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WAUPACA COUNTY
ZONING ORDINANCE

CHAPTER 34

Waupaca County Zoning Ordinance, Chapter 34 of the Waupaca County General Code of Ordinances

Be it known, that the Waupaca County Zoning Ordinance, Chapter 34 of the Waupaca County General Code of Ordinances was comprehensively amended and was approved by the Waupaca County Board of Supervisors on May 18, 2010. Published and effective as of June 3, 2010.

Be it known, that the Waupaca County Board of Supervisors enacted amendments to the Waupaca County Comprehensive Zoning Ordinance, Chapter 34 of the Waupaca County General Code of Ordinances on February 19, 2013. Effective upon publication of February 28, 2013.

Be it known, that the Waupaca County Board of Supervisors enacted amendments to the Waupaca County Comprehensive Zoning Ordinance, Chapter 34 of the Waupaca County General Code of Ordinances on June 18, 2013. Effective upon publication of June 27, 2013.

Be it known, that the Waupaca County Board of Supervisors enacted amendments to the Waupaca County Comprehensive Zoning Ordinance, Chapter 34 of the Waupaca County General Code of Ordinances on July 16, 2013. Effective upon publication of July 25, 2013.

Be it known, that the Waupaca County Board of Supervisors enacted an amendment to the Waupaca County Comprehensive Zoning Ordinance, Chapter 34 of the Waupaca County General Code of Ordinances on December 17, 2013 (delete Section 12 Telecommunication Towers, Antennas and Related Facilities and create Chapter 48 Mobile Service Facilities and Support Structures as a stand-alone Ordinance). Effective upon publication of December 26, 2013.

Be it known, that the Waupaca County Board of Supervisors enacted amendments to the Waupaca County Comprehensive Zoning Ordinance, Chapter 34 of the Waupaca County General Code of Ordinances on July 15, 2014. Effective upon publication of July 22, 2014.

Be it known, that the Waupaca County Board of Supervisors enacted amendments to the Waupaca County Comprehensive Zoning Ordinance, Chapter 34 of the Waupaca County General Code of Ordinances on May 19, 2015. Effective upon publication of May 28, 2015.

Be it known, that the Waupaca County Board of Supervisors enacted amendments to the Waupaca County Comprehensive Zoning Ordinance, Chapter 34 of the Waupaca County General Code of Ordinances on July 21, 2015. Effective upon publication of July 30, 2015.

Be it known, that the Waupaca County Board of Supervisors enacted amendments to the Waupaca County Comprehensive Zoning Ordinance, Chapter 34 of the Waupaca County General Code of Ordinances on May 17, 2016.

Be it known, that the Waupaca County Board of Supervisors enacted amendments to the Waupaca County Comprehensive Zoning Ordinance, Chapter 34 of the Waupaca County General Code of Ordinances on May 16, 2017.

Be it known, that the Waupaca County Board of Supervisors enacted amendments to the Waupaca County Comprehensive Zoning Ordinance, Chapter 34 of the Waupaca County General Code of Ordinances on May 15, 2018. Effective upon publication of May 24, 2018.

Be it known, that the Waupaca County Board of Supervisors enacted amendments to the Waupaca County Comprehensive Zoning Ordinance, Chapter 34 of the Waupaca County General Code of Ordinances on May 21, 2019. Effective upon publication of May 28, 2019.

Be it known, that the Waupaca County Board of Supervisors enacted amendments to the Waupaca County Comprehensive Zoning Ordinance, Chapter 34 of the Waupaca County General Code of Ordinances on June 16, 2020. Effective upon publication of June 25, 2020.

Be it known, that the Waupaca County Board of Supervisors enacted amendments to the Waupaca County Comprehensive Zoning Ordinance, Chapter 34 of the Waupaca County General Code of Ordinances on May 18, 2021. Effective upon publication of May 27, 2021.

Be it known, that the Waupaca County Board of Supervisors Repealed and created Chapter 34 Waupaca County Zoning Ordinance on September 21, 2021. Published and effective as of September 30, 2021.

Be it known, that the Waupaca County Board of Supervisors Repealed and created Chapter 34 Waupaca County Zoning Ordinance on May 17, 2022. Published and effective as of May 26, 2022.

Published in the Waupaca County Code of Ordinances, Chapter 34.

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1.0 Interpretation and Purposes

1.1 Objectives

To achieve the objectives outlined in Sections 59.69, 59.692, 59.693, and 87.30, Wis. Stats., implement the Waupaca County Comprehensive Plan, and implement the Waupaca County Towns' Comprehensive Plans, the Board of Supervisors of Waupaca County ordains zoning regulations as follows:

1.2 Short Title

This Ordinance may be known as and may be cited as The Waupaca County Zoning Ordinance.

1.3 Purpose and Intent

This Ordinance is adopted in order to promote and to protect public health, safety, comfort, convenience, prosperity, aesthetics, and other aspects of the general welfare; and, more specifically, to fix reasonable standards to which buildings and structures shall conform, to regulate and restrict buildings in all of the unincorporated areas of the County, to guide the proper distribution and location of various land uses, to promote the safety and efficiency of the streets and highways, to provide for adequate light, air, sanitation and drainage, to conserve natural resources, to provide safety from fire and other hazards, to define the powers and duties to the administrative bodies as provided hereinafter, and to prescribe penalties for the violation of the provisions of this Ordinance or any amendment thereto.

1.4 Application of Overlapping Regulations

This Ordinance shall not repeal, impair, or modify private covenants or other municipal Ordinance, with the exception of Chapters 32 or 36 as stated below.

The Shoreland and Floodplain regulations of this Ordinance and of Chapters 32 and 36 of this Code of Ordinances, when applied within the jurisdictional area as defined in Sections 59.692 and 87.30, Wis. Stats., supplement and take precedence over the less restrictive provisions of the respective zones. Where the provisions of this Ordinance are more restrictive than similar provisions in Chapters 32 or 36, the provisions of this Ordinance shall prevail.

1.5 Enactment of Zoning Ordinance and its Effect

1. This Zoning Ordinance shall become effective per the procedures under Wisconsin Statutes Section 59.69. Each town within which this Zoning Ordinance applies has adopted the Ordinance independently of one another and generally on different dates, as follows:

Town	Date
Bear Creek	June 15, 2010
Caledonia	May 20, 2011
Dayton	April 13, 2011
Farmington	September 22, 2010
Helvetia	June 21, 2011
Iola	October 15, 2010
Larrabee	April 25, 2011
Lebanon	November 30, 2011
Lind	May 11, 2011
Little Wolf	September 29, 2010
Matteson	December 16, 2010
Mukwa	April 15, 2011
Royalton	January 19, 2011
Scandinavia	October 15, 2010
St. Lawrence	September 15, 2011
Union	April 27, 2011
Waupaca	June 7, 2011
Weyauwega	January 27, 2011
Wyoming	January 10, 2011

2. This Zoning Ordinance is a comprehensive revision to the Waupaca County Zoning Ordinance that, in part, carries forward by re-enactment some of the provisions of the regulations governing zoning and related matters, being previously known collectively as the Waupaca County Zoning Ordinance, adopted prior to the effective date of this comprehensive revision to the Zoning Ordinance. While it is the intention of this comprehensively revised Zoning Ordinance to repeal the prior Waupaca County Zoning Ordinance, it is also the intention to re-enact and continue in force such existing provisions so that all rights and liabilities that have accrued there under are preserved and may be enforced, unless explicitly surrendered by specific provisions of this Zoning Ordinance or altered by the Official Zoning Map.
3. All provisions of the Waupaca County Zoning Ordinance which existed prior to May 18, 2010 and which are not re-enacted herein are hereby repealed.
4. The adoption of this Zoning Ordinance shall not adversely affect the County's right to prosecute any violation of the predecessor Zoning Ordinance, provided that such violation occurred while that Zoning Ordinance was in effect.

1.6 General Interpretation

The following rules of construction shall apply to this Ordinance: The particular shall control the general; in case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control; the word "shall" is always mandatory, whereas the word "may" is permissive; words used in the present tense shall include the future, and words used with singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary; building or structure includes any part thereof; the phrase "used for" includes arranged for; the person includes an individual, a corporation, a partnership, an incorporated association or any other similar entity, unless the context clearly indicates the contrary. Where a regulation involves two (2) or more items, conditions, provisions or events connected by the conjunction and, or, either...or, the conjunction shall be interpreted as follows; and indicates that all the connected items, conditions, provisions or events shall apply, or indicates that the connected items, conditions or events may apply singly or in any combination; either...or indicates that the connected items, conditions, provisions or events shall apply singly, but not in combination; the masculine gender includes the feminine and the neutral.

1.7 Definitions of Words or Phrases

The following words, phrases and terms, wherever they occur in the Ordinance, shall be interpreted as herein defined. Definitions for land uses are outlined in Section 6.0.

1. **Accessory Use**: A use of land or structure or portion thereof customarily incidental and subordinate to the principal use of the land or structure and located on the same parcel with the principal use except for such accessory parking facilities as are specifically authorized to be located elsewhere, as distinguished from a principal use.
2. **Accessory Structure:** A subordinate structure, the use of which is incidental and customary to that of the principal structure, located on the same lot as the principal structure. No accessory structure or part thereof shall be used for living, sleeping, or eating quarters.
3. **Brew Pub:** A facility for the production of 31,000 gallons or less per year of fermented malt beverages in accordance with Wis. Stats. 125.295 in which a license to operate a restaurant has also been issued under Wis. Stats. 97.30 on the same premises.
4. **Brewery:** A facility for the production of fermented malt beverages, as defined in Chapter 125 of the Wis. Stats., that are sold wholesale and /or off premises directly to retailers as authorized by statute.
5. **Brewery, Micro:** A facility for the production of 100,000 gallons or less per year of fermented malt beverages, as defined in Chapter 125 of Wis. Stats., that are sold wholesale and/or off premises directly to retailers as authorized by statute.
6. **Brewery, Nano:** A facility for the production of less than 10,000 gallons of fermented malt beverages per year that may be bottled, packaged, possessed, stored, sold, shipped, transported, delivered and/or consumed on premise in accordance with the provisions of Wis. Stats. 125.29. A nano-brewery may operate a restaurant on the brewery premises as provided in Wis. Stats. 125.29(6).
7. **Buildable Area**: The specified portion of a lot within the building and setback lines.

8. **Building:** Any structure which is built for the support, shelter, or enclosure of persons, animals, or property of any kind. Also see Structure.
9. **Building Area:** The area bounded by the exterior dimensions of the outer walls at the ground line.
10. **Building Coverage:** The percentage of a lot covered by principal buildings, accessory buildings, and all other structures with a roof.
11. **Building Envelope:** The three dimensional space within which a structure is built.
12. **Building, Principal:** The main building on a lot, intended for primary use as permitted by the regulations of the zone in which it is located.
13. **Building, Public and Semi-Public**: Public and semi-public buildings, in the sense of this Ordinance, are structures principally of an institutional nature and serving a public need such as: churches, hospitals, rest homes, schools, including private academic schools and preschools, libraries, museums, post offices, police and fire stations, public and private utilities, and other public services, but not including the operation of a public bar, restaurant, or recreational facility as commercial enterprise.
14. **Building, Service**: A structure which may contain a toilet, lavatory, and such other facilities as may be required by this Ordinance. Such structures shall be primarily designed and used for the operation of a manufactured/mobile home park, campgrounds, or camp. This shall include those buildings of a commercial nature which may be permitted by the Planning and Zoning Committee and also the home and/or office of the management.
15. **Camping Unit:** A recreational vehicle (RV), motor home, pick-up coach, travel trailer, camping trailer, park model, cabin, yurt, or tent not exceeding four hundred (400) square feet.
16. **Committee:** Waupaca County Planning and Zoning Committee.
17. **Common Ownership**: Ownership by the same person or persons or by partnerships or corporations that are all wholly owned by the same person or persons. This includes joint tenancy and tenancy in common. Within the Farmland Preservation Overlay, a parcel owned by one member of a married couple is deemed to be owned by the married couple.
18. **Condominium:** A form of ownership combining individual unit ownership with shared use and ownership of common property or facilities, established in accordance with Chapter 703 of the Wisconsin Statutes, Condominium Ownership Act. Common areas and facilities are owned by all members of the condominium association on a proportional, undivided basis. A condominium is a legal form of ownership, and not a specific building type or style.
19. **Contiguous:** Lots or parcels shall be considered contiguous if they share a common boundary. Land that is separated only by a navigable river, stream or creek, section line, public or private road, rail right-of-way, pipeline, transmission line, or other right-of-way or easement shall be considered contiguous. Lots or parcels that only meet at a single point are not considered contiguous.
20. **County:** Reference to County shall mean Waupaca County including any agency department or committee thereof.

21. **County Board:** Waupaca County Board of Supervisors.
22. **Cul-de-Sac:** The end of a highway with only one (1) outlet and having a turn-around for the safe and convenient reversal of traffic movement.
23. **Daylight Hours:** As defined in the current Wisconsin Department of Natural Resources Hunting Regulations, in reference to Shooting Ranges for Firearms.
24. **Density:** The number of development rights located within a specific land area. Existing residential dwelling units or equivalent principle uses within the parcel are included in this calculation.
25. **Development Right:** The legally allowed residential or equivalent principle use development potential on a parcel of real property.
26. **Development Site**: One or more parcels of land unified under common ownership which constitute the entire area of development shown on a site plan or subdivision plat.
27. **Distillery:** A facility for the production of any beverage, except beer, made by a distillation process from agricultural grains, fruits, and sugars. For example: whiskey, brandy, gin, or rum.
28. **Dwelling:** A structure designed, intended, or used as living or sleeping quarters for human habitation.
29. **Dwelling, Unit:** A group of rooms constituting all or part of a dwelling, which are arranged, designed, used, or intended for use exclusively as living quarters for one family and not more than an aggregate of two (2) roomers, and which include complete kitchen facilities permanently installed.
30. **Family:** One or more persons related by blood, marriage, or adoption, or a group of not more than five (5) persons not so related, maintaining a common household in a dwelling unit.
31. **Farm:** Land that is primarily devoted to agricultural use, having produced at least six thousand dollars ($6,000) in gross farm revenues in the previous year, or at least eighteen thousand dollars ($18,000) in the preceding three (3) years.
32. **Farm Residence:** A single-family or duplex residence located on a farm that meets one of the following criteria:
    a. Is the only residential structure on a farm; or
    b. Is occupied by an owner or operator of the farm; or
    c. Is occupied by a parent or child of an owner or operator of the farm; or
    d. Is occupied by an individual who earns more than fifty percent (50%) of his or her gross income from the farm.
33. **Farm Revenue, Gross:** Gross receipts from agricultural uses, less the cost of other basis of livestock or other agricultural items purchased for resale which are sold or otherwise disposed of during the taxable year and receipts accruing to the renter, but not rent paid to the land owner.
34. **Floor Area, Gross:** For the purpose of determining requirements for off-street parking and off-street loading, the floor area shall mean the sum of the gross

horizontal areas of several floors of the building, or portion thereof, devoted to such use, including accessory storage areas located within selling or working space, such as counters, racks or closets, and any basement floor area devoted to retailing activities to the production or processing of goods, or to business or professional offices.

35. **Height:** Structure height is the measurement of the vertical line segment starting at the lowest point of any exposed wall and its intersect with the ground to a line horizontal to the highest point of a structure as described in Section 2.6.

36. **Hobby farm:** A use of the land that is primarily residential in nature but may include the raising of livestock primarily for recreational purposes.

37. **Junk:** Shall include, but is not limited to, old iron, steel, brass, copper, tin, lead, or other base metals; old cordage, ropes, rags, fibers, or fabrics; old rubber; old bottles or other glass; wastepaper and other waste or discarded material which might be prepared to be used again in some form; and inoperable appliances and machinery; and three (3) or more motor vehicles, no longer used as such, to be used for scrap metal or stripping of parts; but "junk" shall not include materials or objects accumulated by a person as by-products, waste, or scraps from the operation of his own on-going business or materials or objects held and used by a manufacturer as an integral part of his own manufacturing process.

38. **Kitchen Facilities**: A room or area within a room whose primary purpose is to store, prepare and cook food. A kitchen will have a refrigerator to store food, counter space and a sink to prepare food, and a stove and/or range to cook food.

39. **Livestock:** Bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, camelids, ratites and farm raised fish.

40. **Lot:** A buildable parcel of land represented and identified in a subdivision or minor subdivision as defined in Sections 2.2.48 and 2.2.69 of the Waupaca County Subdivision Ordinance.

41. **Lot Area:** The area of contiguous land bounded by lot lines, exclusive of land provided for public thoroughfares.

42. **Lot Area, Gross:** The area contained within the property lines of an individual parcel of land, including area to the centerline of any adjacent public street or railroad right-of-way or proscriptive easement.

43. **Lot Depth:** The horizontal distance of a straight line drawn from the midpoint of the front property line to the midpoint of the rear property line.

44. **Lot Lines:** A property boundary of any lot held in single or separate ownership; except where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the street or alley right-of-way.

45. **Lot Width:** The horizontal distance between side lot lines measured at right angles to lot depth line at a point midway between the front and rear property lines. If the side property lines are not parallel, the width of the lot shall be the length of a line at right angles to the depth line or the lot at a distance midway from the front and rear property lines.

46. **Navigable Water:** Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this State, including the Wisconsin portion of boundary waters, which are navigable under the laws of this State. Under Wis. Stats. s. 281.31(2)(m), notwithstanding any other provision of law or administrative rule promulgated there under. Shoreland Ordinances required under Wis. Stats. s. 59.692, and ch. NR 115, Wis. Adm. Code, do not apply to lands adjacent to farm drainage ditches if:

    a. Such lands are not adjacent to a natural navigable stream or river.

    b. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and

    c. Such lands are maintained in nonstructural agricultural use.

47. **Nonconforming Use or Structure:** Any structure, land or water, lawfully used, occupied or erected at the time of the effective date of this Ordinance or amendments thereto, which does not conform to the regulations of this Ordinance or amendments thereto.

48. **Nonfarm Residence:** Any residence other than a farm residence.

49. **Ordinary Maintenance:** The work of keeping something in proper condition or upkeep. Ordinary maintenance includes painting, decorating, installation or repair of heating, electricity or plumbing systems; and installation or replacement of paneling, acoustical ceilings, insulation, doors, windows, roof surface materials or siding, provided the replacement is done with materials similar in nature of those being replaced. Structural alterations of any type are not included in ordinary maintenance.

50. **Outlot:** A parcel of land not to be used for building purposes, so designated on a Plat or Certified Survey Map.

51. **Parcel:** A single piece of land separately owned, either publicly or privately, and capable of being conveyed separately.

52. **Person:** Any individual, firm, trust, partnership, public or private association or corporation; or partnership, firm, company, corporation, municipality, County, Town, State, Federal agency, whether tenant, owner, lessee, licensee, or its agent, heir, or assign.

53. **Planning & Zoning Committee**: This Committee of Waupaca County as created by the Waupaca County Board of Supervisors to serve as the County Planning and Zoning agency.

54. **Planning & Zoning Director:** The official appointed to administer this Ordinance and whose duties are outlined in the administration Section of the Ordinance.

55. **Private Sewage Disposal System or Private Onsite Wastewater Treatment System (POWTS):** A sewage disposal system other than a public sewage disposal system, including septic tank, soil absorption systems, privies, holding tanks, and privately owned common sewerage facilities including package treatment plants, lagoons and irrigation systems.

56. **Principal Use:** The primary or predominant use of land or a building, as distinguished from an accessory use.

57. **Public Open Space:** Any publicly owned open area; including, but not limited to, the following: parks, playgrounds, forest preserves, beaches, waterways, parkways and streets.

58. **Public Sewage Disposal System:** Sewers and sewage treatment facilities which are maintained and operated by a municipality or sanitary district.

59. **Reconstruction:** To construct or rebuild again. Reconstruction refers to the replacement or rebuilding of a structure when any exterior portion or support of a structure is included. Reconstruction does not result in a substantial change in use of the subject area.

60. **Recreational Vehicle:** A vehicle that is designed to be towed upon a highway by a motor vehicle; that is equipped and used, or intended to be used, primarily for temporary or recreational human habitation; that has walls of rigid construction; and that does not exceed forty-five (45) feet in length, including Class A, Class B and Class C motor homes, travel trailers, park models, camping trailers, fifth−wheel trailers, truck campers, but excluding tents, utility trailers, livestock trailers, manufactured homes, mobile homes, modular homes, and all other types of vehicles, shelters, and permanent or temporary dwellings. Recreational vehicles shall comply with all adopted standards of the Recreation Vehicle Industry Association (RVIA).

61. **Renovate/ Remodel:** To restore to a former interior, or improve the interior of a structure. Renovating or remodeling does not result in a substantial change in use of the subject area.

62. **Repair:** To restore to sound condition after damage or revitalize.

63. **Seasonal Camp Site:** a site designated in a campground or camping resort that is intended to accommodate a camping unit, for a period of time exceeding thirty (30) days.

64. **Section:** A land unit equal to one (1) square mile (2.59 square kilometers), six hundred forty (640) acres, or 1/36 of a township.

65. **Setback:** The minimum allowable horizontal distance from a given point or line of reference or prospective line to the nearest vertical wall or other vertical element of a building or structure.

66. **Sign:** A name, identification, description, display, or illustration which is affixed to or painted or represented directly or indirectly upon a building or other outdoor surface or piece of land; and which directs attention to an object, product, place, activity, person, institution, organization, or business. However, a sign shall not include any display of official court or public office notices, and it shall not include a sign located completely within an enclosed building unless the context shall be exposed to view from a street. Each display surface of a sign shall be considered to be a separate sign.

67. **Site Area, Gross:** The entire land area located within a development site, including land within all easements, to the centerline of any adjoining roads, and environmentally constrained land, such as floodplains and wetlands, but not including land on the water side of the ordinary high water mark of navigable lakes, ponds, rivers and streams.

68. **Street, Avenue, Place, Road, Terrace, Parkway, Boulevard or Court:** A right-of-way of a required width, which affords a primary means of access to abutting property.

69. **Structural Alteration**: Any changes to an existing layout of space that will result in a change to the dimensions of a structure; involve the reconstruction, replacement or addition of exterior walls, foundation, or structural components; or change the pitch of the existing roof.

70. **Structure:** Anything constructed, erected, or placed on a property that has shape, form and utility and which is temporarily or permanently attached to or resting on or in the ground, riverbed, or lakebed. The term "structure" includes, but is not limited to buildings, mobile homes, vehicles and trailers not in use for transportation purposes, above ground storage tanks, patios, decks, gazebos, above and below ground swimming pools, satellite dishes larger than one (1) meter in diameter, retaining walls, fences, towers. The term does not include filling or grading.

71. **Substantial Evidence:** Facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a Conditional Use Permit that reasonable persons would accept in support of a conclusion.

72. **Suitable Area or Acreage:** Area of land capable of supporting and maintaining farm animals. Suitable areas do not include wetland areas, buildings, driveways, surface water, right of ways, and the like.

73. **Temporary or Temporary Use:** Any period of time or use not to exceed thirty (30) days during the calendar year.

74. **Transfer of Development Rights:** The ability to transfer development rights to contiguous parcels within the same Township provided that an owner is in common and the zoning district is the same.

75. **Water Line:** The shortest straight line at the waterfront end of a lake or stream lot that lies wholly within the lot, provided that not less than seventy-five percent (75%) of the length of such water line shall be on, or on the landward side of, the high-water mark of such lake or stream.

76. **Water Setback:** The distance which a building shall be required to be setback, placed, located, or erected from the water line.

77. **Wine Pub:** A tavern, cocktail lounge, restaurant, grocery store, liquor store, or other similar retail establishment that includes a facility for the production of 20,000 gallons or less per year of wine as defined by Wis. Stats., that are sold for consumption on premises, or that are sold directly to the consumer as carry out items.

78. **Winery:** A facility for the production of normally fermented juices and/or must of sound, ripe grapes, or other fruits or other agricultural products.

79. **Winery, Micro**: A facility for the production of 25,000 gallons or less per year of normally fermented juices and/or must of sound, ripe grapes, or other fruits or other agricultural products, as defined in Chapter 125 of Wis. Stats., that are sold wholesale and/or off premises directly to retailers as authorized by statute.

80. **Winery, Nano:** A facility for the production of less than 10,000 gallons of wine per year that may be bottled, packaged, possessed, stored, sold, sampled, shipped, transported, delivered and/or consumed on premise in accordance with the provisions of Wis. Stats. Ch 125.53. A nano-winery may also operate a restaurant on the winery premises in accordance with County and State permitting requirements
81. **Yard:** An open space on a lot which is unoccupied and unobstructed from its lowest level to the sky.
82. **Yard, Front:** A yard extending along the full width of the front lot line between side lot lines.
83. **Yard, Rear:** The portion of the yard on the same lot with the principal building, located between the rear line of the building and the rear lot line and extending for the full width of the lot. In the instance of a corner lot, the rear yard shall be opposite the front yard which is associated with the address of the property.
84. **Yard, Side:** A yard extending along a side lot line between the front and rear yards.

1.8 Severability Clause

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

If any application of this Ordinance to a particular structure, land, or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land, or water not specifically included in said judgment.

Zoning regulations adopted by Waupaca County, which incorporate by reference Wisconsin State Statute, also include existing or future amendments. This Ordinance shall be deemed to be in strict conformity, and not contrary to or inconsistent with such chapters or rules as the result of statutory amendments.

2.0 General Provisions

2.1 Compliance

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

2.2 Permits

1. All uses shall comply with all Zoning Ordinance standards on land use and dimensional requirements. Some uses require permits as a means of assuring compliance. It is a violation of this Ordinance for such a use to occur without a permit, regardless of whether or not the use is in compliance with the land use and dimensional standards of the Ordinance.

2. **Land Use Permit:** Unless exempted under Section 2.3, a Land Use Permit is required to be issued before any of the following may occur:

   a. Before any building or structure, not excepted below, is erected, moved, or structurally altered; and

   b. Before any building or structure or any parcel or tract of land is changed as to use.

   c. **Exceptions:** A Land Use Permit shall not be required for the following:

      (1) Above ground swimming pools that are erected seasonally and do not have accessory decking.

      (2) Retaining walls located outside the jurisdiction of Chapter 32 Shoreland Protection Ordinance.

      (3) Signs, however, must comply with applicable regulations.

      (4) Rooftop and building mounted small solar energy systems.

      (5) A five (5) foot by six (6) foot open platform for safe access to an existing egress/ingress on a principal structure. The allowed platform area may have a roof but may not be enclosed.

      (6) The construction or maintenance of a hunting blind (maximum size limited to thirty-two (32) square feet).

      (7) Special Events under 200 people.

      (8) Walkways and sidewalks that are five (5) feet or less in width; and driveways.

      (9) Trails, pathways, walkways and sidewalks that are designed and intended for public use.

      (10) Fences, however, must be in accordance with Sec. 2.7(4)(d) and Sec. 2.8(5)(c),

      (11) Window wells extending five (5) feet or less from the foundation of the structure.

3. **Conditional Use Permit:** When the use being applied for is a conditional use as identified in Sections 5.0 and 6.0, a Conditional Use Permit is required.

4. **Application Procedure:** The application procedures for Land Use Permits and Conditional Use Permits are outlined in Section 14.3 and 14. 5. Site Plans are required for Conditional Uses and may be required for Land Use Permits according to Section 10.0.

5. **Expiration:** Within two (2) years from issuance of a Land Use Permit for construction, the project shall have progressed at least to the point of the exterior shell being completed. The original permit shall lapse if this state of completion is not accomplished within the two (2)-year period. A new permit shall be required to recommence work on the project.

2.3 Exemptions

The following uses are exempted by this Ordinance and are permitted in any zoning district: poles, wires, cables, conduits, vaults, laterals, pipe mains, valves, or any other similar distributing equipment for telephone or other communications and electric power, gas, water, and sewer lines, and satellite dishes less than one (1) meter in diameter.

2.4 Use Regulations

1. **Restricted Uses:** In any zone no building or land shall be used and no building shall be hereafter erected, structurally altered, or relocated except for one or more of the uses as hereinafter stated for that zone and in compliance with the regulations hereinafter established for that zone.
2. **Accessory Uses:** In any zone accessory buildings and uses customarily incidental to the permitted uses in that zone shall be permitted subject to such requirements as may be hereinafter designated for that zone in which they are located.
3. **Change/Expansion in Uses:** If a change/expansion in the use of the property occurs and that use is listed as a permitted use, then a Land Use Permit is required. If the new use is listed as a Conditional Use, then a Conditional Use Permit is required.

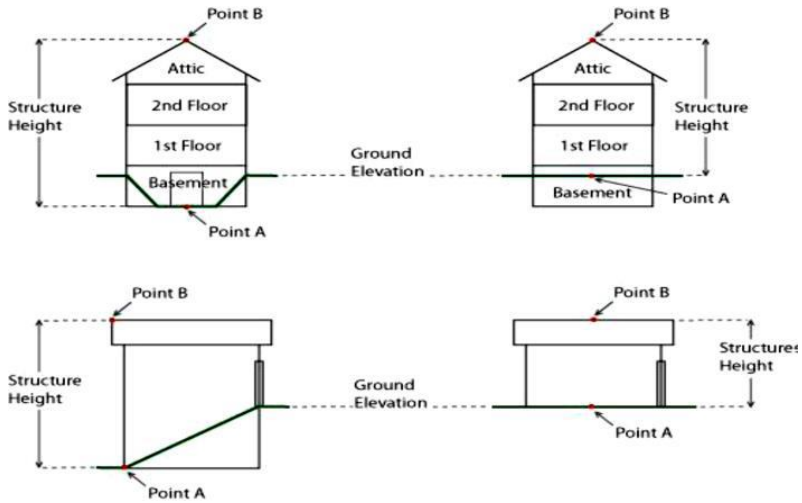
2.5 Area Regulations

1. **Lot Reduction:** After adoption of this Ordinance, no lot area shall be so reduced that the dimensional and setback requirements required by this Ordinance cannot be met.
2. **Building Over Lot Lines:** When the same entity owns more than one (1) contiguous lot and wishes to place a new building across lot lines or within minimum required lot line setbacks between lots in the same ownership, the two (2) or more lots shall be legally combined into one (1) lot before a Land Use Permit will be issued.

   a. No lots shall be combined or created over township lines.

2.6 Height Regulations

1. **Height:** Structural height is the measurement of the vertical line segment starting at the lowest point of any exposed wall and its intersect with the ground (Point A in the following diagram) to a line horizontal to the highest point of a structure (Point B in the following diagram), unless specified under other sections of this code. (Refer to Table 4)



2. **Exemptions.** Heights of the following structures may exceed Ordinance limits as identified in Section 4.0 for the zone in which they are to be located: Cooling towers, stacks, lookout towers, silos, windmills, water towers, spires, radio and television aerials, masts, antenna, roof and building mounted solar panels, and mechanical appurtenances and barns and other buildings designed for the storage of agricultural products.

   a. Structures that are exempted from the height provisions of this ordinance shall comply with setback regulations of Section 2.8.

2.7 Visual Clearance

1. All State and Federal Highways in the County are hereby designated Level I Highways.
2. All County Trunk Highways not designated Level I are hereby designated Level II Highways.
3. Town Roads or all other roads: An access servicing five (5) existing principal structures or servicing five (5) or more lots will hereby be designated as a Level III Highway.
4. In each quadrant of every highway intersection there shall be designated a visual clearance triangle bounded by the highway centerlines and a line connecting them.

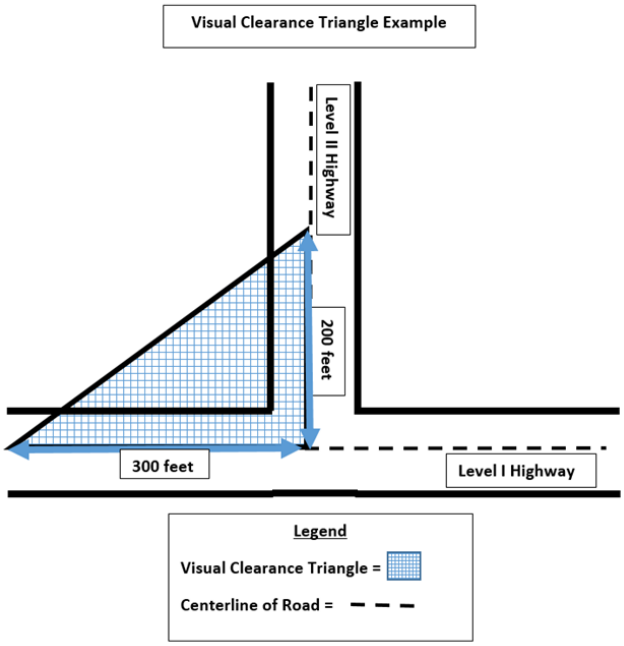
   a. The line along a Level I Highway centerline shall be three hundred (300) feet.

   b. The line along a Level II Highway centerline shall be two hundred (200) feet.

   c. The line along a Level III Highway centerline shall be one hundred fifty (150) feet.

d. Within this triangle, no object or structure over two (2) feet in height above these highways shall be allowed if it obstructs the view across the triangle. Posts or fences a maximum of thirty percent (30%) solid and less than three (3) feet in height, natural vegetation, and agricultural crops are excluded from this provision.

5. An exception to the dimensional requirements for the visual triangle shall be made in a registered and approved platted area where Level III Highways only are involved. Here the visual triangle shall be bounded by the highway centerlines and a line connecting them, one hundred twenty-six (126) feet from the intersection.



Visual Clearance Diagram 1

2.8 Setbacks

1. Setbacks are measured to the first vertical wall or post of any structure.

   a. Roofs, overhangs, or other architectural features in excess of three (3) feet within any setbacks are not permitted.

2. Level I Highway setback shall be fifty (50) feet from the right-of-way line. Level II Highway setback shall be seventy-five (75) feet from the marked centerline of the highway or forty-two (42) feet from the right-of-way line, whichever is greater. Level III Highway setback shall be sixty-three (63) feet from the center of the travelled path or thirty (30) feet from the right-of-way line, whichever is greater.

   a. Highway Setback Average

      (1) **Average Setback Determination:** The highway setbacks for Level III Highways found in Section 2.8 may be reduced, as described in par. (2), provided all the following are met:

         (a) There is an existing structure located on an adjacent lot to the proposed building site on the same side of the highway.

(b) The existing structure(s) to be used in the averaging are within two hundred and fifty (250) feet of the proposed building site.

(c) The existing structure(s) do not meet the required highway setback.

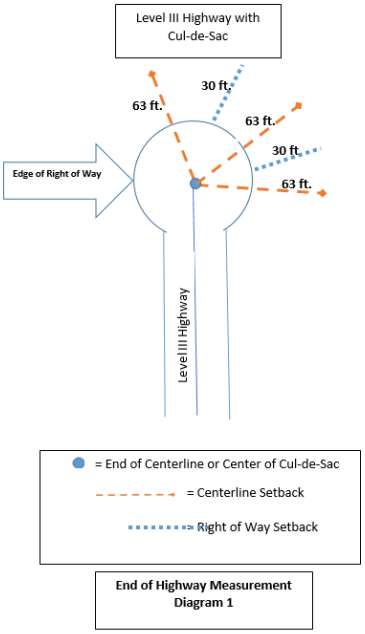
(2) **Average Setback Application:** Where each adjacent lot has a structure closer than the required setback the average setback shall be calculated by averaging the highway setback distances of the existing adjacent structures. Where only one adjacent lot has a structure closer than the required setback, the average shall be calculated by averaging the setback distance of the structure on the adjacent lot with the required setback distance. The following shall also apply:

(a) The highway setback may not be reduced to less than twenty (20) feet to the right-of-way or fifty-three (53) feet to the center of the travelled path, whichever setback distance is greater.

(b) Where no right-of-way exists, the centerline of the as travelled Level III Highway shall be utilized for the measurement. The highway setback in this case may not be reduced below fifty-three (53) feet from the centerline.

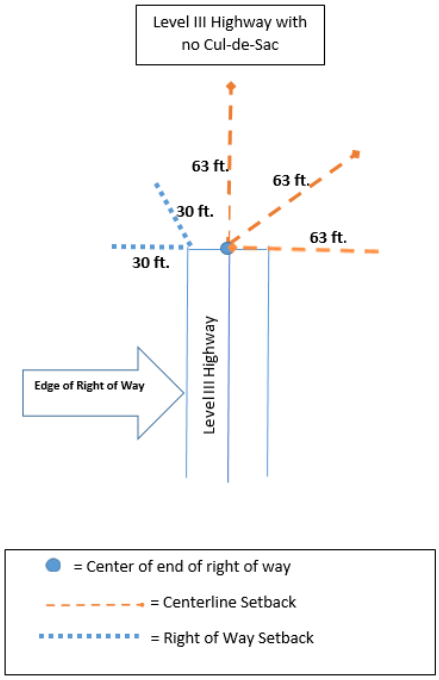
b. Level III Highway Setback Measurement at End of Highway

(1) Platted Cul-de-Sac. Where the highway terminates in a platted cul-de-sac, the highway setback shall be measured thirty (30) feet from the edge of the right-of-way of the cul-de-sac or sixty-three (63) feet from the end of the centerline of the cul-de-sac identified on the plat, whichever is greater. Where the centerline is not identified on the plat the center point of the cul-de-sac shall be used for the sixty-three (63) foot setback.



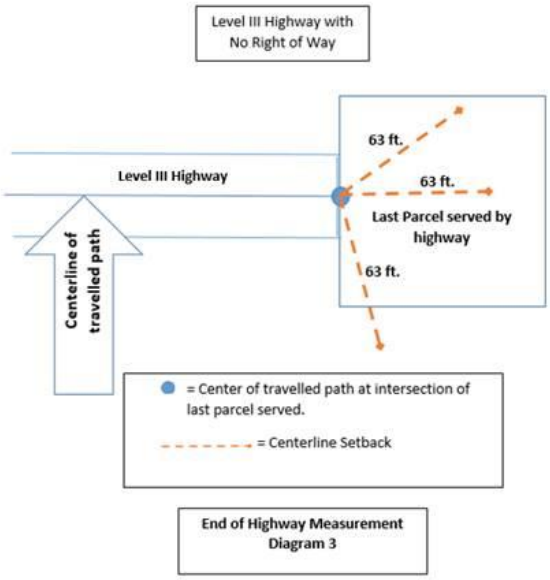
End of Highway Measurement Diagram 1

(2) Dead End. Where the highway terminates in a dead end with no cul-de-sac, the highway setback shall be measured thirty (30) feet from the edge of the right-of-way or sixty-three (63) feet from the center of the end of the highway, whichever is greater.



End of Highway Measurement Diagram 2

(3) Where no right-of-way exists for Level III Highways the center of the travelled path shall be deemed to terminate at the parcel line for the last parcel served by the highway. The highway setback shall be measured sixty-three (63) feet from the intersection of the centerline of the travelled path of the highway and the parcel line of the last parcel served by the highway.



End of Highway Measurement Diagram 3

3. **Railroad Setbacks:** the minimum allowable horizontal distance from a parcel predominately utilized for railroad purposes to the nearest vertical wall or other vertical element of a building or structure.

   a. All principal and accessory structures on a parcel abutting a lot used predominately for railroad purposes must meet the lot line setbacks specified in Table 4, except as noted in Section 2.8.5.f.

4. **Lot Line Setbacks**

   a. All principal and accessory structures must meet the required setbacks as specified in Table 4, unless otherwise specified.

   b. An accessory structure or use less than two hundred (200) square feet in area and located in a rear yard can be located seven and one-half (7 ½) feet from any lot line.

5. **Setback Exemptions.** The following shall be exempt from all highway, railroad, and lot line setbacks except where necessary to provide visual clearance at highway intersections as described in Section 2.7:

   a. Marquees and awnings adjoining the principal building's overhang roof eaves, driveways, ornamental light standards, flag poles, arbors, trellises, shrubs,

retaining walls, outdoor fuel dispensing equipment, air conditioning units, and open accessory off-street parking spaces.

b. Walkways and sidewalks that are five (5) feet or less in width.

c. Fences; however, those located within a highway setback must be less than four (4) feet in height.

d. Trails, pathways, walkways, and sidewalks that are designed and intended for public use.

e. A five (5) foot by six (6) foot open platform for safe access to an existing egress/ingress on a principal structure. The allowed platform area may have a roof but may not be enclosed.

f. Structures utilized for the loading and unloading of rail cars are exempted from railroad setbacks.

g. Window wells extending five (5) feet or less from the foundation of the structure.

h. Recreational vehicles, except that any accessory decking or accessory structures shall be required to meet applicable setbacks and obtain necessary permits.

6. For the purpose of safety from structure failure in all zoning districts, any building or structure that exceeds thirty-five (35) feet in height must be set back from all parcel lines, property lines and lot lines, a distance equal to the height of the building or structure, excepting amateur radio antennas.

   a. A reduced setback, equal to the designed radius for self-collapsing-type structures, may be authorized. A signed and sealed plan shall be submitted by a registered professional engineer verifying the applicable fall zone.

7. The county reserves the right to require a survey, at owner's expense, prior to issuance of a permit when a proposed structure is located, in the County's judgment, at or near the required setback to a property line.

8. **Reasonable Accommodations:** The Planning and Zoning Director may issue a special Land Use Permit to relax the standards of this ordinance in order to provide reasonable accommodations as required by Federal or State law. Such relaxation shall be the minimum necessary to be consistent with the Federal guidelines for accommodation of persons with disabilities and shall, where practicable, be terminated when the facility is no longer used by the disabled person. A person applying for a Land Use Permit for construction under this section shall establish the nature and extent of the disability and that the relaxation requested is the minimum necessary to provide reasonable use of the facility. A deed restriction or affidavit for the reasonable accommodation shall be filed with the Register of Deeds.

2.9 Setback Exceptions for Essential Service Facilities

Overhead and underground essential service facilities installed as of November 19, 2002, including, but not limited to, sewer and water utilities, electric power, and telecommunications, but not including any buildings, towers, or antennas, may be located within any required setback on the condition that the owner of such facilities within highway setbacks shall remove all construction, additions, and replacements of these facilities at the owner's expense when necessary for the improvement of the highway.

Essential service facilities that are in place on private property within the highway setback prior to November 19, 2002 shall not be entitled to an exception to the setback requirement of the Zoning Ordinance.

The Waupaca County Highway Commissioner or his designee may grant a waiver to the owner of an essential service facility when the coordination of projects by the utility and the County reveals that no County project exists in the five (5)-year plan for the location where essential services facilities are to be placed or rebuilt or where the County is unable to determine the necessary right-of-way widths needed to avoid conflict with the service facility in the future.

2.10 Principal Residential Structures

Not more than one (1) principal residential structure shall be allowed on a parcel except for:

1. Manufactured/Mobile Home Communities or Parks;
2. A secondary farm residence and,
3. In the case where an existing residence is to be replaced with a new residence, the existing residence may be occupied during the construction of the new residence provided that it is razed or otherwise removed from the property within six (6) months of occupancy of the new residence.

2.11 Nonconforming Uses and Structures

1. **Nonconforming Use:** A nonconforming use is a principal use of land or premises that does not conform to the terms of this Ordinance, but which was lawfully in existence prior to adoption of this Ordinance. Later Zoning Ordinance amendments may also create nonconforming situations.
2. **Nonconforming Structure:** A nonconforming structure is a structure that does not conform to the terms of this Ordinance, but which was lawfully in existence prior to adoption of this Ordinance. Later Zoning Ordinance amendments may also create nonconforming situations.
3. **Premises:** A premise may be nonconforming both as to use and to structure.
4. **Provisions:** Provisions of this Ordinance shall not be construed to prevent the customary and necessary maintenance or repairs of buildings, utilities, and property in legal non-conforming situations.
5. **Legal Rights:** The legal rights of a nonconforming use or structure are defined below.

2.12 Premises Conforming as to Use, but Nonconforming as to Structural or Dimensional Standards

1. **Repair, Maintenance, Renovation, Rebuilding or Remodeling:** A structure that is nonconforming as to structural or dimensional standards may be repaired, maintained, renovated, rebuilt or remodeled in the same building envelope as the existing nonconforming structure.

a. Prior to a nonconforming structure being structurally altered or rebuilt, a land use permit shall be obtained that properly documents the building envelope of the nonconforming structure.

b. In the event that a nonconforming structure is removed in accordance with par. a. and not replaced prior to the expiration date of the land use permit, the structure will no longer be considered a nonconforming structure and may not be replaced.

2. **Expansion:** A structure that is nonconforming as to structural or dimensional standards may not be expanded or enlarged unless the expansion meets the required setback(s).

3. **Damage:** Any lawful nonconforming structure damaged or destroyed by violent wind, vandalism, fire, flood, ice, snow, mold or infestation on or after March 2, 2006 may be restored or reconstructed, provided that the structure will be restored to the size, location and use it had immediately before the damage or destruction occurred, except if otherwise necessary to comply with Federal, State or County requirements.

4. **Moving Structure:** Should such structure be moved, it shall thereafter conform to the regulations of the zone to which it is moved.

2.13 Nonconforming Use of Structures or Premises

1. **Limitations:** A nonconforming use may be expanded or enlarged provided the existing use isn't changed from the original nonconforming use or expanded beyond the original parcel of record.

2. **Discontinuance:** If such use is discontinued for twelve (12) consecutive months, any future use of the structure or premises shall conform to the regulations of the zone in which it is located.

2.14 Substandard Lots

1. No new lot shall be created and no existing lot shall be reduced in dimensions in a manner that does not meet the dimensional requirements of the zoning district in which it is located or as specified by the Waupaca County Subdivision Ordinance, whichever is larger.

2. Any lot or parcel legally created and indicated on a recorded subdivision plat, Certified Survey Map, assessor's plat, or conveyance and recorded in the office of the Register of Deeds for Waupaca County prior to June 3, 2010 may be used as a building site even though such lot or parcel does not conform to one or more minimum dimensional requirements of the district in which it is located, subject to the following conditions:

   a. The use is permitted in the zoning district in which the lot is located.

   b. The substandard lot is developed to comply with all other Ordinance requirements.

   c. The substandard lot has never been developed with one or more of its structures placed partly upon an adjacent lot.

   d. A Land Use Permit is first obtained per Section 2.2.2.

e. Any variation to the above standards may only be obtained through a variance granted by the Board of Adjustment.

f. For nonfarm residences built within the Farmland Preservation Overlay, a rezone into RR-O or RC-O will be required.

3. Any parcel of land designated as an outlot on a Plat or Certified Survey Map may not be used for building purposes.

2.15 Accessory Uses and Structures

1. Accessory buildings, structures and uses are permitted in all zoning districts, except the Conservancy District, which may require a Conditional Use Permit, and they shall be compatible with the principal uses on a parcel. Accessory structures and buildings shall meet the following standards:

   a. No accessory structure or part thereof shall be used for living, sleeping, or eating quarters, unless it is attached to and part of the principal building and complies with all applicable sanitary regulations. For the purpose of this subsection, an accessory structure is considered attached to the principal building if it is connected by a common wall or aboveground-enclosed breezeway, with the connection being at least five (5) feet in width. An enclosed breezeway must have a solid roof, floor, and walls; however, openings are allowed for windows, doors, skylights and similar features.

   b. No commercial use shall be allowed in an accessory structure unless the property is appropriately zoned for the proposed use or a Land Use Permit for home occupation (see Section 6.5. 8 & 9) has been obtained.

   c. In residential uses, no sanitary system or plumbing shall be allowed in an accessory structure if it is built prior to the dwelling.

   d. The structure must be according to the site plan and meet all the required setbacks.

   e. All other Sections of this Ordinance must be met.

2. **Accessory Use:** see definition in Section 1.7.1 and Section 2.4.2.

3. **Accessory Structure:** Any detached private garage, carport, or utility shed on a lot that primarily accommodates the sheltered parking of a vehicle, the storage of maintenance equipment to serve the same lot or a contiguous lot, or a detached shelter such as a gazebo. It also includes swimming pools, greenhouses, wind and solar energy systems for on-site residential use, and private kennels. Attached garages, attached carports, and decks shall be considered part of the principal building, not an accessory structure for the purpose of determining the required setbacks and the applicable fee for a Land Use Permit.

4. **Non-conforming:** See Sections Section 2.11, 2.12 and 2.13

5. **Campground:** See Section 6.9(5)

6. **Agricultural Accessory Structures:** See Section 6.10(5)

7. Portable Storage Facilities (includes shipping containers, portable on demand storage (PODS), and store and move (SAM) containers), buses, heavy-duty trucks and their

bodies, semi-trailers, freight containers, mobile homes, and similar items which are no longer in use for their designated purpose are prohibited from being used as an accessory structure.

8. The parking of a commercial type vehicle on a residential lot is allowed when such vehicle is owned or leased and operated by a person living in the dwelling unit and used on a daily basis for transportation to and from a separate work place. This provision does not apply to the storage of equipment, unless otherwise permitted, such as back-hoes, skid-steers, dump trucks, equipment trailers and other items that are inconsistent with the residential use of the property.

3.0 Zoning Districts and Maps

3.1 Establishment of Base Zoning Districts

1. In order to carry out the purpose and provisions of this Ordinance, the following base zoning districts in Sections 3.2 through 3.18 and their purposes are hereby established, and may be known by the accompanying abbreviations.
2. Regulations for each District including Density, Lot Size, Setbacks, and Building Height are identified for each District in Section 4.0.
3. Permitted and Conditional Uses are identified for each District in Section 5.0 and 5.1. Definitions, additional regulations and parking requirements for each land use are within Section 6.0.
4. The statement, "Please refer to the Waupaca County Density Management Tracking System maintained by the Waupaca County Planning & Zoning Department (811 Harding Street, Waupaca, WI) for current information on available residential development rights on this/these parcels," shall be recorded on each Certified Survey Map, plat, and plat of survey created for parcels within the following zoning districts:
   a. PVRF: Private Recreation and Forestry
   b. AE: Agriculture Enterprise
   c. AR: Agriculture Retention
   d. AWT: Agriculture and Woodland Transition
   e. RR: Rural Residential

3.2 PURF: Public Recreation and Forestry District

Purpose: To accommodate and maintain publicly owned property for the purpose of natural resource management and public outdoor recreation, parks and open space. The PURF zoning district corresponds with the Public Recreation and Forestry Enterprise or Forestry Preferred Land Use Category within the Waupaca County Comprehensive Plan.

3.3 PVRF: Private Recreation and Forestry District

Purpose: To maintain privately owned large tracts of forest and woodland areas that are managed to produce sustainable forest products and to provide quality outdoor recreation

experiences. Selective cutting, sustained yield, and other practices of good forestry management shall be encouraged within the district.

Residential development shall be limited and placed on the landscape in a fashion that minimizes the fragmentation of large forest tracts and prevents conflicts between forest management, outdoor recreation, and residential land uses.

The PVRF zoning district corresponds with the Private Recreation and Forestry Enterprise or Forestry Preferred Land Use Category within the Waupaca County Comprehensive Plan.

3.4 AE: Agriculture Enterprise District

Purpose: To preserve and promote a full range of agricultural uses in areas where soil and other conditions are best suited to cultivation and livestock.

Nonfarm development shall be limited and placed on the landscape in a fashion that prevents conflicts between agricultural and residential land uses, and minimizes the loss of prime agricultural soils as identified by the Natural Resource Conservation Service. The AE zoning district corresponds with the Agriculture Enterprise or Agriculture Preferred Land Use Category within the Waupaca County Comprehensive Plan.

3.5 AR: Agriculture Retention District

Purpose: To preserve and promote a full range of agricultural uses in areas where soil and other conditions are best suited to cultivation and livestock.

Nonfarm development shall be limited and placed on the landscape in a fashion that prevents conflicts between agricultural and residential land uses, and minimizes the loss of prime agricultural soils as identified by the Natural Resource Conservation Service. Though still limited, residential densities are generally higher in the AR District than the AE District. The AR zoning district corresponds with the Agriculture Retention or Agriculture Preferred Land Use Category within the Waupaca County Comprehensive Plan.

3.6 AWT: Agriculture and Woodland Transition District

Purpose: To accommodate agricultural uses and woodlands, but also to allow for land use change or "transition" to residential and compatible uses within these areas driven primarily by market forces or land sale trends.

Nonfarm development shall be placed on the landscape in a fashion that prevents conflicts between agricultural, forestry, and residential land uses. The AWT zoning district corresponds with the Agriculture and Woodland Transition or Agriculture Preferred Land Use Category within the Waupaca County Comprehensive Plan.

3.7 CV: Conservancy District

Purpose: The intention of this district is to provide for general agricultural and open-space activities with the prohibition of any structures or buildings, except as provided in Table 5.0 and 5.1. It is intended to be used as a tool to preserve tracts of land that are to remain free from structural development, but can continue to be used for agriculture.

a. **Requirements:**

(1) Minimum of five (5) acres, no maximum acreage required

(2) Consistent with all Forestry (or PVRF (Private Recreation and Forestry) District) and Agriculture (or AE (Agriculture Enterprise) District, AR (Agriculture Retention) District and AWT (Agriculture and Woodland Transition) District) Planning Districts found within the Preferred Land Use Map.

(3) Requires no development rights. Any existing development rights may exist but cannot be used in this district. They can be transferred in accordance with Sec. 7.6(2) and Sec. 8.7(1)(d).

(4) Any existing or new structures are prohibited except as provided in Table 5.0 and 5.1.

(5) Property owners may rezone into the Conservancy District with approval of a Petition of Zoning Map Amendment and a document recorded detailing the acreage under the Conservancy District.

(6) Once in the Conservancy District, property owners may adjust the acreage as long as it results in a greater or equal amount of acreage that remains in the Conservancy District. This procedure would also require a Petition for Zoning Map Amendment and a new document recorded detailing the change in acreage.

(7) This Conservancy District is not the same as Chapter 47 Waupaca County Voluntary Conservation Easement Donation Ordinance which is administered through the Waupaca County Land & Water Conservation Department.

3.8 RR: Rural Residential District

Purpose: To accommodate existing and planned residential development including compatible neighborhood uses that rely on private on-site wastewater treatment systems and private wells in a rural setting.

Residential development shall be placed on the landscape in a fashion that allows the concentration of local services while minimizing the consumption of agricultural land, forested land, and open space. The RR zoning district corresponds with the Rural Residential or Residential Preferred Land Use Category within the Waupaca County Comprehensive Plan.

3.9 RR-O: Rural Residential - Overlay District

Purpose: To accommodate non-farm residential development including compatible neighborhood uses that rely on private on-site wastewater treatment systems and private wells within in a Farmland Preservation area.

Residential development shall be placed on the landscape in a fashion that minimizes the consumption of prime agricultural land, forested land or any existing agricultural operations in accordance with Wis Stats 91.48. The RR-O zoning district is only allowed in areas that

are within the Farmland Preservation Eligibility areas in participating towns. This district is not a certified Farmland Preservation zoning district.

3.10 SR: Sewered Residential District

Purpose: To accommodate existing single and two-family residential development including compatible neighborhood uses that are currently served by public sewer. Lots may be as small as 20,000 (twenty thousand) square feet and shall be established in a fashion that maximizes the use of existing infrastructure and allows for the efficient expansion of infrastructure in the future. The SR zoning district corresponds with the Sewered Residential and the Residential Preferred Land Use Categories within the Waupaca County Comprehensive Plan.

3.11 PD: Planned Residential Development District

Purpose: To provide the means whereby land may be planned and developed as a unit for residential uses under standards and conditions which encourage good design and promote a stable, desirable living environment. This district is intended to permit flexibility and variety in development, to encourage the preservation of natural features and open space, and to minimize the present and future burdens upon the community as a whole which result from poor planning. Such developments shall be site designed as a total unit development and may be developed by sub-units in accordance with the approved overall site plan. All rezone applications must be accompanied by a Site Plan according to Section 10.0. The PD zoning district corresponds with the Sewered Residential and the Residential Preferred Land Use Categories within the Waupaca County Comprehensive Plan.

3.12 H: Hamlet – Mixed Use District

Purpose: To accommodate historic or planned future collections of small-scale commercial, office institutional, residential, and open space uses in which community character is protected through building scale, appearance and signage. This district should be generally mapped at or near road crossings that serve as gathering points for rural communities, which are often referred to as hamlets or unincorporated communities. The district best corresponds with the Rural Crossroads-Mixed Use (RCM) or Hamlet Preferred Land Use Category within the Waupaca County Comprehensive Plan.

3.13 RC-N: Rural Commercial - Neighborhood District

Purpose: To accommodate rural commercial development that is generally neighborhood or locally oriented in areas well-served by the transportation system, does not conflict with adjacent land uses in terms of use or generated traffic, and is properly buffered from residential or other potentially conflicting land uses. The RC-N zoning district corresponds with the Rural Crossroads-Mixed Use and the Rural Commercial/Industrial or Commercial Preferred Land Use Categories within the Waupaca County Comprehensive Plan.

3.14 RC-G: Rural Commercial - General District

Purpose: To accommodate rural commercial development that includes uses that are generally more intensive than allowed in the RC-N District in areas that are well-served by the transportation system, does not conflict with adjacent land uses in terms of use or generated traffic, and is properly buffered from residential or other potentially conflicting

land uses. These uses are generally oriented to the greater county and region rather than the neighborhood or community level. The RC-G zoning district corresponds with the Rural Commercial/Industrial or Commercial Preferred Land Use Category within the Waupaca County Comprehensive Plan.

3.15 RC-O: Rural Commercial – Overlay District

Purpose: To accommodate rural commercial development that is agriculturally related and in areas well-served by a transportation system, does not conflict with adjacent land uses in terms of use or generated traffic, and is properly buffered from residential or other potentially conflicting land uses. The RC-O zoning district is only allowed within the Farmland Preservation Eligibility areas in participating towns. An example of an allowable use would be a farm implement dealer\repair shop. This district is not a certified Farmland Preservation zoning district.

3.16 RI-G: Rural Industrial - General District

Purpose: To accommodate rural industrial development with a variety of lot sizes that is generally light intensity, in terms of noise, dirt, smoke, odor, physical appearance, traffic generated, etc., in areas that are well-served by the transportation system, does not conflict with adjacent land uses in terms of use or generated traffic, and is properly buffered from residential or other potentially conflicting land uses. The RI-G zoning district corresponds with the Rural Commercial/Industrial or Industrial Preferred Land Use Category within the Waupaca County Comprehensive Plan.

3.17 RI-I: Rural Industrial - Intensive District

Purpose: To accommodate rural industrial development with a variety of lot sizes that is generally more intensive than the RI-G District in areas that are well-served by the transportation system, does not conflict with adjacent land uses in terms of use or generated traffic, and is properly buffered from residential or other potentially conflicting land uses. The RI-I zoning district corresponds with the Rural Commercial/Industrial or Industrial Preferred Land Use Category within the Waupaca County Comprehensive Plan.

3.18 Incorporation of Maps

The locations and boundaries of the County's zones are shown on the zoning maps of each township, and accompanying detail maps, and referred to by references as the Zoning Map, Waupaca County, Wisconsin.

These maps together with all explanatory matter and regulations thereon are an integral part of this Ordinance. In the event of a conflict between zone boundaries shown on a township map and the County Zoning detail map, the latter shall govern and prevail.

Official copies of the zoning maps, together with a copy of this Ordinance, shall be kept by the Planning & Zoning Director and shall be available for public inspection during official hours. These maps shall be certified by the Chairman of the County Board and attested by the County Clerk. Any changes or amendments affecting zoning boundaries or explanatory matter shall be recorded on the applicable maps. All such changes shall be made in

accordance with provisions of this Ordinance and Wisconsin Statutes, Sec. 59.69(5) (e), and as subsequently amended.

3.19 Boundaries of Zones

When uncertainty exists with respect to the boundaries of the various zones as shown on the zoning maps, the following rules shall apply:

1. When the width or lengths of boundaries are not clear, the scale of the map shall determine the approximate dimensions.
2. Zone boundaries are normally lot lines; section and quarter section lines; center lines of streets, highways, railroads or alleys.
3. Base zoning district boundaries shown as following or approximately following the limits of any city, village, town or the County boundary shall be construed as following such limits. Base zoning district boundaries shown as following the centerlines of streams, rivers or other continuously flowing navigable watercourses shall be construed as following the channel centerlines of such watercourses. The zoning district boundary shall be construed as moving with the channel centerline.
4. When uncertainty exists as to the precise location of the floodplain zone boundary line, the floodplain boundary maps shall govern in general and the zoning text shall govern specifically.
5. The Planning & Zoning Director and/or the Planning and Zoning Committee, in accordance with the provisions of this Ordinance, shall hear and decide the precise location of a zone boundary line when such line cannot otherwise be determined.
6. No lot or tax parcel shall be divided into more than one (1) base zoning district, unless that lot or tax parcel is legally divided so that new lot lines and new zoning boundaries coincide.

4.0 Base Zoning District Regulations

Table 4.0 Zoning District		Residential Density	Lot Size		Setbacks	
		Baseline[8]	Minimum Area[7]	Minimum Width	Highway Setback: Per Section 2.8 Waterfront: Per Shoreland Zoning Minimum Lot Line[4]	Maximum Building Height
CV[6]	Conservancy		5 Acres	100 Ft	None[6]	None[6]
PURF	Public Recreation and Forestry		1 Acre	-	20 Ft	None
PVRF[5]	Private Recreation and Forestry	1 unit/ 10 acres	1 Acre	150 Ft	20 Ft	35 Ft
AE[5]	Agriculture Enterprise	1 unit/ 40 acres	1 Acre	100 Ft	20 Ft	35 Ft
AR[5]	Agriculture Retention	1 unit/ 10 acres	1 Acre	100 Ft	20 Ft	35 Ft
AWT	Agriculture and Woodland Transition	1 unit/ 2 acres	1 Acre	100 Ft	15 Ft	35 Ft
RR	Rural Residential	1 unit/1 acre	1 Acre	100 Ft	15 Ft	35 Ft
RR-O	Rural Residential - Overlay		2 Acre	100 Ft	15 Ft	35 Ft
SR	Sewered Residential		20,000 SF	100 Ft	10 Ft	35 Ft
PD	Planned Residential Development			75 Ft	10 Ft	35 - 60 Ft[2]
H	Hamlet		15,000 / 20,000 SF (Per Unit: 5,000 / 10,000 SF)[1]	50 Ft	10 Ft	35 Ft
RC-N	Rural Commercial - Neighborhood		-	50 Ft	10 ft[3]	35 - 60 Ft[2]
RC-O	Rural Commercial - Overlay		~~1~~ 2 Acre	50 Ft	10 ft[3]	35 - 60 Ft[2]
RC-G	Rural Commercial - General		10,000 SF	75 Ft	10 ft[3]	35 - 60 Ft[2]
RI-G	Rural Industrial - General		20,000 SF	150 Ft	20 Ft	35 - 60 Ft[2]
RI-I	Rural Industrial - Intensive		10,000 SF	75 Ft	20 Ft	35 - 60 Ft[2]

Notes:

1 Lots served by public sewer/water: minimum lot area: 15,000 square feet; minimum lot area per residential unit: 5,000 square feet. Lots served by private sewer/water: minimum lot area: 20,000 square feet; minimum lot area per residential unit: 10,000 square feet.

2 One additional foot of extra height may be added above 35 feet for each additional foot of lot line setback. See Section 2.8.6

3 Minimum lot line setback shall be the same as neighboring lot zoning unless the neighboring lot is zoned RC-N or RC-G.

4 Accessory Uses and Structures less than 200 square feet in area in the rear yard can be located 7.5 feet from any property line.

5 Base Zoning District Regulations remain the same within the Farmland Preservation Overlay Districts.

6 No Structures allowed per Section 6.10

7 Minimum Lot Sizes shall be measured exclusive of the road right-of-way, as defined in Sec. 2.0(40) of the Waupaca County Subdivision Ordinance.

8 Also see Section 8.0 Zoning District Overlays. Township density restrictions may be more restrictive than the baseline standards.

5.0 Zoning District Permitted and Conditional Uses

The following table identifies the Permitted (P), and Conditional uses (C) within the Waupaca County Zoning Districts. Definitions and additional requirements for these land uses are included in Section 6.0. See Table 5.1 for Special Regulations for Districts within Farmland Preservation Overlay.

Table 5.0	Zoning Districts[5]														
	Conservancy District[4]	Public Recreation and Forestry	Private Recreation and Forestry	Agriculture Enterprise	Agriculture Retention	Agriculture and Woodland Transition	Rural Residential	Sewered Residential	Planned Residential Development	Hamlet[1]	Rural Commercial - Neighborhood	Rural Commercial - General	Rural Industrial - General	Rural Industrial - Intensive	Land Use Definition and Requirements (Section #)
Land Uses	**CV**	**PURF**	**PVRF**	**AE**	**AR**	**AWT**	**RR**	**SR**	**PD**	**H**	**RC-N**	**RC-G**	**RI-G**	**RI-I**	
RESIDENTIAL LAND USES															**6.5**
Single Family Residence (Nonfarm)			P	P	P	P	P	P	P[1]	P					1
Dwelling less than 22 feet in Width			C	C	C	C	C	C	C	C					2
Two Family Residence (Nonfarm)			P	C	P	P	P	C	P[1]	P[1]					3
Multiple Family Residence						C	C	C	P[1]	P[1]					4
Nonfarm Residential Cluster															5
Lot Clustering Density Bonus				C	C	C	C								6
Single Family Residence - Accessory to a Principal Commercial Use										P	C	C			7
Major Home Occupation			C	C	C	C				C					8
Minor Home Occupation			P	P	P	P	P	P	P	P					9
Family Day Care Home			C	C	C	C	C	C	C	C					10
Bed and Breakfast Establishment			C	C	C	C	C	C	C	P	P				11
Manufactured/Mobile Home Community or Park									C						12
Temporary Occupancy of RV (over 30 days)			C	C	C	C	C			C					13
COMMERCIAL LAND USES															**6.6**
Personal or Professional Service										P[1]	P[1]	P[1]			1
Indoor Sales and Service										P[1]	P[1]	P[1]			2
Medium Indoor Sales and Service											C	P[1]			3
Large Indoor Sales and Service												C			4
Long Term Outdoor Display and Sale											C	C			5
Indoor Maintenance Service										P[1]	P[1]	P[1]	P[1]	P[1]	6
Outdoor Maintenance Service												C	C	C	7
In-Vehicle Sales and Service										C	C	C			8
Commercial Entertainment										C	P[1]	P[1]			9
Indoor Shooting Ranges for Firearms											C	C			10
Commercial Indoor Lodging Facility										C	C	P[1]			11
Resort Establishment											C	P[1]			12
Group Day Care Center Facility										C	P[1]	P[1]			13
Group Day Care Center Facility - Accessory to a Principal Use		C	C	C	C	C	C	C	C	P	P	P			13
Commercial Animal Facility			C	C	C	C					C	C			14
Sexually-Oriented Business												C		P	15
Personal Storage Facility			C	C	C	C					P	P	P	P	16
Indoor Storage or Wholesaling											C	C	C	C	17
Outdoor Storage or Wholesaling												C	C	C	18
Indoor Retail Sales Activity as an Accessory to Industrial or Indoor Storage and Wholesaling													C	C	19
Marinas and Boat Liveries												C			20
Mobile Service Facilities & Support Structures[2]		C	C	C	C	C	C	C	C	C	C	C	C	C	21
Commercial Wind Energy Systems		C	C	C	C	C	C				C	C	C	C	22
General Temporary Outdoor Sales										P	P	P	P	P	23
Off-Site Commercial Parking		C	C	C	C	C			C	C	C	C	C	C	**6.4**

Table 5.0 (continued)	Zoning Districts[5]														
	Conservancy District[4]	Public Recreation and Forestry	Private Recreation and Forestry	Agriculture Enterprise	Agriculture Retention	Agriculture and Woodland Transition	Rural Residential	Sewered Residential	Planned Residential Development	Hamlet[1]	Rural Commercial - Neighborhood	Rural Commercial - General	Rural Industrial - General	Rural Industrial - Intensive	Land Use Definition and Requirements (Section #)
Land Uses	**CV**	**PURF**	**PVRF**	**AE**	**AR**	**AWT**	**RR**	**SR**	**PD**	**H**	**RC-N**	**RC-G**	**RI-G**	**RI-I**	
INDUSTRIAL LAND USES															**6.7**
Light Industrial Accessory Activity as an Accessory to Retail Sales or Service												C			1
Light Industrial											C	C	P[1]	P[1]	2
Heavy Industrial													C	C	3
Contractor Shop			C	C	C	C					C	P	P[1]	P[1]	4
Truck, Freight or Bus Terminal														C	5
Mineral Extraction (Non-Metallic)			C	C	C	C							C	C	6
Tow or Impoundment Yard													C	C	7
Salvage Yard														C	8
Solid or Hazardous Waste Facility														C	9
PUBLIC / INSTITUTIONAL LAND USES															**6.8**
Community Living Facility - 1 to 8 Residents			C	C	P	P	P	P	C	P					1
Community Living Facility - 9 to 15 Residents			C	C	C	C		C	C	C					2
Community Living Facility - 16 or More Residents			C	C	C	C		C	C						3
Outdoor Institutional			C	C	C	C	C	C	C	C	P[1]	P[1]			4
Airport					C	C							C	C	5
Minor Indoor Institutional		C	C	C	C	C	C	C	C	P[1]	P[1]	P[1]			6
Major Indoor Institutional		C	C	C	C	C	C	C	C		C	C			7
Public Service and Utility			C			C		C	C	C	C	C	C	C	8
Small Solar Energy Systems		P	P	P	P	P	P	P	P	P	P	P	P	P	9
Large Solar Energy Systems		C	C	C	C	C					C	C	C	C	10
Standalone Parking Lot											C	C			11
PARK / RECREATION LAND USES															**6.9**
Outdoor Public Recreation	C[4]	P	P			P	P	P	P[1]	P	P	P			1
Outdoor-Recreation - Active		C	C			C	C	C	C		C	C			2
Outdoor Shooting Ranges for Firearms		C	C	C	C	C						C			3
Special Events (200 people or less)		P	P	P	P	P	P	P		P	P	P	P	P	4
Special Events (greater than 200 people)		C	C	C	C	C				C	C	C	C	C	4
Campgrounds and Camping Resorts		C	C		C	C			C		C				5
Vehicle Course or Track		C	C	C	C	C						P	P	P	6
OPEN LAND / AGRICULTURE USES															**6.10**
Agricultural Use	P[4]		P	P	P	P	C								1
Agriculture - Animal Husbandry[3]	P[4]		P	P	P	P	C								2
Agriculture - Related Use			C	C	C	C					C				3
On-site Agricultural Retail			P	P	P	P									4
Agricultural Accessory Use			P	P	P	P									5
Outdoor Storage of Motor Vehicles, Farm Machinery and Collectibles			C	C	C	C									6
Agriculture Home Occupation			P	P	P	C									7
Farm Residence			P	P	P	P									8
Secondary Farm Residence			P	P	P	P									9
Forestry Management	P[4]	P	P	P	P	P	P								10
Private Reception Venue			C	C	C	C									11

[1] Permitted use subject to site plan review as outlined in Section 10.0

[2] Mobile Service Facilities & Support Structures - New Structures and Class 1 Collocations require a Conditional Use Permit and Class 2 Collocations require a Land Use Permit as outlined in Chapter 48 Mobile Service Facilities & Support Structures Ordinance.

[3] See Section 6.10.2 for permitted animal units within the PVRF zoning district and non-farm residential lots within the AE, AR, and AWT zoning districts.

[4] No structures allowed as per Section 6.10.

[5] Accessory Structures are permitted in all zoning districts, except the Conservancy District which may require a Conditional Use Permit, as set forth in Sec. 2.15.

5.1 Special Regulations for Districts within Farmland Preservation Overlay

Table 5.1	Zoning Districts[10]						
	Conservancy District[9]	Private Recreation and Forestry	Agriculture Enterprise	Agriculture Retention	Rural Residential - Overlay	Rural Commercial - Overlay	**Land Use Definition and Requirements (Section #)**
Land Uses	**CV**	**PVRF**	**AE**	**AR**	**RR-O**	**RC-O**	
RESIDENTIAL LAND USES							**6.5**
Single Family Residence (Non-Farm)					P		1
Dwelling less than 22 feet in Width		C	C	C	C		2
Two Family Residence (Non-Farm)					P		3
Multiple Family Residence					C		4
Nonfarm Residential Cluster					P		5
Lot Clustering Density Bonus							6
Single Family Residence - Accessory to a Principal Commercial Use						C	7
Major Home Occupation[4]		C	C	C	C		8
Minor Home Occupation[4]		P	P	P	P		9
Family Day Care Home[4]		C	C	C	C		10
Bed and Breakfast Establishment[4]					C	P	11
Manufactured/Mobile Home Community or Park							12
Temporary Occupancy of RV (over 30 days)		C	C	C	C		13
COMMERCIAL LAND USES							**6.6**
Personal or Professional Service						P[1]	1
Indoor Sales and Service						P[1]	2
Medium Indoor Sales and Service						C	3
Large Indoor Sales and Service							4
Long Term Outdoor Display and Sale						C	5
Indoor Maintenance Service						P[1]	6
Outdoor Maintenance Service							7
In-Vehicle Sales and Service						C	8
Commercial Entertainment						P[1]	9
Indoor Shooting Ranges for Firearms						C	10
Commercial Indoor Lodging Facility						C	11
Resort Establishment						C	12
Group Day Care Center Facility						P[1]	13
Group Day Care Center Facility - Accessory to a Principal Use							13
Commercial Animal Facility		C	C	C			14
Sexually-Oriented Business							15
Personal Storage Unit		C[4]	C[4]	C[4]		P	16
Indoor Storage or Wholesaling						C	17
Outdoor Storage or Wholesaling							18
Indoor Retail Sales Activity as an Accessory to Industrial or Indoor Storage and Wholesaling							19
Marinas and Boat Liveries							20
Mobile Service Facilities & Support Structures [2, 4, 8]		C	C	C	C	C	21
Commercial Wind Energy Systems[4]		C	C	C	C	C	22
General Temporary Outdoor Sales						P	23
Off-Site Commercial Parking							**6.4**

Table 5.1 (continued)	Zoning Districts[10]						
	Conservancy District[9]	Private Recreation and Forestry	Agriculture Enterprise	Agriculture Retention	Rural Residential - Overlay	Rural Commercial - Overlay	
Land Uses	**CV**	**PVRF**	**AE**	**AR**	**RR-O**	**RC-O**	**Land Use Definition and Requirements (Section #)**
INDUSTRIAL LAND USES							**6.7**
Light Industrial Accessory Activity as an Accessory to Retail Sales or Service							1
Light Industrial							2
Heavy Industrial							3
Contractor Shop[4]		C	C	C		C	4
Truck, Freight or Bus Terminal[4]		C	C	C			5
Mineral Extraction (Non-Metallic)[6]		C	C	C			6
Tow and Impoundment Yards							7
Salvage Yard							8
Solid or Hazardous Waste Facility							9
PUBLIC / INSTITUTIONAL LAND USES							**6.8**
Community Living Facility - 1 to 8 Residents[5]		C	C	C	P		1
Community Living Facility - 9 to 15 Residents[5]		C	C	C			2
Community Living Facility - 16 or More Residents[5]		C	C	C			3
Outdoor Institutional[5]		C	C	C	C	P[1]	4
Airport[4]				C			5
Minor Indoor Institutional[5]		C	C	C	C	P[1]	6
Major Indoor Institutional[5]		C	C	C	C	C	7
Public Service and Utility [8]		C				C	8
Small Solar Energy Systems		P	P	P	P	P	9
Large Solar Energy Systems[4]		C	C	C		C	10
Standalone Parking Lot							11
PARK / RECREATION LAND USES							**6.9**
Outdoor Public Recreation	C[9]	P			P	P	1
Outdoor Recreation - Active[5]		C			C	C	2
Outdoor Shooting Ranges for Firearms		C	C	C			3
Special Events (200 people or less)		P	P	P	P	P	4
Special Events (greater than 200 people)		C	C	C		C	4
Campgrounds and Camping Resorts[7]		C		C			5
Vehicle Course or Track[7]		C	C	C			6
OPEN LAND / AGRICULTURE USES							**6.10**
Agricultural Use	P[9]	P	P	P	C[3]		1
Agriculture - Animal Husbandry	P[9]	P	P	P	C[3]		2
Agriculture - Related Use		C	C	C		C	3
On-site Agricultural Retail		P	P	P			4
Agricultural Accessory Use		P	P	P	C		5
Outdoor Storage of Motor Vehicles, Farm Machinery and Collectibles		C	C	C			6
Agriculture Home Occupation		P	P	P			7
Farm Residences		P	P	P			8
Secondary Farm Residence		P	P	P			9
Forestry Management	P[9]	P	P	P	P		10
Private Reception Venue		C[11]	C[11]	C[11]		C[11]	11

[1] Permitted use subject to site plan review as outlined in Section 10.0

[2] Mobile Service Facilites & Support Structures - New Structures and Class 1 Collocations require a Conditional Use Permit and Class 2 Collocations require a Land Use Permit as outlined in Chapter 48 Mobile Service Facilities & Support Structures Ordinance.

[3] See Section 6.10.2 for permitted animal units within non-farm residential lots

[4] Conditional use Permit shall be compliant with Wis Stats 91.01(1)

[5] Conditional use Permit shall be compliant with Wis Stats 91.46(5)

[6] Conditional use Permit shall be compliant with Wis Stats 91.46(6)

[7] Open Space Use Only, unless there are permanent structures and for public use then compliant with 91.46(5)

[8] Conditional Use Permits shall be compliant with Wis. Stats 91.46(4)

[9] No Structures allowed as per Section 6.10.

[10] Accessory Structures are permitted in all zoning districts, except the Conservancy District which may require a Conditional Use Permit, as set forth in Sec. 2.15.

[11] Conditional Use Permits shall be compliant with Wis. Stats 91.46(1)

6.0 Land Use Definitions and Requirements

6.1 Land Use Interpretation

Section 5.0 broadly categorizes potential land uses in Waupaca County as Permitted (P), or Conditional Use (C) within the Zoning Districts. Definitions and additional requirements for these land uses are included in Sections 6.5 through 6.10. Any use not identified as Permitted (P) or Conditional (C) within a Zoning District is prohibited.

6.2 Conditional Uses

Certain uses are of such special nature and their effects are dependent upon specific circumstances as to make it impractical to determine in advance of where and when and under what conditions they should be permitted. These Conditional Uses may be appropriate within a specific zone provided conditions can be met as set forth in Section. 14.5. These uses may be authorized upon application to the Planning and Zoning Committee and are subject to the Committee's authorization of a Conditional Use Permit pursuant to Section. 14.5.

6.3 Site Plan Review

Applications for Conditional Uses must be accompanied by a Site Plan outlined under Section 10.0 and must also meet any additional requirements specified under each use. Some Permitted Uses may also require a Site Plan and are identified within Section 5.

6.4 Parking and Loading Requirements

1. Adequate off-street parking facilities shall be provided for all uses which generate vehicular traffic, and all required parking spaces shall have adequate access to a public road or street. Specific parking requirements are identified for the land uses defined in Sections 6.5 through 6.10. When a particular use is not listed, the parking requirement shall be that of the most similar use. When two (2) or more uses are combined, the total parking requirement shall be equal to the sum of the spaces required for each use, unless it is demonstrated by the applicant to the satisfaction of the Planning & Zoning Director that the combined uses result in a reduction of necessary parking spaces.
2. Parking access aisles shall have the following minimum widths:
   a. Two-way aisles:
      (1) Perpendicular parking: 24 feet
      (2) Angled or parallel parking: 18 feet
   b. One-way aisles:
      (1) Perpendicular parking: 20 feet
      (2) 60° angled parking: 18 feet
      (3) 45° angled parking: 13 feet
      (4) 30° angled parking: 11 feet
      (5) Parallel parking: 12 feet

c. If the degree of angle of parking provided is not listed, the aisle width required shall be the next largest angle of parking shown above.

3. All required parking spaces shall have a minimum area of one hundred sixty-two (162) square feet with a minimum width of nine (9) feet and a minimum length of eighteen (18) feet.

4. Parking that meets the number, location, and configuration required by the Americans with Disabilities Act (ADA) Standards for Accessible Design shall also be provided. These spaces count toward the number otherwise required for each use.

5. All commercial and industrial uses shall provide sufficient off-street loading space so that no public street, road or alley will be blocked by such activities.

6. Off-Site Parking that is identified as a Conditional Use (C) in a Zoning District must be located within the same zoning district as, and within 500 feet (measured nearest lot line to nearest lot line) of, the property being served, and shall be governed by the provisions of Sections 6.2 and 14.5 relating to Conditional Uses.

7. Standalone public parking lots are regulated by Sec. 6.8.11.

6.5 Residential Uses

1. **Single-Family Residence, Nonfarm:** Land uses consisting of a single detached building containing one (1) dwelling unit.

   a. Parking required is two (2) spaces per dwelling unit.

   b. This land use includes modular homes as defined in the Wisconsin Statutes Section 101.71(6) and manufactured homes as defined in the Wisconsin Administrative Code SPS 327. This does not include mobile homes as defined in the Wisconsin Statutes 101.91(10).

   c. Within the Farmland Preservation Overlay a nonfarm single family residence is a type of "single-family dwelling" that is located on a farm, but does not meet the criteria for a "farm residence" as described in Section 6.10.8. Where located within the Farmland Preservation Overlay, this use shall require a rezone and meet the following performance standards in compliance with Wisconsin Statutes 91.48(1):

      (1) The land is better suited for a use not allowed in the Farmland Preservation Overlay.

      (2) The rezoning is consistent with any applicable comprehensive plan.

      (3) The rezoning is substantially consistent with the Waupaca County Farmland Preservation Plan.

      (4) The rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.

   d. Dwellings less than twenty-two (22) feet in width shall be regulated by Sec. 6.5.2.

2. **Dwelling Less than Twenty-Two (22) Feet in Width:**

   a. Required parking is two (2) spaces per dwelling unit.

b. All residential dwellings under this section shall be skirted and have a proper foundation.

c. A contractor trailer may be used as a temporary office by a contractor for a permitted project not to exceed the projects duration without the requirement of a Conditional Use Permit.

d. In the Farmland Preservation Overlay, a dwelling less than twenty-two (22) feet in width must meet the standards for a Farm Residence as described in Section 6.10.8.

3. **Two-Family Residence, Nonfarm:** Land uses consisting of a building containing two (2) dwelling units. This includes dwelling units that are enclosed within a building or attached by a common floor or wall. Provisions of Section 6.5.1.a through c. apply. In the event of a proposed multi-family condominium form of ownership, the Condominium Declaration and the associated Plat needs to be reviewed for compliance with all regulations by the Planning and Zoning Office prior to being recorded in the Register of Deeds Office.

4. **Multi-Family Residence:** Land uses consisting of a building holding three (3) or more dwelling units. This includes apartment buildings and other dwelling units that are enclosed within a building or attached by a common floor or wall. Each dwelling unit may be owner-occupied or renter-occupied, with the building, lot, and/or unit in fee simple or condominium ownership. There shall be no more than one (1) structure for human habitation unless there is a Condominium Plat consistent with Wis. Stats. Ch. 703. In the event of a proposed multi-family condominium form of ownership, the Condominium Declaration and the associated Plat needs to be reviewed for compliance with all regulations by the Planning and Zoning Office prior to being recorded in the Register of Deeds Office.

   Required parking is two (2) spaces per dwelling unit.

5. **Nonfarm Residential Cluster, Land Use:** A grouping of more than one (1) nonfarm residence. This use shall meet the following performance standards:

   a. The parcels on which the nonfarm residences are located are contiguous.

   b. Within a nonfarm residential cluster, each residence shall individually satisfy the requirements for a nonfarm residence as described in Section 65.1.c. The County imposes legal restrictions on the construction of the nonfarm residences so that if all of the nonfarm residences are constructed, each would satisfy the requirements for a "Nonfarm Residence".

   c. Any siting standards within the County Comprehensive Plan or applicable town comprehensive plan shall be met.

6. **Lot Clustering Density Bonus:** Clustered residential developments, adhering to the standards set forth in Section 9.0 of this Ordinance, are permitted one (1) additional lot for every four (4) lots allowable per the base zoning district by approval of a Conditional Use Permit.

7. **Single-Family Residence – Accessory to a Principal Commercial Use:** Land uses consisting of a single-family residence that are accessory to a principal commercial use, for example, shopkeeper or employee. This residence may be attached to the commercial building or freestanding.

Required parking is two (2) spaces per dwelling unit.

8. **Home Occupation, Major:** A home-based family or professional business that is accessory to a principal residential use. The regulations for major home occupations are more flexible than for minor home occupations; as such, major home occupations require the issuance of a Conditional Use Permit.

   a. The business shall meet the following standards:

      (1) Economic activities must be performed within the dwelling or residential accessory structure. When the use is conducted entirely within the confines of the principal structure, it shall occupy no more than fifty percent (50%) of the gross floor area on the floor(s) where the use takes place.

      (2) The use is not potentially associated with nuisances such as odor, noise, heat, vibration, and radiation which are detectable at the property line.

      (3) The use does not pose a significant safety hazard.

      (4) The use shall be clearly incidental and secondary to the use of the property for residential purposes, and the appearance of the structure shall not be altered or the occupation be conducted in a manner that would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, signs, or the emission of sounds, or vibrations that carry beyond the premises.

      (5) No more than two (2) persons in addition to those members of the family that are permanent residents of the premises shall be employed by the home occupation.

      (6) Conditional Use Permits granted for major home occupations shall be assigned only to a designated person who resides at the residential address. Such permits do not run with the land, and are not transferrable from person to person or from address to address.

      (7) As part of the process to grant the Conditional Use Permit for a major home occupation, the Planning and Zoning Committee may restrict the number and types of machinery and equipment used on the property, limit hours of operations, or attach other conditions to the approval to meet the standards for granting a Conditional Use Permit in Section 14.5 1.b.

      (8) In the Farmland Preservation Overlay, the major home occupation must meet the standards set forth in Section 6.10.7 for an Agricultural Home Occupation.

   b. The following list describes specific uses and their relation to major home occupations:

      (1) A major home occupation shall not involve the removal of sand, gravel, stone, topsoil, peat or moss for commercial purposes.

      (2) A major home occupation shall not involve the serving of any beverage or food.

      (3) A major home occupation shall not include the display, storage, or parking of materials, goods, supplies, or products other than those produced by the major home occupation to fill orders made by customers.

(4) A major home occupation shall not involve the onsite sale, resale, salvage, or wrecking of automobiles, trucks, boats, trailers, recreational vehicles, or other motorized vehicles.

(5) A major home occupation may not include body repair, other than "touchups", of automobiles, trucks, boats, trailers, recreational vehicles, or other motorized vehicles.

(6) A major home occupation may include the repair and maintenance of automobiles, trucks, boats, trailers, recreational vehicles, or other motorized vehicles; however, the size of the operation shall be limited to a maximum of three (3) vehicle repair bays and no more than ten (10) vehicles total onsite at any time, not including property owner vehicles.

(7) A major home occupation may include firearm sales, service, and repair of firearms; however, there shall be no outdoor testing of the firearms. For outdoor shooting ranges, refer to section 6.9(3).

(8) A major home occupation may include the on-lot retail or wholesale of goods or materials that are accessory to the business.

9. **Home Occupation, Minor:** A small home-based family or professional business that is accessory to a principal residential use. This business includes economic activities performed within any dwelling that comply with the specified requirements listed below. Examples include, but are not limited to, personal and professional services, home offices, small beauty salons, handicrafts, and small machine repair. This use shall meet the following standards:

a. These uses shall have limited outward appearance, including limited signage, outdoor storage, parking, and customer traffic. The use shall be conducted entirely within the confines of the principal residential structure or accessory residential structures.

b. Home occupations shall include the employment of no additional persons other than the resident occupants.

c. The use shall not involve the serving of any beverage, food, the wholesale of goods or materials.

(1) The on-lot retail of goods or materials incidental and accessory to the Minor Home Occupation is allowed.

d. The use shall not involve the removal of sand, gravel, stone, topsoil, peat or moss for commercial purposes.

e. Any off-street parking area provided shall be maintained reasonably dustless, and adequately screened from adjoining residential properties.

f. The use shall not include the outdoor operation of any machinery, power tools or other appliances, or produce excessive noise or odors.

g. The use shall not involve more than twenty (20%) percent of the classified floor area of the principal building.

h. The use shall not generate vehicular traffic beyond ten (10) trips per day, on an average monthly basis, above those generated by the household's use.

i. The display, storage, or parking of materials, goods, supplies, or equipment outside of the dwelling or accessory building is prohibited, except for truck equipment.

j. Any minor home occupation involving the onsite sale, resale, salvage, or wrecking of automobiles, trucks, boats, trailers, recreational vehicles, or other motorized vehicles shall be prohibited.

k. The minor home occupation shall not involve the use of commercial vehicles for more than the weekly delivery of materials to or from the premises.

l. In the Farmland Preservation Overlay, the minor home occupation must meet the standards set forth in Section 6.10.7 for an Agricultural Home Occupation.

10. **Family Day Care Home:** Land uses consisting of an occupied residence in which a qualified person or persons provide child care for four (4) to eight (8) children. The care of less than four (4) children is not subject to the regulations of this Ordinance.

    In the Farmland Preservation Overlay, the family day care home must meet the standards set forth in Section 6.10.7 for an Agricultural Home Occupation and the standards set forth in Section 6.8.6 for a Minor Indoor Institutional Use.

11. **Bed and Breakfast Establishment:** Land uses which provide lodging facilities that satisfy all of the following:

    a. Provides eight (8) or fewer rooms for rent to no more than a total of twenty (20) tourists or transients for more than ten (10) nights in a twelve (12) month period.

    b. Provides no meals other than breakfast and provides the breakfast only to renters of the place.

    c. Is the owner's personal residence.

    d. Is occupied by the owner at the time of rental.

    e. Was originally built and occupied as a single-family residence, or, prior to use as a place of lodging, was converted to use and occupied as a single-family residence.

    f. One (1) parking space per bedroom is required.

    g. In the Farmland Preservation Overlay, the bed and breakfast establishment must meet the standards set forth in Section 6.10.7 for an Agricultural Home Occupation.

12. **Manufactured/Mobile Home Community or Park:** Land uses meeting the definitions and requirements of Wisconsin Administrative Code SPS 326.

    The following standards shall apply to the design, construction and maintenance of any new manufactured/mobile home community or park and to the enlargement or addition to an existing community or park after the effective date of this Chapter. These standards shall be additional to all State statutes, codes and regulations. Although the following standards are mandatory, nothing herein shall be construed to prevent or limit the submission of unique, innovative designs to the Planning and Zoning Committee.

    a. The minimum size of any manufactured/mobile home park shall be ten (10) acres.

b. **Lots**

(1) Dimensions and area shall not be less than as follows:

(a) Minimum width: 50 feet

(b) Minimum depth: 100 feet

(c) Minimum area: 6,500 square feet

(2) All lots shall abut on a street within the park for at least fifteen (15) feet and shall have unobstructed street access. No lot shall abut on a public street, right-of-way, or property line of the park.

(3) Corner lots located on the inside of any corner shall be of extra width sufficient to maintain front set back requirements on both streets.

(4) No more than one (1) manufactured/mobile home shall be placed on a lot.

(5) No manufactured/mobile home unit shall be parked outside of a designated lot.

c. The **minimum width** of each manufactured/mobile home shall be a nominal 14 (fourteen) feet.

d. **Setbacks** applicable to each lot:

(1) Minimum front yard setback: 20 feet

All yards that abut a street are "front yards."

(2) Minimum rear yard setback: 10 feet

(3) Minimum distance between homes: 20 feet

e. **Streets:**

(1) Each street and parking area shall be paved.

(2) A streetlight shall be placed at each street corner within the park, at each entrance to the park, and at such other places along the street so that the distance between each light does not exceed two hundred twenty-two (225) feet as measured down the centerline of the street.

(3) All streets shall be maintained and plowed by the owner.

f. **Parking:**

(1) Each lot shall have an off-street parking space having either a minimum width of twenty (20) feet and a minimum depth of twenty-four (24) feet or a minimum width of twelve (12) feet and a minimum depth of forty (40) feet.

(2) If parking on any street is prohibited within the park, an additional parking area within the park shall be established containing one (1) parking space for every five (5) lots, or fraction thereof, which abuts on a street where parking is prohibited.

(3) No parking shall be permitted on lot yards.

g. **Walkways** not less than three (3) feet wide and comprised of a hard surface shall be provided from the parking area of each lot up to and including the steps to the front door of each mobile and manufactured home.

h. **Utilities:**

(1) Water, domestic waste disposal, natural gas (where available) and electrical utilities shall be provided to each lot.

(2) All utilities, including telephone and cable TV, shall be placed underground.

(3) Each lot shall be furnished with a minimum two hundred (200) amp electrical service.

(4) The owner shall install one (1) large water meter contained in a manhole for the entire park. The design and construction of the park water distribution systems, the water meters, and the manhole shall meet such requirements as may be established.

i. **Open Areas:**

(1) Each park shall have one (1) or more designated open area(s), which shall be easily accessible to all park residents, and which shall not include a street or the park boundary, and which shall be so located as to be free of traffic hazards.

(2) The total size of such open areas shall be a minimum of five percent (5%) of the total land area of the park.

(3) For every twenty-five (25) lots in the park, there shall be at least one (1) open area in the park having a minimum size of fifty (50) feet by one hundred (100) feet.

j. **Landscaping:**

(1) Each lot shall be planted with at least one (1) tree and one (1) shrub. The tree shall be a deciduous tree.

(2) All lots shall be sodded or planted in grass.

(3) Trees, grass and landscape material shall be properly maintained and replaced to conform to the approved landscape plans and specifications.

k. **Park Boundary/Buffer:**

(1) A thirty (30)-foot wide buffer zone shall be established around the entire perimeter of the park.

(2) The buffer zone shall not be part of any lot.

(3) A visual screen of compact hedges, decorative fences, coniferous trees and shrubs and other landscape materials, approved by the Planning and Zoning Committee, shall be installed and maintained in the buffer zone to substantially hide the interior of the park from view from any adjacent street or property.

(4) The buffer zone shall be maintained by the owner and shall be free of rubbish, debris and weeds.

l. **Home Installation:**

(1) Each manufactured/mobile home shall be secured with tie-downs and anchoring equipment.

(2) All manufactured/mobile home units shall be skirted, or shall have a product which makes the home appear to be built upon a basement or foundation; shall be made of plastic, fiberglass, aluminum, metal or vinyl; and shall be of a permanent color or painted to match the manufactured/mobile home so as to enhance the general appearance thereof.

m. **Accessory Structures:**

(1) Only one (1) accessory structure may be placed on each lot.

(2) The following set back requirements apply to each accessory structure:

(a) Minimum front yard setback: 20 feet

(b) Minimum rear yard setback: 3 feet

(c) Minimum side yard setback: 3 feet

(3) All accessory structures except for automobile garages, shall be located in the rear one-half (1/2) of the lot.

(4) No accessory structure shall exceed one (1) story in height or four hundred (400) square feet in area.

(a) No structure may be attached or added to any manufactured/mobile home except as follows:

i. The proposed design and construction standards shall be submitted to the Planning & Zoning Director before commencement of work on the structure.

ii. The Planning & Zoning Director shall review and approve the project only if the structure is designed to architecturally blend with the manufactured/mobile home.

13. **Temporary Occupancy of Recreational Vehicle:** The occupancy of a recreational vehicle that is equipped and used, or intended to be used, primarily for temporary or recreational human habitation; and that does not exceed forty-five (45) feet in length. This use does not include tents, utility trailers, livestock trailers, manufactured homes, mobile homes, modular homes, and all other types of vehicles, shelters, and permanent or temporary dwellings. This use shall meet the following performance standards:

a. The recreational vehicle shall comply with all adopted standards of the Recreation Vehicle Industry Association (RVIA).

b. Recreational vehicles may be used for temporary parking and living purposes on parcels without an existing dwelling for a period not to exceed thirty (30) days during the calendar year. A Conditional Use Permit shall be obtained if such use is proposed to continue for a period in excess of thirty (30) days during the calendar year and the proposed use is located within a district that allows such use.

c. The recreational vehicle shall remain “road ready” at all times.

d. The wheels or any similar transporting devices of any recreational vehicle shall not be removed except for repair, and any such recreational vehicle shall not be otherwise fixed to the ground in any manner that would prevent ready removal.

e. The parking of one (1) recreational vehicle in an accessory private garage or building, or in a driveway of an existing residential unit is permitted, provided no living quarter shall be maintained in excess of thirty (30) days during the calendar year, and no business is conducted within the recreational vehicle.

6.6 Commercial Uses

1. **Personal or Professional Service:** Land uses that are exclusively indoor whose primary function is the provision of services directly to an individual on a walk-in or on an appointment basis. Examples of such land uses include, but are not limited to, professional services, insurance services, realty offices, financial services, medical offices and clinics, veterinary clinics, barber shops, beauty shops, and related land uses.

   Required parking is one (1) parking space per three hundred (300) square feet of gross floor area in the principal building(s).

2. **Indoor Sales and Service:** Land uses which conduct or display sales or rental merchandise or equipment, or non-personal or non-professional services, entirely within an enclosed building with a footprint smaller than twenty thousand (20,000) square feet. This includes general merchandise stores, grocery stores, bait shops, sporting goods stores, antique stores, gift shops, laundromats, artisan and artist studios, bakeries, and the like. Artisan craft production such as consumer ceramics, custom woodworking, or other production activities directly associated with retail sales are regulated as “light industrial activities as an accessory to retail sales or service.”

   Required parking is one (1) parking space per three hundred (300) square feet of gross floor area in the principal building(s).

3. **Medium Indoor Sales and Service:** Land uses which conduct or display sales or rental merchandise or equipment, or non-personal or non-professional services, entirely within an enclosed building with a footprint of twenty thousand (20,000) square feet to less than fifty thousand (50,000) square feet.

   Required parking is one (1) parking space per three hundred (300) square feet of gross floor area in the principal building(s).

4. **Large Indoor Sales and Service:** Land uses which conduct or display sales or rental merchandise or equipment, or non-personal or non-professional services, entirely within an enclosed building with a footprint of fifty thousand (50,000) square feet or greater.

   Required parking is one (1) parking space per three hundred (300) square feet of gross floor area in the principal building(s).

5. **Long-Term Outdoor Display and Sale**: Land uses which conduct sales or display merchandise or equipment on a long-term basis outside of an enclosed building as a

principal accessory use of the lot. Examples of such land uses would include vehicle and equipment sales and rental, used cars sales, manufactured housing sales, monument sales, flea markets, and farmer's markets and garden centers when not meeting the standards for an Agriculture Related Use as described in Section 6.10.3. Such land uses do not include the storage or display of inoperative vehicles or equipment, or other materials typically associated with a junk or salvage yard or other permanent outdoor land uses specifically defined by the Zoning Ordinance.

Required parking includes one (1) space per three hundred (300) square feet of gross floor area in the principal building(s), plus one (1) space per two thousand (2,000) square feet of outdoor sales or display area.

6. **Indoor Maintenance Service**: Land uses which perform maintenance services, including repair, and contain all operations, except loading, entirely within an enclosed building. Examples of such land uses include, but are not limited to, auto body repair, auto repair and equipment repair.

   Required parking is one (1) parking space per three hundred (300) square feet of gross floor area in the principal building(s).

7. **Outdoor Maintenance Service:** Land uses which perform maintenance services, including repair, and have all, or any portion of, their operations located outside of an enclosed building. Examples of such land uses include, but are not limited to, auto body repair, auto repair, equipment repair, and towing service. A towing service may not operate a tow yard unless it is properly permitted by Section 6.7.7.

   Required parking includes one (1) parking space per three hundred (300) square feet of gross floor area in the principal building(s), plus adequate parking for the storage of vehicles awaiting service or pick-up.

8. **In-Vehicle Sales and Service:** Land uses which perform sales and/or services to persons in vehicles, or to vehicles which may be occupied at the time of such activity. Such land uses often have traffic volumes which exhibit their highest levels concurrent with peak traffic flows on adjacent roads. Examples of such land uses include walk-in, drive-in, drive-up, and drive-through facilities, vehicular fuel stations, food trucks or retail vehicles (greater than thirty (30) calendar days), and all forms of car washes.

   Required parking is one (1) parking space per one hundred fifty (150) square feet of gross floor area in the principal building(s).

9. **Commercial Entertainment**: Land uses which provide entertainment services. Such activities often have operating hours that extends significantly later than most other commercial land uses. Examples of such land uses include restaurants, banquet halls, beer gardens, taverns, brew pubs, wine pubs, nano-breweries and nano-wineries provided they have a restaurant or tavern, theaters, health or fitness centers, all forms of training studios (dance, art, martial arts, etc.), bowling alleys, arcades, roller rinks, and pool halls. Such land uses do not include sexually-oriented businesses. See Section 6.6.15 for applicable regulations.

   Required parking is one (1) parking space per every three (3) patron seats or one (1) space per three (3) persons at the maximum capacity of the establishment, whichever is greater.

10. **Indoor Shooting Ranges:** Land uses where people may participate in recreation, competition, skill and development training with firearms conducted entirely indoors, provided the following standards are met:

    a. All safety precautions shall meet or exceed the standards listed in the National Rifle Association Range Source Book, 1999; or successor sourcebook.

    b. Prior to operation, the shooting range shall be deemed consistent with the Best Management Practices found in the National Rifle Association Range Source Book, 1999; or successor sourcebook, by the Department of Natural Resources and/or by the National Rifle Association Technical Advisory Team.

11. **Commercial Indoor Lodging Facility**: Land uses which provide overnight housing in individual rooms or suites of rooms, each room or suite having a private bathroom. Such land uses may provide in-room or in-suite kitchens, and may also provide indoor recreational facilities for the exclusive use of their customers. Restaurant, arcades, fitness centers, and other on-site facilities available to non-lodgers are not considered accessory uses and therefore require review as a separate land use.

    Required parking is one (1) space per room or suite, plus one (1) space for every employee on the largest working shift.

12. **Resort Establishment:** Land uses which provide overnight housing in individual rooms, suites of rooms, cabins, or cottages. Such land uses may also provide indoor and outdoor recreational facilities for the exclusive use of their customers. Restaurants, arcades, fitness centers, and other on-site facilities available to non-lodgers are considered accessory uses and therefore do not require review as a separate land use.

    a. Required parking is one (1) space per room, suite, cabin, or cottage, plus one (1) space for every employee on the largest working shift.

    b. The maximum number of occupancy units in a resort shall not exceed a density of ten (10) units per acre in any zoning district.

13. **Group Day Care Center Facility:** Land uses in which qualified persons provide child care services for nine (9) or more children. Examples of such land uses include day care centers and preschools. Such land uses shall not be located within a residential building. Such land uses may be operated on a for-profit or a not-for-profit basis. Such land uses may be operated in conjunction with another principal land use on the same environs, such as a church, school, business, or civic organization, which may require a Conditional Use Permit.

    Required parking is one (1) parking space per every six (6)-person capacity of the center, plus one (1) space for each employee on the largest working shift.

14. **Commercial Animal Facility:** Land uses where nonfarm animals six (6) months of age or older are bred by a person providing facilities for breeding and the offspring are sold, or where animals are received for care, training, grooming and boarding for compensation, excluding personal pets. This would include a small animal hospital, clinic, or pet shop. These uses include exercise yards, fields, training areas, and trails.

    a. Required parking is one (1) parking space per every one thousand (1,000) square feet of gross floor area.

b. When located within the Farmland Preservation Overlay and the animals are not livestock, the facility must meet the definition provided in State Statute 91.01(1)d.

15. **Sexually-Oriented Business:** Land uses that include any facility involving the display of sexually-oriented materials such as videos, movies, slides, photos, books, or magazines; or actual persons displaying and/or touching sexually specified areas.

    a. Required parking is one (1) space per every three hundred (300) square feet of gross floor area in the principal building(s) or one (1) space per person at the maximum capacity of the establishment, whichever is greater.

    b. The outward appearance of an adult-oriented business shall not detract from the ability of neighboring businesses to attract customers.

    c. No sexually-oriented business shall be located within a one thousand (1,000) foot radius of any place of worship, park, school, residential zoning district, residential use, or licensed child daycare center, as measured in a straight line, without regard to intervening structures, streets or other barriers from the nearest point of the property line of the school, park, place of worship, residential zoning district, residential use, or licensed child daycare center, to the nearest point of the property line of the sexually-oriented business.

    d. No sexually-oriented business shall be allowed within a one thousand (1,000) foot radius of another sexually oriented business.

16. **Personal Storage Facility:** Land uses oriented to the indoor and outdoor storage of personal items, e.g. mini-warehouse facilities. Such storage areas shall be available on either a condominium or rental basis. Onsite retail is prohibited, although General Temporary Outdoor Sales is permitted in accordance with Table 5 and Table 5.1.

    a. When located within the Farmland Preservation Overlay the mini-warehouse must meet the definition provided in State Statute 91.01(1).

    b. All outdoor storage shall be enclosed with a minimum eight (8) foot tall opaque fencing or berming. All fencing shall also comply with Sec. 2.7(4) and 2.8(5).

17. **Indoor Storage or Wholesaling:** Land uses primarily oriented to the receiving, holding, and shipping of materials for a single business or a single group of businesses. With the exception of loading and parking facilities, such land uses are contained entirely within an enclosed building. Examples of this land use include conventional warehouse facilities, long-term indoor storage facilities, and joint warehouse and storage facilities, but not uses described in the mini-warehouse land use category.

    a. Retail outlets associated with this principal use shall be considered an accessory use.

    b. Required parking is one (1) parking space per two thousand (2,000) square feet of gross floor area in the principal building(s).

18. **Outdoor Storage or Wholesaling:** Land uses primarily oriented to the receiving, holding, and shipping of materials for a single business or a single group of businesses. Such a land use in which any activity beyond loading and parking is located outdoors is considered an outdoor storage and wholesaling land use. Examples of this land use include equipment yards, lumber yards, coal yards,

landscaping materials yard, tank farms, construction materials yards, and shipping materials yards. Such land uses do not include the storage of inoperative vehicles or equipment, or other materials typically associated with a junkyard or salvage yard. Contractors' storage yards are considered accessory in the "contractor shop" land use category.

a. Retail outlets associated with this principal use shall be considered an accessory use.

b. Required parking is one (1) parking space for every ten thousand (10,000) square feet of gross storage area, plus one (1) space per each employee on the largest work shift.

19. **Indoor Retail Sales Activity as an Accessory to Industrial or Indoor Storage and Wholesaling**: Land uses that include any retail sales conducted exclusively indoors which are clearly incidental to an industrial facility or indoor storage and wholesaling facility on the same site.

20. **Marinas and Boat Liveries:** Land uses including a dock or basin providing secure moorings for watercraft or the rental of watercraft. This use may also include boat repair, chartering, supply, fueling, boat ramps, and other facilities.

a. Required parking is one (1) space for every two (2) slips or berths plus one (1) space per each employee on the largest work shift. Facilities that include a boat ramp should provide an additional fifteen (15) parking spaces per launching lane.

b. Facilities shall be located at least five hundred (500) feet from public bathing beaches, parks and boat access points.

c. Facilities shall be designed and constructed as to not interfere with adjacent riparian owner's uses of the water for swimming, fishing or boating; and not interfere or obstruct the public's free navigation.

d. Fueling pumps and tanks shall be located two (2) feet above the normal water elevation, and no fuel hose shall extend beyond a point necessary to fuel boats as the closest proximity to land.

e. Marinas shall be equipped with facilities for the disposition of domestic waste from boats.

f. The following standards shall apply to marinas:

(1) Minimum lot area in square feet: 43,560 sq. feet (1 acre)

(2) Minimum lot width at the building or waterline: 200 feet

(3) Maximum building height: 20 feet

g. The following standards shall apply to boat liveries:

(1) Minimum lot area in square feet: 25,000 sq. feet

(2) Minimum lot width at the building or waterline: 125 feet

(3) Maximum building height: 20 feet

h. If located within the (F-P) Floodplain Zone or (RP) Resource Protection Overlay District, subject to periodic flooding, the provisions of the Waupaca County

Floodplain Ordinance, Chapter 36, and Waupaca County Shoreland Protection Ordinance, Chapter 32, shall also apply.

21. **Mobile Service Facilities and Support Structures**: For requirements, see the Mobile Service Facilities and Support Structures Ordinance, Chapter 48.

22. **Commercial Wind Energy Systems:** See Section 12.0 for requirements.

23. **General Temporary Outdoor Sales:** The display of any items outside the confines of a building that is not otherwise allowed as a permitted or conditional use. Examples of this land use include, but are not limited to, seasonal garden shops, tent sales, bratwurst stands, and garage sales; however, up to six (6) three (3) day garage sales are exempt from the provision of this Section. This use shall meet the following performance standards:

    a. Display shall be limited to a maximum of thirty (30) days in any calendar year.

    b. Display shall not obstruct pedestrian or vehicular circulation, including vehicular sign distances.

    c. Adequate parking shall be provided.

    d. If the subject property is located adjacent to a residentially zoned area, sales and display activities shall be limited to daylight hours.

6.7 Industrial Uses

1. **Light Industrial Activity as an Accessory to Retail Sales or Service:** Land uses that include any light industrial activity conducted exclusively indoors which is clearly incidental to indoor sales or service on the same site.

2. **Light Industrial:** Land uses which operations, with the exception of loading operations, are conducted entirely within an enclosed building and are not potentially associated with nuisances such as odor, noise, heat, vibration, and radiation which are detectable at the property line; do not pose a significant safety hazard; and comply with all of the applicable performance standards. Examples of this use include nano-breweries and nano-wineries.

    a. Light industrial land uses may conduct retail sales activity as an accessory use.

    b. Required parking is one (1) parking space per each employee on the largest work shift.

3. **Heavy Industrial:** Land uses which meet one (1) or more of the following criteria: are not conducted entirely within an enclosed building; are potentially associated with nuisances such as odor, noise, heat, vibration, and radiation which are detectable at the property line; and pose a significant safety hazard, such as danger of explosion. Examples of heavy industrial land uses include meat product producers; breweries, micro-breweries, wineries, micro-wineries, distilleries and their accessory sample tasting; paper, pulp or paperboard producers; chemical dealers and/or storage facilities; chemical and allied product producers, except drug producers, but including poison or fertilizer producers; petroleum and coal product producers; asphalt, concrete or cement producers; tanneries; stone, clay or glass product producers; primary metal producers; heavy machinery producers; electrical distribution equipment producers; electrical industrial apparatus producers; transportation vehicle

producers; commercial sanitary sewage treatment plants; railroad switching yards; and recycling facilities not involving the on-site storage of salvage materials.

Required parking is one (1) space per each employee on the largest work shift.

4. **Contractor Shop:** Land uses that include businesses engaged in contract services or labor, such as contractors involved with landscaping; building construction or carpentry; and electrical, plumbing, or heating systems. This often involves accessory equipment storage yards and rental of equipment commonly used by contractors.

   a. Retail outlets associated with this principal use shall be considered an accessory use.

   b. Required parking is one (1) parking space per each employee on the largest work shift.

5. **Truck, Freight or Bus Terminal:** Land and buildings representing either end of one (1) or more truck carrier line(s) that may have some or all of the following facilities: yards, docks, management offices, storage sheds, buildings and/or outdoor storage areas, freight stations, and truck maintenance and repair facilities. Such uses typically serve the trucking needs of several businesses on a contract basis. Buildings also include bus stations and terminals.

   a. Required parking is one (1) space per each employee on the largest work shift.

   b. All parking, loading and vehicle circulation areas shall be surfaced with a hard surface, all weather material such as pavement or concrete.

   c. All buildings, trucks and activity areas shall be set back from all residential zoning district boundaries a minimum of one hundred (100) feet.

6. **Mineral Extraction (Non-Metallic):** For requirements see the Waupaca County Non-Metallic Mining Ordinance, Chapter 38.

7. **Tow or Impoundment Yard:** Land uses that include the temporary storage of motor vehicles that have been towed or impounded.

   a. Required parking is one (1) space for every twenty thousand (20,000) square feet of gross storage area, plus one (1) space for each employee on the largest work shift.

   b. The area on the premises where motor vehicles are kept, other than indoors, shall be enclosed by a wall or fence except for entrances and exits.

      (1) Entrances and exits shall not be wider or more numerous than reasonable necessary for the conduct of the business.

      (2) When two (2) or more tow or impoundment yards have a common boundary line, a solid wall or solid fence shall not be required on such common boundary line; provided, however, that a solid wall or solid fence shall enclose the entire combined area devoted to such uses.

      (3) Fences and walls shall be of uniform height in relation to the ground upon which they stand. They shall be a minimum of eight (8) feet high to screen vehicles from view and shall not exceed twelve (12) feet in height. The fence or wall shall be painted one (1) inconspicuous earth-tone color, and enclose

the entire site. The fencing plan shall be approved by the Planning and Zoning Committee.

c. All buildings, structures, outdoor storage areas, other facilities and the required fence or wall shall meet the structural setback requirements for a principal structure.

d. Noxious weeds shall be controlled.

8. **Salvage or Junk Yard:** Land uses that include any land or structure used for a salvaging operation including, but not limited to, the above-ground outdoor storage, collection, recycling, dismantlement, and/or sale of items listed in Section 6.7.7.b. Licensed recycling facilities involving on-site outdoor storage of salvage materials are not included in this land use.

a. Required parking is one (1) space for every twenty thousand (20,000) square feet of gross storage area, plus one (1) space for each employee on the largest work shift.

b. "Junk" means any of the following:

(1) Scrap metal, glass, paper products, metal alloy, wood, perishables, refuse, aluminum, steel, tires, concrete, synthetic material, including but not limited to tanks, barrels, cages, pallets, wire/cable, furniture, culverts, bricks, appliances, electronics, plastics, batteries, hot tubs, bathroom fixtures, plumbing products, or bottles.

(2) Three (3) or more junked, ruined, dismantled, wrecked, unlicensed, unregistered or inoperative motor vehicles, including but not limited to buses, vans, trucks, cars, and recreational vehicles and parts of thereof.

(3) Any junked, ruined dismantled, or wrecked machinery or lawn and garden equipment, including but not limited to farm equipment, construction equipment, campers, snowmobiles, boats, bicycles, trailers, motorcycles and parts thereof.

(4) Construction/building materials or all or parts of dismantled buildings or structures, including but not limited to abandoned mobile homes and manufactured homes.

c. The area on the premises where junk is kept, other than indoors, shall be enclosed by a wall or fence except for entrances and exits.

(1) Entrances and exits shall not be wider or more numerous than reasonably necessary for the conduct of the business.

(2) When two (2) or more vehicle dismantling yards, junk and salvage yards, and/or vehicle impounding yards have a common boundary line, a solid wall or solid fence shall not be required on such common boundary line; provided, however, that a solid wall or solid fence shall enclose the entire combined area devoted to such uses.

(3) Fences and walls shall be of uniform heights in relation to the ground upon which they stand. They shall be a minimum of eight (8) feet high or a height sufficient to screen salvage from view and shall not exceed twelve (12) feet in

height. They shall be of wood or metal painted one (1) inconspicuous earth-tone color, and shall enclose the entire site.

(4) Junk or salvage materials shall not be piled higher than the height of the fence, and not against the fence.

(5) An unobstructed interior firebreak sixteen (16) feet in width shall be maintained adjacent to the fence or wall and shall completely surround the junk or salvage yard.

d. A vegetated buffer area is required to create additional screening and containment of salvage and to soften the appearance of the fence or wall.

(1) The buffer area cannot substitute for a fence or wall, and berms cannot substitute for either.

(2) No buildings, structures, outdoor storage areas, or other facilities shall be located in any part of a buffer area.

(3) The buffer area must be at least twenty-five (25) feet wide adjacent to the exterior of the fence or wall.

(4) The buffer area shall be planted and maintained with a continuous stand of mixed trees and shrubs sufficient to extend above the fence or wall and obscure the majority of it from view within five (5) years.

e. All buildings, structures, outdoor storage areas, other facilities and the required fence or wall shall be set back at least three hundred (300) feet from public roadways and one hundred (100) feet from rear and side lot lines.

f. No oil, grease, tires, gasoline, rubber, plastic, asphalt, or similar material shall be burned at any time, and all other burning shall be in accordance with applicable State and local regulations.

g. All junk and salvage yards shall be maintained so as to avoid creating a public or private nuisance, including, but not limited to, any offensive or noxious sounds or odors and breeding or harboring of rats, flies, mosquitoes, or other vectors.

h. Drainage facilities shall be established to protect surface and groundwater resources.

i. Noxious weeds shall be controlled.

j. All materials or wastes which might cause fumes or dust, which constitute a fire hazard, or which may be edible or otherwise attractive to rodents or insects may be stored outdoors only if enclosed in containers which are adequate to eliminate such hazards.

k. No materials or wastes shall be deposited on a site so as to allow their transportation off the site by normal natural causes.

l. No such facility shall discharge at any point into any public or private sewage disposal system or waterway, or into the ground, any liquid or solid materials except in accordance with the regulations of the Wisconsin Department of Natural Resources and the Wisconsin Department of Public Health.

m. Toxic and hazardous materials including, but not limited to, gasoline, oil, antifreeze, brake fluids, freon and transmission oil shall be removed from any scrapped engines, vehicles, appliances, or containers on the premises and shall be recycled or disposed of in compliance with applicable regulations.

9. **Solid or Hazardous Waste Facility:** Land uses that include any area, lot, land, parcel, building, or structure, or part thereof, used for deposit, disposal, processing, or transfer of solid, demolition, or hazardous waste.

   a. The following situations do not need to meet the standards set forth below for a solid or hazardous waste facility:

      (1) Existing facilities and expansion of existing facilities by adding not more than fifty percent (50%) additional capacity, provided that continuing operations and operations of expanded areas follow basically the same current operating patterns and comply with applicable laws and rules.

      (2) Transfer, treatment and disposal of farm manure and similar farm animal waste generated from farms in Waupaca County or immediately adjoining lands.

      (3) Solid or hazardous waste facilities that otherwise would meet the tests of applicability, but that are on the same land where the waste is generated and are conducted as part of the farm or business, other than waste treatment/disposal business on that land.

   b. Any waste facility to which this Ordinance applies must have advance approval and the issuance of a Conditional Use Permit by Waupaca County before operations may be commenced.

   c. To approve such a facility, the Planning and Zoning Committee must determine that the facility will not harm the health, safety and welfare of the community and the good order and convenience of the community and the public.

   d. In making approvals, the Committee is encouraged to impose reasonable requirements on applications in order to avoid nuisance conditions.

   e. The intent of this Ordinance is that dumps and waste facilities will be regulated within the process of the Wisconsin Waste Facility Siting Law and that precise application of standards and conditions will be determined within that process.

6.8 Public/Institutional Uses

1. **Community Living Facility – one to eight (1 to 8) Residents**: Land uses which serve the function as a transitional residential setting and which provide guidance, supervision, training, and other assistance to ambulatory or mobile adults with a mild or moderate developmental disability with the goal of eventually moving these persons to more independent living arrangements. Community living arrangements do not include day care centers, nursing homes, general hospitals, special hospitals, prisons, or jails.

   Required parking is three (3) total spaces.

2. **Community Living Facility – nine to fifteen (9 to 15) Residents:** See definition for 6.8.1.

Required parking is four (4) total spaces.

3. **Community Living Facility – sixteen (16) or More Residents:** See definition for 6.8.1.

   Required parking is five (5) total spaces.

4. **Outdoor Institutional:** Land uses that include cemeteries, religious and historical shrines, outdoor education and interpretive centers, and similar privately held permanently protected open areas. Uses may include buildings supporting the principal outdoor institutional use, such as accessory educational and interpretive facilities and equipment storage sheds.

   Required parking includes one (1) parking space per three (3) expected patrons at maximum capacity.

5. **Airport:** Including landing strips, control towers, hangars, aircraft maintenance and refueling facilities, and accommodations for passengers and cargo.

   Required parking is one (1) parking space per three (3) expected patrons at maximum capacity.

6. **Minor Indoor Institutional:** Land uses that are generally compatible with residential land uses and that do not exceed the parking or overnight accommodation thresholds that would instead classify such use as a "major institutional use." Uses include small churches, small elementary or middle schools, small clinics, post offices, libraries, town halls, police stations, fire stations, training centers, nursing homes, funeral homes, and recreational or fraternal facilities such as gyms, swimming pools, museums, clubs and lodges, meeting halls, and community centers, provided that the thresholds are not exceeded.

   a. Parking requirements must follow standards for Major Indoor Institutional uses.

   b. Any special events held on the property containing any of the above listed uses shall be permitted.

   c. If proposed in the Farmland Preservation Overlay, the use shall also meet the following standards:

      (1) The use and its location are consistent with the purposes of the Farmland Preservation Overlay.

      (2) The use and its location are reasonable and appropriate, considering alternative locations, or are specifically approved under State or Federal law.

      (3) The use is reasonably designed to minimize conversion of land at and around the site of the use from agricultural use or open space use.

      (4) The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.

      (5) Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.

7. **Major Indoor Institutional:** Land uses that include large scale and/or intensive institutional uses that are generally not compatible with residential land uses and that

exceed one (1) or both of the following thresholds: required parking exceeds fifty (50) or more motor vehicles, following the parking standards below, or the use is intended to provide overnight accommodations for fifteen (15) or more persons.

a. **Parking Required:**

(1) **Church:** one (1) space per five (5) seats at the maximum capacity.

(2) **Community or Recreation Center:** one (1) space per two hundred fifty (250) square feet of gross floor area or one (1) space per four (4) patrons to the maximum capacity, whichever is greater.

(3) **Funeral Home:** one (1) space per three (3) patron seats at the maximum capacity.

(4) **Hospital or Clinic:** two (2) spaces per three (3) patient beds, plus one (1) space per staff doctor and each other employee on the largest work shift.

(5) **Library or Museum:** one (1) space per two hundred fifty (250) square feet of gross floor area or one (1) space per four (4) seats to the maximum capacity, whichever is greater.

(6) **Elementary and Middle School:** one (1) space per teacher and per staff member, plus one (1) space per two (2) classrooms.

(7) **Senior High School:** one (1) space per teacher and staff member, plus one (1) space per five (5) non-bused students.

(8) **College or Trade School:** one (1) space per staff member on the largest work shift, plus one (1) space per two (2) students of the largest class attendance period.

(9) **Nursing Home:** one (1) space per six (6) patient beds, plus one (1) space per employee on the largest work shift.

(10) **Monastery or Convent:** one (1) space per six (6) residents, plus one (1) space per employee on the largest work shift, plus one (1) space per five (5) chapel seats if the public may attend.

(11) **Assisted Living Facility or Retirement Community:** one (1) space per dwelling unit.

(12) **Other Elderly or Congregate Residential Facility:** one (1) space per six (6) residents or patient beds, plus one (1) space per employee on the largest work shift.

(13) **All other indoor institutional uses**, one (1) space per three (3) expected patrons at maximum capacity.

b. If proposed in the Farmland Preservation Overlay, use shall also meet the following standards:

(1) The use and its location are consistent with the purposes of the Farmland Preservation Overlay.

(2) The use and its location are reasonable and appropriate, considering alternative locations, or are specifically approved under State or Federal law.

(3) The use is reasonably designed to minimize conversion of land at and around the site of the use from agricultural use or open space use.

(4) The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.

(5) Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.

8. **Public Service and Utility:** Land uses that include City, County, State and Federal facilities, except those otherwise defined in this Section, wastewater treatment plants, public and/or private utility substations, water towers, utility and public service related distribution facilities, and similar land uses. Existing facilities may be improved, expanded, or replaced without the need of a Conditional Use Permit, zone map amendment, or variance provided that the expansion is limited to the existing parcel of record as of the adoption date of this Ordinance and no setback encroachment extends any closer than any legally established existing encroachment.

   Required parking is one (1) space per employee on the largest work shift, plus one (1) space per vehicle normally stored or parked on the premises, plus one (1) space per five hundred (500) gross square feet of office area.

9. **Small Solar Energy System:** An energy system with a panel area of fourteen hundred (1,400) square feet or less that converts solar energy to usable thermal, mechanical, chemical, or electrical energy, where such solar energy system is accessory to the principal use of the land, e.g., solar panels providing energy for a residence on the same lot. This use shall meet the following performance standards:

   a. Rooftop, ground-mounted, and building-mounted solar energy systems shall comply with the minimum required setbacks for principal structures. Ground-mounted solar energy systems shall comply with the height requirements of Section 2.6.

   b. The requirements of Wisconsin Statutes including, but not limited to, Sections 66.0401 and 66.0403, shall apply to all solar energy systems.

   c. In the Farmland Preservation Overlay, the Small Solar Energy System must meet the standards set forth in Section 6.10.5 for an Agricultural Accessory Use.

10. **Large Solar Energy System:** An energy system with a panel area of more than fourteen hundred (1,400) square feet that converts solar energy to usable thermal, mechanical, chemical, or electrical energy, where such solar energy system is typically a principal use of the land and designed primarily to generate energy for commercial sale off site. This use shall meet the following performance standards:

    a. Rooftop, ground-mounted, and building-mounted solar energy systems shall comply with the minimum required setbacks for principal structures. Ground-mounted solar energy systems shall comply with the height requirements of Section 2.6.

    b. The requirements of Wisconsin Statutes, including, but not limited to, Sections 66.0401 and 66.0403, shall apply to all solar energy systems.

11. **Standalone Parking Lots:** Land uses that involve standalone parking facilities, which include privately owned pay to park facilities and public parking facilities.

a. All parking spaces shall meet the dimensional requirements of Sec. 6.4 and be located outside of the road right-of-way.

b. Any structures associated with the use shall meet all required setbacks.

c. In no instance shall the parking spaces located in a standalone parking lot be used to satisfy the required parking standards found in the remainder of this ordinance unless specifically permitted in accord with Section 6.4.6 “Off Site Parking”.

d. Parking lots shall not include the storage of personal items unless specifically allowed by Sec. 6.6.16 Personal Storage Facility.

6.9 Park/Recreational Uses

1. **Outdoor Public Recreation:** Outdoor recreational uses located on property owned by the public, owned by a private utility company for public recreational use, or on a public use easement owned by the public or by a non-profit organization. Such land uses may include parks, natural areas, undeveloped natural resources and open space areas per Section 91.44(l) (e) Wisconsin Statutes, wildlife areas, trails, picnic areas, picnic shelter, play courts, play fields, athletic fields, tot lots, outdoor swimming pools, swimming beach areas, fitness courses, playground equipment, boat launches, waterfront access points, or similar land uses. Uses may include building or structures supporting the principal use, such as equipment storage sheds, shelters, restrooms, concession stands, and grandstands. These uses shall meet the following standards:

   a. Required parking is one (1) space per four (4) expected patrons at maximum capacity. Additional paved, graveled, or grassed area for overflow parking may be provided for occasional outdoor assembly land uses, i.e., special events located on outdoor public recreation sites.

   b. Waterfront recreational uses shall adhere to the following provisions:

      (1) The area shall be compatible with adjacent land or water uses.

      (2) The provisions of the Waupaca County Shoreland Protection Ordinance, Chapter 32, shall apply.

      (3) Entrances and exits are designed and located as to not interfere with the public's or adjacent landowner's access to public waters.

      (4) Any lighting facilities are designed as to minimize reflection or glare on or over the water except navigation aids. Maintenance and storage buildings, parking lots and sanitary facilities are effectively screened from the water and adjacent residential properties by vegetative growth.

   c. All buildings shall be located a minimum of fifty (50) feet from any dwellings.

   d. No Outdoor Public Recreation use shall be arranged in such a location or manner than inhibits use of nearby agricultural lands for normal farm operations.

   e. In the Farmland Preservation Overlay, these areas shall remain undeveloped. Any structures associated with this use shall be permitted through a Conditional Use Permit in compliance with State Statute 91.46(5).

2. **Outdoor Recreation - Active:** Land uses that include recreational uses located on public or private property, which involve active recreational activities that are open to the public or to customers, patrons, or members. Uses may include building or structures supporting the principal use, such as equipment storage sheds, shelters, restrooms, concession stands, and grandstands.

   a. Active uses include playcourts such as tennis courts and basketball courts, playfields such as ball diamonds, football fields, and soccer fields, tot lots, outdoor swimming pools, swimming beach areas, fitness courses, golf courses, archery ranges and similar land uses.

   b. Provisions of 6.9.1.a. through e. apply.

   c. Waterfront recreational uses that include bleachers, spectator stands, motor driven rides, concession stands and similar uses are effectively screened from the water, if applicable, and adjacent properties by vegetative growth.

3. **Outdoor Shooting Ranges for Firearms:** Shooting ranges require a Conditional Use Permit and shall adhere to the following provisions:

   a. Evaluation. In granting a Conditional Use Permit for gun clubs and shooting ranges, the Planning and Zoning Committee shall evaluate:

      (1) Potential hazards to adjacent uses

      (2) Topography and ground cover

      (3) The Committee cannot regulate noise as per WI. Stats. S. 895.527

   b. **Firing Limitations.** The firing of rifled arms and shotgun slugs shall not be permitted directly toward or over navigable water; a State DNR designated wetland in excess of two (2) acres in size; or public, private roads or drives. No part of any shooting range may be located within one-half (1/2) mile of any residentially zoned, planned or developed parcel unless owners and occupants of such residences waive this condition in writing.

   c. **In General.** The site shall be equipped with the following:

      (1) An adequate shotfall or bullet impact area.

      (2) A defined firing line or firing direction.

      (3) Adequate target backstops for the firing of rifled arms.

      (4) No shooting activity between 11:00 p.m. and 6:00 a.m.

      (5) Shooting ranges shall be clearly identified by signs not less than four (4) square feet in gross area located at intervals not more than twenty-five (25) yards around the perimeter.

      (6) Range types are subject to the National Rifle Association Range Source Book, 1999; or successor sourcebook.

      (7) All safety precautions shall meet or exceed the standards listed in the National Rifle Association Range Source Book, 1999; or successor sourcebook.

      (8) Prior to operation, the shooting range shall be deemed consistent with Best Management Practices found in the National Rifle Association Range Source

Book, 1999; or successor sourcebook, by the Department of Natural Resources and/or by the National Rifle Association Technical Advisory Team.

d. **Setbacks.**

(1) No part of any shooting range may be located within one-half (1/2) mile of any residentially zoned, planned or developed parcel unless owners and occupants of such residences waive this condition in writing.

(2) Accessory buildings, such as club houses, shall meet the same setbacks as a principal structure in the applicable zoning district.

e. **Exemptions.**

(1) Siting in firearms during the two (2) weeks prior to the nine (9) day gun season during the week of Thanksgiving during daylight hours, as defined in the current Wisconsin Department of Natural Resources Hunting Regulations.

(2) Siting in firearms all weekends two (2) months prior to the nine (9) day gun season during the week of Thanksgiving during daylight hours, as defined in the current Wisconsin Department of Natural Resources Hunting Regulations.

f. For a firing range inside of the Farmland Preservation Overlay, the Conditional Use Permit shall also be consistent with State Statute 91.46(5).

4. **Special Events:** Include any organized indoor or outdoor assembly of less than two hundred (200) persons held offsite of an Indoor Institutional as described in Section 6.8(6) and (7). Including auctions, church festivals, large community events, and municipal events open to the public. Also includes weddings, family reunions, anniversaries, or similar family events. These activities shall not be permitted for more than one (1) time in any four (4) week period. Any more than that would require a Conditional Use Permit.

a. Adequate parking, drinking water, toilet facilities, and crowd control techniques shall be described in the Conditional Use Permit application, where required for special events and outdoor assemblies with more than two hundred (200) participants, and shall be implemented for all special events and outdoor assemblies in accordance with applicable laws and industry standards.

b. If the subject property is located adjacent to a residentially zoned property:

(1) Activities shall be limited to daylight hours unless otherwise may be allowed through a Conditional Use Permit or license; and

(2) Other conditions addressing impacts such as noise, lighting, trespassing, and parking may be required.

c. A permit from the government having jurisdiction is generally required for all activities within a dedicated public road right-of-way or on other public lands.

d. Activities shall not obstruct safe pedestrian or vehicular circulation on the site or on any public road, except where specifically authorized by a permit from the government having jurisdiction over the public road.

5. **Campgrounds and Camping Resorts:**

a. Land uses designed, maintained, intended or used for the purpose of providing camping sites for nonpermanent overnight use to accommodate not more than one (1) camping unit per site and one (1) host site per campground. This use also includes facilities for use by campers including restrooms/showers, active and passive recreation areas, office/convenience store buildings, and necessary accessory uses. Any public or private parcel of land containing four (4) or more camping units used for habitation and occupied thirty (30) days or longer shall be deemed a campground or camping resort.

(1) Required parking is one and one-half (1 1/2) parking spaces per camping site plus one (1) space per employee on the largest work shift. Each camping unit camping area shall provide sufficient parking and maneuvering space so that the parking, loading or maneuvering of recreational vehicles, incidental to parking shall not necessitate the use of any public street, sidewalk or right-of-way or any private grounds not part of the recreational vehicle parking area.

(2) Wisconsin Administrative Code DHS 178 entitled "Campgrounds" shall apply until amended and then shall apply as amended; except the provisions of this Code of Ordinances shall control where more restrictive.

(3) Minimum campground/camping resort size: five (5) acres.

(4) Minimum camping site space: one thousand two hundred (1,200) square feet per camping site. All allotted individual lot area shall be in one (1) contiguous parcel exclusive of roadways. Each space shall be suitably landscaped, and all areas fronting a park and any buildings or recreational areas shall be suitably landscaped.

(5) The density shall not exceed twenty (20) camping sites per acre of gross camp area.

(6) Exposed ground surfaces in all parts of every parking area shall be paved, covered with stone screenings or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating objectionable dust.

(7) Each walkway shall have a minimum width of thirty-six (36) inches. No recreational vehicle lot or space shall ingress or egress directly upon a State, Federal, County, or Town road.

(8) Except for the interior road system, all camping units shall be set back from any park area boundary line abutting upon a public street or highway according to set back requirements in Section 2.8.

(9) Every camp shall be located in a well-drained area not subject to intermittent flooding and properly graded so as to prevent the accumulation of storm or other waters that may create hazards to the property or the health and safety of the occupants.

(10) There shall be one (1) or more recreational areas which shall be easily accessible to all camp residents. The aggregate size of such recreational areas shall be in an amount equal to, but not less than, two hundred (200) square feet multiplied by the number of camping sites, or two thousand five hundred

(2,500) square feet, whichever is greater. The design and placement of such recreation area(s) shall be approved by the Planning and Zoning Committee.

(11) Proof of ability to install a satisfactory private sewage disposal system, if public sewer and water facilities are not available, shall be presented to the Planning and Zoning Committee at the time of application.

(12) Convenience establishments of a commercial nature may be permitted in a campgrounds providing that such establishments and their related parking areas shall not occupy more than ten percent (10%) of the total camp area, shall be subordinate to the recreational character of the camp, shall be located, designed and intended to serve the specific needs of the camp occupants, and shall present no visual evidence of commercial character from any portion of any residential district outside the camp. Such convenience establishment building shall adhere to any service building requirements.

(a) Recreational vehicle sales and service offices, display areas, or buildings may be permitted on the campground premises by special permission of the Planning and Zoning Committee. In granting such permission, the Committee shall take into consideration the location and appearance of such activities, shall require that display areas not detract from the aesthetic value of the camp, and shall require that all display stock and materials be kept under cover. No repair of service facilities shall be permitted in any case where by reason of excessive noise, odor, unsightliness, etc., would detract from the recreational character of the camping area.

(13) The camp management shall adopt and include into its leases or camp rules, by reference, such rules and regulations as shall be reasonably required by the Planning and Zoning Committee for the general health, safety and welfare of such campgrounds and of the County of Waupaca, and shall cause the eviction of any tenants of said campgrounds who violate the same.

(14) The person or organization to whom a permit for a campground is issued shall operate the camp in compliance with this Ordinance and shall provide adequate supervision to maintain the camp, its facilities and equipment in good repair and in a clean and sanitary condition. The camp management shall notify camp occupants of all applicable provisions of this Ordinance and inform them of their duties and responsibilities under this Ordinance.

(15) Each campground shall be allowed one host site, which may include facilities exceeding the required allotment for a camping unit. The host site may include a single family residence occupied by an employee of the campground. A dwelling less than twenty-two (22) feet in width may be utilized for a host site without separate conditional use permit approval.

b. In addition to the above, all campgrounds or camping resorts located in Waupaca County offering seasonal camp sites must abide by the following:

(1) Seasonal camp sites are not permanent residences and shall not be occupied more than two hundred ten (210) days per year.

(2) If a campground has adequate impervious surface area:

(a) Seasonal camp sites may be permitted one (1) accessory structure per site not to exceed ten (10) feet by ten (10) feet, twelve (12) feet in height.

(b) Seasonal camp sites may be permitted one (1) deck or patio allowing for safe ingress and egress from the camping unit provided this deck or patio does not exceed one hundred fifty (150) square feet.

i. In rare instances, a seasonal camp site owner may request an additional deck or patio area to allow safe ingress or egress to a second door on his/her RV. If this request is approved by the Planning & Zoning Office, then the total square footage of all decks or patios must not exceed one hundred fifty (150) square feet.

(3) Seasonal camp sites located within the shoreland or floodplain area are only permitted accessory structures and/or decks or patios when in compliance with all local and State regulations.

(4) Prior to the Waupaca County Planning and Zoning Office issuing any permit for an accessory structure, or deck or patio area, the campground owner must first have on file a complete and accurate survey of his/her campground. The survey must accurately detail all lot and shoreland lines, structures, roads, parking areas, green space, and contain the current impervious surface calculations.

(5) RVs located on seasonal camp sites may not affix or erect additions of any type, other than those permitted by this Ordinance. This includes porches, room additions, structures designed to cover the RV and protect it from the elements, or any other addition of a similar nature.

(6) Seasonal camp sites must retain the ability to be dismantled and removed within twenty-four (24) hours of notice to do so.

(7) Other than the permitted accessory structure and deck or patio described above, the placing of materials such as mill felt, indoor-outdoor carpet or other items similar in nature that block or retard growth of natural vegetative cover and create impervious surface in a camp site is prohibited. However, materials such as those listed above are permitted if these materials are those utilized in creating the deck or patio area.

(8) The person or organization holding the permit for the campground or camping resort shall operate the camp in compliance with this Ordinance. Further, the permit holder shall provide adequate supervision to maintain the camp, its facilities, and equipment in good repair and in a clean and sanitary condition. The camp management shall notify camp occupants of all applicable provisions of this Ordinance and inform them of their duties and responsibilities under this Ordinance.

(9) Violations of any provision of this Ordinance shall be the responsibility of the person or organization holding the permit for the campground or camping resort.

(10) When located within the Farmland Preservation Overlay, this use shall either be considered an agricultural accessory use consistent with State Statute 91.01(1) or be consistent with State Statute 91.46(5) if new structures are

proposed. A campground or camping resort may be allowed as an open space use but no new buildings or structures will be allowed.

6. **Vehicle Course or Track:** Any privately operated track, course, circuit, strip, or loop designed for use by motorized vehicles such as automobiles, trucks, ATVs, motorcycles, motocross bikes, dirt bikes, snowmobiles, go-carts, or boats. Such uses occasionally are operated for recreational proposes for family use. This use shall meet the following standards:
   a. Minimum lot size shall be ten (10) acres.
   b. If such use abuts any residentially zoned or used property, all track facilities shall be located a minimum of two hundred (200) feet from such property and such use shall not be permitted to have night lighting nor operate between 8 p.m. and 8 a.m.
   c. Such uses may be subject to enforcement actions under town or County nuisance laws for noise, dust, or other impacts.

6.10 Open Land/Agriculture Uses

1. **Agricultural Use:**
   a. Agriculture use is any of the following activities conducted for the purpose of producing an income or livelihood:
      (1) Crop or forage production.
      (2) Keeping livestock, subject to the standards set forth in Section 6.10.2.
      (3) Beekeeping.
      (4) Nursery, sod, or Christmas tree production.
      (5) Floriculture.
      (6) Aquaculture.
      (7) Fur farming.
      (8) Forest management.
      (9) Enrolling land in a Federal agricultural commodity program payment program or a Federal or State agricultural land conservation payment program.
   b. Agriculture in the RR (Rural Residential) District requires a Conditional Use Permit.
      (1) No Infrastructure would be allowed to be constructed on this property. (i.e. drain tile, agricultural accessory structures, manure storage and the like) except where required or allowed by a Conditional Use Permit.
      (2) Additional requirements may exist if the property is located within a platted subdivision.
2. **Agriculture – Animal Husbandry:** Land uses that include keeping livestock, beekeeping, aquaculture, fur farming, and any other use that the Department of Agriculture, Trade, and Consumer Protection, by rule, identifies as an agricultural use.

a. In nonfarm/hobby farm lots within AE, AR, AWT, and PVRF zoning districts, one (1) animal unit per acre of suitable area shall be permitted. Animal units are defined in the Wisconsin Administrative Code Section 243.05(4). A listing of animal units is provided in Appendix B. Any animal units above this limit shall be considered through the Conditional Use Permit process and requires approval by the Waupaca County Land and Water Conservation Department.

b. Animal husbandry in nonfarm/hobby farm lots in the Rural Residential and the Rural Residential Overlay Districts is permitted through the Conditional Use Permit process and requires approval by the Waupaca County Land and Water Conservation Department.

(1) The raising of chickens in the Rural Residential and the Rural Residential Overlay Districts is permitted without a Conditional Use Permit but with the issuance of a Land Use Permit provided the following standards are met:

(a) No more than six (6) chickens are allowed.

(b) No roosters are allowed.

(c) The chickens must be provided with a fully enclosed shelter which meets the required setback distances for principal structures.

(d) Chicken runs are allowed provided they meet the required setbacks for principal structures and are fully enclosed so as not to allow the chickens to escape.

(e) Any butchering or slaughtering of chickens shall take place inside an enclosed structure.

(f) Onsite commercial sale of eggs is prohibited.

c. For horse keeping, a Conditional Use Permit will not be considered by the Planning and Zoning Committee unless the applicant meets the minimum of one (1) suitable acre per horse. An exception to the minimum of one (1) suitable acre per horse may be allowed with a long term lease agreement for additional acreage.

(1) A long term lease agreement duration shall be no less than the time that the horses are present on any of the parcels approved through the Conditional Use Permit. If a long term lease agreement becomes invalid the Conditional Use Permit shall be reviewed by the Planning and Zoning Committee. If sufficient acreage is not available at the time of the review either through ownership or additional long term lease agreement the Planning and Zoning Committee shall revoke the Conditional Use Permit approval.

d. For horse keeping, property owners must provide a shelter for horses with a minimum of three (3) walls and a roof.

3. **Agriculture-Related Use:** An agricultural equipment dealership, facility providing agricultural supplies, facility for storing, handling, marketing or processing agricultural products, slaughtering livestock, facility for processing agricultural by-products or wastes, and any other use that the Department of Agriculture, Trade, and Consumer Protection, by rule, identifies as an agriculture-related use.

a. Examples of such uses include, but are not limited to, agricultural implement sales, storage, and/or repair operations; feed and seed stores; agricultural chemical

dealers and/or storage facilities; animal feed storage facilities, except those accessory to an "agricultural use"; commercial dairies; food processing facilities; micro and nano breweries and micro and nano wineries where the farm is the primary source of ingredients, licensed farm auction operations; garden centers and orchard stores; farmer's markets; canning and other food packaging facilities; agricultural waste and by-product disposal facilities, except those accessory to an "agricultural use"; sawmills; de-barking operations; and chipping facilities. Not included within this land use category are plants intended to convert agricultural products to energy on a large-scale basis.

b. Agriculture Related Uses may include incidental long term outdoor display of items offered for sale as part of the approved use.

c. Required parking is one (1) space per employee on the largest work shift or one (1) space for every two hundred (200) square feet of product display area, depending on the specific land use type.

d. Farm equipment sales, service and repairs shall be conducted on a site of no less than twenty thousand (20,000) square feet. All storage of equipment shall be at least one hundred (100) feet from highways or roads and at least two hundred (200) feet from any residential property. If the Planning and Zoning Committee deems the operations will take on characteristics of a junkyard, it may require a hedge planting of sufficient size to screen the area from the public right-of-way.

4. **On-Site Agricultural Retail:** Land uses that include operations associated with the sale of agricultural products grown exclusively on the site or exclusively by the farm operator. Consolidation of sales from nearby farms and farm operators on a participating farm parcel may be considered as a conditional use. Considerations will at a minimum include the size of the operation, traffic and access, and parking availability.

   Packaging and equipment used to store, display, package, or carry products for the convenience of the operation or its customers, such as egg cartons, baskets, containers, and bags, shall be produced off-site.

   a. Required parking is one (1) space per employee on the largest work shift or one (1) space for every two hundred (200) square feet of product display area, depending on the specific land use type.

   b. Any roadside stand or similar use shall conform to setback, sign and other provisions of this Ordinance, but may be ordered removed by the County Highway Committee, if the Planning and Zoning Committee determines that the use constitutes a traffic hazard or nuisance. Such removal shall be at the landowner's cost if such stand was established after the effective date of this Ordinance. Otherwise the removal cost shall be a consideration of the Highway Committee and the landowner, but the County shall in no way be obligated to pay the cost of removal of such stands.

   c. In the Farmland Preservation Overlay the use shall meet the standards set forth in Section 6.10.5 for an Agricultural Accessory Use.

5. **Agricultural Accessory Use:** Any of the following land uses on a farm:

a. A building, structure or improvement that is an integral part of, or incidental to, an agricultural use. This may include, for example:

(1) A facility used to store or process raw agricultural commodities, all of which are produced on the farm.

(2) A facility used to keep livestock on the farm.

(3) A facility used to store or process inputs primarily for agricultural uses on the farm.

(4) A facility used to keep or service vehicles or equipment primarily employed in agricultural uses on the farm.

(5) A facility used for manure storage or bunker silo. Setbacks for manure storage facilities are measured from the inside liner.

(6) A wind turbine or solar energy facility that collects wind or solar energy on the farm, and uses it to provide energy primarily for use on the farm.

(7) A manure digester, bio-fuel facility, or other facility that produces energy primarily from materials grown or produced on the farm, primarily for use on the farm.

(8) A waste storage or processing facility used to store or process animal waste produced solely from livestock kept on the farm.

(9) Farms regularly open for tours, demonstrations, hayrides, corn mazes, farm breakfasts, and other similar events.

b. Any activity or business operation that is an integral part of or incidental to, an agricultural use. An example of this land use is a greenhouse:

c. A farm residence, including normal residential appurtenances.

d. A business, activity, or enterprise, associated with an agricultural use, which meets all of the following requirements:

(1) It is conducted on a farm by an owner or operator of that farm.

(2) It requires no buildings, structures, or improvements other than those described in 6.10.5.a.

(3) It employs the equivalent of no more than four (4) full-time employees annually.

(4) It does not impair or limit the current or future agricultural use of the farm or other protected farmland.

e. Any other use that the Department of Agriculture, Trade, and Consumer Protection, by rule, identifies as an accessory use.

6. **Outdoor Storage of Motor Vehicles, Farm Machinery and Collectibles:** Land uses that include the outdoor storage of disabled or unused motor vehicles, farm machinery, buses, heavy-duty trucks and their bodies, semi-trailers, mobile homes, appliances, collectibles, and similar items.

a. **Definitions:**

(1) Motor Vehicles – Any conveyance that moves on wheels under power whose primary purpose is transportation of persons or commodities.

(2) Disabled Motor Vehicle – Any motor vehicle, including its component parts, which is in a dismantled, inoperative, or abandoned condition, or which cannot legally be driven on a public highway.

(3) Untitled Motor Vehicle – Any motor vehicle which is not registered with the State Department of Transportation.

(4) Disabled/Unusable Agricultural Machinery – Any equipment, including its component parts, originally designed and constructed for agricultural purposes which is in a dismantled, inoperative or abandoned condition.

(5) Collectibles – Any vehicle, collector car, bus, heavy duty truck and its body, semi-trailers, mobile home, agricultural machinery, snowmobile, motorcycle, appliance, or similar large item including, its component parts, that is being retained for historic reuse, restoration or other collection purposes.

b. Disabled or untitled motor vehicles, disabled/unusable farm machinery, or similar items or collectibles as described above shall be screened from view from public roadways and adjacent properties by opaque fencing of earth-tone colors, walls, earthen berms, coniferous vegetation, or a combination thereof. Adjacent parcels of common ownership shall be considered a single lot. A screening plan, prepared by the landowner, shall meet approval by the Planning and Zoning Committee, Planning & Zoning Director, or his/her designee.

c. All lubricants, coolants, and similar substances shall be removed and recycled or disposed of in compliance with applicable State regulations.

d. Buses, heavy-duty trucks and their bodies, semi-trailers, freight containers, mobile homes, and similar items which are no longer in use for their designated purpose shall be prohibited under this section.

e. No more than two (2) titled motor vehicles may be offered for sale on a lot unless the lot is located in a commercial zoning district.

f. In addition to the site plan requirements set forth in Section 9.0, the following additional information shall be included on the Conditional Use Permit application and site plan:

(1) The size and location of the storage area showing distances to property lines and building on the subject and adjacent properties.

(2) Proposed type and dimensions of visual screening.

(3) All current uses of the subject and adjacent properties.

g. The following activities are exempted from the provisions under Section 6.10.6.

(1) Storage facilities that meet the requirements of Section 6.7.6, Junk and Salvage Yards.

(2) Storage of untitled and disabled motor vehicles at properly zoned motor vehicle sales and repair facilities.

(3) Up to two (2) untitled motor vehicles and disabled/unusable farm machinery offered for sale on a lot.

(4) A single motor vehicle, piece of farm machinery, or similar item displayed along a public roadway, or a greater number of such items displayed along a private drive as artwork, sculpture, or focal point.

7. **Agricultural Home Occupation**: A business, activity, or enterprise conducted on a farm by an owner or operator of that farm, whether or not associated with an agricultural use, that requires no buildings, structures, or improvements other than those pre-existing on the premises, a farm residence or a building, structure, or improvement that is incidental or integral to an agricultural use, that employs no more than four (4) full time employees annually, and that does not impair or limit the current or future agricultural use of the farm or of other protected farmland. Examples include, but are not limited to, personal and professional services, home offices, handicrafts, and small machine repair. This use shall meet the following performance standards:

   a. The use shall occupy no more than four hundred (400) square feet of a principal residential structure.

   b. The use shall be clearly incidental and secondary to the use of the principal residential structure, and the appearance of the structure(s) shall not be altered or the occupation within the structures be conducted in a manner that would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, signs, or the emission of sounds, odors, dust, or vibrations that carry beyond the premises.

   c. Any activity involving the on-site sale, resale, salvage, or wrecking of automobiles, trucks, boats, trailers, recreational vehicles, or other motorized vehicles shall be prohibited.

8. **Farm Residence:** Any of the following structures located on a farm:

   a. A single family residence that is the only residential structure on a farm.

   b. A single family residence that is occupied by any of the following:

      (1) An owner or operator of the farm.

      (2) A parent or child of an owner or operator of the farm.

      (3) An individual who earns more than fifty percent (50%) of their gross income from the farm.

   c. Farm residences are subject to the density provisions established in Section 7 and the single family residence provisions in 6.5(1) and (2).

9. **Secondary Farm Residence**:

   a. The property is an active farmstead and the dwelling is to be used as a secondary farm residence.

   b. The individual residing in the dwelling is one of the following:

      (1) An owner or operator of the farm.

      (2) A parent or child of an owner or operator of the farm.

(3) An individual who earns more than fifty percent (50%) of their gross income from the farm.

c. At the time this dwelling is no longer used as a secondary farm residence, the dwelling must be parceled off via Certified Survey Map and must meet all applicable Subdivision and Zoning Codes at the time of the Conversion.

d. Secondary farm residences are subject to the density provisions established in Section 7.

10. **Forestry Management:** Forest production, management and harvesting.

11. **Private Reception Venue:** A location, indoors or outdoors, which is used primarily to host events such as weddings, corporate events, fundraisers, and anniversary celebrations. The term includes event barns. With special standards being:

    a. Minimum size of parcel must be at least five (5) acres.

    b. Any structure or building to be used must meet all applicable local and state building code regulations for such use.

    c. Where applicable, licenses or approvals must be obtained from other County departments, including, but not limited to the Health and Sheriff's departments.

    d. Proper sanitary facilities must be provided and approved by the applicable authority.

    e. Required parking is one (1) parking space per every three (3) patron seats or one (1) space per three (3) persons at the maximum capacity of the establishment, whichever is greater.

    f. Private Reception Venues proposed in the Farmland Preservation Overlay are limited to utilizing only existing farm structures, unless rezoned to RC-O.

7.0 Density Management

7.1 Purpose: The purposes of this section include, but are not limited to:

1. Preserve open space, scenic views, and critical and sensitive areas.
2. Conserve agricultural uses of land.
3. Protect lands, resources and structures of aesthetic, architectural, and historic significance.
4. Conserve and protect water resources and environmentally sensitive lands, water, and other natural resources.
5. Assist in shaping the character and direction of the development of the community.
6. Establish a procedure enabling landowners to voluntarily sever development rights from a sending property.
7. Protect and enhance private property rights by enabling the transfer of development rights.
8. Improve quality of life for residents of Waupaca County.

9. Conserve and promote public health, safety, and general welfare of the County by establishing procedures, methods, and standards for the transfer of development rights within its jurisdiction.

7.2 Applicability:

This section applies only to the following zoning districts; Private Recreation and Forestry (PVRF), Agriculture Enterprise (AE), Agriculture Retention (AR), Agriculture and Woodland Transition (AWT), and Rural Residential (RR).

1. The size and zoning of a parcel limits the maximum number of residential dwellings or equivalent principal use within these zoning districts.
2. Development rights are required for a dwelling or one (1) principal commercial, institutional, recreational, utility, transportation, or industrial land use.
3. Each multi-family dwelling permitted or legally established on the lands following the effective date of this chapter shall be counted as one (1) development right for the purpose of this chapter.
4. All dwellings count towards this density limit, including the original farm dwelling and secondary farm residences.
5. No building, structure or premises shall be erected, occupied or used so as to provide a greater density of population than is allowed by the terms of this ordinance for the district in which such building, structure or premises is located.
6. The availability of a development right does not guarantee that a dwelling or equivalent principal use can be built on a parcel. All evaluation criteria must be met.
7. Accessory structures do not require a development right; however, an accessory structure prior to the principal structure would require a development right. Agricultural Accessory Use does not require a development right.
8. Recreational vehicles that have obtained a Conditional Use Permit to park on property exceeding the thirty (30) days during the calendar year and that have permanent facilities established, such as sheds, septic system, privies, etc., require a development right. If no permanent facilities are established on the property for the recreational vehicle and a porta-potty is utilized, no development right will be required.
9. Campgrounds, camping resorts, resort establishments, mobile home parks, and dormitories and staff housing dedicated to an institutional use do not require the use of a development right.

7.3 Method of Calculation:

1. **Initial:** The following method shall be used to calculate the initial maximum number of residential dwelling units:
   a. The parcel maps at the time of Township adoption will be the basis of the density determination.
   b. A quarter-quarter (¼ ¼) is deemed to be forty (40) acres regardless of the size of the fractional forty (40).

c. Parcels intended to be one-half (1/2) of a quarter-quarter (¼ ¼) are considered twenty (20) acres regardless of size of the fractional twenty (20) acres.

d. In the event of a fractional development right, the development rights are rounded down. No fractional development rights are allowed.

e. Easements and parcels intended only for access are neither given a development right, nor counted against the parent parcel.

(1) Measure the "gross site area".

(2) Divide the gross site area by the Residential Density and Lot Size Management Overlay as chosen by the applicable Town as described within Section 8.2.

(3) The Planning & Zoning Director shall keep track of the total number of development rights on each parcel from the date of adoption of this Zoning Ordinance. All additional dwelling units following that initial date shall conform to the maximum density calculated for the parcel or contiguous common ownership land as such lands were sized and configured on that initial date.

f. Where divisions of land are created by the construction of a public right of way that was done solely on the authority of the local government or by divisions of land created by a naturally occurring geographic feature such as a river or stream, a development right is assigned to each parcel created.

2. **Subsequent Assignment**:

a. Assignment of development rights will be done in order of recorded Certified Survey Map.

b. A development right will be considered used when a parcel is split, creating a potentially buildable lot, or when a permit for a dwelling or other principal use is issued for an existing parcel.

c. For administration of this policy, the development rights remain with the land, not the owner or subsequent owners. It is the responsibility of the owners and potential buyers of the land to check with the County on availability of development rights. Potential buyers are also advised to contact the Waupaca County Planning & Zoning Office to determine if it is in the Limited Development Overlay.

d. Changes and reconfigurations in ownership do not trigger new allotments of potential future development rights. When land is sold or consolidated after the effective date of the Town adoption, the Planning & Zoning Director will use the following approaches in the order listed to determine how many (if any) potential future development rights were transferred along with the land.

e. Assignment of development rights will be done at the time of split by all the owners of record of the parent parcel. A document attesting to the assignment of the development rights shall be filed in the Waupaca County Planning and Zoning Office. Signatures of all owners of record must be notarized.

f. The Planning & Zoning Office will implement a complete and accurate inventory of the development rights that have been used to date and will implement a plan for keeping this inventory up to date.

7.4 Existing Developments:

It is recognized that a number of parcels existed at the time each Town adopted the County Comprehensive Plan which do not meet minimum density requirements.

1. One (1) dwelling unit or equivalent principal use may be built on an undeveloped parcel if the parcel existed as of the date of the Town adoption of this Ordinance. For parcels located within the Farmland Preservation Overlay only farm residences will be allowed.
2. This "grandfather clause" will allow one (1) dwelling unit without a zone change.
3. No further splits of such parcels for development are allowed but may be put in the Limited Development Overlay. [The availability of a development right does not guarantee that a dwelling or equivalent principal use can be built on a parcel. All evaluation criteria must also be met.]
4. Each single dwelling unit or equivalent principal use that received a zoning permit or was otherwise legally constructed prior to the effective date of this chapter shall be counted against the maximum number of new dwelling units or equivalent principal uses that may be built.
5. Each single dwelling unit or equivalent principal use structure that was legally constructed prior to the effective date of this chapter but does not meet the density requirements of this section shall be allowed to be rebuilt on the lot within a twelve (12) month period. If reconstruction of the dwelling unit or equivalent principal use structure has not started within a twelve (12) month period, then it has to be built in a compliant location.

7.5 Rezoning:

1. Nothing in this Section shall preclude the petitioner from seeking a zoning map amendment to remove lands from the PVRF, AE, AR, or AWT zoning districts unless located in Farmland Preservation in accordance with Section 14.5(2). Rezones in the Farmland Preservation Overlay will not create additional development rights. In the event that such lands are rezoned away from one of these districts, and not rezoned to another one of these districts, the provisions of this Section shall no longer apply.
2. In the event that a property is rezoned into PVRF, AE, AR, AWT or RR zoning districts from a non-applicable zoning district, the assignment of densities will be determined during the rezoning process.

7.6 Transfer of Development Rights (TDR): For Non-Farmland Preservation Properties

(for Farmland Preservation properties see Sec. 8.7(1) (d)).

1. Purpose: To achieve the optimum residential environment while recognizing that rural character of the Town. The density transfer technique is designed to encourage preservation from prime agricultural tillable lands worthy of such preservation.

2. Development rights can be transferred to contiguous parcels within the same Township provided that an owner is in common and the zoning district is the same. A document attesting to the development right transfer shall be filed in the Waupaca County Planning & Zoning Office. Signatures of all owners of record on the sending parcel must be notarized.
    a. Parcels zoned as Rural Residential (RR) may not send or receive development rights.
3. Once a parcel of land has transferred all of its development rights, it is placed in the Limited Development Overlay District.

8.0 Zoning District Overlays

8.1 Establishment of Zoning District Overlays

1. The purpose of zoning district overlays is to allow the County to establish special land use regulations or procedures in areas with unique land use, site planning, building design, or environmental resource issues. Zoning district overlays are intended to be applied only where special circumstances justify the modification of base zoning district regulations to achieve specific land use and design objectives based on the Waupaca County and local Town Comprehensive Plans and applicable ordinances. Zoning district overlays are established in Sections 8.2 through 8.7.
2. Zoning district overlays are applied through rezoning and only in conjunction with base zoning districts. Letters, numbers, abbreviations, or a combination thereof, shall be combined with other applicable district designations to the property(ies) on which an overlay district is established and shown on the Waupaca County Zoning Map.
3. Except as modified by the zoning district overlay, the provisions of the applicable base zoning district shall apply to all development within the boundary of the designated area. If regulations conflict, the applicable zoning district overlay regulations shall prevail.
4. Whenever an overlay district is established, any subsequent application to change the base zoning district shall not be construed to be an application to eliminate the overlay district for the property covered by the application. Intent to eliminate the overlay district on a given property or base zoning district shall be expressly stated to be part of the application.

8.2 Residential Density and Lot Size Management Overlays

1. **Purpose:** Provide a range of residential density management, lot size, and lot configuration options to implement the individual Waupaca County Towns' Comprehensive Plans preferred land use policies. Where the base zoning districts implement the base density and lot size, the overlays provide a means to fine tune the base zoning to better match the individual town policies.
2. The Residential Density and Lot Size Management Overlays can be applied to the following base zoning districts:
    a. PVRF Private Recreation and Forestry Enterprise
    b. AE Agriculture Enterprise

c. AR Agriculture Retention

d. AWT Agriculture and Woodland Transition

e. RR Rural Residential

3. If utilized, the overlays shall be applied uniformly to entire base zoning districts within individual towns. They cannot be used to modify the zoning requirement of specific properties under the same base zoning district.

4. Overlay designations shall be applied by use of letter or abbreviation and number combination. For each base zoning district listed within Section 8.2.2, not more than one (1) overlay from each of the following categories shall be applied:

   a. Maximum Residential Density

      (1) D-2: 1 unit/2 acres

      (2) D-5: 1 unit/5 acres

      (3) D-10: 1 unit/10 acres

      (4) D-20: 1 unit/20 acres or a 1/32 of a section

      (5) D-40: 1 unit/40 acres or a 1/16 of a section

   b. Minimum Lot Area

      (1) MIN-20: 20,000 square feet

      (2) MIN-1: 1 acre

      (3) MIN-2: 2 acres

      (4) MIN-5: 5 acres

      (5) MIN-10: 10 acres

   c. Maximum Lot Area

      (1) MAX-0: none

      (2) MAX-2: 2 acres

      (3) MAX-3: 3 acres

   d. Lot Clustering Requirements according to the provisions of Section 9.0.

      (1) C1: All lots created through land divisions must be clustered.

      (2) C2: All lots created as part of major subdivisions as defined in the Waupaca County Subdivision Ordinance Chapter 37 must be clustered.

      (3) C3: Lot clustering is optional. If lots are clustered, then one (1) additional lot for every four (4) lots allowable per the base zoning or district overlay is possible by Conditional Use Permit.

5. Maximum Residential Density Overlays in Section 8.2.4.a. that are less restrictive than the Base Zoning District shall not be applied.

6. Maximum lot areas can be increased up to ten (10) acres in area for the purpose of consolidation of farm structures with Township approval. Site plan, Level 1, review is required.

8.3 Limited Development Overlay

1. **Purpose:** To graphically show parcels of land that no longer has any development rights. If, however, a landowner is able to transfer development rights to a parcel in this overlay, the overlay will automatically be modified. This overlay is not a certified Farmland Preservation District.
2. For landowners without any development rights, permits will still be issued for any structures that are not principal structures and do not require development rights. (See Section 7.0).

8.4 AUI Agriculture/Urban Interface Overlay

1. **Purpose:** To further implementation of a multi-tiered agricultural zoning system in response to Wisconsin Act 235, known as the Livestock Facility Siting Law. This classification will help protect cities, villages, and rural sanitary districts from potential health and safety issues associated with close proximity to large livestock farming operations. This classification will also help protect agricultural operations from the land use conflicts associated with close proximity to urban and suburban growth and development areas.
2. This overlay will be utilized to establish an area, (generally within one-half (1/2) mile) surrounding the current boundaries of cities, villages, and rural sanitary districts where new livestock farming operations with fewer than five hundred (500) animal units will be allowed, but new operations with five hundred (500) or more animal units will not be allowed. Animal units are defined by Wisconsin Administrative Code ATCP 51.
3. New nonfarm residential structures shall not be allowed within one thousand (1,000) feet of structures, barns, manure storage structures, feed storage structures, etc. related to livestock operations with five hundred (500) or more animal units. Residential structures for affiliated parties, house for child or farm employees, are exempted from this policy.

8.5 Floodplain Overlay

See the Waupaca County Floodplain Ordinance Chapter 36.

8.6 RP: Resource Protection Overlay District

1. Purpose: To identify, conserve, and protect valued natural and cultural resources that contribute to the County's character, natural environment and history which may include regulatory wetlands and floodplains, wetland buffers, floodplain buffers, surface water buffers, steep slopes, exposed bedrock, wellhead protection areas, woodlots, scenic vistas, wildlife habitat, historic sites, archeological sites, and similar resources. The RP Overlay District corresponds with the Resource Protection Preferred Land Use Category within the Waupaca County Comprehensive Plan.
2. Specific lands within the Resource Protection Overlay District may be removed under one or more of the following circumstances:

a. A more detailed study by a qualified, licensed professional reveals that the characteristic(s) which resulted in the property's designation as a Resource Protection Overlay District no longer exist(s), or never existed;

b. Approvals from appropriate State or Federal agencies are granted to alter a property so that the characteristic(s) which resulted in its classification as an environmental corridor no longer exist; or

c. A mapping error has been identified by the Planning & Zoning Director and/or Planning & Zoning Committee.

3. In the case of the above situations, the property can be zoned in accordance with the adopted Town Comprehensive Plan Preferred Land Use Map without undergoing the formal rezone process, as the circumstances for inclusion within the Resource Protection Overlay District have materially altered. The applicant is responsible for providing an accurate scaled map depicting the revised natural resource boundary. The map shall be prepared by a qualified professional or a land surveyor licensed by the State of Wisconsin.

8.7 FP: Farmland Preservation Overlay

1. **Purpose:** To provide for the preservation of farmland, environmental corridors and open space over areas where it is mapped. This overlay will only be mapped over an underlying base agricultural and forestry zoning district (i.e., Agricultural Retention (AR), Agricultural Enterprise (AE) and Private Recreation and Forestry (PVRF)) to impose regulations in addition to those required by that base agriculture district. This overlay district will be used to represent with the areas identified by participating towns as being consistent with the objective criteria used to define areas to be within Farmland Preservation. During the comprehensive planning process, towns that have a large agricultural contingency created their future land use maps with Farmland Preservation, and more specifically, the Working Lands Initiative in mind. This overlay will in large part be implementing the planning process that have already occurred at the local and county level. This overlay, once approved, can only be modified by approved rezones (in accordance with Wis Stats 91.48) or by a Comprehensive Plan amendment with a companion amendment to the Farmland Preservation Plan (in accordance with Wis Stats 66.1001 and 91.20).

2. Specific regulations for lands within this overlay:

   a. No non-farm residential or commercial development will be allowed for lands within this overlay without a rezone out of the underlying district and into Rural Residential – Overlay (RR-O) or Rural Commercial – Overlay (RC-O). All rezones will need to be found compliant with State Statutes 91.48(1) prior to approval. Once approved, this overlay will automatically be adjusted to no longer include RR-O or RC-O zoned property. Note: all properties that receive a rezone will be automatically taken out of the Certified Farmland Preservation zoning district area and will be tracked to provide DATCP an annual audit by March 1 of every year pursuant to State Statute 91.48 (2);

   b. Rezones in the Farmland Preservation Overlay will not create additional development rights.

c. The amount of rezones for non-farm development allowed within this overlay will be regulated by the density requirements determined by the underlying base zoning districts. The density requirements for the base zoning districts will be consistent with the town of jurisdiction's Comprehensive Plan. As soon as density rights are no longer available for an owner, the remaining lands will be placed in a Restricted Development Overlay that will bar any further land divisions. Permits will still be issued for any farm related structures other than principal structures;

d. The minimum lot size for non-farm development allowed as a rezone within this overlay will be 2 acres. A lot size larger than the minimum will require additional development rights at the rate of 1:2. For fractional sizes, the necessary development rights will be determined by dividing the proposed lot size by 2 then rounding up to the nearest whole number. For example, for a 9 acre proposed lot, 9/2=4.5 which rounds up to 5 development rights. Exceptions would include:

   (1) For the purpose of consolidation of farm structures. The lot area may be increased up to ten (10) acres in area with Township approval. This would only require one (1) development right.

   (2) For the conveyance of large tracts of land that would consist of one-half (1/2) of a quarter-quarter (1/4, 1/4) will be allowed as an exemption of the development right rate of 1:2. A Homeowner Assignment of Density Rights form must be completed for these land divisions as required by Sec. 7.3 2.5.

e. The transfer of development rights will be allowed from this overlay into lands outside, but not vice versa. The transfer of development rights will also be allowed if the parcels are zoned differently or if the transfer is between farms, provided that the owner is in common, without regard to contiguity of the parcels, and are all within the Farmland Preservation Overlay. The transfer of development rights will not be allowed to cross any Township boundaries;

f. Secondary farm residences will be allowed provided that a development right is available and an affidavit is recorded with the Register of Deeds attesting to the following: the residents of the dwelling will be receiving a minimum of 51% of their income from the farm and in the event of the residence being transferred to a non-farm owner, a Certified Survey Map creating a separate parcel in accordance with existing size regulations will be approved and recorded in accordance with all existing regulations governing land divisions.

9.0 Lot Clustering

9.1 Purpose

There are two (2) basic strategies behind residential lot development. The traditional strategy distributes the lots across the development tract, maximizing the size of each lot and leaving little if any undeveloped land. The alternative, "cluster" or "conservation" land divisions, groups the lots together on a portion(s) of the development tract preserving the remainder of the tract in open space for the purpose of maintaining rural character, natural features, agricultural land, or similar features. The cluster or conservation development lots are usually smaller than those of the traditional strategy. The lot clustering requirements of this Section apply to the Lot Clustering Overlays outlined in Section 8.2.4.d.

9.2 Uses and Requirements

All cluster developments shall conform to the allowable permitted and conditional uses, density, lot dimensions, setbacks, height, and other requirements of this Ordinance unless otherwise specified in this Section.

9.3 Lots

1. The minimum residential lot area shall be seventy-five hundredth (0.75) acres.
2. The maximum residential lot area shall be two (2) acres.
3. Lots shall be located so that:
   a. They are grouped together to form clusters and are surrounded by open space.
   b. Negative impacts to natural resources and environmentally sensitive areas including wetlands, floodplains, drainageways, woodlands, and slopes over twelve percent (12%) are minimized.
   c. Negative impacts to historic and cultural resources are minimized.
   d. Negative impacts to prime agricultural land and large tracts of productive farmland are minimized. The location of lots should avoid interference with normal agricultural practices.
   e. Views of open space and natural resources are maximized. Lots should be hidden behind woodlands, hedgerows, and topography when possible. Lots should not be located in prominent, visible places like hilltops and ridgelines.

9.4 Open Space

1. The minimum open space required is fifty percent (50%) of the total development tract. Open space includes all land within the tract that is not part of a residential lot, road or road right-of-way.
2. Open space shall:
   a. Surround clusters of residential lots and provide a buffer between cluster groups.
   b. Be interconnected to other open space both within the plat and beyond. Open space should not be isolated and disconnected.
   c. Include natural resources, environmentally sensitive areas, and productive agricultural land, when the intent is to preserve the agricultural use, to the greatest extent possible.
   d. Include all excess land not used for lots and roads.
   e. Not be further subdivided for any use other than recreation, conservation or agriculture, except for easements for utilities and septic systems.
3. Ownership of Open Space. Open space shall be dedicated and restricted as such on the Certified Survey Map or Plat and/or a deed restriction shall be placed on the Open Space parcel. Open Space shall be owned by the subdivider, conveyed in common to each of the owners of the lots in the development, or dedicated to the County or Town. The County or Town shall not be required to accept dedication. Lands dedicated to the public must be accepted by appropriate action of the governing body

of the accepting unit of government. If the land is to be conveyed to owners of lots in the development, a homeowners association or similar legally constituted body shall be created to maintain the open space land.

9.5 Maintenance and Management of Open Space and Facilities

A plan and narrative for the use, maintenance, and insurance of all common facilities, including provisions for funding, shall be provided to and approved by the Town Board prior to Certified Survey Map or Final Plat approval.

10.0 Site Plan Requirements

10.1 Intent

1. It is the intent of this Ordinance to require Site Plans that will provide sufficient information for the Planning & Zoning Director, County Planning and Zoning Committee, County Board, and other interested parties to make more informed decisions regarding certain land use requests. Site Plans should promote greater understanding of the request and should provide sufficient information to allow informed decisions to be made.

10.2 Applicability

1. A Site Plan is required for all Conditional Uses as identified in Section 5.0, 5.1 and 6.0.
2. A Site Plan is required for certain Permitted Uses where specifically identified in Section 5.0 and 5.1.
3. A Site Plan is required for any development within the PD: Residential Planned Development Zoning District.
4. A Site Plan is also required for the expansion or modification of uses described in Sections 10.2.1, 10.2.2, and 10.2.3 established prior to the adoption of this Ordinance to the extent practical and reasonable. Specifically, only the expansion or modification itself would be considered, and the application of the review criteria may be limited such that the expansion or modification is not required to be substantially out of character with the features of the site that predate this Ordinance. However, this should not be construed to prevent an applicant from willingly making expansions or modifications that are substantial improvements to the character of the site.

10.3 Compliance

All approved Site Plans become part of the official decision record. Failure to comply with all aspects of a Site Plan will constitute a violation of this Ordinance. Any changes to a Site Plan that result from the review process should be clearly indicated in the decision record. Also, any phasing or planned expansion that is intended to be a part of an approved site plan must be clearly identified in the decision record, or such expansion will require a new approval.

10.4 Submittal Requirements

The Site Plan shall be submitted to the Planning & Zoning Director. The Site Plan, whether for Permitted or Conditional Uses, shall contain at a minimum the components identified in the following table and any additional information required in Section 6.0 specific uses.

Site Plan Submittal Requirements	General Site Plan – Level 1	Detailed Site Plan – Level 2	General Architecture Design Plan	Landscaping Plan	Grading and Drainage Plan	Signage and Exterior Lighting Information	Additional Information as Necessary
All Residential Land Uses (Section 6.5) Requiring Site Plan Review	✓						✓
Multi-family Residential, Planned Development (PD), and Manufactured/ Mobile Home Communities	✓	✓		✓	✓	✓	✓
All Commercial, Industrial, and Public/Institutional Land Use (Sections 6.6 to 6.8) Requiring Site Plan Review	✓	✓	✓	✓	✓	✓	✓
All Park/Recreation Land Uses (Section 6.9) Requiring Site Plan Review	✓	✓					✓
Campgrounds and Camping Resorts	✓	✓		✓	✓	✓	✓
All Open Land/Agriculture Land Uses (Section 6.10) Requiring Site Plan Review	✓						✓

10.5 Site Plan Components

The following Site Plan components shall be included as required by specific land use identified in Section 10.4 at an appropriate scale for the subject property and surrounding property, within one hundred (100) feet of the subject property boundary. All components except the 'General Site Plan – Level 1' shall be illustrated and identified by a planner, engineer, surveyor, architect, or similar professional:

1. General Site Plan, – Level 1, including:
   a. North arrow,
   b. Property boundary,
   c. Existing and proposed building footprint(s) and dimensions,
   d. Wells, septic tanks, and drainfields,
   e. Proposed use(s),

f. Setback dimensions,

g. Driveway location(s),

h. Adjacent public roads and rights-of-way,

(1) Surface water, floodplain, drainage ditch, and wetland locations.

2. Detailed Site Plan, – Level 2, including:

a. Drawing scale,

b. Location/vicinity map,

c. Parking areas, spaces and dimensions,

d. Sign locations,

e. Exterior light locations,

f. Development phasing lines, if applicable,

g. Sidewalks, trails, and walkways,

h. Easements and dimensions,

i. Utility locations,

j. Fence locations.

3. General Architecture Design Plan including:

a. Architectural scale,

b. All buildings views/elevations,

c. Building height dimensions,

d. Exterior building material(s) and color(s),

e. Building mounted lighting fixtures,

f. Colored rendering or photo simulation, recommended.

4. Landscaping Plan including:

a. Location of existing and proposed landscaping,

b. Size of plantings at installation,

c. Species of plantings.

5. Grading and Drainage Plan including:

a. Existing and proposed contour lines, drainage courses, and fill materials,

b. Elevations of proposed building sites,

c. Pond/detention basin locations,

d. Stormwater and erosion control devices,

e. Normal high-water elevation of abutting navigable waters and the proposed waterline.

6. Signage and Exterior Lighting Information including:

a. Scaled design drawing of freestanding and/or building signs,

b. Sign specifications, lighting, materials, colors, and dimensions,

c. Light fixture design detail and specifications.

7. Any additional information deemed necessary by the Planning & Zoning Director or County Planning and Zoning Committee. Either may also exempt a proposed development from submitting any of these detailed plans or their components if it is found that they are not applicable.

10.6 Review Process and Criteria

1. The review of the Site Plan will be incorporated into the review of the permit sought:

   a. Site Plans for Conditional Uses will be reviewed as a component of the Conditional Use application/permit process as outlined in Section 14.3.5.b.

   b. Site Plans required for permitted uses will be reviewed as a component of the rezoning process outlined in Section 14.3.5.b. when a rezone and specific development is proposed; otherwise the Site Plan will be reviewed as a component of the Land Use Permit review process outlined in Section 14.3.5.a.

   c. Site Plans for proposed development within the PD: Planned Residential Development District will be reviewed as a component of the rezoning process.

2. A site plan may be approved, conditionally approved, or denied by the Planning & Zoning Director or Planning and Zoning Committee according to the requirements of this and all other applicable Ordinances and the intent of the County and local Comprehensive Plan policies. Additional considerations include:

   a. Adherence to the County's Site Plan Components as established in a stand-alone document.

   b. Relationship to adjacent development in terms of harmonious design, setbacks, maintenance of property values, and potential negative impacts.

   c. Impacts to the natural resources of the site and adjacent properties.

   d. Coordination of proposed roads with the existing road network.

   e. The adequacy of essential services including water, drainage, sewerage facilities, solid waste disposal, and other utilities where necessary to serve residents and/or occupants.

11.0 Signs

11.1 Enactment

1. All signs hereafter located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered shall be in conformity with the provisions of this Ordinance.

2. The only form of sign that may be continued as a nonconforming structure is one that legally existed before enactment of this Ordinance and that does not exceed thirty-two (32) square feet in total sign face area. Other signs not in conformance with the provisions of this Ordinance shall be removed by the owner or owners of the property

on which they are located within ninety (90) days of the date of enactment of this Ordinance.

11.2 General Sign Provisions

1. Signs shall be sized appropriately and set back at least ten (10) feet from any road right-of-way as not to dangerously block motorist sight lines. Signs greater than two (2) feet in height, other than official traffic signs shall not be placed within road intersection vision triangles as specified in Sections 2.7.4. and 2.7.5.
2. All signs within the County shall comply with the Electronic Sign Provisions as outlined within Wisconsin Administrative Code Section 201.15.
3. No sign shall dangerously resemble or block official traffic control signs.
4. Signs that do not carry current, fully readable messages and/or signs that are in structural disrepair or are damaged and are left without repair for ninety (90) consecutive days or more shall be removed.
5. Signs on trucks or other vehicles or parts thereof or on cliffs or rocks or the like, regularly placed so as to function as fixed location signs are prohibited.
6. When any sign is externally illuminated, the lights shall be shaded or concealed so that they will not interfere with the vision of motor vehicle operators or shine directly upon adjacent properties.
7. Signs must also comply with any provision under Section 84.30 Wisconsin Statutes.

11.3 Signs on State Controlled Roads

The intent of this Ordinance is to recognize State control of signs along certain State and Federal highways and to defer to State enforcement and administration thereof, with County regulations being supplemental.

12.0 Wind Energy Systems

12.1 Authority

This Section of the Ordinance is adopted pursuant to authority granted by Wis. Stats. Sec. 59.69 and 66.041

12.2 Purpose

The purpose of this Section of the Ordinance is to:

1. Oversee the permitting of wind energy systems.
2. Preserve and protect public health and safety without significantly increasing the cost or decreasing the efficiency of wind energy systems. (Wis. Stats. 66.0401)

12.3 Definitions

In this Section of the Ordinance:

1. **Administrator:** The Waupaca County Planning & Zoning Director and/or his/her designee.
2. **Meteorological Tower (Met Tower):** The tower, base plate, anchors, guy cables and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment anemometers and vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize wind resource at a given location.
3. **Owner:** The individual or entity that intends to own and operate the residential wind energy system in accordance with this Section of the Ordinance.
4. **Rotor Diameter:** The cross sectional dimension of the circle swept by the rotating blades.
5. **Residential Wind Energy System:** A wind energy system that:
   a. is used to generate electricity;
   b. has a nameplate capacity of one hundred (100) kilowatts or less; and
   c. has a total height of two hundred (200) feet or less.
6. **Commercial Wind Energy System:** A wind energy system that:
   a. is used to generate electricity;
   b. has a nameplate capacity of greater than one hundred (100) kilowatts;
   c. has a total height of greater than two hundred (200) feet or; and
   d. is a wind energy system comprised of two (2) or more residential wind energy systems.
7. **Total Height:** The vertical distance from ground level to the tip of a wind generator blade when the tip is at its highest point.
8. **Tower:** The monopole, freestanding, or guyed structure that supports a wind generator.
9. **Wind Energy System:** Equipment that converts and then stores or transfers energy, as defined by Wis. Stats. 66.0403(1) (m). This equipment includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other component used in the system.
10. **Wind Generator:** Blades and associated mechanical and electrical conversion components mounted on top of the tower.

12.4 Standards

Both residential and commercial wind energy systems shall be subject to the following requirements:

1. **Setbacks:** A wind tower for a residential or commercial wind system shall be set back a distance equal to its total height from:
   a. any public road right-of-way, unless written permission is granted by the affected utility;
   b. any overhead utility lines, unless written permission is granted by the affected utility;
   c. all property lines.
2. **Blade Clearance:** The vertical distance from the ground level to the tip of a wind generator blade, with the blade at its lowest point, shall be at least thirty (30) feet.
3. **Access:**
   a. All ground mounted electrical and control equipment shall be labeled or secured to prevent unauthorized access.
   b. The wind tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of eight (8) feet above the ground.
4. **Electrical Wires:** All electrical wires associated with a residential or commercial wind energy system, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires, shall be located underground.
5. **Lighting:** A wind tower and generator shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration.
6. **Appearance, Color, and Finish**: The wind generator and tower shall remain painted or finished the color or finish that was originally applied by the manufacturer, unless approved in the Land Use Permit.
7. **Signs:** All signs other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification of a wind generator, tower, building, or other structure associated with a residential wind energy system that shall be visible from any public road shall be prohibited.
8. **Code Compliance:** A residential or commercial wind energy system including tower shall comply with all applicable State construction and electrical codes and the National Electrical Code.
9. **Utility Notification and Interconnection**: Residential and commercial wind energy systems that connect to the electric utility shall comply with the Public Service Commission of the Wisconsin's Rule 119, "Rules for Interconnecting Distributed Generation Facilities."
10. **Met Towers:** Shall be permitted under the same standards, permit requirements, restoration requirements, and permit procedures as a residential or commercial wind energy system.

11. **Maintenance:** Residential and commercial wind energy systems shall be maintained in good, operable condition free from excessive noise.

12.5 Permit Requirements

1. **Land Use Permit:** A Land Use Permit shall be required for the installation of a residential wind energy system.
2. **Conditional Use Permit:** A Conditional Use Permit shall be required for the installation of a commercial wind energy system.
3. **Documents:** Both Land Use and Conditional Use Permits shall be accompanied by a plan which includes the following:
   a. Property lines and physical dimensions of the property.
   b. Location, dimensions, and the types of existing major structures on the property.
   c. Location of the proposed wind system tower.
   d. The right-of-way of any public road that is contiguous with the property.
   e. Any overhead utility lines.
   f. Wind system specifications, including manufacturer and model, rotor diameter, tower height, and tower type, freestanding or guyed.
   g. Tower foundation blueprints or drawings.
   h. Tower blueprint or drawing.
4. **Critical Communications Study**: The applicant shall submit a critical communications study prepared by a qualified professional engineer which affirmatively demonstrates that the wind energy system will not interfere with critical communication signals.
5. **Fees:** The application for a Land Use or Conditional Use Permit for a residential or commercial wind energy system must be accompanied by the fee required for a permitted principal use.
6. **Expiration:** A permit issued pursuant to this Section of the Ordinance shall expire if:
   a. The residential or commercial wind energy system is not installed and functioning within twenty-four (24) months from the date the permit is issued, or
   b. The residential or commercial wind energy system is out of service or otherwise unused for a continuous twelve (12)-month period.

12.6 Abandonment

1. A residential or commercial wind energy system that is out of service for a continuous twelve (12)-month period will be deemed to have been abandoned. The Planning & Zoning Director may issue a Notice of Abandonment to the owner of a residential or commercial wind energy system that has been deemed to have been abandoned. The owner shall have the right to respond to the Notice of Abandonment within thirty (30) days from the Notice receipt date. The Planning & Zoning Director shall withdraw the Notice of Abandonment and notify the owner that the Notice has

been withdrawn if the owner provides information that demonstrates the residential or commercial wind energy system has not been abandoned.

2. If the residential or commercial wind energy system is determined to be abandoned, the owner of a residential wind energy system shall remove the wind generator from the tower at the owner's sole expense within three (3) months of the receipt of Notice of Abandonment. If the owner fails to remove the wind generator from the tower, the Planning & Zoning Director may pursue legal action to have the wind generator removed at the owner's expense.

12.7 Land Use or Conditional Use Permit Procedure

1. An owner shall submit an application to the Planning & Zoning Director or his/her designee for a Land Use Permit for a residential wind energy system, or Conditional Use Permit for a commercial wind energy system. The application must be on a form approved by the Planning & Zoning Director and must be accompanied by two (2) copies of the plot plan identified in Section 12.5.3. above.
2. The Planning & Zoning Director shall issue a permit or deny the application for a Land Use Permit within one (1) month of the date on which the application is received. The Planning & Zoning Director shall schedule any application for Conditional Use Permit for a hearing once the Planning & Zoning Office receives written recommendation from the Town.
3. The Planning & Zoning Director shall issue a Land Use Permit for a residential or commercial wind energy system if the application materials show that the proposed wind energy system meets the requirements of this Section of the Ordinance.
4. If the application is approved, the Planning & Zoning Director will return one (1) signed copy of the application with the permit and retain the other copy with the application.
5. If the application is rejected, the Planning & Zoning Director will notify the applicant in writing and provide a written statement of the reasons why the application was rejected. The applicant may appeal the Planning & Zoning Director's decision pursuant to Section 14.4.2. The applicant may reapply if the deficiencies specified by the Planning & Zoning Director are resolved.
6. The owner shall conspicuously post the Land Use Permit on the premises so as to be visible to the public at all times until construction or installation of the residential wind energy system is complete.

12.8 Violations

It is unlawful for any person to construct, install, or operate a residential or commercial wind energy system that is not in compliance with this Section of the Ordinance or with any condition contained in a Land Use Permit issued pursuant to this Section of the Ordinance. Residential or commercial wind energy systems installed prior to the adoption of this Section of the Ordinance are exempt.

12.9 Administration and Enforcement

1. This Section of the Ordinance shall be administered by the Planning & Zoning Director or designee.
2. The Planning & Zoning Director may enter any property for which a Land Use Permit has been issued under this Section of the Ordinance to conduct an inspection to determine whether or not the conditions stated in the Permit have been met.
3. The Planning & Zoning Director may issue orders to abate any violation of this Section of the Ordinance.
4. The Planning & Zoning Director may refer any violation of this Section of the Ordinance to legal counsel for enforcement.
5. Disagreements regarding the interpretation of this Section of the Ordinance occurring between the Planning & Zoning Director or designee and the owner are appealable to the Board of Adjustment as an Administrative Appeal.

12.10 Penalties

1. Any person who fails to comply with any provision of this Section of the Ordinance or any permit issued pursuant to this Section of the Ordinance shall be subject to enforcement and penalties pursuant to Section 14.7.
2. Nothing in this Section shall be construed to prevent the County of Waupaca from using any other lawful means to enforce this Section of the Ordinance.

12.11 Severability

1. The provisions of this Section of the Ordinance are severable, and the invalidity of any section, subdivision, paragraph, or other part of this Section of the Ordinance shall not affect the validity or effectiveness of the remainder of the Ordinance.

13.0 Validity

13.1 Conflict

All other ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

13.2 Court Invalidation

Invalidation by a court of any part of this Ordinance shall not invalidate the rest of the Ordinance.

13.3 Force and Effect

Following passage and publication by the County Board of Supervisors, this Ordinance shall be in full force and effect in each town adopting County Zoning as listed in 1.5(1).

14.0 Administration and Enforcement

14.1 General Provisions

Section 14.0 contains provisions on the administration and enforcement of the requirements of the Waupaca County Land Use Ordinances. The provisions of Section 14.0 apply, as indicated, to all ordinances and are connected by reference to the substantive standards of the zoning, subdivision and sanitary sections of the Waupaca County Land Use Ordinances.

14.2 Agencies and Offices Involved in Ordinance Administration and Enforcement: Definitions of Roles and Responsibilities

1. Waupaca County Board of Supervisors: The Waupaca County Board of Supervisors is responsible for the enactment, amendment and repeal of the Waupaca County Land Use Ordinances.
2. Waupaca County Planning and Zoning Committee: The Planning and Zoning Committee is a Committee of the County Board, created pursuant to Sec. 59.69(2) of the Wisconsin Statutes, and serves as the County Planning Agency pursuant to Sec. 236.2(3) of the Wisconsin Statutes. The Committee is responsible for overseeing the office of the Planning & Zoning Director and for other functions assigned to it by this Ordinance or by State law.
3. Waupaca County Board of Adjustment: The Waupaca County Board of Adjustment is a board created by action of the County Board of Supervisors pursuant to Section 59.694 of the Wisconsin Statutes. The Board of Adjustment is responsible for hearing and deciding Administrative Appeals and Variance applications as provided in this Ordinance.
4. Waupaca County Planning and Zoning Office: The Planning and Zoning Office is an administrative unit of the Waupaca County government, created by the Waupaca County Board of Supervisors. The Office is headed by a Planning & Zoning Director. The Office shall consist of such other personnel as shall be provided for the Office. In addition to duties and responsibilities specified elsewhere in this Ordinance, the Planning & Zoning Director shall be responsible for directing the work of the office for making periodic reports as required on the activities of the office, and for training and educational activities to assure that persons connected with ordinance administration are able to keep abreast of developments in the field of County Land Use Ordinances.

14.3 Duties of the Planning & Zoning Director: Records, Inspections, Determinations, Permit Fees:

In addition to the duties specified elsewhere in this Ordinance, the Planning & Zoning Director or his/her designee shall be responsible for the following administrative duties:

1. **Advising Applicants:** The Planning & Zoning Director shall advise applicants for permits and approvals as to the provisions of this Ordinance and shall assist them in preparing applications.
2. **Keeping Records:** The Planning & Zoning Director shall keep records of applications received, committee or board of office actions on such applications, permits issued, inspections made, enforcement actions undertaken and other similar activities.
3. **Making Inspections:** The Planning & Zoning Director shall make such inspections of premises as are required to determine compliance of land use activities with the terms of this Ordinance. Except in case of emergency, such inspections shall be made only at a reasonable hour with consent, unless the inspection is made pursuant to an inspection warrant issued pursuant to Wisconsin Statutes.

4. **Making Determinations:** The Planning & Zoning Director shall make those administrative decisions and determinations as are specifically assigned to the Director by terms of this Ordinance.

5. **Permits, Approvals and Fees:** The Planning & Zoning Director shall receive applications for the following permits and shall process the applications and the fees collected in the following manner:

   a. **Land Use Permit**

      (1) **When required**: A Land Use Permit shall be required to be issued in accordance with Section 2.2.

      (2) Land Use Permits shall be issued only if the parcel is in compliance with the Waupaca County Subdivision Ordinance.

      (3) **Application and issuance:** Applications for Land Use Permits shall be made on forms furnished by the Planning & Zoning Director. Issuance of a Sanitary Permit is a pre-condition of issuance of a Land Use Permit whenever applicable. Permits shall be issued if the application and information obtained through field inspections, if any, causes the Planning & Zoning Director to conclude that the proposed use will comply with all applicable regulations.

      (4) **Revision:** A revision is allowed to be made to the site plan after the Land Use Permit has been issued and prior to construction only if it contains the same structures as originally applied for and these structures meet all the required setbacks. If this revision contains a different type of structure or any additional structures have been added to the original site plan since the Land Use Permit was issued, another Land Use Permit will be required.

      (5) Land Use Permits issued on the basis of plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction without the authorization shall be deemed a violation of this Ordinance.

      (6) **Setback Verifications:** Setback verifications at the footings stage shall be conducted by the Planning and Zoning Office. It is the property owner's responsibility to contact the Planning and Zoning Office, during normal working hours at least twenty-four hours in advance, to schedule the setback verification. All setback verifications shall occur during normal working hours Monday through Friday.

      (7) **Fees:** Fees shall be submitted to the Planning & Zoning Director when application is made for a Land Use Permit. Additional fees shall be assessed in accordance with the adopted fee schedule if work is started before the permit is requested or issued, or once the permit has been issued and additional structures are constructed on the parcel without obtaining another permit. Fees may be changed by action of the Planning and Zoning Committee and notification to the County Board. Any such change of fees is effective upon posting of the new County Fee Schedule in the Planning & Zoning Office after action by the Planning and Zoning Committee and notification to County Board.

   b. **Applications for Conditional Use Permits, Variances, Administrative Appeals, and Applications for Rezonings**

      (1) **Application and Referral**: Applications for Conditional Use Permits, Variances and Administrative Appeals shall be made to the Planning & Zoning Director on forms prepared by the Planning & Zoning Director and approved as to form and content by the Planning and Zoning Committee. Completed applications shall be referred by the Planning & Zoning Director to the appropriate committee or board for processing and disposition.

(a) Applications for rezoning requests shall be made to the Planning & Zoning Director, acting for this purpose on behalf of the County Clerk, on forms prepared by the Planning & Zoning Director and approved by the Planning and Zoning Committee. Completed forms shall be referred to the Planning and Zoning Committee for processing and disposition.

(b) Application for variance requests shall be accompanied with a site plan prepared by a Professional Land Surveyor containing all pertinent information regarding the request including, but not limited to, verification of properly monumented lot and right-of-way lines.

(2) **Fees:** Fees shall be submitted to the Planning & Zoning Director when application is made for public hearings. Additional fees shall be assessed in accordance with the adopted fee schedule if work is started before the permit is requested or issued. Fees may be changed by action of the Planning and Zoning Committee and notification to the County Board. Any such change of fees is effective upon posting of the new County Fee Schedule in the Planning and Zoning Office after action by the Planning and Zoning Committee and notification to County Board.

(3) **Disposition of Fees:** All fees received by the Planning and Zoning Office shall be placed within the County general fund or transmitted to State agencies as required by the County Board or State Statutes. Fees are collected at the time of application and are not refundable if the application is denied.

(4) **Permits:**

(a) Conditional Use Permits issued on the basis of plans and applications authorize only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Use, arrangement, or constructions without that authorization shall be deemed a violation of this Ordinance.

(b) The Permit card shall be placed in a prominent location on the premises during construction, alteration, or moving.

(c) Owner consent: Whenever a permit or approval carries conditions, the permit or approval shall not be effective until the owner of record of the subject parcel personally signs acknowledgment of the conditions.

(5) No variances for highway setback are needed where the nonconforming structures resulted from a highway reconstruction project commencing after April 17, 1996, if the structures are relocated on the same footprint.

14.4 Duties of the Board of Adjustment: Variances: Administrative Appeal

1. **General Operating Rules for the Board of Adjustment** (hereinafter referred to as the "Board").

a. **Appointment and Term:** The Board shall consist of five (5) members and two (2) alternate members who shall be appointed by the Chair of the County Board for staggered three (3) year terms, commencing on July 1. Vacancies shall be filled in like manner for the unexpired term of any member whose term becomes vacant. Members shall all reside in the County and outside incorporated cities and villages, and no two (2) members shall reside in the same town.

b. **Operating Process**

(1) The Board shall choose its own Chair, Vice-Chair and Secretary.

(2) The Board shall meet at the call of the Chair or at such other times as the Board may determine.

(3) The Board shall comply with all requirements of the Wisconsin Open Meeting Law in the conduct of the business before it. The nature of the Board's proceedings are quasi-judicial. The Board may, therefore, deliberate in closed session, after a hearing on the matter, provided legal requirements are complied with.

(4) To promote effective use of resources, the Planning & Zoning Office will wait for two (2) or more variance applications to come into the office before scheduling, or forty-five (45) days from the receipt of the first application, whichever comes first.

(a) At the discretion of the Board of Adjustment Chair, the Board may delay the scheduling of the public hearings for variances/appeals due to seasonal inclement weather that may hinder the Board from properly assessing the site.

(5) The Board may conduct on site inspections of premises and surrounding areas which are the subject of matters before the Board, provided that when the Board, as a unit or individual members, are engaged in such site inspections that they shall not allow interested parties to present arguments or advocacy materials. Such arguments and materials shall be received only at hearings before the Board.

(6) The Board shall conduct a public hearing on all Administrative Appeals, and variance matters before it, shall cause a Class 2 Notice under Chapter 985 of the Wisconsin Statutes to be published, and shall give due notice of the hearing to all parties in interest. Any party may appear in person or by agent at such hearing. The Chair may administer oaths to parties testifying and may compel attendance of witnesses.

(a) Due notice to parties in interest shall mean that the Planning & Zoning Director will mail, by ordinary postage, reasonable advance notice of all hearings and meetings on any pending matter to the applicant, to owners of record of properties which are located within three hundred (300) feet of the parcel involved in the application, to the Clerk of the town where the property is located, to the Clerk of any other town or any property involved in the application, and to other parties who have made known to the office their specific interest in the matter and their request to receive such notices.

(b) Failure of the office to accomplish such provision of notice shall not invalidate or prejudice the proceedings, provided the Board concludes that reasonable efforts were made or that the parties who subsequently complain of not having been sent or of not receiving notice did, in fact, know of the proceedings and had reasonable opportunity to attend, to be represented, or to convey their views prior to the Board's decision.

(7) Notices shall be sent to State agencies when and if required by State law or rule, or as a matter of information at the discretion of the Planning & Zoning Director.

(8) All testimony before the Board by persons other than Board members and written or documentary evidence or material pertaining to matters before the Board shall be received at the hearings conducted by the Board, provided, however, that the content of relevant ordinances or statutory materials shall be deemed to be before the Board in all cases and need not be entered into the record. All parties in interest shall be afforded reasonable opportunity to comment on all materials or information so received. Board members who are in possession of facts which may have a bearing on the matter before the Board shall enter same into the record of the hearing and opportunity shall be allowed for comment.

(9) If following the close of a hearing, the Board finds it necessary or desirable to receive additional information, evidence or arguments which may have a bearing upon the Board's decision, it shall reconvene a public hearing, with notice given in the same manner as for the initial hearing.

(10) The Board shall deliberate on matters before it. The concurring vote of a majority of the Board shall be necessary to approve any appeal or variance before the Board. The vote of each member on each matter decided by the Board shall be recorded in the minutes. If a member is absent or if a member fails to vote, such fact shall similarly be recorded. The minutes of the Board shall show the Board's decisions and votes of members thereon. Each decision of the Board to approve a variance or to grant an appeal shall be accompanied by written statement, shall be signed or acknowledged by the members and shall be entered into the minutes.

(11) All decisions by the Board shall be made pursuant to the standards of the Ordinance. The Board shall decide all matters before it within a reasonable time.

(12) The Board shall cause complete records to be kept of its examinations on matters before it, of public hearings, site inspections, decisions and other official actions, which shall be immediately filed in the County Planning & Zoning Office and shall be a public record.

(13) The Board may adopt procedural rules not in conflict with this Ordinance or State law.

2. **Powers of the Board of Adjustment: Administrative Appeals.**

a. **Appealable Matters:**

(1) Decisions by the Planning & Zoning Director that consist of interpretations of the terms of Waupaca County Land Use Ordinances and which are made in the course of determining whether or not a permit or approval will be issued by said Planning & Zoning Director are appealable to the Board of Adjustment as Administrative Appeals.

(2) Decisions by the Planning & Zoning Director to issue an enforcement demand or to commence other ordinance enforcement activities, where the Planning & Zoning Director has determined that violation of the Ordinance exists are appealable to the Board of Adjustment as an Administrative Appeals.

(3) Decisions by the Planning & Zoning Committee that consist of interpretations of the terms of the Waupaca County Zoning Ordinance and which are made in the course of determining whether a permit or approval will be issued by said Committee are appealable to the Board of Adjustment as Administrative Appeals. Planning and Zoning Committee decisions on rezonings are not appealable to the Board of Adjustments.

b. **Procedures for Initiating an Administrative Appeal.**

(1) **Eligible appellants:** Administrative Appeals may be initiated by any person aggrieved by the decision or interpretation being appealed, or by any officer, department, board, or committee of the Waupaca County government.

(2) **Time for appeals:** An appeal shall be commenced within thirty (30) days after making of the decision or interpretation being appealed.

(3) **Initiating an appeal:** An appeal shall be commenced by filing with the Planning & Zoning Director a notice of appeal specifying the decision being appealed, the grounds for the requested relief, and the payment of the fee specified by Section 14.3.5.b(2). Upon receipt of such a notice, the Planning & Zoning Director shall immediately notify the Board of

Adjustment and shall make available to the Board all papers and files constituting the record of the decision being appealed.

(4) **Stays:** An appeal of a decision to issue an enforcement demand or to commence other ordinance enforcement proceedings shall cause the permit or approval action to be suspended or shall stay further enforcement prosecution unless the Planning & Zoning Director or Corporation Counsel shall file with the Board of Adjustment a certificate supported by a statement of facts alleging that suspension or stay will cause imminent peril to life or property. If such a certificate is filed, proceedings shall not be stayed except upon a restraining order issued by a court.

(5) **Decisions by the Board of Adjustment:** Following a public hearing and other investigation, the Board shall decide the matter based upon whether the decision, determination or interpretation being appealed was in error. The Board may reverse or affirm, wholly or partly, or may modify the appealed decision, and may make such decision as ought to have been made, and to that end shall have all powers of the officer from whom the appeal is taken. All decisions by the Board on Administrative Appeals shall be based upon the terms of the Ordinance and evidence as to intent of the County Board.

3. **Powers of the Board of Adjustment: Variances**

a. **Nature of Variances:** Variances are waivers in the terms of the Zoning Ordinance. In a variance case, the terms of the Ordinance are not in dispute. An applicant for a variance acknowledges that the Ordinance forbids the development for which approval is sought. Two avenues of relief can be pursued in such a case. One is for the applicant to seek an amendment to the Ordinance. The second possible avenue of relief, one that is available only under strictly defined circumstances, is to seek a variance. Variances are an available form of relief only where the use in question is allowed in the zoning district, but the dimensional standards, setbacks, minimum lot area, building height, etc., block or hinder the proposed form of development. Where dimensional standards create a hardship which can be relieved by modifying the standards for that parcel of land without destroying the basic intent of the Ordinance, a variance procedure allows the impact of general rules to be varied in response to unusual local circumstances without involving the County Board in amendment procedures for each such localized situation.

b. **Variance Review Process:** Waupaca County's process for each variance request is as follows.

(1) **Step 1 — Application**: Applications for variances in the applicable zoning regulations may be filed with the Planning & Zoning Director along with payment of the application fee. If a property has multiple structures requiring a variance, it shall require separate variance applications with separate fees.

(2) **Step 2—Notice and Analysis:** Upon receipt of a complete application, the Planning & Zoning Director shall direct the scheduling and notice of a Board of Adjustment public hearing per Wisconsin Statutes. Before the hearing, the Planning & Zoning Office staff shall prepare a written analysis of the application against the standards listed in subsection c. As soon as practical following receipt of a complete application, but in no case fewer than ten (10) days prior to the date of the public hearing, the Planning & Zoning Director shall mail to the Chair, and Clerk of the affected town a copy of the notice of the hearing. Such information may be mailed through a single mailing or through separate mailings. The Planning & Zoning Director shall also provide the information assembled during this and the previous step to the Board of Adjustment in advance of the public hearing.

(3) **Step 3—Board of Adjustment Public Hearing and Action:** The Board of Adjustment shall conduct an on-site inspection of the property involved and a public hearing to hear testimony on the variance application at a date, time, and location specified in the public hearing notice prepared under Step 3. Within forty-five (45) days following the public hearing, the Board of Adjustment shall approve as presented, approve with conditions, or deny the variance request. The Board shall evaluate the request for conformance with the criteria included in 14.4.3.c and may consider all applicable information included in the petition, the Planning & Zoning Director's report, public testimony, or its own investigations. In its action, the Board shall include findings of fact relative to its decision. An application for a variance under this Section may be dismissed by the Board upon notice to the applicant, if one (1) year has passed since the filing of the application or the last scheduled public hearing on said application, whichever is later. Dismissal during this step shall not limit the ability of applicants to reapply.

(4) **Step 4—Notice of Action:** Within ten (10) days of final Board of Adjustment action on the variance request, the Planning & Zoning Director shall provide written notice of Board action, including any required conditions of approval, to both the applicant and the affected town. Approval of a variance does not eliminate the requirement to obtain the appropriate building, sanitary and land use permits.

c. **Board Review and Decision:** Following a public hearing and other investigations, the Board shall decide the matter based upon the following standards:

(1) **Unnecessary hardship:** What constitutes a hardship is to be determined from the facts and circumstances of each individual case. The Board must consider the following court-established principals:

(a) A property owner bears the burden of proving unnecessary hardship, for an area variance, by demonstrating that strict compliance with the zoning ordinance would unreasonable prevent the property owner from using the property owner's property for a permitted purpose or would render strict conformity with the zoning ordinance unnecessarily burdensome.

(b) The hardship must be based on conditions unique to the property, rather than considerations personal to the property owner.

(c) Loss of profit or financial hardship is not in and of itself grounds for a variance. The fact that developing in compliance with ordinance requirements may cost considerably more does not constitute a hardship.

(d) A self-imposed or self-created hardship does not constitute an unnecessary hardship for which the Board may grant a variance. When conditions giving rise to the need for a variance were created by the property owner or a former owner, the hardship is self-imposed.

(2) **Unique property limitation:** Unique physical characteristics of the property, not the desires of, or conditions personal to the applicant, must prevent the applicant from developing in compliance with the Zoning Ordinance.

(3) **Protection of the public interest:** Granting of a variance must neither harm the public interest nor undermine the purpose of the Ordinance. In granting a variance, the Board may attach special conditions to ensure that the public welfare will not be damaged. Such conditions must relate reasonable to the purpose and intent of the Ordinance. Also, any

variance granted should include only the minimum relief necessary to allow reasonable use of the property.

(4) No variance may be granted that would have the effect of allowing, in any district, a use not permitted in that district.

(5) No variance may be granted that would have the effect of allowing a use of land or property that would violate State laws or Administrative Code.

(6) The burden is upon the appellant to prove the need for a variance.

(7) The Board is bound to accept the Zoning Ordinance and official zoning map as being correct.

(8) The Board of Adjustment in fulfilling its duties may modify, alter, or place conditions on any application.

(9) Subject to the above limitations, variances may be granted where strict enforcement of the terms of the Ordinance results in an unnecessary hardship and where a variance in the standards will allow the spirit of the Ordinance to be observed, substantial justice to be accomplished and the public interest not violated.

d. **Conditions:** Conditions shall be attached in writing to all approved variances where such conditions will achieve compliance with the standards of this Ordinance.

e. **Expiration of Decision:** If a variance is approved, any privilege granted must be exercised within six (6) months of the date of this decision by obtaining the necessary land use permit for the proposed construction. This construction must be completed within two (2) years of the date of issuance of the land use permit. Failure to complete the project by the expiration date of the land use permit shall cause the approval to expire.

f. **Effect of Denial of Variance:** No application that has not been enacted under this Section shall be resubmitted for a period of twelve (12) months from the date of final Board of Adjustment action, except on grounds of new evidence or proof of change of factors found valid by the Board of Adjustment.

g. **Notice of Right to Appeal:** A decision made by the Board of Adjustment may be appealed by filing an action in certiorari in the circuit court for this county within thirty (30) days after the date of filing of the decision under Wis. Stats. s. 59.694(10). Waupaca County assumes no liability for and makes no warranty as to reliance on this decision if construction is commenced prior to expiration of this 30-day period.

14.5 Duties of the Planning and Zoning Committee

The Waupaca County Planning and Zoning Committee shall have those duties and responsibilities assigned to it by this Ordinance, by other actions of the County Board and by Section 59.69 of the Wisconsin Statutes.

1. **Conditional Use Permit Decisions**. Certain uses are of such special nature that their effects are so dependent upon specific circumstances as to make impractical the determination in advance of where and when and under what conditions they should be permitted. Provision has been made in this Ordinance for the determination of such cases as Conditional Uses (C) in a Zoning District as identified in Sections 5.0, 5.1 and 6.0. A Conditional Use Permit may be granted in a Zoning District only upon approval by the Planning and Zoning Committee.

   a. **Conditional Use Permit Review Process**: Waupaca County's process for each Conditional Use Permit request is as follows.

(1) **Step 1—Application**: Application for a Conditional Use Permit may be filed with the Planning & Zoning Director on forms prepared by the Planning & Zoning Director and approved as to form and content by the Zoning and Land Use Planning Committee.

(2) **Step 2—Initial Recommendation from Town**: Following the application for a Conditional Use Permit, the County will forward the complete application to the Clerk of the affected Town, or the Town Chair if that particular Town has designated the Chair as the receiving party, along with a Town Recommendation Form. The consultation process may vary from town to town, and may involve the Town Plan Commission and/or Town Board. The Town shall have forty-five (45) days from the date the application materials and Town Recommendation Form were forwarded by the County to provide the County with a recommendation regarding the potential application. After forty-five (45) days, if the affected town has not provided a recommendation to the County regarding the potential application, and provided the applicant has attempted to meet or has met with representatives of the Town, the County shall schedule the public hearing before the Planning and Zoning Committee. The Planning & Zoning Director may grant an extension to the forty-five (45) days if requested by the Town.

(3) **Step 3—Notice and Analysis**: Upon receipt of a complete application and town recommendation, if received in the allotted time period, the Planning & Zoning Director shall direct the scheduling and notice of a Planning and Zoning Committee public hearing per Wisconsin Statutes. Before the hearing, the Planning and Zoning Office staff shall prepare a written analysis of the application against relevant plans, ordinances, criteria, and sound planning and zoning principles. As soon as practical following receipt of a complete application, but in no case fewer than ten (10) days prior to the date of the public hearing, the Planning & Zoning Director shall mail via U. S. regular mail a notice of the hearing to the Town Board Chair and Clerk of the affected Town and to the owners of record of properties which are located within three hundred (300) feet of the parcel involved in the application.

(4) **Step 4—Committee Public Hearing and Recommendation**: The Planning and Zoning Committee shall conduct an on-site inspection of the property involved and a public hearing to hear testimony on the Conditional Use Permit application at a date, time, and location specified in the public hearing notice prepared under Step 3. In the event that the scope, range of uses, or geographic area of the request is substantially increased from that noticed or presented at the public hearing, the Committee shall cause to be noticed and conduct an additional public hearing before taking action on the request. As soon as possible following the final public hearing, the Committee shall approve, approve with modification from the original application or with conditions, or deny the proposed Conditional Use Permit requested through the application. All actions shall be accompanied by reasons based on the criteria for consideration of a Conditional Use Permit included in Section 14.5.1.b. A Conditional Use Permit application may be dismissed by the Planning and Zoning Committee upon notice to the applicant if one (1) year has passed since the filing of the application or the last scheduled public hearing on said application, whichever is later. Dismissal during this step shall not limit the ability of the applicant to file a new application.

(5) **Step 5—Notice of Action:** Within ten (10) days of final Planning and Zoning Committee action on the Conditional Use Permit request, the Planning & Zoning Director shall provide written notice of Committee action, including any required conditions of approval, to both the applicant and the affected town. Approval of a Conditional Use Permit does not eliminate the requirement to obtain the appropriate Sanitary, Building and Land Use Permits. Decisions

on any application for a Conditional Use Permit are appealable to the Board of Adjustment pursuant to Section 14.4.

b. **Conditional Use Permit review criteria**: If an applicant for a Conditional Use Permit meets or agrees to meet all of the requirements and conditions specified in this ordinance and conditions imposed by the Planning and Zoning Committee the Conditional Use Permit shall be granted. It is the applicant's responsibility to demonstrate that the application and all requirements and conditions established by this ordinance and by the Planning and Zoning Committee are or shall be satisfied. In its review and action on each Conditional Use Permit application, the Planning & Zoning Committee shall find that all the following standards are or will be met, unless a particular standard is inapplicable to the proposed conditional use, and shall include such findings in writing as basis for approval:

(1) The proposed conditional use will be designed, constructed, operated, and maintained so as to be compatible, and be appropriate in appearance with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area such that the use will substantially impair or diminish the use, value, or enjoyment of existing or future permitted uses in the area.

(2) The proposed conditional use will not materially impact the established character and quality of the area, architecture and aesthetics, and is generally compatible with surroundings, traffic impact and circulation, environmental impacts, the demand for related services, the possible hazardous, harmful, noxious, offensive, or nuisance effects resulting from noise, dust, smoke, or odor.

(3) The proposed conditional use will be consistent with all relevant aspects of the Town and County Comprehensive Plans.

(4) The proposed conditional use will not substantially increase the erosion potential of the site; negatively affect wetlands, floodplains, or water bodies; or otherwise compromise surface or ground water quality based on topography, drainage, slope, soil type, vegetative cover, means of waste disposal and other relevant factors.

(5) The proposed conditional use is located in an area that will be adequately served by, and will not impose an undue burden on, any of the improvements, facilities, utilities, or services provided by public agencies.

(6) The proposed conditional use is in a location where access to streets and highways is suitable, and ingress and egress is designed to minimize traffic congestion and the potential effect on traffic flow.

(7) The proposed conditional use will meet all applicable standards of this Zoning Ordinance, particularly any performance standard in Section 6 that is applicable to the particular conditional use being sought.

c. **Imposition of Conditions:** The Planning and Zoning Committee may impose conditions of, and restrictions on, approval as may, in its discretion, be necessary to effectuate the terms and intent of this Ordinance. Such conditions and restrictions may relate to the establishment, location, construction, maintenance, and operation of the proposed use, off-site impacts and any other impact upon the public's health, safety, or general welfare. Conditions imposed as a part of the Conditional Use Permit shall be achievable, practicable, and to the extent possible, measurable. Any condition imposed must be related to the purpose of the ordinance and be based on substantial evidence. Any condition or restriction imposed under this Chapter shall not lessen a development standard or requirement contained elsewhere in this Ordinance.

(1) In a case where the Committee has approved a Conditional Use Permit with a condition that it be reviewed within a set amount of time at a later date by the Committee, this review shall be a legally noticed public hearing per Wisconsin Statutes. No fewer than ten (10) days prior to the date of the public hearing, the Planning & Zoning Director shall mail via U.S. regular mail a notice of the hearing to the Town Board Chair and Clerk of the affected Town and to the owners of record of properties which are located within three hundred (300) feet of the parcel involved in the application. An on-site inspection of the property may be conducted only if requested.

d. **Time Limits Associated With Conditional Uses**:

(1) If the approved Conditional Use is not initiated by securing a Land Use Permit, or, if more than one (1) permit is necessary, and securing at least one (1) necessary permit within twelve (12) months of the date of the approval is not done, the Conditional Use Permit approval shall expire. The applicant may apply for and the Planning and Zoning Committee may grant a one-time extension, provided that a written request for extension is submitted before the original expiration date. At the Planning and Zoning Committee's discretion, these provisions may be modified.

(2) If a use or activity associated with a previously approved Conditional Use Permit ceases for twelve (12) months or more after first being established on the property, the property owner or authorized agent must reapply and obtain approval of another Conditional Use Permit before recommencing the use or activity. Unless a specific condition of approval indicates otherwise, or the operation is ceased for the period of time indicated above, each Conditional Use Permit shall run in perpetuity with the underlying land and not with the particular property or business owner who originally obtains the Conditional Use Permit.

i. Pursuant to Sec. 6.5.8 Conditional Use Permits granted for Major Home Occupations are assigned to a designated person that resides at the residential address. Such permits do not run with the land and are not transferable from person to person or from address to address.

(3) **Amendments to Conditional Uses:** Any expansion, structural change, or substantial alteration to a grandfathered conditional use shall require a new Conditional Use Permit following the procedures and requirements of this Section. Any substantial change to the nature or intensity of a use for which a Conditional Use Permit was previously granted or to a previously approved plan or required condition of approval shall require a new or amended Conditional Use Permit following the procedures and requirements of this Section.

(4) **Monitoring and Potential Revocation of a Conditional Use Permit:** The Planning and Zoning Committee or Planning & Zoning Director may require evidence and guarantees as proof that approved plans are being followed, required conditions are being met, and review criteria are being satisfied for conditional uses at all times. If the Planning and Zoning Committee finds that the review criteria of this Section or the conditions attached to the permit are not in compliance, the Planning and Zoning Committee may review the Conditional Use Permit at a public hearing. As part of the review the Committee may amend the conditions of approval or revoke the approval of the Conditional Use Permit. Failure to comply with a condition of approval shall be construed as a violation of this ordinance and is subject to the enforcement provisions of this ordinance.

(5) **Effect of Denial of Conditional Use Permit:** No application that has not been enacted under this Section shall be resubmitted for a period of twelve (12) months from the date of final

Planning and Zoning Committee action, except on grounds of new evidence or proof of change of factors found valid by the Planning and Zoning Committee.

(6) **Owner/Applicant Request to Rescind Conditional Use Permit:** When an owner or applicant requests to rescind their Conditional Use Permit, they must submit a written explanation to the Planning and Zoning Office so it can be placed on the Planning and Zoning Committee's agenda. The Town will be notified.

2. **Rezone Review Process:** Waupaca County's process for each amendment to the Official Zoning Map (rezoning) is as directed by Wisconsin Statutes Section 59.69 and is as follows.

   a. **Step 1—Application**: Application for a rezone may be filed with the Planning & Zoning Director or his/her designee on forms prepared by the Planning & Zoning Director and approved as to form and content by the Planning and Zoning Committee. If a Certified Survey Map is required, it must be received with all applicable fees and be approved by the Planning and Zoning Office prior to the public hearing in front of the Planning and Zoning Committee. If the zone map amendment is approved by the County Board, the CSM will be recorded thereafter as previously approved. Failure to record the CSM as approved will result in the rezone being void.

   b. **Step 2—Initial Action by Town:** Following receipt of a rezone application, the County will forward the complete application to the clerk of the affected town or the Town Chair if that particular town has designated the Chair as the receiving party, along with a Town Recommendation Form. Prior to scheduling of a Planning and Zoning Committee meeting, the potential applicant, within one (1) month of the application, shall attempt to arrange a consultation with representatives of the affected town. The consultation process may vary from town to town, and may involve the Town Plan Commission and/or Town Board. The Town shall have forty-five (45) days from the date the application materials and Town Recommendation Form were forwarded by the County to provide the County with a recommendation regarding the potential application. After forty-five (45) days, if the affected Town Board has not taken action, and provided the applicant has attempted to meet with representatives of the Town, the County shall schedule the Planning and Zoning Committee meeting to review the rezone application. The Planning & Zoning Director may grant an extension to the forty-five (45) days if requested by the Town.

   c. **Step 3—Notice and Analysis**: Upon receipt of a complete application and Town recommendation, the Planning & Zoning Director shall direct the scheduling and notice of a Planning and Zoning Committee public hearing, per Wisconsin Statutes. Before the hearing, the Planning and Zoning Office staff shall prepare a written analysis of the application regarding relevant plans, ordinances, criteria and sound planning and zoning principles. As soon as practical following receipt of a complete application, but in no case fewer than ten (10) days prior to the date of the public hearing, the Planning & Zoning Director shall mail, via U. S. regular mail, to the owners of record of properties which are located within three hundred (300) feet of the parcel involved in the application, and the Town Chair a copy of the notice of the hearing. The Town Clerk shall receive notice of the hearing via certified mail. Such information may be mailed through a single mailing or through separate mailings. If the application would affect an airport area under Wisconsin Statutes Section 62.23(6) (am), the Planning & Zoning Director shall also provide notice to the owner or operator of that airport. The Planning & Zoning Director shall also provide the information assembled during this and previous steps to the County Board Supervisor representing the area and to the Planning and Zoning Committee in advance of the public hearing.

d. **Step 4—Committee Public Hearing and Recommendation:** Per Wisconsin Statutes, the Planning and Zoning Committee shall conduct an on-site inspection of the property involved and a public hearing to hear testimony on the rezoning application at a date, time, and location specified in the public hearing notice prepared under Step 3. For a Town initiated multiple rezones within the Town, there will be no on-site inspections conducted. In the event that the scope, range of uses, or geographic area of the request is substantially increased from that noticed or presented at the public hearing, the Committee shall cause to be noticed and conduct an additional public hearing before taking action on the request. As soon as possible following the public hearing and the passage of the allowable timeframe for town action in Wisconsin Statutes, the Committee shall recommend whether the County Board should approve, approve with further modification from the original application, or deny the proposed rezoning requested through the application. All recommendations shall be accompanied by reasons based on the criteria for rezoning land included in 14.5.2.h. If the affected town files a certified copy of a resolution indicating its disapproval of the proposed amendment, the Planning and Zoning Committee may not recommend approval of the application without change, but may recommend approval with change, or may recommend denial. A rezoning application may be dismissed by the Planning and Zoning Committee, upon notice to the applicant, if one (1) year has passed since the filing of the application or the last scheduled public hearing on said application, whichever is later. Dismissal during this step shall not limit the ability of the applicant to file a new application.

e. **Step 5—Formal Town Board Action (OPTIONAL):** If the affected town chooses, it may file a certified copy of a resolution adopted by the Town Board indicating its approval or disapproval of the proposed rezoning at this step as well. The Town's decision shall be based on the Town's adopted Comprehensive Plan. The resolution shall be filed either before the Planning and Zoning Committee public hearing or within ten (10) days following such public hearing.

f. **Step 6—County Board Action:** Following the recommendation of the Planning and Zoning Committee, the County Board shall act to enact by ordinance, enact by ordinance including modifications from the original application, deny the proposed rezoning requested by the application, or refer said amendment back to the Committee for further consideration. All actions shall be accompanied by reasons based on the criteria for rezoning land included in 14.5.2 and 14.5.2.a. If the County Board approves the rezoning as requested through the original application without further modifications, and the application was not disapproved by the affected Town Board within the required timeframe described under Step 5, it shall become effective upon County Board passage of the associated ordinance.

g. **Step 7—Possible Final Town Board Action:** If the County Board enacts by ordinance the rezoning including modifications from the original application, or enacts by ordinance the original rezoning application where the affected Town filed a resolution indicating disapproval of the original rezoning application, the County Clerk, in consultation with the Planning & Zoning Director, shall submit the Ordinance to the Clerk of the affected Town or the Town Chair if that particular Town has designated the chair as the receiving party by certified U.S. mail within seven (7) days of County Board enactment, along with an explanation of the Town's role during this step and another copy of a resolution to signify Town Board action and findings of fact on the request. If the Town Board wishes to disapprove of the rezoning as enacted by the County Board, it shall enact a resolution to that effect and file a certified copy of such resolution with the County Clerk within forty (40) days of the date of County Board enactment. The rezoning, as enacted by the County Board, shall become effective only if and when one (1) of the following occurs: After the passage of the forty (40) days day period, the County Clerk has not received a town board resolution indicating disapproval, or before the end of the forty (40) day

period the County Clerk receives a resolution from the affected Town Board indicating approval of the rezoning as enacted by the County Board.

h. **Step 8—Notice of Action:** Following the effective date of enactment or denial of an ordinance rezoning land, the County Clerk shall provide notice to Town and County officials and to the applicant and shall record such action per Wisconsin Statutes.

(1) **Rezoning review criteria:** In its review and action on the rezoning application, the Planning and Zoning Committee shall make findings with respect to the following criteria:

(a) The proposed rezoning is consistent with the overall purpose and intent of this Zoning Ordinance.

(b) The proposed rezoning is consistent with the County Comprehensive Plan. It is the responsibility of the affected town to determine consistency with any town comprehensive plan.

(c) For applications to rezone land to a commercial or industrial zoning district, adequate public infrastructure is or will be available to accommodate the range of commercial or industrial uses that would be allowed in that zoning district.

(d) For applications to rezone land to the Planned Residential Development (PD) zoning district, the proposed project shall produce significant benefits in terms of environmental design, and significant alternative approaches to addressing development performance, which relate to and more than compensate for any requested waiver or modification of any normal standard of this Zoning Ordinance.

(2) Land may be considered for rezoning out of the Farmland Preservation Overlay without certification by the Department of Agriculture, Trade, and Consumer Protection if all of the following apply:

(a) The County finds all of the following, after public hearing:

i. The land is better suited for a use not allowed in the Farmland Preservation Overlay.

ii. The rezoning is consistent with the County and local Comprehensive Plans.

iii. The rezoning is substantially consistent with the County Certified Farmland Preservation Plan.

iv. The rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.

(b) The County shall by March 1 of each year provide all of the following to the Department of Agriculture, Trade and Consumer Protection:

i. A report of the number of acres that the County has rezoned out of the Farmland Preservation Overlay during the previous year and a map that clearly shows the location of those acres.

14.6 Town Review

The Waupaca County Planning & Zoning Director or his/her designee shall forward all applications submitted for rezonings and Conditional Use Permits within each town's jurisdiction to the appropriate Town Clerk. Applications for Land Use Permits that do not require a rezoning or Conditional Use Permit, but do require a Site Plan under Sections 5.0, 6.0, and 10.2, will not be forwarded to the Town Clerk unless the Town Board adopts an ordinance requiring site plan review.

1. **Town Recommendation:** The Town Plan Commission and/or Board may review all applications and provide a written recommendation to the Waupaca County Planning & Zoning Director to be forwarded to the appropriate decision-making body.
2. **Timeline:** Towns shall have forty-five (45) days to provide review and recommendation to the Waupaca County Planning & Zoning Director from the date the town receives the application. If the Planning & Zoning Director has not received a written recommendation within forty-five (45) days, the County review process will continue without Town feedback. The Planning & Zoning Director may grant an extension to the forty-five (45) days if requested by the Town.
3. **County Action:** The Waupaca County Planning & Zoning Director, Planning and Zoning Committee, Board of Adjustment, and Board of Supervisors shall consider the Town recommendation per Section 14.6.1 as a component of application review and prior to rendering a decision.

14.7 Enforcement

1. **Declarations of Unlawful Conduct, Activities and Conditions.**
   a. **Violation of Land Use Ordinances**
      (1) It shall be unlawful for any building or structure to be erected, constructed, place, moved, or structurally altered, or for any use of land, premises, building, or structure to be established or changed in violation of the provisions of this Ordinance.
      (2) It shall be unlawful to fail to comply with any standard of this Ordinance or with any condition or qualification placed upon the issuance of a permit or approval or variance granted, in due course, under this Ordinance.
      (3) It shall be unlawful to fail to apply for and obtain permits and approvals as specified herein.
2. **Liability**
   a. Owners of lands or properties, occupiers of land or premises, and agents of owners or occupiers including, without limitation because of enumeration, building contractors, surveyors, plumbers, installers, soils technicians, road builders, grading and excavating contractors and their agents, and lending institutions and insurers and their agents are responsible for compliance with all provisions of this Ordinance which bear upon their area of competency and responsibility.
   b. Any such party who violates or aids or abets in a violation shall be liable to prosecution or remedial action.
   c. This Ordinance applies fully to all public governmental and quasi-public and quasi-governmental lands, developments and activities unless specifically exempted by State or Federal law.
3. **Investigation of Compliance, Notice of Violations**
   a. The Planning & Zoning Director is responsible for inspecting and investigating compliance of land use activities with the terms of this Ordinance. In an effort to verify compliance, a survey map may be required at landowner's expense.
   b. If, upon such inspection or investigations, the Planning & Zoning Director becomes aware of a condition which is or likely to become unlawful, the Planning & Zoning Director shall immediately notify the parties to whom he deems to be responsible and potentially liable of the situation. Such notice shall include:

(1) A demand that the condition that is alleged to constitute the present or potential violation be halted, prevented from occurring, or remedied; or

(2) A statement that a complaint on the condition and demand for prosecution has been or will be transmitted to the Corporation Counsel and/or to enforcement officials, State agencies, or both.

c. If an enforcement demand is issued and is not in compliance, the Planning & Zoning Director shall forthwith file a complaint and a demand for prosecution, unless an Administrative Appeal has been commenced and a stay order has been issued.

4. **Prosecution; Injunctions and Penalties in Court Proceedings**

a. The responsibilities of the Corporation Counsel include prosecution of violations of this Ordinance.

b. Nothing in this Section shall be deemed to prevent private prosecutions of violations.

c. The following forfeitures and penalties are hereby established for violations of this Ordinance:

(1) Reference to Chapter 25 – Section 25.04 Penalty Provisions

(2) As a substitute for an addition to forfeiture actions, the Corporation Counsel, on behalf of the County, may seek enforcement of any and all parts of this Ordinance by court actions seeking injunctional orders or restraining orders, or remedies may be sought under the County Citations Ordinance.

5. **Other Enforcement Provisions**

a. Where a Conditional Use or Variance has been approved subject to specified conditions, and where such conditions are not complied with, the Board of Adjustment or the Planning and Zoning Committee may entertain and conduct a hearing upon a petition to revoke Conditional Use Permit or Variance. Such hearing and action upon a petition shall follow procedures similar to those followed in considering the noncompliance with the conditions originally imposed and shall be grounds for revocation.

b. Relationship to Deed Restrictions: It is not otherwise intended by this Ordinance to repeal, abrogate, or impair any deed restrictions, easements, or covenants. However, where this Ordinance imposes greater restrictions than are imposed by deed restrictions, easements, or covenants, the provisions of the Ordinance shall prevail.

c. Relationship to Nuisance Actions: No provision of this Ordinance shall be construed to bar an action to enjoin or abate the use or occupancy of any land or structure as a nuisance under the laws of the State of Wisconsin.

6. **Statute of Limitations**

a. An enforcement action may not be commenced against a person who owns a building or structure that is in violation of this ordinance if the building or structure has been in place for more than ten (10) years. The property owner shall bear the burden of proof to prove that the structure has been in place for greater than ten (10) years.

b. Any structure meeting the statute of limitations as described in par. a. shall not be subject to the allowances pertaining to nonconforming structures as found in Sec. 2.12.

14.8 Process for Receiving Interpretations of Ordinance

Any person may submit to the Planning & Zoning Director or designee, in writing, a request for interpretation of this Ordinance. Any written request submitted shall include the appropriate fee as may be established by the county from time to time. The Planning & Zoning Director or designee, after consulting with Corporation Counsel, shall prepare a written response to any such request within thirty (30) days of receipt of the request and present such response to the Planning & Zoning Committee for approval at its next meeting. The Planning & Zoning Committee shall act on the proposed response by either approving or modifying the response. The Planning & Zoning Committee's response shall be provided to the requesting person and, in addition, if the response relates to the allowable (permitted, conditional or prohibited) use of a parcel, a copy of written response shall be mailed via U.S. Regular Mail to the owners of record of properties within three hundred (300) feet of the parcel involved in the written response. In interpreting this Ordinance, the Planning & Zoning Director or designee shall give effect to the terms of this Ordinance and the intent of the provisions to be interpreted. The Planning & Zoning Director or designee shall maintain a written record of all previous interpretations that remain applicable. All interpretations provided under this section are appealable to the Board of Adjustment pursuant to Sec. 14.4 provided such appeal is commenced within thirty (30) days from the date of mailing of such interpretation.

Appendix A – Residential Density Management System

This Section provides an example of how residential density is managed in Waupaca County within the following zoning districts: Private Recreation and Forestry (PVRF), Agriculture Enterprise (AE), Agriculture Retention (AR), Agriculture and Woodland Transition (AWT), and Rural Residential (RR). This Section applies only to the above listed zoning districts. Furthermore, nothing in this Section shall preclude the petitioner from seeking a zoning map amendment to remove lands from the PVRF, AE, AR, AWT or RR zoning districts. In the event that such lands are rezoned away from one of these districts, and not rezoned to another one of these districts, the provisions of this Section shall no longer apply.

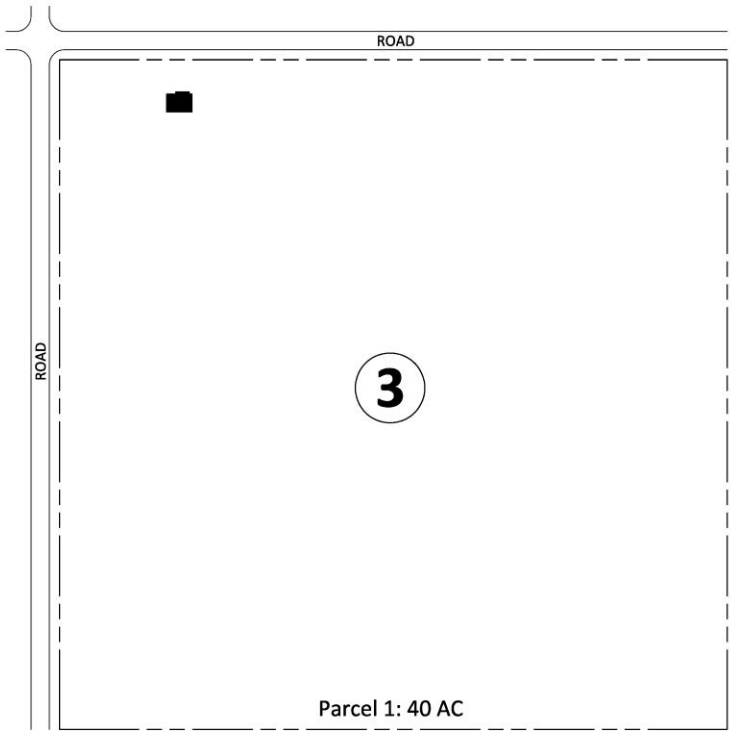
The size and zoning of a parcel limits the maximum number of residential dwelling units within these zoning districts. The numbers of land divisions that can occur are not limited, however, as long as the number of dwelling units does not exceed the maximum residential density.

Method of Calculation: The following method shall be used to calculate the maximum number of residential dwelling units:

Determine the gross site area of the land division. At the property owner's discretion, this can include all lands in common ownership or a single parcel. If the property owner chooses to use all lands in common ownership, the parcels have to be located within the same zoning district and within the same town.

1. Measure the "gross site area."
2. Divide the gross site area by the Residential Density and Lot Size Management Overlay as chosen by the applicable Town and as described within Section 8.2.
3. Contiguous common ownership lands that are less than the minimum established Residential Density as established on the Town zoning map shall be allowed a total of one (1) dwelling unit or one (1) principal commercial, institutional, recreational, utility, transportation, or industrial land use as may be allowed in that zoning district. No further division for development purposes shall be allowed while the properties remain under a PVRF, AE, AR, AWT or RR zoning district.
4. The Planning & Zoning Director shall keep track of the total number of dwelling units on each parcel or set of contiguous common ownership lands from the date of adoption of the this Zoning Ordinance. All additional dwelling units following that initial date shall conform to the maximum density calculated for the parcel or contiguous common ownership land as such lands were sized and configured on that initial date.

Figure A-1 shows a forty-acre (40) parcel that limits residential density to one (1) residential unit per ten (10) acres. For example, the Agriculture Retention (AR) zoning district uses this maximum density. A maximum of four (4) residential units (40 acres ÷ 10 acres/unit = 4 units) could be constructed on lots split from the parcel. Since there is already an existing home on the parcel, however, only three (3) residential additional units can be built. This is represented by the "3" shown in the middle of the parcel. The three (3) residential units or "development rights" are tracked by the County for each parcel as part of the County Density Management System.



Maximum Residential Density:
1 unit per 10 acres

Development Rights:
3 remaining

Figure A-1

Figure A-2 shows the same forty-acre (40) parcel depicted in Figure A-1, but split into two (2) parcels along with the construction of another house. As a result, only two (2) development rights remain. In this example, the remaining development rights are divided between the two (2) parcels, meaning each parcel could support one (1) additional housing unit.

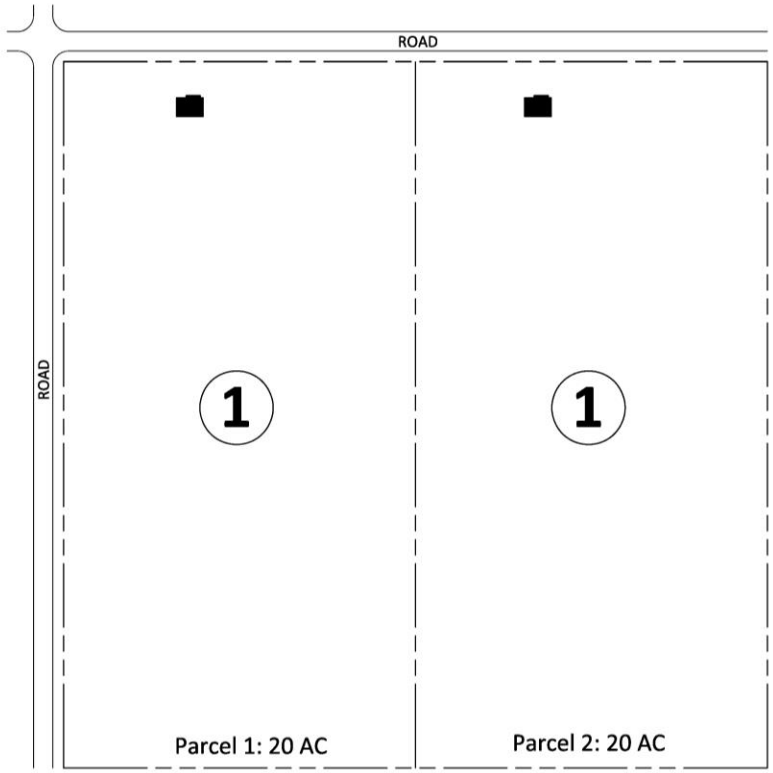


Figure A-2

<u>Maximum Residential Density:</u>
1 unit per 10 acres

<u>Development Rights:</u>
2 remaining, 1 on each parcel

Figure A-3 shows one (1) more lot with an additional home split from each parcel. This effectively depletes the remaining development rights from the original forty (40)-acre parcel. No additional homes can be built unless property is rezoned to allow a greater residential density.

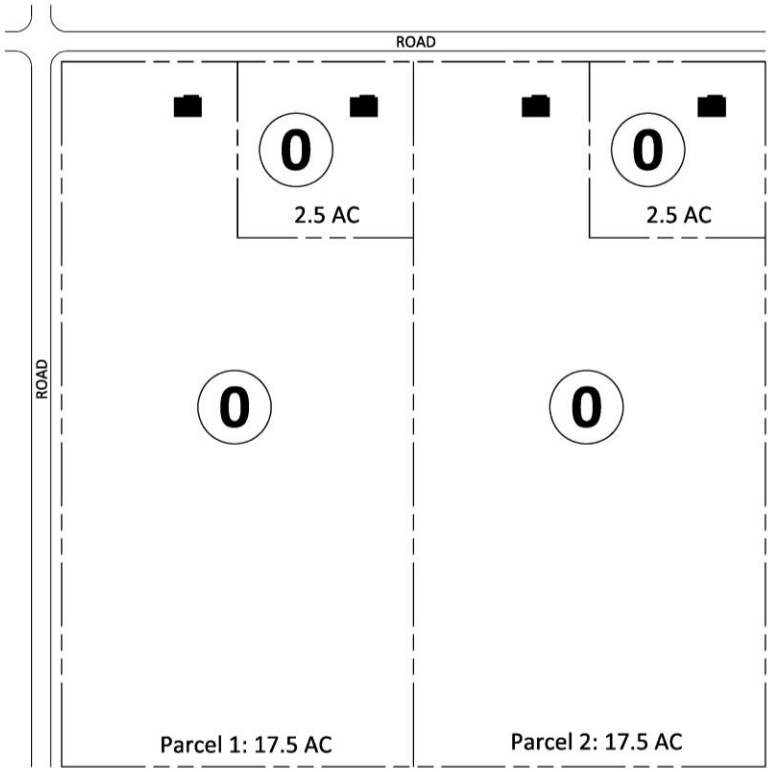


Figure A-3

<u>Maximum Residential Density:</u>
1 unit per 10 acres

<u>Development Rights:</u>
None remaining

Figure A-4 shows how development rights would change if the property were rezoned to allow a greater residential density. If Parcel 1 were rezoned to a district that allowed a maximum of one (1) unit per five (5) acres instead of one (1) unit per ten (10) acres, the development rights on that parcel would increase.

The new development rights for Parcel 1 would be calculated as follows: 17.5 acres ÷ 5 acres/unit = 3.5 units which would be rounded down to three (3) units. Since there is already one (1) existing home on the parcel, two (2) development rights would be created.

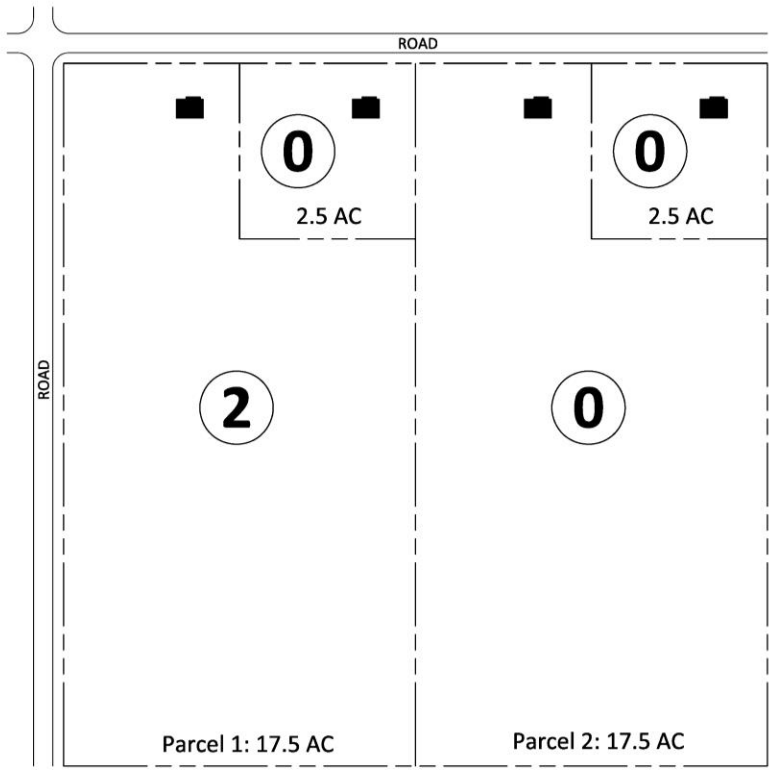


Figure A-4

<u>Maximum Residential Density:</u>
1 unit per 5 acres rezoned Parcel 1

1 unit per 10 acres remaining parcels

<u>Development Rights:</u>
2 units created on Parcel 1

Figure A-5 shows a different scenario. This is the same original forty (40)-acre parcel depicted in Figure A-1, but with an alternate development approach. In this example, the land divisions and homes are coordinated and clustered together to preserve the maximum amount of contiguous open space. This open space may be agricultural land, woodland, or natural area.

If the zoning allows a maximum residential density of one (1) unit per ten (10) acres, then four (4) total homes are possible, including the home from the original forty (40)-acre parcel. The example here, however, shows a total of five (5) homes. This is possible in certain zoning districts in some towns through the provision of bonus density. Granting bonus density is considered when lots and homes are clustered together with a minimum of fifty percent (50%) open space. See Section 9.0. If a town allows bonus density, it is indicated on local town zoning maps.

The maximum bonus possible is one (1) additional lot and home for every four (4) lots allowable per zoning. See Section 8.2.4.d (3).

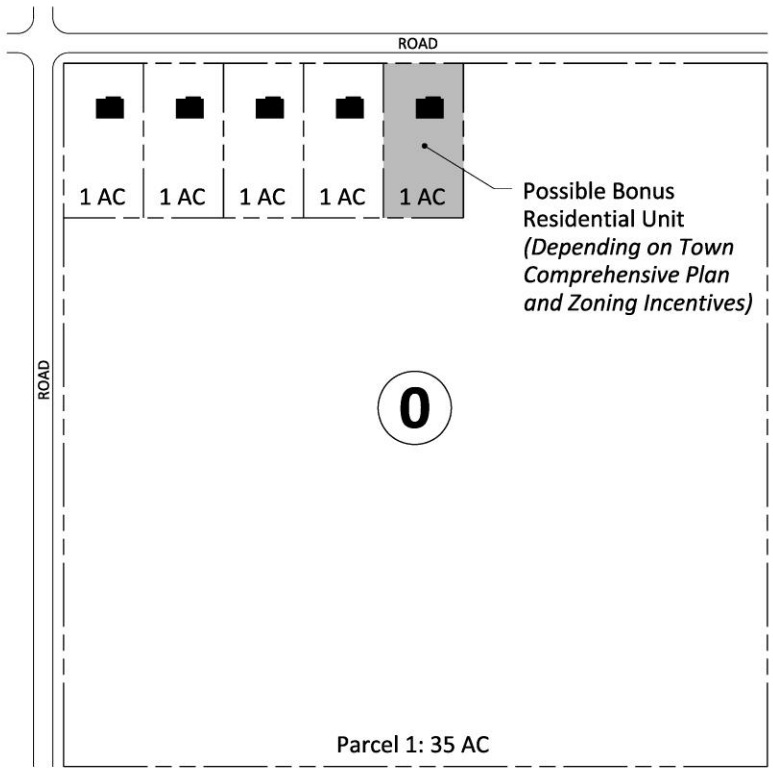


Figure A-5

<u>Maximum Residential Density:</u>
1 unit per 10 acres

<u>Development Rights:</u>
None remaining

Figure A-6 shows a scenario where a property owner owns two (2) adjacent forty (40)-acre parcels, eighty (80) acres in total common ownership, situated in the Agriculture Retention Zoning District with a maximum residential density of one (1) dwelling unit per twenty (20) acres and a minimum lot size of two (2) acres. The property owner chose to cluster the lots along an existing right of way to preserve open space and minimize infrastructure cost. No additional lots could be created from the remaining seventy-two (72) acres without a change in the comprehensive plan designation and zoning of the subject property.

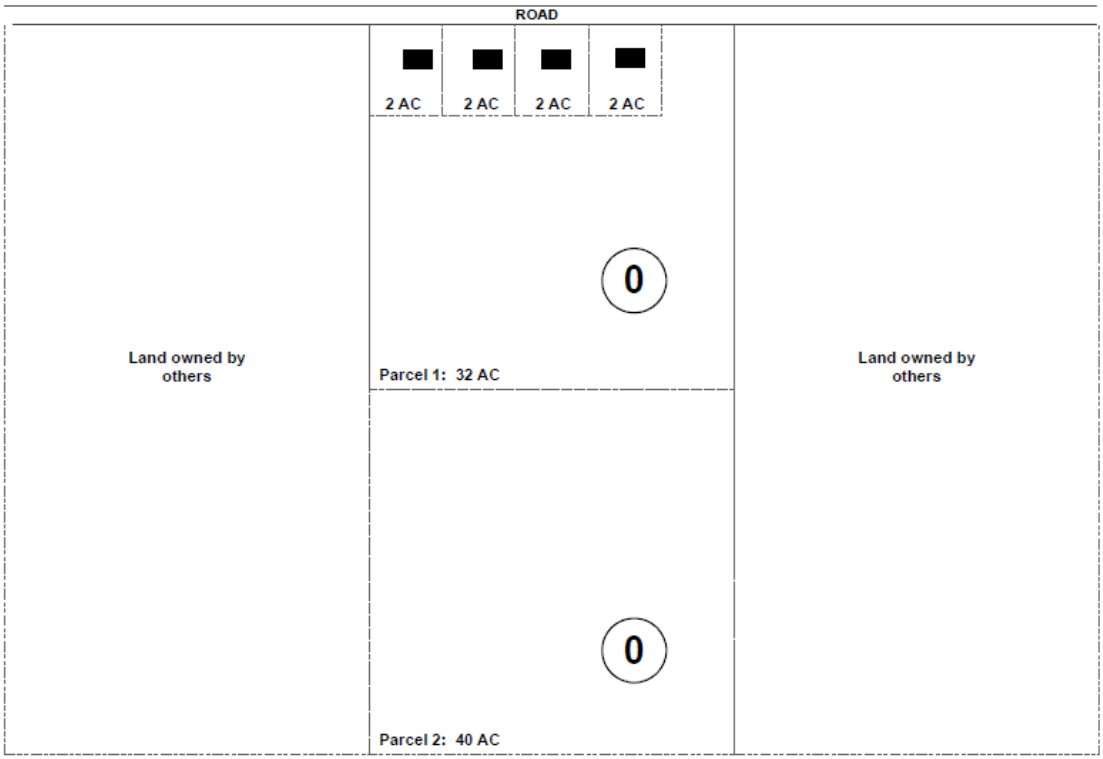


Figure A-6

Appendix B – Animal Density Unit Standards

The following table is based on the Wisconsin Department of Agriculture, Trade and Consumer Protection Agency Animal Density Unit Standards. Any changes to the State standard will be automatically reflected in the table below. Where an animal is not provided on Appendix B; 1,000 pounds of live weight is equivalent to one (1) animal unit.

Waupaca County Zoning Ordinance, Chapter 34							
ANIMAL UNIT DENSITY WORKSHEET							
Parcel Number:							
Animal Type		Animal Units					
		b. Equiv. factor		**c. Current Animal Units**	**d. Proposed Animal Units**	e. Total Units	
Example - Broilers:		*0.005*	*x*	***150,000***		*=*	*750*
Dairy/Beef Calves (under 400 lbs)		0.20	x			=	0
Dairy Cattle	Milking & Dry Cows	1.40	x			=	0
	Heifers (800 lbs to 1200 lbs)	1.10	x			=	0
	Heifers (400 lbs to 800 lbs)	0.60	x			=	0
Beef	Steers or Cows (400 lbs to market)	1.00	x			=	0
	Bulls (each)	1.40	x			=	0
Veal Calves		0.50	x			=	0
Swine	Pigs (up to 55 lbs)	0.10	x			=	0
	Pigs (55 lbs to market)	0.40	x			=	0
	Sows (each)	0.40	x			=	0
	Boars (each)	0.50	x			=	0
Chickens	Layers (each)	0.01	x			=	0
	Broilers/Pullets (each)	0.01	x			=	0
Buffalo (each)		1.40	x			=	0
Camelids (Camels etc) (each)		1.00	x			=	0
Camelids (Llamas/Alpacas, etc.) (each)		0.20	x			=	0
Deer, Farm Raised (each)		0.20	x			=	0
Donkeys (each)		1.00	x			=	0
Ducks (each)		0.01	x			=	0
Elk (each)		0.70	x			=	0
Ratites/Emu (each)		0.10	x			=	0
Game Birds, Farm Raised (each)		0.01	x			=	0
Goats/Sheep (each)		0.10	x			=	0
Horses (each)		2.00	x			=	0
Ponies/Miniature Horse (each)		0.50	x			=	0
Rabbits (each)		0.01	x			=	0
Turkeys (each)		0.018	x			=	0
Total Animal Units:				**Total Animal Units =**		**0**	
		(add all rows above)					
Total Acreage Needed:							

*The above provisions apply ONLY to non-farm use as defined in Section 1.7(48) of the Waupaca County Zoning Ordinance.

WAUPACA COUNTY

NON-METALLIC MINING ORDINANCE

CHAPTER 38

Creation of Chapter 38 of the General Code of Ordinances, Nonmetallic Mining Ordinance. Created and enacted by the Waupaca County Board of Supervisors on May 19, 2015. Published and effective as of May 28, 2015.

Be it known, that the Waupaca County Board of Supervisors enacted amendments to the Waupaca County Non-Metallic Mining Ordinance, Chapter 38 of the Waupaca County General Code of Ordinances on June 16, 2020. Effective upon publication of June 25, 2020.

Waupaca County Non-Metallic Mining Ordinance

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Part I General

1 **Title.** This ordinance shall be cited as the Waupaca County Nonmetallic Mining Ordinance and referred to herein as “this Ordinance”.

2 **Preamble and Findings.** Nonmetallic Mining constitutes a legitimate and permissible activity in the State’s economy and, when performed responsibly, has the potential to beneficially impact County residents, natural areas and economics. Nonmetallic Mining may provide employment opportunities, needed construction, industrial and road-building materials and significant economic benefits to local communities. However, Nonmetallic Mining is not appropriate in all land use designations and, therefore, is regulated herein in accordance with county procedures for conditional use permits.

3 **Statutory Authority.** This Ordinance is adopted under authority of the Wisconsin Statutes including, without limitation, Secs. 59.51, 59.69, 295.12(1)(a) and Wisconsin Administrative Code, sec. NR 135.32.

4 **Effective Date.** The provisions of this Ordinance shall take effect upon proper adoption by the County Board of Waupaca County with an effective date of May 28, 2015.

5 **Intent, Purpose and Objectives.** The purpose of this Ordinance is to establish a County Ordinance which systematically considers nonmetallic mining permit applications, and promotes the health, safety, prosperity, and general welfare of the people and communities of Waupaca County. The general intent of this Ordinance is to regulate the location, construction, installation, alteration, design, operation, and use of all Nonmetallic Mining Sites while considering the appropriate conservation, land and water resources objectives of the County. The objectives of this ordinance are to set forth rules and procedures to govern all aspects of Nonmetallic Mining within the County, establish procedures for the administration and enforcement of this Ordinance, and provide penalties for its violation. This Ordinance shall supplement the existing procedures set forth in Chap. 34 (Waupaca County Zoning Ordinance). In the event a specific process, procedure, standard or requirement in this Ordinance is different from or in conflict with Chapter 34 (Waupaca County Zoning Ordinance), this Ordinance shall control.

6 Applicability

6.1 The requirements of this Ordinance apply to any and all operators of Nonmetallic Mining Sites within Waupaca County whose Conditional Use Permit application has not been approved prior to the Effective Date and any existing mines that are legal nonconforming, unless an operator is exempt from regulation in accordance with Section 12 of this Ordinance. The Planning and Zoning Director may waive portions of the specified information request associated with the permit application process if in the Director’s opinion it is determined that, because of the nature or

method of the operation, such information is not relevant or is unnecessary to a full and proper evaluation of the application. The Director shall provide notice to the Committee no later than at the public hearing on the permit application regarding what information has been waived by the Director. The Committee, in its discretion, may demand an applicant provide any application information requested that was waived by the Planning and Zoning Director.

6.2 An operator subject to Nonmetallic Mining and Reclamation ordinances of a municipality within Waupaca County is not required to comply with this Ordinance unless that municipality has adopted County zoning provided, however, that the Applicant is required to comply with Chapter 43 of the Waupaca County Ordinances (Reclamation) in its entirety if the specific municipality does not have an approved Reclamation Ordinance consistent with Wis. Adm. Code Ch. NR 135.

7 Definitions

7.1 For the purposes of this Ordinance, unless specifically modified in this Section 7, all definitions contained in Wis. Admin. Code Ch. NR 135 are adopted herein. It is the intent of this Ordinance to apply common meanings to common terms that are used in this Ordinance and Wis. Admin. Code Ch. NR 135.

7.2 **Active Mine Site and Active Mine Boundary:** The expression upon the land surface of a more or less continuous series of points that when taken together enclose all activities and operations that occur at the mine site on a daily or weekly basis, together with all structures, processing areas, facilities, parking areas and interior haul roads that are integral to or directly serve the mining operation and all stockpiles, waste piles, settling ponds, retention ponds, detention ponds, and lay-down areas that are utilized by the mining operation.

7.3 **Applicant:** A person who has applied for a Nonmetallic Mining permit under this Ordinance.

7.4 **Application:** The application form, fees, information and any materials required to be submitted in accordance with this Ordinance. The Application is the basis for a permit decision by the Committee.

7.5 **Board:** The Waupaca County Board of Adjustment.

7.6 **Committee:** The Waupaca County Planning and Zoning Committee.

7.7 **Discontinued Use:** A property associated with a Non-Metallic Mining Site that at one time was an active Non-Metallic Mining Site, but has not paid the annual NR 135 operator fee by March 31st of any year.

7.8 **Enlargement:** Any increase in dimensions beyond the terms of the original permit.

7.9 **Exploratory Boring:** An excavation or opening deeper than it is wide that extends more than ten (10) feet below the ground surface for the purpose of obtaining information on the physical, chemical, radiological or biological characteristics of geological formations or depth to groundwater, excluding any drill holes regulated by Wis. Admin. Code Ch. NR 141.25.

7.10 **Compliance.** Unless otherwise defined, Compliance means the Operator maintains legal authority to operate under required permits and safety guidelines issued and/or overseen by local, state or federal issuing or regulatory authorities. State or federal regulatory authorities shall exclusively determine the Operator's Compliance, unless the permit or regulation has been exclusively established by the County, in which case the County shall determine Operator's Compliance.

7.11 **Floodplain:** That land which has been or may be covered by flood water during a regional flood regardless of the length of time the area holds the flood. It includes the floodway, flood fringe, shallow depth flooding, flood storage, and coastal floodplain areas. Other relevant and related terms have the definitions established by Wis. Adm. Code Ch. NR 116.

7.12 **Hazardous Materials:** Any substance or combination of substances regulated as a "hazardous material" as that term is defined in state and federal law.

7.13 **Based on the Life of the Mine:** With respect to all un-reclaimed lands that are part of the mine site, the time period beginning at mine permit issuance and extending through the day on which the land is restored in accordance with the approved reclamation plan and all associated costs to be borne by the mine or mine Operator and payable in fulfillment of the mine permit and reclamation plan have been paid in full.

7.14 **Permit:** The Nonmetallic Mining Permit subject to the requirements of this Ordinance.

7.15 **Modification:** Any change or amendment to the original permit or conditions required under the permit whether requested by the Operator and approved by the County or determined by the County to be necessary.

7.16 **Native Plant Species:** One that is indigenous in a particular region, state, ecosystem and habitat without direct or indirect human activity.

7.17 **Nonmetallic Mining:** All of the activities, processes, operations and all other actions described under Wisconsin Admin. Code Sec. NR 135.03(13) that occur on a Nonmetallic Mining Site or Site.

7.18 **Nonmetallic Mining Structures:** Any buildings, facilities, permanent equipment or framework that is located on the Site. It includes, but is not limited to, mining and

processing equipment, storage facilities and improvements, mechanical shops, paved parking surfaces and office space.

7.19 **Nonmetallic Mining Waste:** The non-marketable materials removed from the land prior to or during the Nonmetallic Mining process including an industrial sand mining process. It includes waste soil, rock, mineral, sand and all other materials, including but not limited to flocculants, that results directly from the operator's Nonmetallic Mining, and that is designated for disposal at the operator's designated Nonmetallic Mining site or elsewhere as authorized by the operator's licenses, permits, approvals and reclamation plan.

7.20 **Nonmetallic Mining Site or Site:** All of the areas defined by Wisconsin Admin. Code Sec. NR 135.03(16)(a).

7.21 **Nonmetallic Mining Reclamation Plan** has the meaning and incorporates the requirements established by NR 135.

7.22 **Registered or Licensed Professional:** A person who is licensed as a professional pursuant to Wis. State Statute or Wis. Admin. Code.

7.23 **Significant subsidence:** Any cave ins, sinkholes, depressions, or settling of the surface or mine sides that will likely result in Stormwater Pollution Prevention Plan (SWPPP) violations or run-off, mudslides or releases to neighboring properties associated with a Nonmetallic Mining Site under this Ordinance.

7.24 **State Natural Area:** Has the meaning set forth in Wis. Stat. 23.27.

7.25 **Wetland:** Has the meaning established by Wisconsin State law: An area where water is at, near, or above the land surface long enough to be capable of supporting hydrophytic vegetation and which has soils indicative of wet conditions.

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

9 **Restrictions Imposed Under Other Authority.** The purpose of this Ordinance is to establish a County program for Nonmetallic Mining permitting in accordance with state law, including but not limited to, Wisconsin Administrative Code Chs. NR 135 and NR 340. This Ordinance is not intended to repeal, abrogate, annul, impair or interfere with any existing laws, regulations, ordinances, rules, standards or permits that are not specific to Nonmetallic Mining previously adopted pursuant to other Wisconsin law. This Ordinance does not repeal, abrogate, annul, impair, limit or interfere with any existing requirements under Chapter 43 (Waupaca County Non-Metallic Mining Reclamation Ordinance). In the event of a conflict between this Ordinance and Chapter 43, Chapter 43 shall control. In the event a specific process, procedure, standard or requirement in this Ordinance is different from or in

conflict with Chapter 34 (Waupaca County Zoning Ordinance), this Ordinance shall control.

10 **Interpretation.** In both interpretation and application, this Ordinance shall be held to be the applicable requirements for Nonmetallic Mining in Waupaca County and shall not be considered a limitation or repeal of any other power granted by Wisconsin Statutes. Where any terms or requirements of this Ordinance may be inconsistent or conflicting, the more restrictive requirements or interpretation of this Ordinance shall apply. Where a provision of this Ordinance is specifically required to comply with Wisconsin Statutes Sec. 295, or environmental standards of Wisconsin Statutes, or Wisconsin Administrative Code Chapter NR 135 or environmental regulations, and where the provision is deemed to be unclear, the provision shall be interpreted to be consistent with the Wisconsin Statutes and Wisconsin Administrative Code requirements.

11 **Limitation of Action Challenging Validity of Ordinance.** Pursuant to Wisconsin Statutes Sec. 59.69(14), a land owner, occupant, County citizen or other person impacted by this Ordinance or any potential future amendment hereto, who claims that this Ordinance or its amendment is invalid because procedures prescribed by the statutes or other ordinance were not followed must commence a court action within six (6) months after adoption of this Ordinance or forever be barred from asserting such a claim.

12 **Exemptions.** The Ordinance does not apply to:

12.1 The exempt activities listed in Wisconsin Administrative Code NR 135.02(3)

12.2 Any excavation, construction, dredging or enlargement subject to a permit under the requirements of Wis. Stat. Ch. 30 when the activity is not for the purpose of Nonmetallic Mining. However, should a Nonmetallic Mining Operation require a Chapter 30 permit this exemption shall not apply.

12.3 Any excavation required pursuant to an order from a regulatory authority to abate environmental pollution.

12.4 This Ordinance does not apply to the lawful use of a building, structure or lot for Nonmetallic Mining Operations which existed at the time this Ordinance, or an applicable amendment to this Ordinance, took effect and which is not in conformity with the provisions of this Ordinance, subject to the following conditions:

12.4.1 If a nonconforming use is discontinued for twelve (12) consecutive months, any future use of the building, structure or property shall conform to this Ordinance.

12.5 A legal nonconforming mine operating in accord with the common law diminishing asset rule.

12.6 In the event the County or a town within the County has prior to the effective date of this Ordinance entered into a local agreement to which the County or town is a party, including a development agreement or road agreement, that addresses Nonmetallic Mining activities, Nonmetallic Mining shall be permitted pursuant to the terms of the local agreement until such time that all activities under the local agreement are discontinued for a period of at least twelve (12) consecutive months.

13 Registration

13.1 Wisconsin Admin. Code Ch. NR 135 allows landowners to register land which contains economically viable Nonmetallic Mineral deposits. All registrations must comply with the requirements of NR 135 subchapter VI.

Part II Nonmetallic Mining Standards

14 Permits Required

14.1 **Conditional Use Permit Required.** Nonmetallic Mining is authorized pursuant to a Conditional Use Permit.

14.2 **Reclamation Permit Required.** Nonmetallic Mining Reclamation is authorized pursuant to a permit applied for and obtained in accordance with the requirements of Wis. Admin. Code Ch. NR 135 and Chapter 43 of the Waupaca County Nonmetallic Mining Ordinance. All Applicants intending to operate a Nonmetallic Mining Site subject to the review and permit requirements of this Ordinance must follow applicable Waupaca County reclamation requirements.

15 Prohibitions

15.1 Nonmetallic Mining is prohibited in all zoning districts other than Agricultural Enterprise (AE), Agricultural Retention (AR), Private Recreation and Forestry (PVRF), Agriculture and Woodland Transition (AWT), Rural Industrial-General (RI-G) and Rural Industrial-Intensive (RI-I).

15.2 Nonmetallic Mining activities are prohibited within any of the following described areas unless it can be demonstrated that the activities will not have an adverse impact upon the described area. The areas include both the above-ground portion and the underground portion extending vertically from the site boundaries within the specified setback areas.

(1) Within one hundred fifty (150) feet of any State Natural Area.

(2) Within a floodplain.

16 Setbacks

16.1 The setbacks in this section shall apply to all Nonmetallic Mining activity including, without limitation, the storage of waste materials, stockpiling, inventory, and equipment. The setback requirements do not apply to berms or other methods of landscape screening.

16.2 Where berms or screening of any kind is deemed unnecessary, the active Nonmetallic Mining operation shall be located at least fifty (50) feet from all exterior lot lines.

16.3 The active Nonmetallic Mining operation shall be located at least one hundred fifty (150) feet from public road centerline or one hundred (100) feet from the road right-of-way, whichever is greater. Adjoining Nonmetallic Mining operations are not subject to the exterior lot line setback for the lot line that is shared by those operations, if agreed to by the adjoining landowner or operator. This written agreement shall be recorded with the Register of Deeds as a deed restriction.

16.4 No active Nonmetallic Mining operation shall be conducted within five hundred (500) feet of a dwelling unit, commercial structure, or active farm building other than that of the owner or operator unless a written agreement with the adjacent landowner is approved by the Planning and Zoning Committee. This written agreement shall be recorded with the Register of Deeds as a deed restriction. This setback may also be increased depending on the size and scope of the mining operation on a case by case basis at the discretion of the Planning and Zoning Committee.

16.5 No active Nonmetallic Mining operation shall be conducted within thirteen hundred twenty (1320) feet of a recorded State or County Subdivision Plat.

16.6 The Planning & Zoning Committee may authorize berm construction to within twenty-five (25) feet of any exterior boundary of the tract.

17 Compliance with all County, Local, State and Federal Legal Requirements

17.1 The Operator must comply with all local, state and federal laws, permits, regulations, other requirements or obligations and amendments thereof.

17.2 Compliance with law includes, but is not limited to building permits, roadway limits, Department of Transportation licensing, blasting and noise standards, environmental, and occupational safety and health requirements.

17.3 Road Agreements. The Operator must comply with Road Agreements from the town and the County highway department for the transportation haul route in conformance with standards and requirements set forth by the town or county in substantial conformance with any Road Agreement.

17.4 Where other County approvals are necessary those approvals shall be incorporated into a permit upon issuance. The Applicant/Operator is responsible for ensuring that the County receives copies of any approval, permit extension, revision and reissuance.

17.5 For operations located within a Farmland Preservation Area, said operation shall also satisfy the requirements of Wis. Stats 91.46 (6).

18 Monitoring

18.1 Operator agrees to conduct monitoring activities, annually or more often if necessary, to ensure compliance with this ordinance and conditions associated with the permit. A checklist will be created using the conditions of the permit to track and archive compliance.

19 Property Protection Safety and General Operating

19.1 **Gating:** The Nonmetallic Mining Site shall be gated and locked during non-operating hours at all site entrances.

19.2 **Lighting:** Lighting shall be limited to that which is minimally necessary for safe mining operations, site accessibility and security. All lighting shall be shielded and pointed downward to avoid illuminating offsite. Nighttime lighting is limited to that reasonably necessary for security purposes, operations consistent with the permit and for any emergency repairs or hour extensions approved by the County.

19.3 **Site Enclosure:** Enclosures shall be installed so as to enclose and control access points and areas along highways, roadways or thoroughfares of the Mining Site. Enclosures may be solid wood slat, metal chain link or other fencing materials; vegetative; or berms.

19.4 **On-site Fuel Storage:** All petroleum products kept onsite and related to the mining operation shall be stored in state approved fuel storage and fueling areas. All petroleum product storage tanks shall provide leak proof containment consistent with applicable state and federal law. Where fueling trucks are used to refuel equipment onsite, all fueling must occur according to applicable state and federal law.

19.5 **Hours of Operation:** Nonmetallic Mining operations shall be limited to reasonable hours consistent with the characteristics of the property and neighborhood surrounding the operations, the impact of the operations on the community and

residents thereof and the Operator's needs. The Nonmetallic Mining site shall only haul, produce and remove nonmetallic material from 6:00 a.m. to 6:00 p.m. Monday - Friday and 8:00 a.m. to 12:00 p.m. on Saturdays and no Sundays or Holidays, unless the Operator applies for and is granted alternate hours of operation as a condition of the conditional use permit. In order to be eligible to receive approval, the operator shall give the zoning office thirty (30) days' notice of a special exception to the granted hours of operation. The use of blasting will only be allowed between the hours of 8:00 a.m. and 4:00 p.m. Monday – Friday, and not on any holidays.

19.6 **Hazardous Materials Storage:** Hazardous materials shall be stored in compliance with all state, federal and local laws.

19.7 **Berms and Screening:** Where practical, an earth berm and/or vegetative screen providing adequate screening of the mine site shall be erected and maintained to screen the mine site. The Planning and Zoning Committee shall determine the practicality and necessity of aesthetic screening in each individual mining operation and include it as a permit condition. At a minimum, all mine sites shall comply with the following:

1. A berm shall be constructed along the adjacent road right-of-ways. The use of berms to create a "S" curve on a entrance or exit may be required;
2. The berm shall be at least ten (10) feet above the surface of the center adjacent road right-of-ways;
3. The outward-facing slopes of said berm shall not be steeper than three (3) horizontal units to one (1) vertical unit. The inner-facing slopes may be steeper, but must be stabilized and maintained to remain stable;
4. Prior to construction of said berm, the applicant shall present a detailed berm construction plan to the Planning and Zoning Office for approval. The plan shall include drainage, erosion control, seeding and any landscape features;
5. The berm shall be constructed within fourteen (14) days of stripped overburden and topsoil becoming available from the mine site or from suitable outside sources. The berm may be installed in phases at the discretion of the Planning and Zoning Committee;
6. Only clean overburden from the mining site or suitable outside sources shall be used in constructing the berm;
7. The exterior of the berm shall be kept free of invasive species (as determined by NR 40), trash and debris;
8. Additional fencing, screening or landscaping may be required as deemed necessary.

19.8 **Boring holes:** The Operator shall maintain compliance with Chapter 281 of the Wisconsin Statutes and NR 141.25 with respect to the abandonment of boreholes and exploratory drilling sites.

20 Insurance

20.1 **Insurance.** The Applicant must provide the County with a certificate of insurance prior to the commencement of any activity at the site. The certificate must demonstrate sufficient levels of insurance, as determined by the Committee, and be in accordance with general industry standards. In addition to any other review rights provided in this Ordinance, the Committee reserves the right to review permits granted under this Ordinance for purposes of evaluating the sufficiency of insurance and may order that the Applicant provide additional levels of insurance as a condition of the continued issuance of the permit.

21 Environmental Protection Standards

21.1 **General Compliance**. The Operator must comply with all applicable local, state and federal environmental protection laws.

21.2 **Air Emissions.** The Operator must comply with all state and federal requirements including but not limited to Wis. Adm. Code Sec. 407, 415, 440 and 445 and ensure proper air permitting.

21.3 **Groundwater.** The Operator must comply with all state and federal requirements intended to regulate groundwater in any manner. The Operator shall comply with relevant requirements of NR 809, 810, 812, 815, 820, 850 and 856 and Wis. Stats. Ch. 280.

21.4 Groundwater Monitoring.

1. The applicant shall send a certified letter, with receipt requested, to all neighboring properties, which have assessed structures in excess of a value of five thousand dollars ($5,000), which are located within thirteen hundred twenty (1,320) feet of the proposed perimeter of the mining extraction area. The letter shall notify the owner of the owner's right to have a baseline test performed within sixty (60) days of receipt of the letter on the landowner's well. The applicant shall be responsible for all well testing where the property owner has indicated in writing within the sixty (60) day period mentioned that they want to have their well tested and have granted permission for access and testing on the property. Mine operators are strongly encouraged to get written evidence from all property owners that choose not to participate in the baseline testing. Baseline testing shall test for, at a minimum, bacteria, turbidity and drawdown, or any chemicals which are in use by the nonmetallic mine operation. Testing must be completed and results obtained prior to commencing any permitted activity on site. Drawdown tests shall be conducted when requested in writing by a well owner who believes the quantity of water in the well has been impacted by the mining activities. All tests shall be performed by a qualified third party professional. Through baseline testing, if a well is found to be out of

compliance, it must be brought up to code prior to being eligible for the well guarantee program.

a. Groundwater well guarantee. Mining operations will not adversely affect the quantity or quality of groundwater at off-site properties. If mining operations adversely affect an off-site water-supply well, the operator will repair or replace the well to provide the same quantity of groundwater obtained from the well prior to the mining operations. This guarantee applies to all existing wells located within thirteen hundred twenty (1,320) feet of the nonmetallic mine. The mining operator shall make a reasonable effort to measure the water levels in these wells prior to beginning quarry operations, so that property owners and operators will have a record of baseline conditions if a dispute arises.

2. All test results shall be provided to both the owner and the County within ten (10) days of receipt of the test results. If test results show that the well is not suitable for use as a result of the mining activity, the applicant shall take all reasonable steps to alleviate any problems including, but not limited to, immediately providing a temporary water source, well repair, or code compliant well replacement. In no case shall bottled water be provided as a permanent solution. The applicant shall also be responsible for, at the applicant's option, either repairing the well, drilling a new well or casing a well, which was found compliant and safe at the time the Conditional Use Permit was issued which later revealed turbidity, or drawdown problems as a result of the mining activity. Wells that were not included in the baseline testing, due to the installation date, or an owner indicating a willingness to be exempt from the baseline testing, are not subject to these provisions.

   a. Any eligible owner claiming an adverse effect on groundwater supply shall provide written notice to the operator and the county, by certified mail, explaining the nature and the extent of the problem. Within thirty (30) days of written notice to the operator, the operator will make a written determination as to whether the groundwater problem was caused by its operations, and, if so caused, the amount of compensation to be provided to the owner. The operator will file its written determination with the County Zoning Director and send a copy by certified mail to the owner. The owner shall have seven (7) days to accept or decline the determination of the operator and any specific amount of compensation.

21.4.1 The owner shall, within thirty (30) days of his election not to accept the operator's determination, make a written determination as to whether the groundwater problem was caused by the operator's operations, and, if so caused, respond with the owner's resolution to the operator with a copy sent to the County Zoning Director. The owner shall file a written determination with the County Zoning Director. The Planning and Zoning Committee shall review the materials submitted by the operator and property owner and may request that the parties attend a meeting to further explain their positions. The Committee shall have no jurisdiction to force a resolution to a dispute under this paragraph and resolution of any dispute shall not impact an operator's permit hereunder unless operator fails to follow the procedures herein.

3. An applicant may install a residential well for use in the Nonmetallic Mining operation. High capacity wells and high capacity well systems, both as defined in Wis. Admin. Code NR 812.07, as amended, shall comply with Wisconsin State Law and Wisconsin Administrative Codes, concerning high capacity well systems.

4. As part of the Conditional Use Permit, the Planning and Zoning Committee may require a qualified person to conduct a hydrologic study of the site if the mining activity will occur below the groundwater level. The study should characterize proposed dewatering effects on on-site and adjacent property water levels (groundwater quantity). On-site water supply wells or nearby private wells completed in the uppermost aquifer may also be used for monitoring purposes. Water levels should be measured in these wells on a quarterly basis for at least three (3) years, and annually thereafter, in order to understand natural seasonal variation in water levels and to be able to differentiate the effects of natural variation from those related to mining operations

21.5 **Surface Waters.** Due to the prevalence of surface waters in Waupaca County it is likely that some applications will be for sites near waterways. The Operator must comply with all state and federal requirements intended to regulate surface waters. Applicants must comply with NR 200 et. seq., NR 135, 140, 299 and 340 requirements, Wis. Stats. Chs. 30, 31, 281 and 283.

21.6 **Wetlands.** The operator must comply with all federal and state requirements related to wetland regulations. Operators must receive proper DNR and US Army Corps of Engineers permits and approvals in accordance with Wis. Stats. Ch. 299, Wis. Adm. Code Chs.103, 350, 351, 352 and 353 and under Section 404 of the Federal Clean Water Act should its operation require such permits and approvals.

21.7 **Stormwater.** The operator is required to comply with state stormwater permitting requirements. Should the site discharge stormwater off site and/or to surface waters the operator must prepare and implement a Stormwater Pollution

Prevention Plan (SWPPP) and comply with Wis. Stats. Admin. Code Ch. 216 and NR 151.

21.8 **Wastewater Discharges.** The operator is required to comply with all state, federal and local wastewater discharge requirements which may include specifications for wastewater discharge and pit dewatering.

22 Emergency Actions.

22.1 The operator must comply with all state and federal requirements for emergency actions, spills reporting, safety and human health emergencies. For example, the operator must comply with spill reporting requirements and Department of Labor reporting. Relevant legal standards include NR 600 and 700-749 and Wis. Stats. Chs. 291 and 292.

22.2 The operator shall maintain emergency contact information with the County. In the event the County must respond to an emergency at the Site the contact shall be notified as soon as reasonably possible. If the emergency contact is unavailable, the County shall notify the applicant or his/her agent identified on the application materials.

22.3 The County is not responsible for any damage it may cause to the Site in carrying out an emergency response.

23 **Waiver of Liability.** Issuance of a permit in no way creates any Site responsibility for the County. The Operator releases, waives and discharges any liability claims or causes of action against the County related to the issuance of a permit.

24 **Dust and Mud.** The Operator shall utilize appropriate Best Management Practices as specified by Wisconsin DNR. The Planning and Zoning Committee may require additional practices as deemed appropriate.

24.1 The operator shall make every effort to prevent tracking of dust, mud and debris to public roads. The operator will be required to clean up any dust, mud and debris that is tracked on a public road.

24.2 The Planning and Zoning Committee may require the paving of any access onto a public road.

25 Blasting and Logs.

25.1 **Blasting:** All blasting shall be done in compliance with State and Federal guidelines and requirements, including Chap. SPS 307.41 of the Wisconsin Administrative Code. In addition to the regulations on blasting in Section 19.5, blasting hours may be regulated by the conditions placed on the Conditional Use Permit.

25.2 **Blasting Logs:** Blasting logs shall be provided to the County within forty-eight (48) hours, excluding weekends, of a written request from the County. Blasting logs shall include only the date, time and location of any blasting activities.

Part III Permitting

26 **Permit Requirements.** Nonmetallic Mining shall be permitted only as a Conditional Use in accordance with County zoning and only if a permit is obtained pursuant to the requirements of this Ordinance. Any permit obtained under this Ordinance shall be conditioned upon Operator obtaining all other applicable permits pursuant to any other applicable federal law, state law, Section of this Ordinance and the County Code of Ordinances in its entirety. A permit granted under Chapter 38 shall be also be deemed a permit granted under Chapter 34 (Waupaca County Zoning Ordinance). All operators seeking a Conditional Use Permit under this Ordinance shall apply on forms provided by the County and according to the policies of the Zoning Office as applicable to the Conditional Use Permit.

26.1 An application for a Nonmetallic Mining permit shall not be considered under this section unless all other necessary permits, licenses and approvals have been properly applied for in accordance with any applicable local, County, state and federal regulations. Complete regulatory approval applications must be submitted for all applicable local, county, state, federal permits and approvals and to each town in which any part of the proposed Nonmetallic Mine will be located. The Applicant is solely responsible for providing of all required information associated with the Nonmetallic Mining Permit. Any failure to provide information will result in an incomplete application and a process delay.

26.2 **Reclamation Plan:** Chapter 43 Non-Metallic Mining Reclamation Ordinance for Waupaca County must be followed. East Central Wisconsin Regional Planning Commission (ECWRPC) administers the Reclamation Ordinance. Approval of a reclamation plan and issuance of a reclamation permit must be received and placed on file with the County prior to commencement of extraction activities.

26.3 **Permit Application Form:** The Applicant shall complete and submit the application form provided by the Planning & Zoning Office. The application shall include the following:

1. Filing Fees
    a. The Applicant shall submit a fee in accordance with the Waupaca County Planning and Zoning Fee Schedule. The fee is intended to cover the anticipated actual costs of reviewing the Nonmetallic Mining Permit including, without limitation, any reasonable investigative, exploratory, review, analysis or similar activities undertaken by Waupaca County or experts.

2. A Signed and Notarized Statement. The permit application must be complete with all notarized signatures and attachments.

26.4 **Operation Plans**. The application submitted for a Conditional Use Nonmetallic Mining Permit shall be accompanied by the following information and/or plans reasonably reflecting the best information available at the time of the application:

26.4.1 A land survey completed by a land surveyor registered in the State of Wisconsin showing the location of the tract or tracts of land with parcel identification numbers marked, to be included in the proposed mining operation, including the proposed mine boundary.

26.4.2 The lateral extent of the proposed mine site at a scale not smaller than six hundred sixty (660) feet to the inch, with the mine site boundaries clearly shown.

26.4.3 A topographic map of the property to be affected by the mine operation at contour intervals no greater than ten (10) feet and extending a minimum of one quarter (¼) mile beyond the proposed mine boundary at a scale not smaller than six hundred sixty (660) feet to the inch, with the mine site boundaries clearly shown.

26.4.4 A map of all residential, agricultural and municipal wells within one quarter (¼) mile of proposed mine site boundaries.

26.4.5 A general location map showing the location of the site vicinity and political boundaries of included towns and the County, including the following:

1. Names of owners of the tract or tracts of land to be mined and the property owners of the land within one quarter (¼) mile of the Mine Site;
2. Locate and label all existing buildings within one quarter (¼) mile of the outer perimeter of the mine site;
3. The location and name of all surface water, including lakes, private or public ponds, streams (including intermittent streams and headwaters), drainage ditches, wetlands, drainage patterns and other water features on the site and within one quarter (¼) mile of the proposed mine boundaries.
4. Cross-sections of the proposed nonmetallic mine at intervals of not more than three hundred (300) feet or at interval otherwise approved by the County, but including at least three parallel cross sections and one perpendicular cross section.
5. A map at a scale of not less than four hundred (400) feet to the inch, showing the proposed sequence of mining, direction of mining, depth of mining, and estimated volumes of material to be removed. The map should also show the following existing or proposed features:

    a. Stockpiles and storage yards.
    b. On-site haul roads.

c. Proposed permanent or temporary structures with their identity marked.
d. Location of roadway access points.
e. Parking areas.
f. Buffer Zone.
g. Existing structures.

26.4.6 The dates of the proposed commencement and cessation of proposed mine construction and mine operation.

26.4.7 An estimated daily water budget that describes all the ways that water will be used in the Nonmetallic Mining operation including, but not limited to: the water required for the entire site whether for mining, human use, dust control or any function; the sources of water and all processes in which the water will be used, methods for treating, handling and disposing of water; volume of water consumed and discharged from the site as run-off, stormwater, dewatering or any other mechanism.

26.4.8 A description of all hazardous materials and hazardous wastes as defined by this Ordinance and state and/or federal standards, including fuel supplies that will be stored on site and a description of measures to be used for securing and storing all hazardous materials and hazardous wastes stored on site in accordance with Wis. Stats. Ch. 323.60.

26.4.9 A description of the measures that will be used to contain and remediate any spill or accidental discharge in accordance with Wis. Stats. Ch. 323.60.

26.4.10 A map of all proposed transportation routes, within the County, to be used to transport the Nonmetallic Mine materials from the mine to off-site processing plants or markets, including the frequency of traffic, type of vehicle used in transport, average loaded weight of vehicle, and the common schedule of travel to be used for transporting.

26.4.11 A description of measures to be taken to control noise, dust and vibrations from the operations, along with a statement of the proposed frequency of blasting, if any, to be used in the operation.

26.4.12 A description of the mining methods, machinery and equipment to be used for extraction and processing of extracted material.

26.4.13 A description of measures to be taken to screen the operation from view with earth banks, vegetative or other screening devices.

26.4.14 A lighting plan for the Nonmetallic Mining operation, including the type and style of lighting to be used and its power source.

26.4.15 A description of all fencing, gating and security measures in accordance with Section 19 of this Ordinance.

27 Application Review

27.1 Permit Application Procedures

27.1.1 Ten (10) hard copies and one (1) digital copy of the Application and all required materials shall be submitted in the County Zoning Office.

27.1.2 The Zoning Office will distribute one (1) copy of the Application to each member of the Planning and Zoning Committee, to other County Departments as necessary, to municipalities within five (5) miles of the proposed mine and file several copies for citizen review. Citizen review copies will be retained and made available by the Planning and Zoning Office.

27.1.3 The Zoning Office will forward a copy of the Application to the clerk of the town where the proposed mine is located, or the town chair if that particular town has designated the chair as the receiving party, along with a Town Recommendation Form. The consultation process may vary from town to town, and may involve the Town Plan Commission and/or Town Board. The town shall have forty-five (45) days from the date the application materials and Town Recommendation Form were forwarded by the Zoning Office to provide the Planning and Zoning Committee with a recommendation regarding the Application. After forty-five (45) days, if the affected town has not provided a recommendation to the Committee regarding the Application, and provided the applicant has attempted to meet or has met with representatives of the Town, the Committee shall schedule the public hearing. The Zoning Administrator may, in his or her discretion, extend the deadline for a town to provide its recommendation to the Planning and Zoning Committee.

27.1.4 Factors to be considered. The Committee shall consider the following provisions consistent with Section 14.05(2) of the Waupaca County Zoning Ordinance;

a. The proposed Conditional Use will be designed, constructed, operated, and maintained so as to be compatible, and be appropriate in appearance with the existing or intended character of the general vicinity, and such use will not change the essential character of the same area such that the use will substantially impair or diminish the use, value, or enjoyment of existing or future permitted uses in the area.
b. The proposed Conditional Use will be consistent with all relevant aspects of the Town and County Comprehensive Plans.
c. The proposed Conditional Use will not substantially increase the erosion potential of the site; negatively affect wetlands, floodplains, or water bodies;

or otherwise compromise surface or ground water quality based on topography, drainage, slope, soil type, vegetative cover, means of waste disposal and other relevant factors.

d. The proposed Conditional Use is located in an area that will be adequately served by, and will not impose an undue burden on, any of the improvements, facilities, utilities, or services provided by public agencies.

e. The proposed Conditional Use is in a location where access to streets and highways is suitable, and ingress and egress is designed to minimize traffic congestion and the potential effect on traffic flow.

27.1.5 Request for additional information. The County reserves the right to request additional information from the Applicant throughout the review process. Such requests will be in writing. The Applicant shall supply such information with urgency so as not to delay the review and subsequent proceedings. Should the County require additional time for review upon receiving the requested information it shall supply the relevant parties with a revised hearing schedule. This additional review time shall be limited to another thirty (30) days. However, if the Applicant does not respond within a reasonable time frame or supply appropriate and relevant information all time frames shall be suspended until such time as that occurs. The County must then supply a new notice with an adjusted schedule.

27.1.6 County's Ability to Employ Licensed Professionals. The County reserves the right to retain or appoint Licensed Professionals accredited in the field for which the individual is retained and/or legal professionals as it deems prudent to examine the application and to make recommendations to the County on whether the Nonmetallic Mining Operation proposed by the applicant will meet the standards of this Ordinance, to assist in evaluating Conditional Use Permit requests, consider conditions, and to assist the County in administering and enforcing the Ordinance.

27.2 Allowed Time for Review

27.2.1 Allowed Time for Review and Notice. Within thirty (30) days of receiving a Nonmetallic Mining Permit application the County shall determine the completeness of the application. If the application is deemed to be complete the County shall provide notice to the Applicant of the completeness determination. The County shall also provide notice within thirty (30) days of receiving a complete application as required in accordance with Subsection 27.3. A complete Application is one which meets all requirements for a Nonmetallic Mining permit application and the applicable standards of this Ordinance.

27.2.2 If the County determines that the application is not complete it shall notify the Applicant in writing of the deficiencies. The County shall have another thirty (30) days for review and to make a subsequent completeness determination upon receiving the additional materials.

27.2.3 When a completeness determination is made, the County shall include all hearing information in the Notice provided to the Applicant. The information should include the date, time and location of the hearing. The County must schedule the hearing within forty-five (45) days of the completeness determination.

27.3 **Public Notice.** The County shall post notice outside the County land use offices, other relevant offices, and publish a Class 2 notice pursuant to Wis. Stats. 985.07(2) that briefly describes the proposed mine and the material to be mined and states that a completed application is being reviewed by the County, is available at the County zoning offices, or online at http://www.co.waupaca.wi.us/zoning/Home.aspx for review and that a hearing will be held on a specific date for consideration of the Application, the mining operation plan and various conditions.

27.3.1 The notice shall be forwarded to all adjacent towns and cities/villages local boards or committees and all landowners within three hundred (300) feet of the site.

27.4 **Public Comments**. During the review period, prior to the public hearing, the County shall accept public comments regarding the project. Comments shall be in writing and submitted to the attention of the Planning and Zoning Office.

27.5 **Public Hearing.** The Committee shall conduct a public hearing to hear testimony on the Nonmetallic Mining Permit application at a date, time, and location specified in the public hearing notice. In the event that the scope, range of uses, or geographic area of the request is substantially increased from that noticed or presented at the public hearing, the Committee shall cause to be noticed and conduct an additional public hearing before taking action on the request. As soon as possible following the final public hearing, the Committee shall approve, conditionally approve, or deny the proposed Conditional Use Permit requested through the application.

27.6 Permit Conditions.

27.6.1 The County may impose conditions that include, but are not limited to, restrictive provisions and proof of financial security for county and town road maintenance and repair, restrictions on hours of operation, restrictions on truck routes on town and county roads, restrictions on truck and traffic volume into and out of the mine site, and any other restrictions deemed necessary and appropriate to protect the public health, safety and welfare consistent with state and federal law. The County reserves the right to impose conditions or restrictions that are more stringent than the minimum conditions or restrictions imposed by this Ordinance.

27.6.2 Proposed permit conditions shall be published upon the notice of a permit decision. If the County determines that the permit should be issued, it shall provide the permit conditions to the Operator and others who received notice in accordance with Section 27.3.1. Permit conditions shall be reviewed by the operator and the operator shall file a statement that the Operator agrees to comply with all conditions.

27.6.3 The Operator must promptly disclose any and all notices received from any other governmental body or regulatory authority wherein Operator is notified that its operations are or may be ordered to be ceased or otherwise materially impacted.

27.7 Application Decision.

27.7.1 Decision on Mining Operation Plan. The County shall approve, conditionally approve or deny the Mining Plan and Application submitted in accordance with this Ordinance. Permit Applications that satisfy the requirements of this Ordinance shall be approved or conditionally approved. Any denial shall comply with the requirements of Subsection 27.8. A decision regarding the issuance, denial and conditions of a mining permit shall be made within sixty (60) days of the completion of the hearing required under Subsection 27.5. The decision shall be in writing. The decision does not constitute final action. Upon approval or conditional approval of the Application and Plan, a determination by the County that all necessary fees are paid, and permits have been received, the County shall issue the Conditional Use Permit which shall become immediately effective. The Operator shall retain a copy of the Nonmetallic Mining permit approved under this subsection at the Mining Site, or if not practicable, at the Operator’s nearest place of business.

27.7.2 Permits issued pursuant to this subsection shall require compliance with a reclamation plan that has been approved and satisfies the requirements of Chapter 43 of Waupaca County Code of Ordinances and provisions by the Applicant of financial assurance required in compliance with the reclamation permit and payable to Waupaca County prior to beginning mining. Nonmetallic Mining shall not be permitted without a valid reclamation permit and necessary financial assurances whether required by this Ordinance or in accordance with the reclamation permit requirements.

27.8 **Permit Denial.** If the review by the County results in a permit denial, the reasons for permit denial shall be supplied in a written statement to the Applicant. Reasons for denial shall be specifically stated and reflect reasoned consideration by the County. Denial shall occur if the Applicant cannot demonstrate compliance with this Ordinance.

27.8.1 Prior to denial, the County shall provide the Applicant with an opportunity to make corrections. If, after this opportunity, the Applicant fails to provide the County with adequate permit applications, reclamation plan, operation plan, financial assurance or any other submittal required by Wis. Admin Code Ch. NR 135, Subchapter I of Wis. Stats. Ch. 295 or this Ordinance, the permit shall be denied.

27.8.2 Denial shall occur if the proposed Nonmetallic Mining Site cannot be reclaimed in compliance with the reclamation standards contained in this Ordinance, Chapter NR 135, Wisconsin Administrative Code or subchapter I. of Wis. Stats. Ch. 295.

27.9 **Appeals Process.** Following any decision made by the Board of Adjustment, the Applicant may appeal in accordance with Wis. Stats. Sec. 59.694(10).

Part IV Administration

28 **Mining Permit Modification**.

28.1 A Nonmetallic Mining permit issued under this Ordinance may be modified in the event that the County determines that circumstances or factors that should have been properly considered when approving the permit were not considered because of inadvertent oversight or in the event that circumstances or factors have changed since the date that the permit was issued such that the permit should be modified to reflect the changed conditions or factors. Any applicant seeking a modification of the permit shall follow the procedures contained within this Ordinance related to the granting of a new permit.

28.2 The operator of any nonmetallic mine that holds a mining permit issued under this Ordinance shall request a modification of such permit if changes occur to the area to be mined, the nature of the planned reclamation, or other material aspects of mining required by the operation plan or reclamation plan approved pursuant to this Ordinance. A modification of the permit will require a new permit approval process pursuant to Section 27 of this Ordinance.

29 **Permit Transfer.** When one operator succeeds to the interest of another in an uncompleted site, the department shall release the first operator of the responsibilities imposed by the permit only if:

29.1 Both operators are in compliance with the requirements and standards of this Ordinance.

29.2 The new operator assumes the responsibility of the former Operator to complete the Nonmetallic Mining operation and reclamation of the entire project site in writing and consistent with all representations and warranties made in the application for a permit.

29.3 The new operator shows proof of financial responsibility in substantially the same manner and amount as required of the previous operator and agrees to maintain the fee deposit. A permit transferee may request modifications consistent with Section 27 of this Ordinance.

29.4 The new operator provides a certified statement attesting that it will continue to operate in accordance with all material elements of the operation plan and permit requirements.

30 Permit Suspension Termination or Revocation.

30.1 **Grounds.** Waupaca County may suspend or revoke a Nonmetallic Mining permit issued pursuant to this Ordinance if it finds the Operator has done any of the following:

30.1.1 Failed to submit a satisfactory reclamation plan within the time frames specified in this Ordinance or Chapter 43.

30.1.2 Failed to submit required reports or answers to allowable inquiries by the County.

30.1.3 Failed to comply with requirements of the reclamation permit.

30.1.4 Failed to submit or maintain financial assurance as required by this Ordinance.

30.1.5 Failed on a repetitive or material basis to follow the material elements of the approved Mining Operation plan.

30.1.6 Failed to comply with notices of violation and/or right to cure time frames.

30.1.7 Failed to obtain or maintain appropriate permits or authorization to conduct mining activities under state and federal law and regulations provided that the County shall impose revocation or suspension commensurate with the action taken by state and federal regulatory authorities.

30.1.8 Failed to maintain Compliance with any state or federal permit, law, regulation or rule that results in Operator being ordered to not conduct mining activities provided that the County shall impose revocation or suspension commensurate with the action taken by state and federal regulatory authorities.

30.1.9 Failed to supply the County a complete list of current or past compliance issues.

30.2 **Procedures.** If the County finds grounds for suspending or revoking a Nonmetallic Mining permit issued under this Ordinance, it will issue a special order suspending or revoking such permit in writing.

30.3 **Consequences**.

30.3.1 If the County makes any of the findings in sub. 30.1.1-30.1.9, it may suspend a Nonmetallic Mining permit for up to thirty (30) days. During the time of suspension, the Operator may not conduct Nonmetallic Mining at the Site, except for reclamation or measures to protect human health and the environment as ordered by the County pursuant to this Ordinance.

30.3.2 If the County makes any of the findings in sub. 30.1.1-30.1.9 and the Operator has been previously notified, the County may revoke a Nonmetallic Mining permit. Upon permit revocation, the operator shall forfeit any financial assurances associated with the Nonmetallic Mining Permit it has provided pursuant to this Ordinance to the County. The County may use forfeited financial assurances to cover any past, current or anticipated future costs, including without limitation staff costs, professional fees and related costs, associated with the permit revocation, including reclamation. Any remaining funds shall be returned to the Operator.

31 **Emergency Review.** The County may, with five (5) days notice to the Operator, require an emergency review for the Nonmetallic Mining permit. Emergency reviews shall be based on instances of significant non-compliance or immediate concerns for human health, safety or the environment. Should the County, through the emergency review, determine instances of non-compliance or other violations of the permit or county ordinance, the County may allow the operator not less than thirty (30) days to rectify any instances of non-compliance or other violations or show substantial improvement in addressing the matter of noncompliance. If after the time allowed, unresolved compliance violations remain, the permit may be revoked. The County is the sole determiner of revocation in emergency review.

32 **Cancellation.** An Operator may apply for a cancellation of a Nonmetallic Mining permit. The request for the cancellation shall be submitted by the Operator to the County in writing. Cancellation of the mining permit does not alleviate responsibility for reclamation requirements in accordance with the reclamation permit.

Part V Enforcement

33 **Right of Entry and Inspection.** For the purpose of ascertaining compliance with the provisions of subchapter I of Wis. Stats. Ch. 295, Chapter NR 135, Wisconsin Administrative Code, or this Ordinance, any authorized officer, agent, employee or representative of Waupaca County may inspect any Nonmetallic Mining Site subject to this Ordinance as provided below:

33.1 No person may refuse entry or access onto a Nonmetallic Mining site of a duly authorized officer, employee or agent of Waupaca County or the Wisconsin Department of Natural Resources who presents appropriate credentials to inspect the site for Compliance with the Nonmetallic Mining permit, this Ordinance, Chapter NR 135, Wisconsin Administrative Code or subchapter I of Wis. Stats. Ch. 295.

33.2 Approved agents of the County shall be granted access to only those site records related to topics that the County has the authority to regulate under applicable law or this Ordinance. All such required records shall be made available to an approved agent within a reasonable time.

33.3 Any person who enters the site under this right of inspection shall obtain training and provide their own safety equipment needed to comply with any federal, state or local laws or regulations controlling persons on the Nonmetallic Mining Site.

34 Orders and Citations.

34.1 **Enforcement Orders.** The County may issue orders as necessary to effectuate the purposes of this Chapter and to promote and protect the public health, safety and general welfare.

34.2 **Mining Permit Orders.** Any order issued by the County to modify permit requirements, enforce the permit or notify the Operator of any suspension or revocation, or requiring a temporary cessation of activity shall be in writing and specify the necessity of the action, requirements of compliance, any time frames for right to cure and other information specific to the order.

34.3 **Citations.** The County may issue a citation under Wis. Stats. sec. 66.0113 and Chapter 25 of the Waupaca County General Code of Ordinances, to collect forfeitures to enforce subchapter I of Wis. Stats. Ch. 295, Chapter NR 135, Wisconsin Administrative Code, this Ordinance, a permit issued pursuant to this Ordinance. The issuance of a citation under this subsection shall not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this subsection.

34.4 **Enforcement.** The County may submit any order issued under Section 35 to abate violations of this Ordinance to a district attorney, corporation counsel, municipal attorney or the attorney general for enforcement. The district attorney, corporation counsel, municipal attorney or the attorney general may enforce those orders.

35 **Penalties.** Any violation of subchapter I of Wis. Stats. Ch. 295, Chapter NR 135, Wisconsin Administrative Code, this Ordinance or a permit issued pursuant to this Ordinance may result in forfeitures as follows:

35.1 Any person who violates Chapter 43, Waupaca County Reclamation Ordinance, Wisconsin Administrative Code or an order issued pursuant to this Ordinance may be required to forfeit not less than twenty-five dollars ($25) nor

more than one thousand dollars ($1,000) for each violation. Each day of continued violation is a separate offense. While an order issued under this Ordinance is suspended, stayed or enjoined, this penalty does not accrue.

35.2 Activity prior to permit issuance. Any activity, including building, construction, excavation or other site preparedness activities at the site prior to issuance of the Mining Permit shall result in a fine of not less than twenty-five dollars ($25) nor more than one thousand dollars ($1,000) for each violation. Each day of violation constitutes a separate offense.

35.3 Violations of this Ordinance are further subject to the forfeitures and penalties established in Chapter 25 of the Waupaca County General Code of Ordinances.

Part VI Fees

36 **Application/Plan Review Fees.** This Ordinance requires the regulatory authority to use its fees only for the administration of its mine permitting ordinance. The County shall establish a fee schedule which lists the fee associated with each requirement discussed in this section.

36.1 **Application Fee for Nonmetallic Mining Permit.** An Applicant for a Nonmetallic Mining Permit shall submit an application and plan review fee at the time the license applications and plans are submitted.

36.2 **Fee Applicability.** The fee shall cover all costs associated with the permitting process including review of mining application and plans, notices, publications, mailings, conducting public hearings and initial site inspections.

36.3 **Fee List**. The Planning and Zoning Office shall keep a Schedule of Fees bearing the pertinent effective date. The fees required by this Ordinance shall be established periodically but not greater than annually or on a semi-annual basis by the County in order to accurately reflect costs associated with review. Required fees may be established on an hourly basis for work to be performed by third-party experts accredited in the field for which the individual is retained, where reasonable and necessary.

37 **Modification Review Fee.** Any operator requesting a permit modification shall pay a modification review fee which shall be established in the same manner as application review fees.

38 **Previously Permitted Sites**. Any Applicant intending to re-open a previously permitted Nonmetallic Mining Site shall submit the Nonmetallic Mining Site Application Fee required by this Ordinance.

Part VII Financial Assurance

39 **Application Fees.** An Application Fee is required for each Applicant for a Nonmetallic Mine Permit under this Ordinance.

39.1 The Application Fee is intended to fund all application review, analysis and investigation activities including, without limitation, inspection costs, experts accredited in the field for which the individual is retained, legal fees and any other reasonable costs related to the issuance of a permit incurred by the County.

40 **Insurance.** In accordance with Section 20 of this Ordinance and in accordance with general industry standards, the County may require proof of appropriate insurance to protect the County from costs associated with damage, improper operation, environmental spills, releases or accidents and any other activity which may result in financial costs to the County. Such insurance shall be only for operational concerns and shall not be intended to fund any manner of reclamation.

40.1 Any insurance required in accordance with this Section and Section 20 may be discontinued only upon mine closure or the end of mining activities, though reclamation may still be ongoing.