (3) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
 - (4) That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.
 - (5) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
 - (6) That the conditional use shall, except for yard requirements, conform to all applicable regulations of the district in which it is located.
 - (7) That the proposed use does not violate flood plain regulations governing the site.

- (8) That adequate measures have been or will be taken to prevent and control water pollution, including sedimentation, erosion and runoff.
- (b) Application of Standards. When applying the above standards to any new construction of a building or an addition to an existing building, the Town Board or Plan Commission shall bear in mind the statement of purpose for the zoning district such that the proposed building or addition at its location does not defeat the purposes and objective of the zoning district.
- (c) Additional Considerations. In addition, in passing upon a Conditional Use Permit, the Town Board or Plan Commission shall also evaluate the effect of the proposed use upon:
 - (1) The maintenance of safe and healthful conditions.
 - (2) The prevention and control of water pollution including sedimentation.
 - (3) Existing topographic and drainage features and vegetative cover on the site.
 - (4) The location of the site with respect to floodplains and floodways of rivers and streams.
 - (5) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
 - (6) The location of the site with respect to existing or future access roads.
 - (7) The need of the proposed use for a shoreland location.
 - (8) Its compatibility with uses on adjacent land.
 - (9) The amount of liquid wastes to be generated and the adequacy of the proposed disposal systems.

Sec. 13-1-67 Denial/Approval of Application for Conditional Use Permit.

- (a) Town Board Action. The Town Board, upon the recommendation of the Plan Commission, may authorize the Zoning Administrator to issue a conditional use permit for a conditional use(s) after review by the Plan Commission, provided that such conditional uses and structures are in accordance with the purpose and intent of this Chapter and are found to be not hazardous, harmful, offensive, or otherwise adverse to the environment and the value of the neighborhood or the community.
- (b) Written Determination. When an advisory recommendation of denial of a conditional use application is made by the Plan Commission or an actual denial by the Town Board, the Plan Commission and/or Town Board shall furnish the applicant, in writing when so requested, those standards that

- are not met and enumerate reasons the Commission and/or Town Board has used in determining that each standard was not met.
- (c) Compliance. Compliance with all other provisions of this Chapter, such as lot width and area, setbacks, height, parking, loading, traffic, highway access, and performance standards, shall be required of all conditional uses.
 - (d) Recording. A land covenant form provided by the Town shall be recorded at the office of the Register of Deeds for Dodge County, as a covenant on the title of the premises involved, documenting the existence of the approved conditional use permit.

Sec. 13-1-68 Conditions and Guarantees.

The following conditions shall apply to all conditional uses:

- (a) Conditions. Prior to the granting of any conditional use, the Plan Commission may recommend and the Town Board may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as deemed necessary to promote the public health, safety and general welfare of the community, and to secure compliance with the standards and requirements specified in Section 13-1-66 above. In all cases in which conditional uses are granted, the Town shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with. Such conditions may include specifications for, without limitation because of specific enumeration:
 - (1) Landscaping;
 - (2) Type of construction;
 - (3) Construction commencement and completion dates;
 - (4) Sureties;
 - (5) Lighting;
 - (6) Fencing;
 - (7) Operational control;
 - (8) Hours of operation;
 - (9) Traffic circulation;
 - (10) Deed restrictions;
 - (11) Access restrictions;
 - (12) Setbacks and yards;
 - (13) Type of shore cover;
 - (14) Specified sewage disposal and water supply systems;
 - (15) Planting screens;
 - (16) Piers and docks;

- (17) Increased parking; or
- (18) Any other requirements necessary to fulfill the purpose and intent of this Chapter.
- (b) Site Review. In making its recommendation, the Plan Commission shall evaluate each application and may request assistance from any source which can provide technical assistance. The Commission may review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems and the proposed operation/use.
- (c) Alteration of Conditional Use. No alteration of a conditional use shall be permitted unless approved by the Town Board, upon the recommendation of the Plan Commission.
- (d) Architectural Treatment. Proposed architectural treatment will be in general harmony with surrounding uses and the landscape. To this end, the Town Board may require the use of certain general types of exterior construction materials and/or architectural treatment.
- (e) Sloped Sites; Unsuitable Soils. Where slopes exceed six percent (6%) and/or where a use is proposed to be located on areas indicated as having soils that are unsuitable or marginal for development, on-site soil tests and/or construction plans shall be provided that clearly indicate that the soil conditions are adequate to accommodate the development contemplated and/or that any inherent soil condition or slope problems will be overcome by special construction techniques. Such special construction might include, among other techniques, terracing, retaining walls, oversized foundations and footings, drain tile, etc.

Sec. 13-1-69 Validity of Conditional Use Permit.

Where a conditional use application has been approved or conditionally approved, such approval shall become null and void within twenty-four (24) months of the date of the approval unless the use is commenced, construction is underway or the current owner possesses a valid building permit under which construction is commenced within six (6) months of the date of issuance and which shall not be renewed unless construction has commenced and is being diligently prosecuted. Approximately forty-five (45) days prior to the automatic revocation of such permit, the Zoning Administrator shall notify the holder by certified mail of such revocation. The Town Board may extend such permit for a period of ninety (90) days for justifiable cause, if application is made to the Town at least thirty (30) days before the expiration of said permit.

Sec. 13-1-70 Complaints Regarding Conditional Uses.

The Town Board shall retain continuing jurisdiction over all conditional uses for the purpose of resolving complaints against all previously approved conditional uses. Such authority shall be in addition to the enforcement authority of the Zoning Administrator to order the removal or discontinuance of any unauthorized alterations of an approved conditional use, and the elimination, removal or discontinuance of any violation of a condition imposed prior to or after approval or violation of any other provision of this Code. Upon written complaint by any citizen or official, the Town Board shall initially determine whether said complaint indicates a reasonable probability that the subject conditional use is in violation of either one (1) or more of the standards set forth in Section 13-1-66 above, a condition of approval or other requirement imposed hereunder. Upon reaching a positive initial determination, a hearing shall be held upon notice as provided in Section 13-1-65 above. Any person may appear at such hearing and testify in person or represented by an agent or attorney. The Town Board may, in order to bring the subject conditional use into compliance with the standards set forth in Section 13-1-66 or conditions previously imposed by the Town Board, modify existing conditions upon such use and impose additional reasonable conditions upon the subject conditional use. In the event that no reasonable modification of such conditional use can be made in order to assure that Standards (a) and (b) in Section 13-1-66 will be met, the Town Board may revoke the subject conditional approval and direct the Zoning Administrator and the Town Attorney to seek elimination of the subject use. Following any such hearing, the decision of the Town Board shall be furnished to the current owner of the conditional use in writing stating the reasons therefore.

Sec. 13-1-71 Bed and Breakfast Establishments.

- (a) As Conditional Use. Bed and breakfast establishments shall be considered conditional uses and may be permitted in Residence Districts pursuant to this Article.
- (b) Definition. "Bed and Breakfast Establishment" means any place of lodging that provides four (4) or fewer rooms for rent for more than ten (10) nights in a twelve (12) month period, is the owner's personal residence, is occupied by the owner at the time of rental and in which the only meal served to guests is breakfast.
- (c) State Standards. Bed and breakfast establishments shall comply with the standards of Chapter HSS 197, Wis. Adm. Code.

Sec. 13-1-72 Home Occupations/Professional Home Offices.

- (a) Purpose and Intent. The purpose of this section is to establish the requirements and criteria for permitting uses of and/or activities from residential dwellings located in residential and agricultural zoning districts for home-based occupations, businesses, professions, or trades where such uses and activities are:
- (1) accessory and subordinate to the primary residential or agricultural use of the property;
 - (2) conducted in a manner that is compatible with the surrounding residential and agricultural zoning properties; and
 - (3) not detrimental to the character, appearance or quality of life of the surrounding properties or neighborhood within which such uses and activities are to be conducted.
- (b) Home Occupation Classifications. A home occupation shall be classified as either a "minor" or a "major" home occupation based on the size, intensity, number and type of employees, the characteristics and types of activities associated with a particular home occupation. The determination as to whether a home occupation is to be classified as a minor or major home occupation shall be made by the Plan Commission as set forth in this section.
- (1) Minor Home Occupation. Minor home occupations are occupations that, given their size, appearance, number of employees, operational characteristics and activities, are less likely to have a noticeable and negative impact on the surrounding properties and neighborhood. Minor home occupations are allowed "by right" as a permitted accessory use and only require a zoning permit obtained from the Plan Commission.
 - (2) Major Home Occupation. Major home occupations are occupations that given their size, appearance, number of employees, operational characteristics and activities, are more likely to have more noticeable and potentially negative impacts on the surrounding properties and neighborhood. Major home occupations are only allowed with a conditional use permit obtained from the Town Board with a recommendation from the Plan Commission and following a public hearing of the proposed home occupation.
- (c) General Requirements and Performance Criteria. All minor and major home occupations shall comply with all of the following requirements prior to or as a result of complying with any conditions of approval required by the Town prior to obtaining the required permit (zoning permit or conditional use permit):

- (1) The owner/operator of a home occupation shall reside in the dwelling from which the home occupation is being conducted.
- (2) The total area of the dwelling used to conduct activities associated with a home occupation shall not exceed one-third of the total gross floor area of the residential dwelling (excluding activities conducted in accessory buildings).
- (3) All applicable state, federal and local business and/or occupational licenses and any other approvals required shall be obtained as necessary and kept up-to-date throughout the duration of the home occupation. All activities associated with a home occupation and the residential dwelling, accessory building, structure, and overall property from which such home occupation is being conducted shall comply with all local, county, and state building, fire, sanitary, health and other applicable requirements and regulations including any homeowner's association, subdivision and other recorded property restrictions and covenants. Noncompliance with any applicable requirement and/or regulation may be grounds for a zoning code violation, denial of a home occupation application, or revocation of a home occupation permit.
- (4) The owner/operator of a home occupation shall be responsible for notifying the Plan Commission of any changes to the home occupation that are different from that included in the permit application or from any conditions or restrictions imposed as part of the permit. Changes that result in a home occupation that is larger, more intense, has more employees, has different or more activities, etc., may result in the need for a new permit and possible reclassification of the home occupation (from minor to major).
- (5) Activities associated with a home occupation shall not generate any traffic, parking, solid or liquid waste, water consumption, noise, vibrations, smoke, dust, odor, heat, glare, disturbance or interference with the provision of electrical, television or other utility services, or create any safety hazards exceeding those which are typically and customarily produced by and/or associated with a residential dwelling and residential uses in the zoning district and surrounding neighborhood within which the subject property and home occupation is located.
- (6) The residential dwelling, accessory buildings and structures, and overall property shall remain residential in character and appearance that is typical and customary for residential property located in the neighborhood within which the home occupation is located. Structural or other alterations to the exterior appearance

- that make the dwelling, accessory buildings, and/or the overall property appear similar to a commercial operation are prohibited.
- (7) Goods or products intended for sale as part of the home occupation may be displayed outside of a dwelling, accessory building or structure, or elsewhere on the property provided that such goods or products are kept in a neat appearing and orderly manner on the property.
 - (8) Truck deliveries or pick-up of supplies or products associated with a home occupation shall be limited to the type of vehicles and pick-up/delivery hours that are typical and customary for residential dwellings and uses located in the neighborhood within which the home occupation is located.
 - (9) In order to ensure that a home occupation does not become a nuisance to the surrounding properties and property owners, the Plan Commission and Town Board may impose reasonable conditions as deemed necessary to protect the health, safety and welfare of such properties, property owners, and general public.
 - (10) Multiple home occupations may be permitted from a single residence provided that the general requirements and specific performance criteria set forth in this section can be met based on an accumulation of the activities, characteristics, etc., of all home occupations conducted from such dwelling.
 - (11) The use of exterior signs is allowed subject to the allowances and requirements of Article G: Signs and Billboards.
 - (12) Owners/operators of a "major" home occupation shall permit reasonable inspection of the premises by the Zoning Administrator, Plan Commission, Town Board, or other duly authorized agent of the Town or other agency having jurisdiction or responsibility for enforcing applicable laws, requirements, and regulations at the time of application or after the home occupation has commenced operation in order to determine compliance with the requirements of this section and/or any conditions of approving a home occupation.
 - (13) All minor home occupation permits shall be deemed valid for an indefinite period of time unless:
 - a. otherwise provided for as a condition of the approval of the permit;
 - b. if changes occur in the activities or character of the home occupation being conducted that warrant additional review and approval by the Plan Commission or Town Board.
 - (14) All major home occupation permits shall be deemed valid for a period of three (3) years unless:

- a. otherwise provided for as a condition of the approval of the permit;
 - b. if changes occur in the activities or character of the home occupation being conducted that warrant additional review and approval by the Plan Commission or Town Board.
 - (15) Whenever the Plan Commission or Town Board has reasonable cause to believe that any of the general or specific requirements and/or performance criteria set forth in this section, or, any conditions imposed as part of the home occupation have been violated, the Town shall have the right to issue a notice of zoning code violation and pursue appropriate remedies including, but not limited to, imposing stricter conditions upon the home occupation or revocation of the permit issued for the home occupation.
 - (16) The granting of a home occupation permit shall not constitute a covenant running with the property from which such home occupation is being conducted. A home occupation permit shall not be transferable to another property and shall automatically and immediately terminate and become null and void upon the sale, lease, or transfer of the property to a party different than to whom the home occupation permit was originally granted.
 - (17) Failure to comply with the provisions of this section, including failure to obtain a home occupation permit as provided for herein, shall constitute a violation of the Town Zoning Code and be subject to the penalties set forth therein.
- (d) Specific Requirements and Performance Criteria.
- (1) Minor home occupations shall comply with all of the following performance criteria:
 - a. Activities associated with a home occupation shall be conducted entirely within a residential dwelling and/or an accessory building;
 - b. The display, storage or parking of materials, goods, supplies or equipment outside of the dwelling or outside of an enclosed accessory building is prohibited; and
 - c. The total number of part-time or full-time non-resident employees working on the property at any one time shall not exceed three (3) non-resident employees. There is no limit on the number of resident employees.
 - (2) Major home occupations shall comply with all of the following performance criteria:
 - a. Activities associated with a home occupation shall be conducted entirely within the residential dwelling and/or in an enclosed accessory building or structure;

- b. The display, storage or parking of materials, goods, supplies, or equipment outside of the dwelling is permitted in an enclosed accessory building, or in the side or rear yard of the subject property provided the yard area used for such display, storage or parking is completely screened from view from all public streets and adjacent property through the use of natural landscaping materials, or, a combination of natural landscaping and other manmade or fabricated screening materials, e.g., fencing, etc.; and
 - c. The number of part-time or full-time non-resident employees working upon the premises at any given time shall not exceed ten (10) employees unless specifically established as a condition of permit approval.

- (e) Prohibited Home Occupations.
 - (1) Any occupation involving the repetitive purchase and resale, exchange, production, refinement, packaging or handling of explosives or any hazardous materials by any person who devotes time or attention to such items as a regular or part-time course of trade or business with the objective of livelihood or principle means of profit is prohibited.
 - (2) Any home occupation involving the on-site sale, resale, repair of automobiles, trucks, boats, trailers, or other motorized vehicles where the total number of all such items kept or being repaired at any given time is more than ten (10).
 - (3) Truck-for-Hire operations with more than four (4) trucks.

- (f) Application Procedures.
 - (1) The Plan Commission shall determine whether a home occupation qualifies as a minor or major home occupation at their next regularly scheduled meeting but not later than sixty (60) days after the date an application has been received. In the event that the Plan Commission that the home occupation for which an application has been received does not conform to one or more of the general requirements and performances criteria, the Plan Commission has the right to deny the application.
 - (2) An application for a home occupation that has been determined to be a major home occupation shall be reviewed and processed as a Conditional Use Permit as set forth in Article D, Section 13-1-60 of the Town Zoning Code.
 - (3) Copies of all major home occupation applications may be forwarded to the appropriate village, county, state, and federal agencies for review and comment concerning applicable laws,

regulations, and requirements and whether or not a proposed occupation complies with such laws, regulations, or requirements, or under what conditions compliance can be met.

- (4) Variances from the provisions of this article or an appeal of any decision of the zoning administrator, Plan Commission or Town Board shall be processed and considered by the Board of Zoning Appeals as set forth in Article N, Section 13-1-190 of the Town Zoning Code.
- (g) Definitions. For purposes of this section, the following definitions shall apply:
- (1) "Home occupation" means a business, occupation, profession or trade use or activity conducted for financial gain or profit on a reoccurring basis within or from a residential dwelling and/or accessory building by one or more occupants residing in the dwelling where the conduct of such use or activity is clearly incidental and subordinate to the primary or principal use of the dwelling and property for residential purposes, and, does not change the residential character or appearance of the dwelling or accessory building.
- (2) "Professional home office". For purposes of this section, a professional home office shall be the same as a home occupation. See definition of "home occupation".

Sec. 13-1-73 Public and Semipublic Uses Conditional Uses.

The following public and semipublic uses shall be conditional uses and may be permitted as specified:

- (a) Airports, airstrips, and landing fields in the M-I Manufacturing/Industrial District and AG-1 Agricultural District, provided the site area is not less than twenty (20) acres.
- (b) Governmental and cultural uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, and museums, in the RC-1 Rural Cluster Residential District; the B-I Commercial/Mixed Use District; the M-I Manufacturing/Industrial District, and the P-I Park District.
- (c) Utilities in all districts, provided all principal structures and uses are not less than one hundred (100) feet from any residential district lot line. Utilities in the C-I District shall also meet the requirements of this Chapter.
- (d) Public passenger transportation terminals, such as heliports, bus and rail depots, airstrips, and landing fields, in the B-I Commercial/Mixed-Use District and the M-I Manufacturing/Industrial District, provided all principal

structures and uses are not less than three hundred (300) feet from any residential district boundary.

- (e) Public, parochial, and private elementary and secondary schools and churches in the B-I Commercial/Mixed Use District, and P-I Park District, provided the lot area is not less than two (2) acres and all principal structures and uses are not less than fifty (50) feet from any lot line.

Sec. 13-1-74 Mineral Extraction Operations Conditional Uses.

- (a) Where Allowed. Mineral extraction operations are conditional uses and may be permitted in accordance with the provisions of Article D of this Chapter, in all districts except in the R-I and RC-1 Residential Districts, C-I Conservancy District and P-I Park District.
- (b) Use Restricted. Mineral extraction operations shall include the removal of rock, slate, gravel, sand, or any other minerals from the earth by excavating, stripping or leveling.
- (c) Permits. Conditional use permits for mineral extraction operations shall be in effect for such period of time and subject to those conditions set forth in that permit; provided, however, such conditional use permit shall terminate upon failure of the permit to comply with any Town ordinance requiring annual quarrying permits.
- (d) Application. Applications for a conditional use permit for a mineral extraction operation shall be submitted to the Town Clerk and shall be accompanied by a fee as set by the Town Board to defray the cost of notification, holding of public hearings, administrative processing and inspection of such applications; a detailed description of all aspects of the proposed extraction operation; a list of equipment, machinery and structures which may be used; the source, quantity, and disposition of water to be used, if any; a legal description of the proposed site; a topographic map of the site and the area abutting the site, to the nearest public road right-of-way or a minimum distance of three hundred (300) feet on all sides of the site drawn at a minimum vertical contour interval of five (5) feet and showing all existing and proposed private access roads and the depth of all existing and proposed excavations; and a restoration plan.
- (e) Referral and Public Hearing. Application for conditional use permits for mineral extraction operations shall be referred to the Plan Commission for public hearing and the Commission shall report back to the Town Board with its recommendation within sixty (60) days after the public hearing. The Plan Commission shall conduct such public hearing within sixty (60) days after referral. The Plan Commission shall fix a reasonable time and place for the hearing and public a Class One notice thereof. In addition,

written notice of the public hearing shall be delivered by first class mail or shall be hand delivered by courier to all owners of the property within one-half (1/2) mile of the proposed mineral extraction operation. Substantial compliance with the notice requirements of this Section shall be deemed sufficient.

- (f) Town Board Action. The Town Board shall, within thirty (30) days after receipt of the recommendation from the Plan Commission issue or deny a conditional use permit for the proposed mineral extraction operation. The determination shall be based upon the effect of the proposed operation on existing roads and traffic movement in terms of adequacy, safety, and efficiency; the effect of the proposed operation on drainage and water supply, the possibility of soil erosion as a result of the proposed operation; the degree and effect of dust or noise as a result of the proposed operation; the practical possibility of restoration of the site; the effect of the proposed operation on the natural beauty, character, tax base, land value and land uses in the area; and particular consideration for future residential use. Town Board determination regarding the issuance or denial of a renewal of a conditional use permit shall be based particularly on the evaluation of the effect of the continuance of the use in relation to changing conditions in the area. Where renewal is denied, the reason for denial shall be specifically outlined to the applicant in writing.
- (g) General Requirements.
- (1) No part of the mineral extraction operation shall be permitted closer than one thousand (1,000) feet, nor shall any accessory private access road or building be permitted closer than five hundred (500) feet to a district zoned residential at the time of the granting of the permit, except by written consent of the owners of all residentially zoned properties within one thousand (1,000) feet, but in no case shall such operation be permitted closer than two hundred (200) feet to a residential district.
 - (2) No mineral extraction operation shall be permitted if thirty (30) or more families reside within a half mile of the proposed site.
- (h) Setback/Yard Requirements. No part of the mineral extraction operation shall be permitted closer than fifty (50) feet to any property line, except with the written consent of the owner of the adjoining property, or where said mineral extraction operation is abutting an existing mineral extraction operation or an industrial district, but in no case shall such operation be closer than twenty (20) feet to any property line except by agreement between the owners abutting mineral extraction operations.
- (i) Operational Requirements.
- (1) Fencing or other suitable barrier shall be erected and maintained around the site or around portions of the site where in the

- determination of the Plan Commission such fencing or barrier is necessary for the protection of the public, and shall be of a type approved by the Plan Commission.
- (2) All machinery and equipment used in mineral extraction operations shall be constructed, maintained and operated in such manner as to minimize dust, noise and vibration. Access and haulage roads on the site shall be maintained in a dust free condition by surfacing or treatment as directed by the Town Board.
 - (3) The planting of trees and shrubs and other appropriate landscaping shall be provided where deemed necessary by the Town Plan Commission to screen the operation so far as practical from the public right-of-way, and generally to minimize the damaging effect of the operation on the beauty and character of the surrounding countryside. Such planting shall be started as soon as practical, but not later than one (1) year after mineral extraction operations have begun.
 - (4) Except in an industrial district, mineral extraction operations shall not begin before the hour of 7:00 a.m. and shall not continue after the hour of 6:00 p.m., and no operations shall take place on Sundays or legal holidays.
 - (5) The applicant shall route all vehicles in a manner that will not damage Town roads. The applicant shall provide to the Town a bond written by a licensed surety company, a certified check, or other financial guarantee satisfactory to the Town Board in an amount sufficient to repair damages to the Town roads caused by vehicles using the mineral extraction operation.
- (j) Restoration Requirements.
- (1) In order to insure that the area comprising the mineral extraction operation shall be restored to a condition of practical usefulness and reasonable physical attractiveness, the owner or operator shall, prior to the issuance of a conditional use permit, submit to the Plan Commission a plan for such restoration in the form of the following:
 - a. An agreement with the Town Board whereby the applicant contracts to restore the premises within a time satisfactory to the Town.
 - b. A restoration plan showing the proposed contours after restoration, plantings and other special features of restoration, and the method by which such restoration is to be accomplished.
 - c. A bond written by a licensed surety company, a certified check, or other financial guarantee satisfactory to the Town Board in an amount sufficient to secure the performance of the restoration agreement.

- d. Such agreement and financial guarantee shall be in a form approved by the Town Attorney.
- (2) In the event of the applicant's failure to fulfill this agreement, or a new owner/applicant's failure to comply, such bond, check, or other financial guarantee shall be deemed forfeited for the purpose of enabling the Town to perform the restoration.
- (3) At any stage during implementation of the restoration, the plan may be modified by mutual agreement between the Town and the owner or the operator. Restoration shall proceed as soon as practicable and at the order and direction of the Town Plan Commission.
- (4) Where there is any backfilling, the material used or the method of fill shall not be such as to create a health hazard nor which would be objectionable because of odor, combustibility or unsightliness. In any case the finished grade of the restored area or areas of proposed building, or paving construction shall be of sufficient depth of earth to support plant growth.
- (5) Within one (1) year after the cessation of the mineral extraction operation, all temporary structures (excepting fences), equipment, stock piles, rubble piles or heaps or other debris shall be removed or backfilled into the excavation so as to leave the premises in a neat and orderly condition.
- (6) In any restoration procedure which takes place in sand or gravel pits or on other sites where the material is of a loose or friable nature, no slope shall be left which is steeper than a ratio of three (3) horizontal to one (1) vertical. In no case shall any slope exceed the normal angle of repose of the material involved.
- (k) Inspection. The Town Board may periodically conduct an inspection of mineral extraction operations to ascertain whether or not the requirements of this Section and any previously agreed upon conditions are being met.

Sec. 13-1-75 Conservancy Uses Conditional Uses.

The following wetland conservancy uses shall be conditional uses and may be permitted as specified:

- (a) Road Construction. The construction of roads in the C-I Conservancy District which are necessary for the conduct of agricultural cultivation or to a silviculture activity, or necessary for the provision of essential utility and public safety services, or necessary to provide access to permitted open space uses, provided that:
 - (1) The road cannot, as a practical matter, be located outside of a

- wetland; and
- (2) The road is designed and constructed to minimize the adverse impact upon the natural functions of the wetland and meets the following standards:
- a. The road shall be designed and constructed for the minimum cross-section practical to serve the intended use;
 - b. Road construction activities are to be carried out in the immediate area of the roadbed only; and
 - c. Any filling, flooding, draining, dredging, ditching, tiling, or excavating that is to be done must be necessary for the construction or maintenance of the road.
- (b) Nonresidential Buildings. The construction and maintenance of nonresidential buildings in the C-I Conservancy District which are used solely in conjunction with raising of waterfowl, minnows, or other wetland or aquatic animals or used solely for some other purpose which is compatible with wetland preservation, if such building cannot, as a practical matter, be located outside of a wetland, provided that:
- (1) Any such building does not exceed five hundred (500) square feet in floor area; and No filling, flooding, draining, dredging, ditching, tiling, or excavating is to be done.
- (c) Recreation Areas. The establishment and development of public and private park and recreation areas, boat access sites, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game preserves, and private wildlife habitat areas, in the C-I Conservancy District provided that:
- (1) Any private recreation or wildlife habitat area must be used exclusively for that purpose;
 - (2) No filling is to be done, except for limited filling necessary for the development of boat launching sites or swimming beaches or the construction of park buildings;
 - (3) Ditching, excavating, dredging, dike and dam construction may be done in wildlife refuges, game preserves and private wildlife habitat areas, but only for the purpose of improving wildlife habitat or to otherwise enhance wetland values.
- (d) Utilities. The construction and maintenance of electric, gas, telephone, water, and sewer transmission and distribution lines, and related facilities in the C-I Conservancy District, by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power or water to members located outside the C-I Conservancy District, provided that:
- (1) The transmission and distribution lines and related facilities cannot as a practical matter be located outside of a wetland; and
 - (2) Any filling, excavating, ditching, or draining that is to be done must

be necessary for such construction or maintenance and must be done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the wetlands.

- (e) Railroad Lines. The construction and maintenance of railroad lines in the C-I Conservancy District, provided that:
 - (1) The railroad lines cannot as a practical matter be located outside of a wetland; and
 - (2) Any filling, excavating, ditching, or draining that is to be done must be necessary for such construction or maintenance and must be done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the wetland.

Sec. 13-1-76 Dog Kennel and Horse Boarding Conditional Uses.

- (a) Compliance. The operation of a kennel or horse boarding facility where allowed as a conditional use shall be in full compliance with the terms of this Chapter and any other applicable regulations. It shall be unlawful to establish and operate a kennel or horse boarding facility in non-compliance with the terms of this Chapter and other applicable regulations.
- (b) Conditional Use Requirements for Kennels. Except in Conservancy and Park Districts, the following shall apply:
 - (1) Dog Shelter Requirements.
 - a. The following are minimum dog run size requirements as corresponding to different sized dogs. Sizes to be measured at the shoulders.

| Size of Dog | | Minimum Dog Run(per dog) |
|-------------|---------------|--------------------------|
| Small | 4" to 12" | 4' x 8' |
| Medium | 12" to 18" | 4' x 12' |
| Large | 18" or larger | 6' x 14' |

- b. For each additional dog over one, the dog shelter is required to be fifty percent (50%) larger than the minimum size stated above. Thus, the dog shelter size for two (2) dogs must be fifty percent (50%) larger. The dog run size for three (3) dogs must be one hundred percent (100%) larger (double in size).
- c. Dog shelters must otherwise be adequate with respect to light, ventilation, etc.
- d. The owner must demonstrate adequate sound control, especially during night hours and for surrounding residential uses.

- (2) Additional Requirements for Kennels.
 - a. There will be a limit of one (1) dog per run in commercial kennels.
- (3) Additional Requirements for Private Kennels.
 - a. There will be allowed up to three (3) adult dogs per run and any number of puppies.
 - b. There shall not be more than two (2) different types of breeds used for breeding.
 - c. The owner must demonstrate adequate sound control, especially during night hours and for surrounding residential uses.
- (c) Horse Boarding Facility Conditional Use Requirements.
 - (1) The following are the minimum size requirements for stables corresponding to the size of the horse:

| Size of Horse | | Minimum Stable Size |
|---------------|--------------------|---------------------|
| Small | Under 13-2 hands | 9' x 9' |
| Medium | 13-2 to 15-2 hands | 10' x 10' |
| Large | 15-2 hands or over | 12' x 12' |

- (2) Stables must be a box stall, lean-to or a three-sided structure.
- (3) Property owners shall present a manure disposal plan, if intending to board more than five (5) horses, to be approved by the Town Board.

Sec. 13-1-77 through Sec. 13-1-79 Reserved for Future Use.

Article E: Nonconforming Uses, Structures and Lots

Sec. 13-1-80 Existing Nonconforming Uses.

- (a) Continuation. Except as otherwise specially provided in this Chapter, the lawful nonconforming use of a structure, land or water existing at the time of the adoption or amendment of this Chapter may be continued although the use does not conform with the provisions of this Chapter, provided however:
 - (1) Only that portion of the land or water in actual use may be so continued and the structure may not be extended, enlarged, reconstructed, substituted, moved or structurally altered, except when required to do so by law or order or so as to comply with the provisions of this Chapter.
 - (2) The total lifetime structural repairs or alterations shall not exceed fifty percent (50%) of the assessed value of the structure at the time of its becoming a nonconforming use unless it is permanently changed to conform to the use provisions of this Chapter.
 - (3) Substitution of new equipment may be permitted by the Town Board if such equipment will reduce the incompatibility of the nonconforming use with the neighboring use.
- (b) Abolishment or Replacement of Existing Nonconforming Use. If such nonconforming use is discontinued or terminated for a period of twelve (12) months, any future use of the structure, land or water shall conform to the provisions of this Chapter. When a nonconforming use or structure is damaged by fire, explosion, flood, the public enemy or other calamity to the extent of more than fifty percent (50%) of its current assessed value, it shall not be restored except so as to comply with the use provisions of this Chapter.

Sec. 13-1-81 Existing Nonconforming Structures.

- (a) Generally. The existing lawful use of a building or premises at the time of the enactment or amendment of this Section may be continued although such use does not conform to the regulations for the district in which it is located. Except in the Agricultural Districts, such nonconforming uses shall not be extended. Nonconforming mobile homes shall not be moved, relocated or placed unless in conformity with this Section.
- (b) Structural Alterations. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or a more restricted classification.

Whenever a nonconforming use has been changed to a more restricted nonconforming use or a conforming use, such use shall not thereafter be changed to a less restricted use.

Sec. 13-1-82 Changes and Substitutions.

Once a nonconforming use or structure has been changed to conform, it shall not revert back to a nonconforming use or structure. Once the Town Board has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, the substituted use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the Town Board.

Sec. 13-1-83 through Sec. 13-1-89 Reserved for Future Use.

Article F: Traffic Visibility, Loading, Parking and Access

Sec. 13-1-90 Traffic Visibility.

- (a) On a corner lot in all zoning districts, no fence, wall, hedge, planting or structure shall be erected, placed, planted or allowed to grow in such a manner as to obstruct vision between a height of two and one-half (2-1/2) feet and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining the points along said street lines twenty-five (25) feet from the point of intersection.
- (b) In the case of arterial streets intersecting with other arterial streets or railways, the corner cutoff distances establishing the triangular vision clearance space shall be increased to fifty (50) feet.

Sec. 13-1-91 Parking Requirements.

All new parking lots created after the effective date of this Zoning Code shall be subject to the approval of the Town Board. Requests for said parking lots shall be accompanied with detailed plans on landscaping, parking layout, drainage provisions and driveway locations. In all districts, except those areas which are located in a fire district as designated on the official map, there shall be provided at the time any use or building is erected, enlarged, extended, or increased off-street parking stalls for all vehicles in accordance with the following:

- (a) Access. Adequate access to a public street shall be provided for each parking space.
- (b) Design Standards. Each required off-street parking space shall have a stall width of at least ten (10) feet and a stall length of at least eighteen (18) feet. Such space shall have a vertical clearance of at least six and one-half (6-1/2) feet. Minimum width of aisles providing access to stalls for one-way traffic shall be as follows: Aisles shall be not less than twenty-four (24) feet wide for ninety (90) degree parking, eighteen (18) feet wide for sixty (60) degree parking, fifteen (15) feet wide for forty-five (45) degree parking (angle shall be measured between centerline of parking space and centerline of aisle), and twelve (12) feet wide for parallel parking. For parallel parking, the minimum length of the parking space shall be increased to twenty-three (23) feet. No parking area of more than two (2) spaces shall be designed as to require any vehicle to back into a public street. Any parking area of more than five (5) spaces shall be sufficiently screened in the form of a solid fence or shrubbery to protect adjacent residential uses. Large expanses of unchanneled

- parking areas shall be avoided by interior landscaping and safety islands.
- (c) Location.
- (1) Location to be on the same lot as the principal use or not over four hundred (400) feet from the principal use.
 - (2) Off-street parking is permitted in all yards of all districts except in the front yards of single-family and two-family residence districts but shall not be closer than five (5) feet to a side lot line, right-of-way line or rear lot line.
- (d) Surfacing.
- (1) It shall be the responsibility of the owner that off-street parking areas for more than ten (10) customer/employee vehicles shall be graded and surfaced so as to be dust-free and properly drained, and shall have the aisles and spaces clearly marked in all RC-1 and B-I Districts.
 - (2) All such open off-street parking areas shall be surfaced with a dustless all-weather material capable of carrying a wheel load of four thousand (4,000) pounds [normally, a two (2) inch blacktop on a four (4) inch base or, in the alternative, five (5) inches of Portland cement will meet this requirement.] Any parking area for more than five (5) vehicles shall have the aisles and spaces clearly marked.
- (e) Landscaping Requirements.
- (1) Landscaping. All public and private off-street parking areas which serve ten (10) vehicles or more and are created or redesigned and rebuilt subsequent to the adoption of this Code shall be provided with accessory landscape areas totaling not less than ten percent (10%) of the surfaced area. The minimum size of each landscape area shall not be less than one hundred (100) square feet.
 - (2) Location. Location of landscape areas, plant materials, protection afforded the plantings, including curbing and provision for maintenance by the property owner, shall be subject to approval by the Zoning Administrator/ Permit Issuer.
 - (3) Plans. All plans for such proposed parking areas, at the discretion of the Zoning Administrator/Permit Issuer and Building Inspector, shall include a topographic survey or grading plan which shows existing and proposed grades and location of improvements. The preservation of existing trees, shrubs, and other natural vegetation in the parking area may be included in the calculation of the required minimum landscape area.
 - (4) Special Residential Requirements. Those parking areas for five (5) or more vehicles if adjoining a residential use shall be screened from such use by a solid wall, fence, evergreen planting of equivalent visual density, or other effective means, built and maintained at a minimum height of five (5) feet. Where a solidly constructed

decorative fence is provided along the interior lot line, the minimum setback for the parking area shall be five (5) feet from said lot line. Said fence shall be located a minimum of one (1) foot from the said lot line.

- (5) Repair and Service. No motor vehicle repair work or service of any kind shall be permitted in association with unenclosed parking facilities provided in residence districts.
- (6) Lighting. Any lighting used to illuminate off-street parking areas shall use cut-off fixtures and be directed away from residential properties and public streets in such a way as not to create a nuisance. However, in no case shall such lighting exceed three (3) foot candles measured at the lot line.
- (7) Number of Stalls. Number of parking stalls required for newly created parking lots are shown in the following table:

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- (f) Uses Not Listed. In the case of structures or uses not mentioned, the provision for a use which is similar shall apply. Floor space or area shall mean the gross floor area inside the exterior walls, where floor space is indicated above as a basis for determining the amount of off-street parking required.
- (g) Handicapped Parking Requirements. In addition to any other requirements relating to parking spaces contained in these Ordinances, the provisions contained in Sections 101.13, 346.503 and 346.56, Wis. Stats., and any Wisconsin Administrative Code sections adopted pursuant thereto are hereby adopted by reference and made applicable to all parking facilities whenever constructed.
- (h) Changes in Buildings or Use. Whenever a building or use is changed, structurally altered or enlarged to create a need for an increase of fifty percent (50%) or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change.
- (i) Off-Lot Parking.
 - (1) Required off-street parking spaces shall be located on the same lot with the principal use, or when this requirement cannot be met, such parking spaces may be located off-lot provided the parking spaces are located in the same district. Off-lot parking spaces shall also be held in fee simple ownership by the owner of the use

- requiring such parking or be leased or rented through a written agreement satisfactory to the Town Attorney.
- (2) Off-lot parking spaces for residential uses shall be within two hundred fifty (250) feet of the principal entrance or the entrance for the individual occupants for whom the spaces are reserved while the farthest portions of a parking lot for all other uses shall be within three hundred (300) feet of the entrance of the establishment.
 - (3) Accessory parking may be located in residential districts provided that said lots or property are immediately adjacent to a commercial, business or industrial zoning district.
 - (4) All off-street parking lots adjoining lots zoned for residential use shall have a minimum setback of ten (10) feet from any interior lot line, except if the adjoining lot is used for legally conforming parking purposes.

Sec. 13-1-92 Highway Access.

- (a) Private Access Restricted. No direct private access shall be permitted to the existing or proposed rights-of-way of expressways, nor to any controlled access arterial street without permission of the highway agency that has access control jurisdiction.
- (b) Public or Private Access Prohibited. No direct public or private access shall be permitted to the existing or proposed rights-of-way of the following:
 - (1) Freeways, interstate highways and their interchanges or turning lanes nor to intersection of interchanging streets within 1,500 feet of the most remote end of the taper of the turning lanes.
 - (2) Arterial streets intersecting another arterial street within one hundred (100) feet of the intersection of the right-of-way lines.
 - (3) Streets intersecting an arterial street within fifty (50) feet of the intersection of the right-of-way lines.
- (c) Public Access Barriers. Access barriers, such as curbing, fencing, ditching, landscaping or other topographic barriers shall be erected to prevent unauthorized vehicular ingress or egress to the above specified streets or highways.
- (d) Temporary Access. Temporary access to the above rights-of-way may be granted by the Permit Issuer after review and recommendation by the highway agencies having jurisdiction. Such access permit shall be temporary, revocable and subject to any conditions required and shall be issued for a period not to exceed twelve (12) months.

Sec. 13-1-93 through Sec. 13-1-99 Reserved for Future Use.

Article G: Signs, Canopies, Awnings and Billboards

Sec. 13-1-100 Purpose of Sign, Canopy and Awning Regulations.

- (a) Statement of Purpose.
- (1) The purpose of this Article is to establish minimum standards to safeguard life and property and promote public welfare and community aesthetics by regulating the appearance, construction, location and maintenance of all signs, awnings, canopies and billboards.
 - (2) In addition, this Article is intended to protect the public health, safety and general welfare by:
 - a. Promoting well maintained and attractive signs within the Town of Lowell;
 - b. Providing for adequate business identification, advertising and communication; and
 - c. Protecting the safety and efficiency of the Town's transportation network by reducing confusion or distractions to motorists and enhancing motorist's ability to use pedestrians, obstacles, other vehicles and official traffic signs, signals or devices by minimizing a proliferation of messages for the motorist.
 - (3) The provisions herein contained shall be binding alike upon every owner of a building, every lessee and every person in charge or responsible for or who causes the construction, repair, relocation or alteration of any outdoor sign and other advertising structures in the Town of Lowell; painting, posting and general maintenance are excepted.
- (b) Statement of Authority. This Chapter is adopted pursuant to authority, power and duties granted to the Town Board, in the exercise of village powers under Sec. 60.10, Wis. Stats., as well as authority under Sec. 60.23, Wis. Stats., to regulate and control persons in the Town in certain uses, activities, businesses and operations within the Town.

Sec. 13-1-101 Signs, Canopies, and Billboards — Definitions.

The following definitions are used in this Article:

- (a) Area of Sign. The area is the perimeter which forms the outside shape, but excluding the necessary supports or uprights on which the sign may be placed unless they are designed as part of the sign. If the sign consists of more than one section or module, all areas will be totaled. The area of an irregularly shaped sign shall be computed using the actual sign face surface. The area of the irregularly shaped sign shall be the entire area

- within a single continuous rectilinear perimeter of not more than eight (8) straight lines.
- (b) Awning. A temporary hood or cover which projects from the wall of the building, which can be retracted, folded or collapsed against the face of a supporting structure.
 - (c) Billboard. Any outdoor 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, State or Federal highway or roadway and which is larger than seventy-five (75) square feet in total area.
 - (d) Blanketing. The unreasonable obstruction of view of a sign caused by the placement of another sign.
 - (e) Canopy. A canopy is a shelter, with or without a sign, attached to or connected with a building and extending into a setback or over the public sidewalk.
 - (f) Day. A day shall be designated as a period of time in terms of calendar days.
 - (g) Directly Illuminated Sign. Any sign designed to give any artificial light directly through any transparent or translucent material from a source of light originating within or on such sign.
 - (h) Directory Sign. Shall mean any sign on which the names and locations of occupants or the use of a building is given. This shall include offices and church directories. Directory signs shall be encouraged for use with advertising of multiple-occupied commercial and industrial buildings.
 - (i) Electronic Message Unit Sign. Any sign whose message may be changed by electronic process, including such .messages as copy, art, graphics, time, date, temperature, weather or information concerning civic, charitable or the advertising of products or services for sale on the premises. This also includes traveling or segmented message displays.
 - (j) Flashing Sign. Any directly or indirectly illuminated sign on which artificial light is not maintained stationary and constant in intensity and color at all times when in use.
 - (k) Freestanding (Ground and/or Pole Sign). Any sign which is supported by structures or supports in or upon the ground and independent of support from any building.
 - (l) Identification Sign. Any sign which carries only the name of the firm, major enterprise, institution or principal products offered for sale on the premises or combination of these.
 - (m) Indirectly Illuminated Sign. Shall mean a sign that is illuminated from a source outside of the actual sign.
 - (n) Marquee Sign. Shall mean any sign attached to and made part of a marquee. A marquee is defined as a permanent roof-like structure

- projecting beyond a building wall at an entrance to a building or extending along and projecting beyond the building's wall and generally designed and constructed to provide protection against weather.
- (o) Nonconforming Sign. Any sign which does not conform to the regulations of this Chapter.
 - (p) Off-Premise Sign. Any sign, device or display which advertises goods other than that commonly available or services other than that commonly performed on the premise on which the sign is located.
 - (q) Political Sign. Any sign displaying a candidate for an election, or a current election's subject matter.
 - (r) Portable Sign/Message Boards. Any sign not permanently attached to the ground which is designed to be easily moved from one location to another.
 - (s) Projecting Sign. Any sign extending more than eighteen (18) inches, but less than four (4) feet from the face of a wall or building; such sign may not extend more than three (3) feet into the right-of-way.
 - (t) Real Estate Sign. Any sign which are used to offer for sale, lease or rent the property upon which the sign is placed.
 - (u) Roof Sign. Any sign erected upon or over the roof or parapet of any building.
 - (v) Sign. Any outdoor 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, State or Federal highway or roadway and is less than seventy-five (75) square feet in total area.
 - (w) Temporary Sign. Any sign which is erected or displayed for a limited period of time not to exceed twenty-eight (28) consecutive days or which is displayed only during regular business hours and removed for storage at other times. A temporary sign shall not exceed eight (8) square feet in area. Examples of temporary signs include banners and decorative-type displays. For purposes of this Chapter, a portable sign is not a temporary sign.
 - (x) Wall Sign. Any sign attached to, erected on or painted on the wall of a building or structure and projecting not more than sixteen (16) inches from such wall.
 - (y) Window Sign. Any sign located completely within an enclosed building and visible from a public way. For purposes of this Chapter a window sign shall not include any sign permanently attached in the window or directly painted on the glass.

Sec. 13-1-102 Required Permits for Signs, Canopies, Awnings and Billboards.

- (a) Application. Except those specified in Section 13-1-103, no signs, billboards, awnings or canopies shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a sign permit and without being in conformity with the provisions of this Article. The sign shall also meet all other structural requirements of other applicable codes and ordinances of the Town of Lowell. If the sign will affect the structural strength of a building, is large enough to require structural supports and bracing, or is to have electrical wiring, a building permit from the Building Inspector shall also be required. Signs shall not be erected or altered until a permit has been issued by the Zoning Administrator/Permit Issuer. "Altered" shall be defined as any modification in the size, height, dimensions, location or mounting of a sign other than routine maintenance.
- (b) Required Information. Application for a sign permit shall be made in writing upon forms furnished by the Town which contain the following information about the sign: dimensions, including display surface; materials; illumination; wiring; height above grade; distance from lot lines; and the person, firm or corporation erecting or altering the sign. A permit is not required for a copy change when no change in business name is involved.
- (c) Permit Fees. Required permit fees shall be paid to the Town Clerk for each sign permit issued under this Article, provided, however, that a fee shall not be charged for putting an existing sign in conformity with this Article, or for a copy change when no change in business name is involved.
- (d) Inspection. The applicant shall, upon completion of the installation, relocation or alteration of the sign, notify the Zoning Administrator/Permit Issuer who will assure the sign complies with the regulations of this Article. If a building permit was also required the applicant shall also notify the Building Inspector.
- (e) Appeals. The Zoning Administrator/Permit Issuer may, at any time for a violation of this Article, revoke a permit or require changes so the sign conforms with this Article. The holder of a revoked permit shall be entitled to an appeal before the Town Board. Any person, firm or corporation aggrieved by any permit denial or decision by the Zoning Administrator/Permit Issuer relative to the provisions of these sign regulations may appeal and seek review of such decision to the Town Board.

Sec. 13-1-103 Signs Not Requiring a Permit.

The following signs do not require a sign permit, provided that they are not located over a public road right-of-way or in, on or over public water:

- (a) Commercial, Industrial and Planned Unit Development (Commercial/Industrial) Districts.
 - (1) Warning signs not to exceed four (4) square feet located on the premises.
 - (2) Memorial signs, tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of metal and affixed flat against the structure.
 - (3) Official signs, such as traffic control, parking restriction, information and notices.
 - (4) Rummage or garage sale signs not to exceed eight (8) square feet in area, but use of this type of sign shall be limited to seventy-two (72) hours per sale.
 - (5) Signs designating entrances, exits, service areas, parking areas, restrooms and other such signs relating to functional operation of the building or premises shall be permitted without limitation other than reasonable size and necessity.
 - (6) Signs not exceeding two (2) square feet in area and bearing only property numbers, post box numbers or names of occupants of premises.
 - (7) Flags and insignia of any government, except when displayed in connection with commercial promotion.
 - (8) Legal notices, identification information or directional signs erected by governmental bodies.
 - (9) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights.
 - (10) Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.
 - (11) Political message signs during an election campaign, as defined in Sec. 12.04(1), Wis. Stats. Political signs may be posted sixty (60) days before an election and must be removed within ten (10) days after said election. Said sign shall be a maximum of thirty-two (32) square feet. Such signs shall only be erected on private property, with the permission of the owner or occupant.
 - (12) Window signs are allowed with no permits.
 - (13) Bills, posters and banners shall be allowed with no permits.
 - (14) Unlighted real estate signs advertising the sale or lease of the premises on which the sign is located provided in residential districts, are limited to four (4) square feet and one (1) sign per street frontage, and in all other districts are limited to thirty-two (32) square

- feet. Permanent rental signs, such as for apartments, shall be limited to twelve (12) square feet.
- (15) Bulletin boards and identification signs for public, charitable or civic institutions, apartments, planned residential developments and subdivisions and model homes, in residential districts, provided they:
- a. Do not exceed thirty-two (32) square feet in area except model homes not to exceed sixteen (16) square feet in area;
 - b. Are located a minimum of twenty-two (22) feet from the right-of-way.
 - c. Conform to the other yard requirements of the basic district;
 - d. Do not exceed in height ten (10) feet above the crown of the road.
- (b) Residential, Conservancy and Agricultural Districts.
- (1) Signs over show windows or doors of a nonconforming business establishment announcing without display or elaboration only the name and occupation of the proprietor and not to exceed two (2) square feet.
 - (2) Memorial signs, tablets, names of buildings and dates of erection when cut into any masonry surface or when constructed of metal and affixed flat against a structure.
 - (3) Official signs, such as traffic control, parking restrictions, information and notices.
 - (4) Awnings or canopies servicing only a particular single-family dwelling unit, provided the same shall conform to the regulations applicable to the zoning district in which the same are located.
 - (5) House numbers or signs identifying parks or country clubs or official bulletin boards.
 - (6) Political message signs during an election campaign, as defined in Sec. 12.04(1), Wis. Stats. Political signs may be posted sixty (60) days before an election and must be removed within ten (10) days after said election. Said sign shall be a maximum of eight (8) square feet. Such signs shall only be erected on private property, with the permission of the owner or occupant.
 - (7) Rummage or garage sale signs not to exceed eight (8) square feet in area ,but use of this type of sign shall be limited to seventy-two (72) hours per sale.
 - (8) Unlighted real estate signs advertising the sale or lease of the premises on which the sign is located provided in residential districts, are limited to four (4) square feet and one (1) sign per street frontage, and in all other districts are limited to thirty-two (32) square feet. Permanent rental signs, such as for apartments, shall be limited to twelve (12) square feet.
 - (9) Bulletin boards and identification signs for public, charitable or civic

- institutions, apartments, planned residential developments and subdivisions and model homes, in residential districts, provided they:
- a. Do not exceed thirty-two (32) square feet in area except model homes not to exceed sixteen (16) square feet in area;
 - b. Are located a minimum of ten (10) feet from the right-of-way.
 - c. Conform to the other yard requirements of the basic district
 - d. Do not exceed in height ten (10) feet above the crown of the road.
- (10) Directional signs in all Agricultural Districts, according to Section 13-1-104(e).
- (11) Farm names and identification signs, in all Agricultural Districts.
- (12) Agricultural signs advertising farm products produced on the premises or the sale of farm equipment, stock and personal goods, not exceeding thirty-two (32) square feet.

Sec. 13-1-104 Permitted Commercial and Industrial Signs.

- (a) Permitted Signs. Business signs as defined herein are permitted in all business, industrial and public and semi-public districts following issuance of a sign permit.
- (b) Business Signs Clearance Standards.
- (1) Projecting Signs. Projecting signs shall not be less than ten (10) feet above the grade nor fifteen (15) feet above a driveway or an alley.
 - (2) Freestanding Signs.
 - a. If located above a walkway or driving area, freestanding signs shall not be less than ten (10) feet above a walkway nor less than fifteen (15) feet above a driveway or an alley.
 - b. If located within one hundred (100) feet of an intersection of a driveway or roadway, freestanding signs shall not be less than ten (10) feet above existing grade or grade of existing structure at the time of permit approval.
- (c) Business Sign Standards.
- (1) Street Setback. Minimum: Ten (10) feet, unless otherwise specified in Conditional Use Approval.
 - (2) All Other Districts Yards. The setback minimum shall be the same as for the basic district, unless otherwise specified in Conditional Use Approval.
 - (3) Size.
 - a. Area minimum: None.
 - b. Area maximum: One hundred (100) square feet per side, including all faces combined.
 - c. Height. A maximum of (35) feet above the crown of the road.

- (d) Off-Premises Signs. Off-premises advertising signs are permitted in the B-2 and B-3 Districts and all industrial districts subject to the following:
- (1) Street Setback. Minimum: Twenty-five (25) feet, unless otherwise specified in Conditional Use Approval.
 - (2) All Other District Yards. The setback minimum shall be the same as for the basic district unless otherwise specified in Conditional Use Approval.
 - (3) Size.
 - a. Area maximum: Thirty-two (32) square feet per side, including all faces combined.
 - b. Area minimum: None.
 - (4) Height. A maximum of (25) feet above the existing grade or grade of existing structure at the time of permit approval.
- (e) Directional Signs Permitted. Directional signs are permitted in B-1 and B-2 Business Districts subject to the following:
- (1) Size.
 - a. Area maximum: Thirty-two (32) square feet per side, including faces combined.
 - (2) Height.
 - a. A maximum of Twenty-five (25) above existing grade of existing structure at the time of permit approval.
 - (3) Setbacks.
 - a. Street: Minimum three (3) feet.
 - b. Side: Minimum three (3) feet.
 - (4) Number. No more than four (4) for any single business or organization.
- (f) Advertising and Directional Signs. Clearance standards:
- (1) Height. Projecting signs shall not be less than ten (10) feet above the grade nor fifteen (15) feet above a driveway or an alley.
 - (2) Freestanding Signs.
 - a. Freestanding signs located above a walkway or driving area shall not be less than ten (10) feet above a driveway or an alley.
 - b. Freestanding signs located within one hundred (100) feet of an intersection of a driveway or a roadway shall not be less than ten (10) feet above existing grade or grade of existing structure at the time of permit approval.
- (g) Lighting. Business and industrial signs may be internally lighted or illuminated by a hooded reflector, provided, however, that such lighting shall be arranged to prevent glare and no sign shall be lighted by a lighting of intermittent or varying intensity. Animated signs, or signs having moving parts, or signs which may be mistaken for traffic signal devices, or which diminish the visibility or effectiveness of such traffic signal devices

- are prohibited.
- (h) Signs Causing Obstruction Prohibited. Any sign so erected, constructed or maintained as to obstruct or be attached to any fire escape, window, door or opening used as means of ingress or egress, or for firefighting purposes, or placed so as to interfere with any opening required for legal ventilation is prohibited.
 - (i) Signs at Intersection Prohibited. No sign or advertising device shall be erected or maintained at the intersection of streets in such a manner as to obstruct clear vision of the intersection.

Sec. 13-1-105 Permitted Residential Signs.

In addition to those permitted signs not requiring a permit pursuant to Section 13-1-103(b), the following non-flashing, non-illuminated signs are permitted under the conditions specified in all residential and planned unit development (residential) districts established by this Chapter:

- (a) Nameplate and Identification Signs. Subject to the following:
 - (1) Area and Content — Residential. There shall be not more than one (1) nameplate, not exceeding two (2) square feet in area, for each dwelling unit, indicating the name or address of the occupant or a permitted home occupation. On a corner lot, two (2) such nameplates for each dwelling unit (one facing each street) shall be permitted.
 - (2) Projection. Such signs shall be affixed flat against the wall of the building.
 - (3) Height. No sign shall project higher than one (1) story or fifteen (15) feet above curb level, whichever is lower.
- (b) "For Sale" and "To Rent Signs. Subject to the following:
 - (1) Area and Number. There shall be not more than one (1) sign per zoning lot, except that on a corner zoning lot two (2) signs (one facing each street) shall be permitted.
No sign shall exceed eight (8) square feet in area nor be closer than twelve (12) feet to any other zoning lot.
 - (2) Height. No sign shall project higher than one (1) story or fifteen (15) feet above curb level, whichever is lower, when attached to a building; detached or free-standing signs shall not be more than four (4) feet in height, measured from the soil grade to the top of the sign post.
- (c) Signs Accessory to Parking Area. Subject to the following:
 - (1) Area and Number. Signs designating parking area entrances or exits are limited to one (1) sign for each such exit or entrance, and to a maximum size of two (2) square feet each. One (1) sign per

- parking area, designating the conditions of use or identity of such parking area and limited to a maximum size of nine (9) square feet, shall be permitted. On a corner lot, two (2) such signs (one facing each street) shall be permitted.
- (2) Projection. No sign shall project beyond the property line into the public way.
 - (3) Height. No sign shall project higher than seven (7) feet above curb level.
- (d) Signs Accessory to Roadside Stands. Subject to the following:
- (1) Content. The signs shall be only for the purpose of identification of the roadside stand and advertising the agricultural products for sale therein.
 - (2) Area and Number. The signs shall be on the same zoning lot (either zoned agricultural or with a conditional use permit) as the roadside stand, and there shall be not more than two (2) signs per lot. No sign shall exceed twelve (12) square feet in area nor be closer than fifty (50) feet from any other zoning lot.
 - (3) Projection. No sign shall project beyond the property line into the public way.
 - (4) Height. No sign shall project higher than fifteen (15) feet above curb level.
 - (5) Permit. A sign permit is required for this type of sign.
- (e) Temporary Signs Accessory to Subdivision Developments or Other Permitted Improvements in Residential Districts. Subject to the following:
- (1) Content. The signs shall be only for the purpose of identification of homes for sale or rent in the subdivision under construction, or for the identification of other nonresidential uses under construction.
 - (2) Area, Number and Setback. Such signs shall not exceed two (2) in number for each subdivision nor thirty-two (32) square feet each in area. They shall observe the front yard requirement of the principal use and shall be located at least fifty (50) feet from all other boundaries of the site.
 - (3) Height. No sign shall project higher than eight (8) feet above curb level.
 - (4) Time Limitations. The sign or signs shall be removed by the applicant or property owner within two (2) years of the date of the issuance of a sign permit.
- (f) Subdivision Identification Signs. Subject to the following:
- (1) Content. The signs shall bear only the name of the subdivision or development.
 - (2) Area and Number. There shall be not more than two (2) signs located at each entrance to a subdivision. No sign shall exceed fifty (50) square feet in area. Such identification signs shall only be

- erected after review and approved by the Zoning Administrator/Permit Issuer.
- (3) Height. No sign shall project higher than twelve (12) feet above curb level; the Town Board may, however, temporarily authorize a larger sign for a period not to exceed two (2) years.
 - (4) Permit. A sign permit is required for this type of sign. Drawings showing the specific design, appearance and location of the sign shall be submitted to the Zoning Administrator/Permit Issuer for approval. The location of any such sign shall be at the discretion of the Zoning Administrator/Permit Issuer based upon the character of the area, the type and purpose of the sign and the length of time permitted.
- (g) Non-flashing, Illuminated Church Bulletins. Subject to the following:
- (1) Area and Number. There shall be not more than one (1) sign per lot, except that on a corner lot, two (2) signs (one facing each street) shall be permitted. No sign shall exceed sixteen (16) square feet in area nor be closer than eight (8) feet from any other zoning lot.
 - (2) Projection. No sign shall project beyond the property line into the public way.
 - (3) Height. No sign shall project higher than one (1) story or fifteen (15) feet above the curb level, whichever is lower.

Sec. 13-1-106 Permitted Agricultural District Signs.

The following signs are permitted in the AG-1 General Agricultural District upon the granting of a permit and subject to the following regulations:

- (a) Name, occupation or organization signs not to exceed ten (10) square feet in sign area, and not exceeding two (2) in number per form or premise.
- (b) Off-premise directional sales signs.
- (c) Real estate signs pertaining to the lease or sale of any building, land, farm equipment or animals. Such signs shall not exceed thirty-two (32) square feet in sign area; shall not be less than twenty-five (25) feet away from the right-of-way of any street or highway and upon the property so offered for sale or lease; and, shall not exceed one (1) sign per street frontage.

Sec. 13-1-107 Landscape Features.

Landscape features such as plant materials, berms, boulders, fencing and similar design elements unincorporated or in conjunction with the freestanding signs are encouraged and shall not be counted as allowable sign area.

Sec. 13-1-108 Prohibited Signs.

- (a) Traffic Interference. Signs shall not resemble, imitate or approximate the shape, size, form or color of railroad or traffic signs or devices. Signs, canopies and awnings shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals or devices or the safe flow of traffic. No sign shall be erected, relocated or maintained so as to prevent free ingress to or egress from any door, window or fire escape. No sign, awning or canopy shall be placed so as to obstruct or interfere with traffic visibility.
- (b) Moving or Flashing Signs. No sign shall be erected which has any flashing, rotating or brilliant intermittent parts or lights or bare reflecting-type bulbs, except those giving public service information such as time, date, temperature, weather or similar information or where allowed by conditional use permit. No signs, billboards or other advertising media which creates a hazard or dangerous distraction to vehicular traffic or a nuisance to adjoining residential property shall be permitted in any district.
- (c) Signs on Public Rights-of-Way. Signs shall not be permitted on public rights-of-way, except for municipal traffic control, parking and directional signs and as otherwise specified in this Chapter, or be located within five (5) feet of a property line.
- (d) Other Prohibited Signs. The following types and classes of signs are prohibited from being placed, erected or maintained in any area or district within the Town:
- (1) Unsafe Signs. Signs or billboards which are unsafe or in a state of disrepair, so as to be dangerous or cause a hazard to persons, animals or property.
 - (2) Signs Attached to Natural Objects. Signs which are attached to trees or other natural objects, except "No Trespassing" signs, which may be placed on trees by the owner or occupant of the premises.
 - (3) Signs on Vehicles, Trailers or Buildings. Signs which are painted or placed directly on temporarily parked vehicles, trailers, or buildings, unless the sign is directly related to the use of the premises in or on which it is located.
 - (4) Non-Accessory Signs. Signs or billboards which are not directly related to the use of the premises in or on which they are located, except directional signs specifically authorized under this Chapter.
 - (5) Abandoned Signs. Signs or billboards that advertise an activity, business product or service no longer conducted or available on the premises on which the sign is located.
 - (6) Rooftop Signs, Flashing or Blinking Signs (other than public traffic control signs), semi-temporary portable signs, and private signs

within public street, road or highway right-of-way shall be prohibited.

- (7) Signs Facing on Federal Interstate or Federal Aid Primary Highways shall meet all the requirements and regulations set forth in Wisconsin statutes and federal regulations as well as the regulations for the type and location of signs set forth herein.
 - (8) Words and Phrases on Signs should be kept to a minimum to allow reading or interpretation from a moving vehicle at posted speed limits without hazard. A combination of ten (10) words, sets of numbers, logos, or pictures will, under normal circumstances, be considered as a guide for sign phrasing and the applicant may be requested to modify the sign to delete excessive verbiage.
- (e) Facing of Signs. No illuminated signs, except those permitted in residential zoning districts, shall be permitted to face a residence and no sign-related illuminating device shall be directed toward residential parcels in a residential zoned district.

Sec. 13-1-109 Dangerous and Abandoned Signs.

- (a) Removal of Dangerous Signs.
- (1) From time to time the Zoning Administration may inspect signs within the Town for compliance with the provisions of this Chapter and if such provisions are not being met, the Building Inspector shall report such fact to the sign owner and request that the sign be made to comply with this Chapter. If, within a reasonable period of time set by the Zoning Administrator, the sign is not made to comply with this Chapter, the Zoning Administrator may direct that the sign be removed by the owner, and if not so removed, shall cause the sign to be removed and the cost of such removal assessed to the sign owner or the owner of the property from which the sign is removed.
 - (2) All signs shall be removed by the owner or lessee of the premises upon which the sign is located in the judgment of the Zoning Administrator/Permit Issuer, such sign is so old, dilapidated or has become so out of repair as to be dangerous or unsafe, whichever occurs first. If the owner or lessee fails to remove it, the Zoning Administrator/Permit Issuer may remove the sign at cost of the owner, following adequate written notice. The owner may appeal the decision of the Zoning Administrator/Permit Issuer to the Board of Appeals.
- (b) Abandoned Signs. Except as otherwise herein provided, all sign messages shall be removed by the owner or lessee of the premises upon which an off-premise sign is located when the business it advertised is longer conducted where advertised. If the owner or lessee fails to remove the sign, the Zoning Administrator/Permit Issuer shall give the owner sixty (60)

days' written notice to remove said sign and thereafter upon the owner's or lessee's failure to comply may remove such sign, any costs for which shall be charged to the owner of the property or may be assessed as a special assessment against the property, and/or the Zoning Administrator/Permit Issuer may take any other appropriate legal action necessary to attain compliance.

- (c) Violations. All signs constructed or maintained in violation of any of the provisions of this Article after the date of adoption are hereby declared public nuisances within the meaning of this Code of Ordinances. In addition to the penalty provisions for violations of this Article, the Zoning Administrator/Permit Issuer or Town Board may bring an action to abate the nuisance in the manner set forth in the Wisconsin Statutes.

Sec. 13-1-110 Variances or Exceptions.

Variances or exceptions to these sign regulations may be granted by the Board of Appeals following a recommendation from the Town Board and Zoning Administrator/ Permit Issuer, pursuant to the standards of the Town Zoning Code.

Sec. 13-1-111 Construction and Maintenance Regulations for Signs.

- (a) Installation. All signs shall be properly secured, supported and braced and shall be kept in reasonable structural condition and shall be kept clean and well painted at all times. Bolts or screws shall not be fastened to window frames. Every sign and its framework, braces, anchors and other supports shall be constructed of such material and with such workmanship as to be safe and satisfactory to the Zoning Administrator/Permit Issuer and/or Building Inspector.
- (b) General Requirements.
- (1) Construction Standards. All signs, except flat signs and those signs weighing less than ten (10) pounds, shall be designed, fastened and constructed to withstand a wind pressure of not less than thirty (30) pounds per square foot of area and shall be constructed, attached, fastened or anchored to adequately support the dead load and any anticipated live loads (i.e., ice, snow) of the sign.
 - (2) Illuminated Signs. Any illuminated signs shall not interfere with surrounding properties or traffic.
 - (3) Roof Signs. No sign shall be located so as to project above the parapet line unless approved by the Zoning Administrator/Permit Issuer.
 - (4) Projection. Signs including supports shall not interfere with surrounding properties or traffic.

- (5) Prohibited Mounting. No signs shall be painted on, attached to or affixed to any trees, rocks, or other similar organic or inorganic natural matter, including utility poles or apparatus.
- (6) Blanketing. Blanketing of signs on buildings shall not be allowed.
- (7) Maintenance. All signs, including supports and attachments, shall be properly maintained and have an appearance that is neat and clean. All signs shall be kept in good structural condition, well painted, and clean at all times and the immediate premises shall be maintained in a clean, sanitary and inoffensive condition and kept free and clear of all obnoxious substances, rubbish and weeds.

Sec. 13-1-112 Special Sign Requirements.

- (a) Electronic Message Unit Signs.
 - (1) Such signs may be used only to advertise activities conducted on the premises or to present public service information.
 - (2) Segmented messages must be displayed for not less than three and one-half (3 1/2) seconds and not more than ten (10) seconds.
 - (3) Traveling messages may travel no slower than sixteen (16) light columns per second and no faster than thirty-two (32) columns per second.
- (b) Portable Signs/Message Boards. Portable, temporary and mobile mounted signs and movable message boards are permitted in non-residential districts and shall be limited in use to five (5) days at a time following approval by the Zoning Administrator/Permit Issuer, provided, however, that the Zoning Administrator/Permit Issuer shall not give approval for placement of a portable sign/message board if it presents a vision obstruction; such signs shall not be displayed more frequently than five (5) days in any ninety (90) day period at any one (1) location. The maximum size of a portable sign/message board shall be ten (10) square feet on each face, back to back. Portable signs/message boards shall not be located in any public right-of-ways and shall be securely fastened to prevent any hazardous condition. Portable signs/message boards shall not be located closer than ten (10) feet to an adjacent property and shall not be illuminated between 10:00 p.m. and 6:00 a.m.
- (c) Search Lights. The Zoning Administrator/Permit Issuer may permit the temporary use of a searchlight for advertising purposes in any district provided that the searchlight will not be located in any public right-of-way, will not be located closer than ten (10) feet to an adjacent property and will not cause a hazard to traffic or adjoining properties. Searchlight permits shall not be granted for a period of more than five (5) days in any

- six (6) month period.
- (d) Parking Signs. Parking area signs are permitted as an accessory use to all parking areas, in all districts, subject to the following:
- (1) Standards:
 - a. Size: Area Maximum Four (4) square feet.
 - b. Number: Maximum One (1) sign per each entrance and exit.
 - c. Yard: All Minimum Projection must be within property lines.
 - d. Height: Maximum Seven (7) feet above crown of the road.

Sec. 13-1-113 Nonconforming Signs.

- (a) Signs Eligible for Characterization as Legal Nonconforming. Any sign located within the Town of Lowell limits of the original date of adoption of this Article hereafter which does not conform with the provisions of this Article is eligible for characterization as a legal nonconforming sign and is permitted; provided that the owners of such signs shall, within three (3) months of the original effective date of this Chapter or any amendment thereto, fill out a permit application for the Zoning Administrator's records. Upon the filing of such application, the Zoning Administrator shall issue a permit to the sign owner without fee.
- (b) Loss of Legal Nonconforming Status. A sign loses its nonconforming status if one (1) or more of the following occurs:
- (1) If said sign is damaged by fire, flood, explosion, earthquake, war, riot or Act of God; or structurally altered in any way, except for normal maintenance and repair; the sign may be reconstructed and used as before if it is reconstructed within three (3) months after such calamity, unless the damage to the sign is fifty percent (50%) or more of its replacement value, in which case, the constructed sign shall comply with the provisions of this Article.
 - (2) The sign is relocated;
 - (3) The sign fails to conform to the Town requirements regarding maintenance and repair, abandonment or dangerous or defective signs;
 - (4) On the date of occurrence of any of the above, the sign shall be immediately brought in compliance with this Article with a new permit secured therefore or shall be removed.
- (c) Legal Nonconforming Sign Maintenance and Repair. Nothing in this Article shall relieve the owner or use of a legal nonconforming sign or the owner of the property in which the sign is located from the provisions of this Article regarding safety, maintenance and repair of signs.

Sec. 13-1-114 Awnings and Canopies.

- (a) Permitted Awnings. No awnings (non-collapsible type) shall be erected or maintained, except such awnings as comply with the following requirements, and then only if the permit required hereunder is first obtained and the same conform to the regulations of the zoning district in which the same are to be located:
- (1) Support. Awnings shall be securely attached to and supported by the building and shall be without posts or columns beyond the setback line.
 - (2) Height. All awnings shall be constructed and erected so that the lowest portion thereof shall be not less than seven (7) feet above the level of the public sidewalk or public thoroughfare.
 - (3) Setback from Curb Line. No awning shall extend within one (1) foot of the curb line.
- (b) Permitted Canopies. No canopies shall be erected or maintained, except such canopies as comply with the following requirements, and then only if the permit required hereunder is first obtained and the same conform to the regulations of the zoning district in which the same are to be located:
- (1) Support. The structural support of all canopies shall be approved by the Zoning Administrator/Permit Issuer as in compliance with the Building Code of the Town and shall meet state building codes. All frames and supports shall be of metal and designed to withstand a wind pressure as provided in Section 13-1-110 of this Code. All canopies shall be attached to a building, and no supports shall exist beyond the setback line between the canopy and the sidewalk or ground below.
 - (2) Height Above Sidewalk. All canopies shall be constructed and erected so that the lowest portion thereof shall not be less than eight (8) feet above the level of the sidewalk or public thoroughfare.
 - (3) Setback From Curb. No canopy shall extend beyond a point two (2) feet from the curb line.

Sec. 13-1-115 Violations of Sign Code.

- (a) Construction Without Permit. Any person, firm or corporation who begins, erects or completes the erection or construction of any sign, awning or canopy controlled by this Article prior to the granting of a sign permit shall pay a penalty double the amount of the permit otherwise required.
- (b) Compliance Notice.
- (1) If the Zoning Administrator/Permit Issuer finds any sign, awning or

canopy regulated herein unsafe or insecure or is a menace to the public, it shall give written notice to the sign owner and to the property owner.

- (2) If such sign, awning or canopy owner fails to remove or alter the sign, awning or canopy so as to comply with the standards herein set forth within five (5) days after such notice, the Zoning Administrator/Permit Issuer may cause such sign, awning or canopy to be removed or altered at the expense of the owner of the sign, awning or canopy or the owner of the property upon which it is located so as to comply with the provisions of this Article.
- (c) Violations; Penalties. Any person who shall violate any of the provisions of this Article shall be subject to a penalty which shall be as follows:
- (1) Any person found guilty of violating any part of this Article who has previously been notified of being in violation or been convicted of violating the same Article within one (1) year shall, upon conviction thereof, be subject to a forfeiture as prescribed by Section 1-1-6 for each such offense, together with costs of prosecution and, in default of payment of such forfeiture and costs, shall be imprisoned in the County Jail until such forfeiture and costs of prosecution are paid, but not exceeding six (6) months.
 - (2) Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Article shall preclude the Town from maintaining any appropriate action to prevent or remove a violation of any provision of this Article.

Sec. 13-1-116 Administration; Sign Permits.

Applications for permits shall be filed with the Zoning Administrator, who shall review the application for its completeness and accuracy and approve or deny the application within forty-five (45) days of receipt unless the time is extended by written agreement with the applicant. A sign permit shall become null and void if work authorized under the permit has not been completed within six (6) months from the date of issuance. Applications shall be made on forms provided by the Zoning Administrator and shall contain or have attached thereto at least the following information:

- (a) Name, Address and Telephone Number of the applicant, and location of building, structure, lot or property to which or upon which the sign is to be attached or erected.
- (b) Name of Person, Firm, Corporation or Association erecting the sign.
- (c) Written Consent of the owner or leasee of the building, structure, or land to which or upon which the sign is to be affixed or erected.
- (d) A Scale Drawing of such sign indicating the dimensions, the materials to

be used, the type of illumination, if any, and the method of construction and attachment.

- (e) A Scale Site Drawing indicating the location and position of such sign in relation to nearby buildings, structures, property boundaries, or signs.

Article H: Performance Standards

(See Title 8 Chapter 3)

Article I: Wind Energy & Wireless Telecommunications Systems

Sec. 13-1-130 Conditional Use Permits Required—Wind Energy Systems.

- (a) Approval Required.
 - (1) No owner within the Town of Lowell may build, construct, use or place any type or kind of wind energy system in any district without holding the appropriate conditional use permit for said system.
 - (2) No wind energy system shall be erected in a primarily agricultural district unless such system is located a minimum of one hundred (100) feet from a residential property line.
- (b) Separate Permit Required for Each System. A separate conditional use permit shall be required for each system. Said permit shall be applicable solely to the systems, structures, use and property described in the permit.
- (c) Basis of Approval. The Town Board shall base its determinations on general considerations as to the effect of such grant on the health, general welfare, safety and economic prosperity of the Town and, specifically, of the immediate neighborhood in which such use would be located, including such considerations as the effect on the established character and quality of the area, its physical attractiveness, the movement of traffic, the demand for related services, the possible hazardous, harmful, noxious, offensive or nuisance effect as a result of noise, dust, smoke or odor and such other factors as would be appropriate to carry out the intent of the Zoning Code.
- (d) Definitions. "Wind energy systems" shall mean "windmills" which are used to produce electrical power.

Sec. 13-1-131 Permit Procedure—Wind Energy Systems.

- (a) Application. The permit application for a wind energy system shall be made to the Zoning Administrator/Permit Issuer on forms provided by the Town of Lowell. The application shall include the following information:
 - (1) The name and address of the applicant.
 - (2) The address of the property on which the system will be located.
 - (3) Applications for the erection of a wind energy conversion system shall be accompanied by a plat or survey for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures. If the system is intended to provide power to more than one (1) premises, the plat or survey shall show all properties to be served and the means of connection to the wind energy conversion system. A

- copy of all agreements with system users off the premises shall accompany the application. The application shall further indicate the level of noise to be generated by the system and provide assurances as to the safety features of the system. Energy easements shall accompany the application.
- (4) An accurate and complete written description of the use for which special grant is being requested, including pertinent statistics and operational characteristics.
 - (5) Plans and other drawings showing proposed development of the site and buildings, including landscape plans, location of parking and service areas, driveways, exterior lighting, type of building material, etc., if applicable.
 - (6) Any other information which the Zoning Administrator, Town Board or Building Inspector may deem to be necessary to the proper review of the application.
 - (7) The Zoning Administrator shall review the application and, if the application is complete and contains all required information, shall refer it to the Town Board.
- (b) Hearing. Upon referral of the application, the Town Board shall schedule a public hearing thereof following the procedures for conditional use permits in Article D.
 - (c) Determination. Following public hearing and necessary study and investigation, the Town Board shall, as soon as practical, render its decision and a copy be made a permanent part of the Board's minutes. Such decision shall include an accurate description of the special use permitted, of the property on which permitted, and any and all conditions made applicable thereto, or, if disapproved, shall indicate the reasons for disapproval. The Town Board may impose any conditions or exemptions necessary to minimize any burden on the persons affected by granting the special use permit.
 - (d) Termination. When a special use does not continue in conformity with the conditions of the original approval, or where a change in the character of the surrounding area or of the use itself cause it to be no longer compatible with surrounding areas, or for similar cause based upon consideration for the public welfare, the special grant may be terminated by action of the Town Board following a public hearing thereon.
 - (e) Changes. Subsequent change or addition to the approved plans or use shall first be submitted for approval to the Town Board and if, in the opinion of the Town Board, such change or addition constitutes a substantial alteration, a public hearing before the Town Board shall be required and notice thereof be given.
 - (f) Approval Does Not Waive Permit Requirements. The approval of a permit under this Article shall not be construed to waive the requirement to

obtain electrical, building or plumbing permits prior to installation of any system.

Sec. 13-1-132 Specific Requirements - Wind Energy Systems.

- (a) Additional Standards. Wind energy conversion systems, commonly referred to as "windmills," which are used to produce electrical power, shall also satisfy the requirements of this Section in addition to those found elsewhere in this Article.
- (b) Application. Applications for the erection of a wind energy conversion system shall be accompanied by a plat or survey for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures. If the system is intended to provide power to more than one (1) premises, the plat or survey shall show all properties to be served and the means of connection to the wind energy conversion system. A copy of all agreements with system users off the premises shall accompany the application. The application shall further indicate the level of noise to be generated by the system and provide assurances as to the safety features of the system. Energy easements shall accompany the application.
- (c) Construction. Wind energy conversion systems shall be constructed and anchored in such a manner to withstand wind pressure of not less than forty (40) pounds per square foot in area.
- (d) Noise. The maximum level of noise permitted to be generated by a wind energy conversion system shall be fifty (50) decibels, as measured on a dB(A) scale, measured at the property line.
- (e) Electro-magnetic Interference. Wind energy conversion system generators and alternators shall be filtered and/or shielded so as to prevent the emission of radio-frequency energy that would cause any harmful interference with radio and/or television broadcasting or reception. In the event that harmful interference is caused subsequent to the granting of a conditional use permit, the operator of the wind energy conversion system shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.
- (f) Location and Height. Wind energy conversion systems shall be located in the rear yard only and shall meet all setback and yard requirements for the district in which they are located and, in addition, shall be located not closer to a property boundary than a distance equal to their height. Wind energy conversion systems are exempt from the height requirements of this Chapter; however, all such systems over seventy-five (75) feet in height shall submit plans to the Federal Aviation Administration (FAA) to determine whether the system is to be considered an object affecting

- navigable air space and subject to FAA restrictions. A copy of any FAA restrictions imposed shall be included as a part of the wind energy conversion system conditional use permit application.
- (g) Fence Required. All wind energy conversion systems shall be surrounded by a security fence not less than six (6) feet in height. A sign shall be posted on the fence warning of high voltages.
- (h) Utility Company Notification. The appropriate electric power company shall be notified, in writing, of any proposed interface with that company's grid prior to installing said interface. Copies of comments by the appropriate utility company shall accompany and be part of the application for a conditional use permit.

Sec. 13-1-133 Wireless Telecommunications Systems.

- (a) Definitions. For the purpose of this Chapter and any permit issued in accordance herewith, the following terms, phrases, words and their derivations shall have the meaning given herein unless otherwise specifically provided for in this Chapter or unless the context clearly indicates otherwise or unless such meaning would be inconsistent with the manifest intent of the Town of Lowell:
- (1) Antenna. Any structure or device for the purpose of collecting or transmitting electromagnetic waves, including, but not limited to, directional antennas, such as panels, microwave dishes, and satellite dishes, and omni-directional antennas, such as whip antennas.
 - (2) Town Engineer. The Town Engineer of the Town of Lowell.
 - (3) Entity. Any individual, corporation, partnership, association or other legal entity which seeks to provide a Wireless Telecommunications System.
 - (4) FCC. The Federal Communication Commission or its legally appointed successor.
 - (5) Permittee. Any entity or its legal successor in interest who is issued a Wireless Telecommunications Permit and/or a Structure Location Permit in accordance with the provisions of this Chapter for the erection, construction, reconstruction, operation, dismantling, testing, use, maintenance, repair, rebuilding, or replacing of a Wireless Telecommunications System in the Town.
 - (6) Street. Any area established for vehicular or public access use of the entire width between the property lines of every way publicly maintained when any part thereof is open for public purposes. "Street" includes, but is not limited to, a highway, avenue, road, alley, right-of-way, lane, boulevard, concourse, bridge, tunnel,

- parkways and waterways.
- (7) Structure Location Permit. A permit issued by the Zoning Administrator which authorizes the location of an Antenna or Tower at a particular geographic location.
 - (8) Total Gross Revenue. All cash, credits or other property of any kind or nature reported as revenue items to the Permittee's audited financial statements arising from or attributable to the sale, lease, rental or exchange of Wireless Telecommunications Services or the equipment by the Permittee within the Town or in any way derived from the operation of its Wireless Telecommunications System, including, but not limited to, any interconnection between its system and the Town and any system whatsoever. This shall be the basis for computing the fee imposed pursuant to Subsection (b)(2). Such sum shall not include any bad debts, deposits, promotional or vendor discounts or credits or sales, service, occupation or other excise tax to the extent that such taxes are charged separately from normal services charges and are remitted by the Permittee directly to the taxing authority.
 - (9) Tower. Any ground, building or roof-mounted pole, spire, structure, or combination thereof including supporting lines, cables, wires, braces, masts, intended primarily for the purpose of mounting an antenna.
 - (10) Wireless Telecommunications Permit. The privilege granted by the Town by which it authorizes an entity to erect, construct, reconstruct, operate, dismantle, test, use, maintain, repair, build or replace a Wireless Telecommunications System. Any permit issued in accordance herewith shall be a non-exclusive permit.
 - (11) Wireless Telecommunications Service. A licensed commercial wireless telecommunications service including cellular, Personal Communication Services ("PCS"), Specialized Mobile Radio ("SMR"), Enhanced Specialized Mobilized Radio ("ESMR") paging, and similar services that are marketed to the general public.
- (b) License Requirements; Fees.
- (1) No entity may construct, operate or continue to operate a Wireless Telecommunications System within the Town without having been issued a Wireless Telecommunications Permit by the Zoning Administrator.
 - (2) It shall be a term and condition of any Wireless Telecommunications Permit issued in accordance herewith and part of the consideration supporting the issuance of such Wireless Telecommunications Permit that the Permittee shall pay to the Town the sum of five percent (5%) of all Total Gross Revenue derived from the operation of Wireless Telecommunications System. Such payments shall be made

annually within one hundred twenty (120) days after the close of the calendar year. All fee payments shall be subject to audit by the Town and assessment or refund if the payment is found to be in error. In the event that an audit by the Town results in an assessment of an additional payment to the Town, such additional payment shall be subject to interest at the rate of one and one-half percent (1-1/2%) per month retroactive to the date such payment originally should have been made. Such payment shall be due and payable immediately and shall include the costs of conducting said audit.

- (3) Structure Location Permit Fees.
 - a. All applicants for a Structure Location Permit shall pay to the Town a permit request fee as prescribed by Section 1-3-1 per site.
 - b. Any entity operating a Wireless Telecommunications System shall pay to the Town an annual Structure Location Permit Fee as prescribed by Section 1-3-1 per site.
 - (4) The request fee shall be paid to the Zoning Administrator at the time of making application for a Structure Location Permit. The annual Structure Location Permit Fee provided for in Subsection (c) above shall be paid to the Zoning Administrator annually on or before October 1 of each calendar year for the portion of the Wireless Telecommunications System within the Town right-of-way on January 1 of that year, and a prorated license fee, based upon the calendar quarter in which the application is filed, shall be paid at the time of the application for a Structure Location Permit. Such quarterly fees are due on January 1, April 1, July 1 and September 1.
 - (5) Fees not paid within ten (10) days after the due date shall incur interest at the rate of one and one-half percent (1-1/2%) per month from the date due until paid.
 - (6) The acceptance of any fee payment required hereunder by Town shall not be construed as an acknowledgment that the payment paid is the correct amount due, nor shall such acceptance of payment be construed as release of any claim which the Town may have for additional sums due and payable.
- (c) Conditions of Permit.
- (1) Any Wireless Telecommunications Permit or Structure Location Permit issued by the Town shall be a non-exclusive permit for the use of those areas within the Town specified in the Wireless Telecommunications Permit or Structure Location Permit.
 - (2) Any Wireless Telecommunications Permit or Structure Location

Permit issued by the Town shall continue in full force and effect so long as the Permittee is in compliance with this Chapter, all applicable federal, state and local ordinances and regulations and the space occupied is not deemed to be needed by the Town for any other public purpose.

- (3) In the event any Wireless Telecommunications Permit or Structure Location Permit is revoked by the Town, the Wireless Telecommunications System shall, at the sole option of the Town, be removed within thirty (30) days at the sole expense of the Permittee.
- (d) Permit Locations and Conditions. Antennas and towers authorized by a Structure Location Permit shall comply with the following requirements:
 - (1) A proposal for a new antenna or tower shall not be approved unless the Town finds that the telecommunication equipment planned for a proposed antenna cannot be accommodated on an existing or approved tower within a one (1) mile radius of the proposed location due to one or more of the following reasons:
 - a. The planned equipment would exceed the structural capacity of the existing or approved tower, as documented by a qualified and licensed professional engineer, and the existing unit or approved tower cannot be reinforced, modified, or replaced to accommodate the planned or equivalent equipment at a reasonable cost.
 - b. The equipment would cause interference materially impacting the usability of other existing or approved equipment at the Tower as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.
 - c. Existing or approved towers within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by qualified and licensed professional engineer.
 - d. Other unforeseen reasons make it unfeasible to locate the planned telecommunications equipment upon an existing or approved tower.
 - (2) Any proposed tower shall be designed in all respect to accommodate both the applicant's antennas and comparable antennas for at least two (2) additional users if the tower is over one hundred (100) feet in height and for at least one (1) additional user if the tower is sixty (60) to one hundred (100) feet in height. Towers must be designed to allow for future rearrangements of antennas upon the tower and to accept antennas mounted at varying heights. All towers shall be erected and constructed in such a manner as to comply with all applicable Town ordinances. All

towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration. Towers shall not be illuminated by artificial means and shall not display strobe lights except if such lighting is specifically required by the Federal Aviation Administration or other state or federal authority. Any Permittee seeking to operate a Wireless Telecommunications Systems shall provide the Town with a letter of intent signed by the tower owner committing the tower owner and his or her successors to allow the shared use of the tower if an additional user agrees in writing to meet objectively reasonable terms and conditions for share use.

- (e) Use of Streets and Pole Attachments.
- (1) Before commencing construction of a Wireless Telecommunications System in, above, over, under, across, through or in any way connected with the streets, public ways or public places of the Town, the permittee shall first obtain the written approval of, and all other necessary permits from, all appropriate Town agencies, including, but not limited to, the Zoning Administrator. Applicants for such approval shall be made in the form prescribed by the Town Engineer.
 - (2) Upon obtaining such written approval, the Permittee shall give the Town Engineer and any other appropriate agency written notice within a reasonable time for proposed construction, but in no event shall such notice be given less than ten (10) days before commencement of such construction, except for emergency repairs of existing lines and cables.
 - (3) Any entity that submits a request for a Wireless Telecommunications Permit in accordance herewith shall include therein proposed agreements for the use of existing towers and antennas, if applicable, with the owner(s) of such facilities to be used or affected by the construction of the proposed Wireless Telecommunications System.
 - (4) It shall be unlawful for the Permittee or any other person or entity to open or otherwise disturb the surface of any street, sidewalk, driveway, public way or other public place for any purpose whatsoever without first obtaining approval to do so after proceeding in the manner described in Subsection (e)(1) and (2). Violation of this Subsection shall subject the Permittee to all penalties and remedies prescribed herein and to all other remedies, legal or equitable, which are available to the Town.
 - (5) The Permittee shall restore any street or sidewalk it has disturbed in

accordance with the provisions of the Town's standard specifications for streets and sidewalks, and shall at its own cost and expense, restore and replace any other property disturbed, damaged or in any way injured, by or on account of its activities, to as good as the condition such property was immediately prior to the disturbance, damage or injury, or pay the fair market value of such property to its owner(s), or shall make such other repairs or restoration as outlined in the approved permit.

- (6) The Permittee shall, at its own cost and expense, protect, support, temporarily disconnect, relocate in the same street or other public place, or remove from such street or other public place, any of its property when required to do so by the Town because of street or other public excavation, construction, repair, regrading or grading, traffic conditions, installation of sewers, drains, water pipes, Town-owned power or signal lines, tracts, vacation or relocation of streets or any other type of construction or improvement of a public agency, or any type of improvement necessary for the public health, safety or welfare, or upon termination or expiration of the permit.
 - (7) The Permittee shall maintain all wires, conduits, cables or other real and personal property and facilities in good condition, order and repair. The Permittee shall provide indemnity insurance and performance bonds or demonstrate financial responsibility as shall comply with all rules and regulations issued by the Town Engineer governing the construction and installation of Wireless Telecommunications Systems.
 - (8) The Permittee shall keep accurate, complete and current maps and records of its system and facilities which occupy the streets, public ways and public places within the Town and shall furnish, as soon as they are available, two (2) complete copies of such maps and records, including as-built drawings, to the Town Engineer.
 - (9) The Permittee shall comply with all rules and regulations issued by the Town Engineer governing the construction and installation of Wireless Telecommunications Systems.
- (f) Violation and Penalties. Any entity who shall carry on or conduct any business or occupation or profession for which a Wireless Telecommunications Permit or a Structure Location Permit is required by this Section without first obtaining such a permit shall be considered to be in violation of this Section and, upon conviction, shall be punished as provided in Section 13-1-172. Each day any violation continues shall be deemed a separate, chargeable offense. No tower or antenna may be sited on residential property within the Town. Placement of towers or antennas on such residentially-zoned property shall be a violation of this

Section and shall be subject to a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) per day for each day that the tower or antenna is in place. Any other violation of this Section shall be punished as provided in Section 13-1-172.

(g) Restrictions on Assignment, Transfer, Sale and Subleasing.

(1) The rights and privileges hereby granted are considered personal, and if the Permittee sells, assigns, transfers, leases or pledges such rights or privileges, or both, in whole or in part, either directly or by operation of the law, then the Town shall have the right to terminate any and all permits issued hereunder for no other cause. The Town shall terminate such permits in writing, by certified mail, return receipt requested, to the Permittee, and such termination shall be effective sixty (60) days from said date of mailing. The rights and privileges hereby granted shall not be mortgaged or encumbered without the prior consent and approval of the Town given by written resolution.

(2) In addition to the provisions of termination provided for in Subsection (g)(1), the Town shall have the right to terminate any and all permits issued hereunder upon any actual or pending change in, or transfer of, acquisition by any other party, or control of Permittee. The word "control" as used in this context is not limited to major stockholders, but includes actual working control in whatever manner exercised. The Permittee shall annually submit to the Town a list of all shareholders and a list of all officers and directors. By acceptance of the Wireless Telecommunications Permit, the Permittee specifically agrees that any violation of this Section shall, at the Town's option, cause any and all permits granted the Permittee under this Section to be revoked.

(h) Reports.

(1) Entities requesting a Wireless Telecommunications Permit may be required by the Town to submit evidence of financial capability to construct and operate a Wireless Telecommunications Permit. Such evidence may include, but is not limited to, previous years' audited financial statements for the entity, individual financial statements of principals or investors or such other financial information as the Town may desire.

(2) The Permittee shall provide the Town with a written statement from an independent certified public accountant within one hundred twenty (120) days after the close of the calendar year that such certified public accountant has reviewed the books and records of the Permittee as they related to any permits issued under this Section, and based upon such review, the certified public accountant believes the payment received by the Town property

reflects the fee due to the Town with respect to this Section. The Town shall have the right to reasonable inspection of the Permittee's books and records during normal business hours.

Sec. 13-1-134 through Sec. 13-1-139 Reserved for Future Use.

Article J: Accessory Uses and Structures

Sec. 13-1-140 Accessory Uses or Structures.

- (a) Principal Use to be Present. An accessory use or structure in any zoning district shall not be established prior to the principal use or structure being present or under construction. Any accessory use or structure shall conform to the applicable regulations of the district in which it is located, except as specifically otherwise provided.
- (b) Placement Restrictions. An accessory use or structure may be established subject to the following regulations:
 - (1) Detached Accessory Buildings in Residential Districts.
 - a. An accessory building shall not be nearer than ten (10) feet to any structure.
 - (2) Standards in Non-Residential Districts. Accessory uses and detached accessory structures are permitted in the rear and side yards only, provided:
 - a. That they may be located in the street yard on waterfront lots; and
 - b. That they may be located in the street yard on lots three hundred (300) feet in depth or greater which are not in platted residential subdivision, but in no case shall they be located closer than one-half (1/2) the depth of the lot to the road right-of-way line.
- (c) Use Restrictions - Residential District. Accessory uses or structures in residential districts shall not involve the conduct of any business, trade or industry except for home occupations as defined and authorized herein and shall not be occupied as a dwelling unit.
- (d) Use Restrictions - Nonresidential Districts. An accessory use or structure in a business or manufacturing district may be established in the rear yard or side yard and shall have setbacks as prescribed in each zoning district.
- (e) Reversed Corner Lots. When an accessory structure is located on the rear of a reversed corner lot, it shall not be located beyond the front yard required on the adjacent interior lot to the rear, nor nearer than five (5) feet to the side line of the adjacent structure.

Sec. 13-1-141 Fences.

- (a) Definitions. For the purpose of this Section,
 - (1) Fence. Any artificially constructed barrier of any materials erected to enclose or screen areas of land or limit ingress/egress thereto. No fence shall be constructed of unsightly or dangerous materials

- which would constitute a nuisance.
- (2) Boundary Fence. A fence placed the property lines of adjacent properties.
 - (3) Protective Fence. A fence constructed to enclose a hazard to the public health, safety and welfare.
 - (4) Architectural or Aesthetic Fence. A fence constructed to enhance the appearance of the structure or the landscape.
 - (5) Picket Fence. A fence having a pointed post, stake, pale or peg laced vertically with the point or sharp part pointing upward to form a part of the fence.
- (b) Height of Residential Fences Regulated.
- (1) Except as provided in Section 13-1-90, a fence or wall may be erected, placed, or maintained along a lot line on residentially zoned property or adjacent thereto to a height not exceeding six (6) feet above the ground level, except that no fence or wall that is located in a required front or corner side yard shall exceed a height of three (3) feet. Where such lot line is adjacent to a non-residentially zoned property, there shall be an eight (8) foot limit on the height of a fence or wall along such lot line.
 - (2) No fence or wall shall be erected, placed or maintained along a lot line on any business or industrially zoned property, adjacent to a residentially zoned property, to a height exceeding eight (8) feet.
 - (3) In any residence district, no fence or wall shall be erected, constructed or maintained to a height exceeding four (4) feet above the street grade nearest thereto, within twenty-five (25) feet of the intersection of any street lines or of street lines projected. (See Section 13-1-90).
- (c) Setback for Residential Fences.
- (1) Fences in or adjacent to a residential property may be constructed on lot lines. Fences may be constructed parallel to lot lines but shall not extend into the front setback area as extended to the side lot lines. Fences shall be located no closer than two (2) feet to a right-of-way.
 - (2) In those cases where the rear yard is a shore yard, fences located between the shore yard setback line and half the distance to the ordinary high water mark shall adhere to the rear yard standards. The remaining shore yard shall adhere to the street yard standards.
- (d) Industrial Security Fences. Security fences are permitted in industrial districts on the property lines in all districts except residential districts, but shall not exceed ten (10) feet in height and shall be of an open type similar to woven wire, wrought iron, or chain link fencing, unless otherwise

- provided by conditional use permit.
- (e) Salvage Yard Fences. When deemed appropriate by the Town Board or where required by Town ordinance, salvage yards or properties here a substantial part of the business located thereon involves the use and/or storage of salvage, junk, disassembled or inoperable materials, vehicles or equipment, may be required to provide screening consisting of fencing or plantings. The type and design of such fencing or screening shall require Town Board approval.
 - (f) Prohibited Fences. No residential fence shall be constructed which is of an otherwise dangerous condition, or which conducts electricity or is designed to electrically shock or which uses barbed wire, provided, however, that barbed wire may be used if adjacent to an agricultural parcel or in industrially zoned areas if the devices securing the barbed wire to the fence are ten (10) feet above the ground or height and project toward the fenced property and away from any public area.
 - (g) Fences to be Repaired. All fences shall be maintained and kept safe and in a state of good repair, and the finished side or decorative side of a fence shall face adjoining property.
 - (h) Temporary Fences. Fences erected for the protection of planting or to warn of construction hazard, or for similar purposes, shall be clearly visible or marked with colored streamers or other such warning devices at four (4) foot intervals. Such fences shall comply with the setback requirements set forth in this Section. The issuance of a permit shall not be necessary for temporary fences as described herein, but said fences shall not be erected for more than forty-five (45) days.
 - (i) Nonconforming Fences. Any fence existing on the effective date of this Code of Ordinances and not in conformance with this Section may be maintained, but any alteration, modification or improvement of more than fifty percent (50%) of said fence shall result in the entire fence being brought into compliance with this Section.
 - (j) Farm Fences. Farm fences on agriculturally zoned lands shall comply with the standards for agricultural fences in the Wisconsin Statutes,
 - (k) Location Determination. The property owner erecting a fence is solely responsible for ensuring that the fence is located properly on his/her property. In a dispute, the Town Board shall serve as fence viewers per the Wisconsin Statutes.

Sec. 13-1-142 through Sec. 13-1-149 Reserved for Future Use.

Article K: Modifications

Sec. 13-1-150 Height Modifications.

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

- (a) Architectural Projections. Architectural projections such as spires, belfries, parapet walls, cupolas, domes, flues and chimneys are exempt from the height limitations of this Chapter.
- (b) Special Structure Height Limitations. Special structures such as elevator penthouses, gas tanks, grain elevators, scenery lofts, radio and television receiving antennas, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations and smokestacks are exempt from the height limitations of this Chapter.
- (c) Essential Services Height Limitations. Essential services, utilities, water towers, and electric power and communication transmission lines are subject to conditional use permit.
- (d) Communications Structures Height Restrictions. Communications structures such as radio and television transmission and relay towers, aerial and observation towers, shall not exceed in height three (3) times their distance from the nearest lot line.
- (e) Agricultural Structures Height Restrictions. Agricultural structures such as barns, silos and water windmills shall not exceed in height twice their distance from the nearest lot line.
- (f) Public Facilities Height Restrictions. Public or semi-public facilities such as schools, churches, hospitals, monuments, sanitariums, libraries, governmental offices and stations may be erected to a height of sixty (60) feet, provided all required yards are increased not less than one (1) foot for each foot the structure exceeds the District's maximum height requirement.

Sec. 13-1-151 Yards Modifications.

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

- (a) Uncovered Stair Restrictions. Uncovered stairs, landings and fire escapes may project into any yard, but not to exceed six (6) feet and not closer than three (3) feet to any lot line, and must be eight (8) feet or more above ground.
- (b) Architectural Projection Restrictions. Architectural projections such as chimneys, flues, sills, eaves, belt courses and ornaments may project into any required yard (setback requirements), but such projection shall not

- exceed two (2) feet.
- (c) Cul-de-Sac and Curve Restrictions. Residential lot frontage on cul-de-sacs and curves may be less than sixty (60) feet provided the width at the building setback line is at least sixty (60) feet and the street frontage is no less than forty-five (45) feet.
 - (d) Essential Services Exemptions. Essential services, utilities, electric power and communication transmission lines are exempt from the yard and distance requirements of this Chapter.

Sec. 13-1-152 Miscellaneous Modifications.

- (a) Additions. Additions in the street yard of existing structures shall not project beyond the average of the existing street yards on the abutting lots or parcels.
- (b) Average Street Yards. The required street yards may be decreased in any residential or commercial districts to the average of the existing street yards of abutting structures on each side, but in no case less than thirty (30) feet in any residential district or thirty (30) feet in any commercial district, measured at the building setback from the center of the right-of-way.
- (c) Corner Lots. Corner lots shall provide a street yard on each street that the lot abuts. The remaining yards shall be a rear yard behind the main entrance to the structure and one side yard.
- (d) Shoreland Lots. Shoreland lots shall provide a street yard on the street abutting the lot, a shore yard on the watercourse abutting the lot, and two (2) side yards. Shoreland lots do not normally have a rear yard.

Sec. 13-1-153 through Sec. 13-1-169 Reserved for Future Use.

Article L: Administration

Sec. 13-1-170 General Administrative System.

This Chapter contemplates an administrative and enforcement officer entitled the "Zoning Administrator/Permit Issuer" to administer and enforce the same. Certain considerations, particularly with regard to granting of permitted conditional uses, planned unit development conditional uses, changes in zoning districts and zoning map, and amending the text of this Zoning Chapter require review and action by the Town Board. A Zoning Board of Appeals is provided to assure proper administration of the Chapter and to avoid arbitrariness.

Sec. 13-1-171 Zoning Administrator/Permit Issuer.

- (a) The Zoning Administrator/Permit Issuer is hereby designated as the primary administrative officer for the provisions of this Chapter, and shall be referred to as the Zoning Administrator/Permit Issuer. The Zoning Administrator/Permit Issuer shall be appointed by resolution of the Town Board. The duty of the Zoning Administrator/Permit Issuer shall be to interpret and administer this Chapter and to issue all permits required by this Chapter.

The Zoning Administrator/Permit Issuer shall further:

- (1) Issue all zoning certificates, and make and maintain records.
 - (2) Conduct inspections of buildings, structures, and use of land to determine compliance with the terms of this Chapter.
 - (3) Maintain permanent and current records of this Chapter, including but not limited to, all maps, amendments, conditional uses, variances, appeals and applications therefore.
 - (4) Provide and maintain a public information function relative to all matters arising out of this Chapter.
 - (5) Receive, file and forward to the Town Clerk all applications for amendments to this Chapter.
 - (6) Receive, file and forward to the Town Board all applications for conditional uses.
 - (7) Receive, file and forward to the Board of Appeals all applications for appeals, variances, or other matters on which the Board of Appeals is required to act under this Chapter, and shall attend all Board of Appeals meetings to provide technical assistance when requested by the Town Board.
- (b) Due to the size of the Town of Lowell it may not be feasible to find a suitable person willing to take on the responsibility of being Zoning Administrator/Permit Issuer on a part-

time basis. It is therefore provided that the function of the Zoning Administrator/Permit Issuer can be delegated to a committee of the Board, to another Town official, or a single member of the Board or the Town Chairperson. An officer other than a Board member or another employee of the Town may also be designated to handle the duties of Zoning Administrator/Permit Issuer or part-time basis in addition to the other duties performed by such person.

Sec. 13-1-172 Violations and Penalties.

- (a) Violations. It shall be unlawful to use or improve any structure or land, or to use water or air in violation of any of the provisions of this Chapter. In case of any violation, the Town Board, the Zoning Administrator/Permit Issuer or any property owner who would be specifically damaged by such violation may cause appropriate action or proceeding to be instituted to enjoin a violation of this Chapter or cause a structure to be vacated or removed.
- (b) Remedial Action. Whenever an order of the Zoning Administrator/Permit Issuer has not been complied with within thirty (30) days after written notice has been mailed to the owner, resident agent or occupant of the premises, the Town Board, the Zoning Administrator/Permit Issuer or the Town Attorney may institute appropriate legal action or proceedings.
- (c) Penalties. Any person, firm or corporation who fails to comply with the provisions of this Chapter or any order of the Zoning Administrator/Permit Issuer issued in accordance with this Chapter or resists enforcement shall, upon conviction thereof, be subject to a forfeiture and such additional penalties as provided for in Section 1-1-6 of this Code of Ordinances.

Sec. 13-1-173 Zoning Permits.

- (a) Requirements. Applications for a zoning permit shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable:
 - (1) Names and address of the applicant, owner of the site, architect, professional engineer, and contractor.
 - (2) Description of the subject site by lot, block, and recorded subdivision or by metes and bounds; address of the subject site; type of structure; existing proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
 - (3) Plat of survey prepared by a registered land surveyor, or where deemed appropriate by the Zoning Administrator, a location sketch

drawn to scale. The scale shall not be smaller than 1" = 50'. The plat or sketch shall show the location, boundaries, dimensions, elevations, uses and size of the following:

- a. Subject site;
 - b. Existing and proposed structures;
 - c. Existing and proposed easements, streets, and other public ways;
 - d. Off-street parking, loading areas, and driveways;
 - e. Existing highway access restrictions;
 - f. Existing and proposed street shore, side, and rear yards; and
 - g. The location, elevation and use of any abutting lands and their structures within one hundred fifty (150) feet of the subject premises.
 - h. In addition, the plat or sketch shall show the location of any shorelands, wetlands and/or floodplains which will necessitate that a Dodge County land use permit be secured.
- (4) A copy of any necessary permits from Dodge County or other applicable state and federal agencies.
 - (5) A photocopy of any necessary sanitary permits secured from Dodge County.
 - (6) Proposed water and sanitary survey plan, showing the location of any private well, if municipal water service is not available. The site plan shall illustrate sanitary sewer systems, including the distance from proposed and existing buildings.
 - (7) Additional information as may be required by the Town Board, Plan Commission, Zoning Administrator, Town Engineer or Planner, Building, Plumbing or Health Inspectors.
 - (8) Fee Receipt. Zoning permit application fees shall be set by the Town Board, paid to the Town Treasurer and a fee receipt attached to the application.
- (b) Validity. A zoning permit shall be granted or denied in writing by the Zoning Administrator within thirty (30) days. The permit shall expire within six (6) months unless substantial work has commenced. Any permit issued in conflict with the provisions of this Chapter shall be null and void.
- (c) Uses Not Requiring a Zoning Permit. No zoning permit shall be required for any of the following cases, provided, however that any work not requiring a permit shall comply with the applicable setback, yard, height and other requirements of this Chapter:
- (1) For building an accessory building that is less than one hundred fifty (150) square feet in area.
 - (2) For repairs that do not alter the size or position of an existing structure on a lot. Such repairs shall not include the replacement or

alteration of major structural elements.

Sec. 13-1-174 Fees.

- (a) Required Fees. Required fees under this Chapter fees shall be paid in full at time of application, plus the cost of any advertising of notices.
- (b) Liability. The acceptance of fees as provided herein shall not be deemed an assumption of liability by the Town.

Sec. 13-1-175 through Sec. 13-1-179 Reserved for Future Use.

Article M: Changes and Amendments to the Zoning Code

Sec. 13-1-180 Authority.

Whenever the public necessity, convenience, general welfare or good zoning practice requires, the Town may, by ordinance, change the district boundaries established by this Chapter and the Zoning Map incorporated herein, or amend, change or supplement the text of the regulations established by this Chapter or amendments thereto. Such change or amendment shall be subject to the review of the Town Board.

Sec. 13-1-181 Initiation of Changes or Amendments.

- (a) Initiation. A change or amendment may be initiated by the Town Board or by a petition of one (1) or more of the owners or lessees of property within the area proposed to be changed.
- (b) Petitions. Petitions for any change to the District boundaries or amendments to the regulations shall be filed with the Town Clerk and shall describe the premises to be rezoned or the regulations to be amended, list the reasons justifying the petition, specify the proposed use and have attached the following:
 - (1) A plot plan drawn to a scale of one (1) inch equals one hundred (100) feet [one (1) inch = one hundred (100) feet] showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts and the location and existing use of all properties within two hundred (200) feet of the area proposed to be rezoned.
 - (2) The owners' names and addresses of all properties lying within two hundred (200) feet of the area proposed to be rezoned.
 - (3) Additional information required by the Town Board.
- (c) Action. The Town Board shall hold a public hearing as provided for in Sec. 62.23(7)(d), Wis. Stats., and review all proposed changes and amendments. The Town Board shall determine whether the petition be granted as requested, modified or denied.

Sec. 13-1-182 Protest.

- (a) In the event of a protest against amendment to the zoning map, duly signed and acknowledged by the owners of twenty percent (20%) or more, either of the areas of the land included in such proposed change, or by the owners of twenty percent (20%) or more of the land immediately adjacent extending one hundred (100) feet there from, or by the owners

of twenty percent (20%) or more of the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by the favorable vote of three-fourths (3/4) of the full Town Board membership.

- (b) In the event of protest against amendment to the text of the regulations of this Chapter, duly signed and acknowledged by twenty percent (20%) of the number of persons casting ballots in the last general election, it shall cause a three-fourths (3/4) vote of the full Town Board membership to adopt such amendment.

Sec. 13-1-183 through Sec. 13-1-189 Reserved for Future Use.

Article N: Appeals

Sec. 13-1-190 Appeals to the Zoning Board of Appeals.

- (a) Scope of Appeals. Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the Town affected by any decision of the administrative officer. Such appeal shall be taken within reasonable thirty (30) days of the alleged grievance or judgment in question by filing with the officer(s) from whom the appeal is taken and with the Board of appeals a notice of appeal specifying the grounds thereof, together with payment of a filing fee as may be established by the Town Board. The officer(s) from whom the appeal is taken shall forthwith transmit to the Board of Appeals all papers constituting the record of appeals upon which the action appeals from was taken.
- (b) Stay of Proceedings. An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certified to the Board of Appeals that, by reason of facts stated in the certificate, a stay would, in his/her opinion, cause immediate peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record 'on application, on notice to the officer from whom the appeal is taken and on due cause shown.
- (c) Powers of Zoning Board of Appeals. In addition to these powers enumerated elsewhere in this Code of Ordinances, the Board of Appeals shall have the following powers:
- (1) Errors. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator/Permit Issuer or Building Inspector.
 - (2) Variances. To hear and grant appeals for variances as will not be contrary to the public interest where, owing to practical difficulty or unnecessary hardship, so that the spirit and purposes of this Chapter shall be observed and the public safety, welfare and justice secured. Use variances shall not be granted.
 - (3) Interpretations. To hear and decide application for interpretations of the zoning regulations and the boundaries of the zoning districts after the Town Board has made a review and recommendation.
 - (4) Substitutions. To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses provided no structural alterations are to be made and the Town Board has made a review and recommendation. Whenever the Board permits such a substitution, the use may not thereafter be

- changed without application.
- (5) Unclassified Uses. To hear and grant applications for unclassified and unspecified uses provided that such uses are similar in character to the principal uses permitted in the district and the Town Board has made a review and recommendation.
 - (6) Temporary Uses. To hear and grant applications for temporary uses, in any district provided that such uses are of a temporary nature, do not involve the erection of a substantial structure and are compatible with the neighboring uses and the Town Board has made a review and recommendation. The permit shall be temporary, revocable, subject to any condition required by the Board of Zoning Appeals and shall be issued for a period not to exceed twelve (12) months. Compliance with all other provisions of this Chapter shall be required.
 - (7) Permits. The Board may reverse, affirm wholly or partly, modify the requirements appealed from and may issue or direct the issue of a permit.

Sec. 13-1-191 Hearing on Appeals.

The Board of Appeals shall fix a reasonable time for the hearing, cause notice thereof to be published in the official newspaper not less than seven (7) days prior thereto, cause notice to be given to the appellant or applicant and the administrative officer(s) appealed from by regular mail or by personal service not less than five (5) days prior to the date of hearing. In every case involving a variance, notice shall also be mailed not less than five (5) days prior to the hearing of the fee owners of records of all land within one hundred (100) feet of any part of the subject building or premises involved in the appeal.

Sec. 13-1-192 Decisions of Board of Appeals.

- (a) Timeframe. The Board of Appeals shall decide all appeals and applications within thirty (30) days after the public hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant and the Zoning Administrator/ Permit Issuer.
- (b) Conditions. Conditions may be placed upon any zoning permit ordered or authorized by this Board.
- (c) Validity. Variances, substitutions or use permits granted by the Board shall expire within six (6) months unless substantial work has commenced pursuant to such grant.

Sec. 13-1-193 Variations.

- (a) Purpose.
- (1) A request for a variance may be made when an aggrieved party can submit proof that strict adherence to the provisions of this Zoning Code would cause him/her undue hardship or create conditions causing greater harmful effects than the initial condition. A variance granted to a nonconforming use brings that use into conformance with the district and zoning requirements.
 - (2) The Board of Appeals may authorize upon appeal, in specific cases, such variance from the terms of the Zoning Code as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the Zoning Code will result in unnecessary hardship and so that the spirit of the Zoning Code shall be observed and substantial justice done. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the flood protection elevation for the particular area or permit standards lower than those required by state law.
 - (3) For the purposes of this Section, "unnecessary hardship" shall be defined as an unusual or extreme decrease in the adaptability of the property to the uses permitted by the zoning district which is caused by facts, such as rough terrain or good soil conditions, uniquely applicable to the particular piece of property as distinguished from those applicable to most or all property in the same zoning district.
- (b) Application for Variation. The application for variation shall be filed with the Zoning Administrator. Applications may be made by the owner or lessee of the structure, land or water to be affected. The application shall contain the following information:
- (1) Name and address of applicant and all abutting and opposite property owners of record.
 - (2) Statement that the applicant is the owner or the authorized agent of the owner of the property.
 - (3) Address and description of the property.
 - (4) A site plan showing an accurate depiction of the property.
 - (5) Additional information required by the Town Engineer, Town Board, Plan Commission, Zoning Board of Appeals or Zoning Administrator/Permit Issuer.
 - (6) Fee receipt in the amount as determined by the Town Board.
- (c) Public Hearing of Application. The Board of Appeals shall conduct at least one (1) public hearing on the proposed variation. Notice of such hearing shall be given not more than thirty (30) days and not less than ten (10)

days before the hearing in one (1) or more of the newspapers in general circulation in the Town, and shall give due notice to the parties in interest, the Zoning Administrator/Permit Issuer and the Town Board. At the hearing the appellant or applicant may appear in person, by agent or by attorney. The Board of Appeals shall thereafter reach its decision within thirty (30) days after the final hearing and shall transmit a written copy of its decision to the appellant or applicant.

- (d) Action of the Board. For the Board of Appeals to grant a variance, it must find that:
- (1) Denial of variation may result in hardship to the property owner due to physiographical consideration. There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that the Zoning Code should be changed. If a variance is to be granted, the Board of Appeals shall find that no reasonable use may be made of the property unless a variance is given.
 - (2) The conditions upon which a petition for a variation is based are unique to the property for which variation is being sought and that such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.
 - (3) The purpose of the variation is not based exclusively upon a desire to increase the value or income potential of the property.
 - (4) The granting of the variation will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located.
 - (5) The proposed variation will not undermine the spirit and general and specific purposes of the Zoning Code.
- (e) Conditions. The Board of Appeals on appeal may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards established in this Section.

Sec. 13-1-194 Review by Court of Record.

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