

Town of Farmington Zoning Code

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Article A: Introduction; Definitions

Sec. 13-1-1, Authority.

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

Sec. 13-1-2 Short Title.

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

Sec. 13-1-3 Purpose.

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

Sec. 13-1-4 Intent.

It is the general intent of this Chapter to:

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

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

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

Sec. 13-1-6 Interpretation; Standard Industrial Classification.

- (a) In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements and shall be liberally construed in favor of the Town and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.
- (b) Uses allowed in Commercial and Industrial Districts may be cross-referenced with the Standard Industrial Classification. The SIC number is shown in [].

Sec. 13-1-7 Effective Date.

This Chapter shall be originally effective after a public hearing, adoption by the Town Board and publication or posting as provided by law.

Sec. 13-1-8 Definitions.

- (a) **General Terms.** For the purposes of this Chapter, certain words and terms are defined as follows: Words used in the present tense include the future; the singular number includes the plural number and the plural number includes the singular number; the word "building" includes the word "structure"; the word "shall" is mandatory and not directory.
- (b) **Definitions.** For the purposes of this Chapter, the following definitions shall be used:
- (1) **Accessory Building.** A subordinate building or portion of the main building, the use of which is purely incidental to that of the main building, not including a garage as defined herein.
 - (2) **Adjacent Property Owner.** The owner of property located within two hundred (200) feet of a subject property under this Code.
 - (3) **Adult-Oriented Establishment. Any premises including,** without limitation, "adult bookstores," or "adult motion picture theaters." It further means any premises to which public patrons or members are invited or admitted and which are so physically arranged so as to provide booths, cubicles, rooms, compartments, or stalls separate from the common area of the premises for the purposes of viewing adult-oriented motion pictures; or wherein an entertainer provides adult entertainment to a member of the public, a patron, or a member, whether or such adult entertainment is held, conducted, operated, or maintained for a profit, direct or indirect. "Adult-Oriented Establishment" further includes, without limitation, any premises physically arranged and used as such whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio, or any other term of like import.
 - (4) **Accessory Use.** A use subordinate in nature, extent or purpose to the principal use of the building or lot.
 - (5) **Administrator, Zoning.** The person designated by the Town Board to administer the provisions of the Town Zoning Code.
 - (6) **Advertising Sign, Outdoor.** A structural poster panel or painted sign, either free standing or attached to the outside of a building, for the purpose of conveying information, knowledge or ideas to the public about a subject either related or unrelated to the premises upon which located.
 - (7) **Advertising Structure, Outdoor.** Anything constructed or erected, either free standing or attached to the outside of a building, for the purpose of conveying information, knowledge or ideas to the public about a subject either related or unrelated to the premises upon which located.
 - (8) **Airport, Public.** Any airport which complies with the definition contained in Sec. 114.013(3), Wis. Stats., or any airport which serves or offers to serve common carriers engaged in air transport.
 - (9) **Apartment.** A portion of a residential or commercial building used as a separate housing unit.
 - (10) **Apartment House.** See "Dwelling, Multiple."
 - (11) **Arterial Street.** A public street or highway used or intended to be used primarily for fast or heavy through traffic. Arterial streets and highways shall include freeways and expressways as well as arterial streets, highways and parkways.
 - (12) **Automobile Wrecking Yard.** Any premises on which three (3) or more automotive vehicles, not in operating condition, are stored in the open.
 - (13) **Basement or Cellar.** A story partly underground but having at least one-half (1/2) of its height, or more than five (5) feet, below the mean level of the adjoining ground. See COMM 20, 21 and 22, Wis. Adm. Code.

- (14) **Bi-Level.** A two-level dwelling with one level above grade and the other level half above grade and half below grade.
- (15) **Boarding House.** A building other than a hotel where meals or lodging and meals are served for compensation for not more than six (6) persons.
- (16) **Boathouse.** Any structure designed for the purpose of protecting or storing boats for noncommercial purposes. Boathouses shall not be used for human habitation.
- (17) **Building.** Any structure used, designed or intended for the protection, shelter, enclosure or support of persons, animals or property, except a mobile home unit when located in a mobile home park.
- (18) **Building, Alterations Of.** Any change or rearrangement of the supporting members such as bearing walls, beams, columns or girders of a building, an addition to a building, or movement of a building from one location to another.
- (19) **Building, Front Line Of.** A line parallel to the street intersecting the foremost point of the building, excluding uncovered steps.
- (20) **Building, Height Of.** The vertical distance from the mean elevation of a finished grade along the front of the building to the highest point of a flat roof, or to the deck line of a mansard roof, or to the mean height between eaves and ridge for gable, hip or gambrel roofs.
- (21) **Building, Principal.** A building in which is conducted the main use of the lot on which said building is located
- (22) **Business.** Includes the commercial, limited industrial and general industrial uses and districts as herein defined.
- (23) **Campground.** Any public or private grounds or premises established for the overnight camping of persons using equipment designed for the purpose of temporary camping.
- (24) **Camping Unit.** Any camping vehicle or structure intended for or capable of human habitation or designed primarily for sleeping purposes, mounted on wheels or jacks, and/or capable of being moved from place to place, either by its own power or on power supplied by some vehicle used or to be used, and which has a maximum width of eight (8) feet.
- (25) **Canopy.** See "Marquee".
- (26) **Carport.** See "Garage."
- (27) **Center Line.** A line connecting points on highways from which setback lines shall be measured, at any point on the highway.
- (28) **Channel.** A natural or artificial watercourse of perceptible extent, with definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow thus is that water which is flowing within the limits of the defined channel.
- (29) **Clinic.** A building used by a group of doctors for the medical examination or treatment of persons on an outpatient or nonboarding basis only.
- (30) **Club.** A building owned, leased or hired by a nonprofit association of persons who are bona fide members, the use of which is restricted to said members and their guests.
- (31) **Community Living Arrangement.** The following facilities licensed or operated, or permitted under the authority of Wisconsin Statutes: Child welfare agencies under Sec. 48.60, Wis. Stats., group foster homes for children under Sec. 48.02(7m), Wis. Stats., and community-based residential facilities under Sec. 50.01, Wis. Stats.; but does not include nursing homes, general hospitals, special hospitals, prisons and jails. The establishment of a community living arrangement shall be in conformity with applicable sections of the Wisconsin Statutes, including Secs. 46.03(22), 69.97(15), 62.23(7)(i), and 62.23(7a); and amendments thereto, and also the Wisconsin Administrative Code.
- (32) **Conditional Use.** A use of land, water or building which is allowable only after the issuance of a special permit by the Town Board under conditions specified in this Chapter.

- (33) **Conforming Use.** Any lawful use of a building or lot which complies with the provisions of this Chapter.
- (34) **Court.** An open, unoccupied space other than a yard, on the same lot with a building, and which is bounded on two (2) sides by the building.
- (35) **Cul-de-sac.** A short street having but one end open to traffic and the other end permanently terminated in a vehicular turnaround. Cul-de-sac streets shall not exceed one thousand six hundred (1,600) feet in length.
- (36) **Curb Break.** Any interruption or break in the line of a street curb in order to connect a driveway to a street or otherwise to provide vehicular access to abutting property.
- (37) **Curb Level.** The level of the established curb in the front of the building measured at the center of such front.
- (38) **Day Care Center.** A place or home which provides care for four (4) or more children under the age of seven (7) years for less than twenty-four (24) hours a day and is licensed as provided for in Sec. 48.65, Wis. Stats.
- (39) **Deck.** Any covered or uncovered landing of a hard surface material.
- (40) **Dwelling Unit.** A building or portion thereof used exclusively for human habitation, including single-family, two-family and mufti-family dwellings, but not including hotels, motels or lodging houses.
- (41) **Dwelling, One-Family.** A detached building designed, arranged or used for and occupied exclusively by one (1) family, whether attached, detached or semi-attached. Shall include specially designed buildings covered by earth and manufactured homes.
- (42) **Dwelling, Two-Family.** A building designed, arranged or used for, or occupied exclusively by, two (2) families living independently of each other.
- (43) **Dwelling, Multiple.** A building or portion thereof used or designated as a residence for three (3) or more families as separate housekeeping units, including apartments, attached townhouses and condominiums.
- (44) **Dwelling Group.** A group of two (2) or more mufti-family dwellings occupying a lot in one (1) ownership with any two (2) or more dwellings having any yard or court in common.
- (45) **Electronic Equipment.** Sales and service of television, radio, computer, telephone, satellite dish and other electronic equipment.
- (46) **Emergency Shelters. Public** or private enclosures designed to protect people from aerial, radiological, biological or chemical warfare; fire; flood; windstorm; riots; or invasions.
- (47) **Family.** One (1) or more persons immediately related by blood, marriage, adoption or guardianship and living as a single housekeeping unit in one (1) dwelling unit shall constitute a family. A family may include in addition thereto two (2) but not more than two (2) persons not related by blood, marriage, adoption or guardianship. A person shall be considered to be related for the purpose of this Section if he/she is dwelling for the purpose of adoption or for a foster care program.
- (48) **Farm.** Land consisting of Five (5) acres or more on which produce, crops, livestock or flowers are grown primarily for off-premise consumption, use or sale.
- (49) **Farm Operating Unit.** Contiguous or adjacent lands owned and/or operated by one management group, upon which a self-sustaining agricultural business is being operated.
- (50) **Floodlands.** Those lands, including the floodplains, floodways, and channels subject to inundation by the 100 year recurrence interval flood or, where such data is not available, the maximum flood of record.
- (51) **Floor Area.** Floor areas are measured from the outside edge of the exterior walls of a residential structure meeting the following criteria:
 - a. All finished, safe and sanitary floor levels of a residential building at or above grade level.

- b. All finished, safe and sanitary floor levels of a residential structure below grade level in which the walls for said floor levels are:
 - 1. Exposed four (4) feet or more above grade level on all sides and contains two (2) outside entrances; or
 - 2. Exposed by one-third (1/3) of their area fully at grade and contains an outside entrance at said lowest floor level.
- (52) **Foster Family Home.** The primary domicile of a foster parent which is for four (4) or fewer foster children and which is licensed under Sec. 48.62, Wis. Stats., and amendments thereto.
- (53) **Frontage.** All of the property abutting on one (1) side of a street measured along the street line.
- (54) **Fur Farm.** Any property comprising land or buildings or both used for the purpose of raising or harboring fur bearing animals including those defined in Sec. 29.579, Wis. Stats., and also including chinchillas and other fur bearing animals whether the animals are kept for breeding, slaughtering, pelting or lab experimental purposes.
- (55) **Garage.** An accessory building or portion thereof used exclusively for parking or temporary storage, of not more than four (4) automobiles or light trucks on a residentially zoned parcel.
- (56) **Garage, Public.** A building other than a private or storage garage used for the care, repair or storage of self-propelled vehicles or where such vehicles are left for remuneration, hire or sale. This includes premises commonly known as gasoline stations or service stations.
- (57) **Garage, Storage.** Any building or premises used for the storage only of motor-driven vehicles or motor-driven machinery, pursuant to previous arrangements and not to transients, and where no equipment, parts, fuel, grease or oil is sold.
- (58) **Gasoline Station:** Any area of land, including structures thereon, that is used for the sale of gasoline or other motor vehicle fuel and oil and other lubricating substances; sale of motor vehicle accessories; and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning or otherwise cleaning or servicing such vehicles.
- (59) **Group Foster Home.** Any facility operated by a person required to be licensed by the State of Wisconsin under Sec. 48.62, Wis. Stats., for the care and maintenance of five (5) to eight (8) foster children.
- (60) **Home Industry Business.** Home industry business operated exclusively by family members and no more than three (3) non-family member employees which involves either occasional sale of products not produced on the premises, or involves fabricating on the premises, either within the dwelling unit or in an accessory structure, some product which is not included in the definition of "home occupation." A home industry must not be detrimental to the health, safety and general welfare of, or annoying or offensive to, neighbors or the community.
- (61) **Home Occupation.**
 - a. Any occupation customarily incidental to the use of the dwelling as a residence such as crafts, dressmaking, tailoring, handicrafts and other occupations which are not detrimental to the health, safety and general welfare of, or annoying or offensive to, neighbors or the community, provided that:
 - 1. The occupation is conducted within the dwelling unit by only resident family members or no more than three (3) non-family members.
 - 2. Not more than twenty-five percent (25%) percent of the floor area of only one (1) story of the dwelling unit is used for such occupation;
 - 3. No stock in trade is kept or sold except that which is made in connection with such occupation; and

4. A home occupation does not involve the display of any goods, nor does it include occupations such as barbering, beauty shops, dance schools, photographic studios, and other similar commercial ventures in which significant numbers of clients would come to the site.
- (62) **Hotel.** A building occupied as the more or, less temporary abiding place of individuals who are lodged, with or without meals, and in which there are more than six (6) sleeping rooms, usually occupied singly, and no provision made for cooking in the individual apartments.
- (63) **House Trailer.** A non-self-propelled vehicle, containing living or sleeping accommodations which is designed and used for highway travel.
- (64) **Junk Yards.** Any premises on which there is an accumulation of scrap metal, paper, rags, glass, lumber, inoperable machinery, tires or other materials stored or customarily stored for salvage, buying, selling, exchanging, dealing, disassembling, packing, bailing, wrecking or handling, including the accumulation of more than three (3) inoperable vehicles unless such accumulation shall be housed in a completely enclosed building
- Zoning Code
- (65) **Kennel.** A use of land in which more than three (3) dogs over six (6) months of age are kept on the premises.
- (66) **Livestock.** Domesticated four-legged animals.
- (67) **Living Area.** The total area bounded by the exterior walls of a building at the floor levels but not including basements, garages, porches, breezeways, and unfinished attics.
- (68) **Loading Area.** A completely off-street space or berth on the same lot for the loading or unloading of freight carriers having adequate ingress and egress to a public street or alley
- (69) **Lot.** A parcel of land having frontage on a public street, occupied or intended to be occupied by a principal structure or use, and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area and other open space provisions of this Chapter.
- (70) **Lot Corner.** A lot located:
- At the junction of and abutting two (2) or more intersecting streets; or
 - At the junction of and abutting a street and the nearest shoreline or high-water line of a storm or floodwater runoff channel or basin; or
 - At the junction of and abutting two (2) or more storm or flood water runoff channels or basins; or
 - At and abutting the point of abrupt change of a single street where the interior angle is less than one hundred thirty-five degrees (135°) and the radius of the street is less than one hundred (100) feet.
- (71) **Lot Depth.** The average distance from the front to the rear lot lines measured in the general direction of the side lot lines.
- (72) **Lot Interior.** A lot other than a corner lot.
- (73) **Lot Lines and Area.** The peripheral boundaries of a parcel of land and the total area lying within such boundaries. For purposes of open space and lot area computation, the lot area shall not include public road right-of-way, nor include any road width area as established by state statute or an officially established County or Township street and highway width map.
- (74) **Lot Width.** The distance between sidelines of the lot at the building line. In the case of a shoreland lot, the lot width is the width of the lot seventy-five (75) feet from the waterline.
- (75) **Lot, Reversed Corner.** A corner lot, the street side lot line of which is substantially a continuation of the front lot line of the first lot to its rear.
- (76) **Lot, Through.** A lot having a pair of opposite lot lines along two (2) or more parallel public, streets and which is not a corner lot. On a through lot both street lines shall be deemed front lot lines.

- (77) **Lot, Zoning.** A single tract of land located within a single block which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed, or built upon as a unit under single ownership or control.
- (78) **Marquee or Canopy.** A roof-like structure of permanent nature which projects from the wall of a building.
- (79) **Manufactured Home.** A structure (formerly defined as mobile homes) certified and labeled as a manufactured home under 42 USC Secs. 5401-5426, which, when placed on the site:
- a. Is set on an enclosed continuous foundation in accordance with Sec. 70.43(1), Wis. Stats., and COMM 21, Subchapters III, IV, and V, Wis. Adm. Code, or is set on a comparable enclosed continuous foundation system approved by the Building Inspector, who may require a plan for such foundation to be certified by a registered architect or engineer to ensure proper support for such structure;
 - b. Is installed in accordance with the manufacturer's instructions;
 - c. Is properly connected to utilities; and
 - d. Meets other applicable standards of this Chapter.
- (80) **Manure Pit.** A structure or earthen pond located outside of a barn or shelter and used for containment of manure and other wastes from livestock and poultry.
- (81) **Mobile Home (see also Manufactured Home).** That which is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway, and designed, equipped and used primarily for sleeping, eating and living quarters, or is intended to be so used; including any additions, attachments, annexes, foundations and appurtenances. In the purpose of this Section, a mobile home shall remain classified as a mobile home regardless of whether its wheels or other rolling devices have been removed or not, and even though assessable value of additions, attachments, annexes, foundations and appurtenances or other added investments to the mobile home equal or exceed fifty percent (50%) of the assessable value of the mobile home. Excluded from this definition are "manufactured homes" as defined above.

Note: Mobile Homes vs. Modular Homes

"Mobile homes" have been required to follow construction standards, including heating, electrical and plumbing, since 1976 through a Federal Housing and Urban Development (HUD) program. In Wisconsin this is administered under contract by the Division of Safety and Buildings, Wisconsin Department of Commerce. The current proper and legal term for mobile homes is "manufactured homes". While the manufactured home itself is not covered by the UDC, any site-built addition to that home, such as a basement, crawl space or room addition attached to the home, does have to be constructed to meet the requirements of the UDC if the manufactured home was built after June 1, 1980.

While manufactured homes are constructed to the HUD construction standards, "manufactured dwellings" must meet the UDC standards. Such non-HUD factory built homes are referred to as "manufactured dwellings". However, double-wide manufactured mobile homes often are similar in appearance to modular homes. For purposes of identification, a manufactured (mobile) home is identified with a red metal rectangular label affixed to the rear of each full or half unit. This indicates the home has been constructed in accordance with the HUD manufactured home standards. In contrast, a modular home or manufactured dwelling will be identified with a red plastic sticker, called a "Wisconsin Insignia", imprinted with the outline of the State of Wisconsin. It will usually be affixed to the electrical panel, vanity base cabinet or kitchen cabinet. Inspectors must first identify what they are looking at before applying the applicable code regulations.

- (82) **Mobile Home Park.** Any plot or tract of ground upon which two (2) or more mobile homes, occupied for dwelling or sleeping purposes are located, regardless of whether or not a charge is made for such accommodations.
- (83) **Mobile Home Unit.** Any vehicle or structure intended for or capable of human habitation which is mounted on wheels or jacks and is capable of being moved from place to place along a public highway in its complete, habitable form either by its own power or by power supplied by some towing vehicle, being more than thirty (30) feet in length. A modern mobile home can also be a "manufactured home."
- (84) **Modular Home (Manufactured Dwelling)** A current list of approved dwelling manufacturers can be found in COMM 20.13, Wis. Adm. Code, of the UDC.
- (85) **Motel.** A series of attached, semi-attached or detached sleeping units for the accommodation of transient guests.
- (86) **Motor Freight Terminal.** A building or area in which freight brought by motor truck is assembled and/or stored for routing in intrastate and interstate shipment by motor truck.
- (87) **Motor Vehicle.** Any passenger vehicle, truck, truck-trailer, trailer or semi-trailer propelled or drawn by mechanical power.
- (88) **Nonconforming Building or Structure.** Any building or structure which does not comply with all of the regulations of this Chapter or of any amendment hereto regulating any building or structure for the Zoning District in which such building or structure is located.
- (89) **Nonconforming Use.** Any use of land, buildings or structures which does not comply with all of the regulations of this Chapter or of any amendment hereto governing use for the Zoning District in which such use is located.
- (90) **Nuisance.** An injurious effect on the safety, health, or morals of the public, or use of property which works some substantial annoyance, inconvenience, or injury to the public and which causes hurt, inconvenience or damage.
- (91) **Nursery.** Any building or lot, or portion thereof, used for the cultivation or growing of plants and including all accessory buildings.
- (92) **Nursery School. Any building used routinely for** the daytime care and education of preschool age children and including all accessory buildings and play areas other than the child's own home or the homes of relatives or guardians. Zoning Code
- (93) **Nursing Home.** Any building used for the continuous care, on a commercial or charitable basis, of persons who are physically incapable of caring for their own personal needs.
- (94) **Operating Farm.** A farm for which satisfactory proof can be supplied to show that the farm is producing a farming product as defined by the Wisconsin Department of Agriculture.
- (95) **Outlot.** A portion of a recorded lot/parcel divided further by metes and bounds clearly defining the portion being divided.
- (96) **Park, Private.** A privately owned area which may contain active amusement and recreation facilities and device, other than playgrounds and open spaces for passive recreation, and soft drink and snack stands, whether operated for profit or not, but excluding common areas of a homeowner association.
- (97) **Park, Public.** An area owned by the United States, State of Wisconsin, Washington County or a municipality within the county, and operated for the convenience, and recreation of the public and containing such facilities as the owning government body shall see fit.
- (98) **Parking Area, Semi-Public.** An open area other than a street, alley or place used for temporary parking of more than four (4) self-propelled vehicles and available for public uses, whether free, for compensation, or as an accommodation for clients or customers.

- (99) **Parking Space.** An off-street space available for the parking of a motor vehicle and which is exclusive of passageways and driveways, appurtenant thereto and giving access thereto.
- (100) **Place.** An open unoccupied space other than a street or alley, permanently reserved as the principal means of access to abutting property.
- (101) **Planned Unit Development.** A tract of land which contains or will contain two (2) or more principal buildings, developed under single ownership or control, the development of which is unique and of a substantially different character than that of surrounding areas.
- (102) **Porch.** A roofed-over structure projecting out from the main walls) of a main structure.
- (103) **Property Lines.** The lines bounding a platted lot as defined herein.
- (104) **Public Way.** Any sidewalk, street, alley, highway or other public thoroughfare.
- (105) **Professional Office.** The office of a doctor, salesman, insurance agent, practitioner, dentist, minister, architect, landscape architect, professional engineer, lawyer, author, musician, real estate broker or other recognized professional. When established in a residential or agricultural district, a professional office is incidental to the residential occupation, not more than fifty percent (50%) of the floor of only one (1) story of a dwelling unit is occupied by such office and not more than one (1) person who is not a member of the resident family is employed on the premises.
- (106) **Right-of-Way.** A strip of land dedicated to the public for access or highway/street purposes.
- (107) **Roadside Stand.** A structure not permanently fixed to the ground that is readily removable in its entirety covered or uncovered and not wholly enclosed, and used solely for the sale of farm products produced on the premises. No such roadside stand shall be more than fifty (50) square feet in ground area and there shall not be more than one (1) roadside stand on any one (1) premises.
- (108) **Salvage Yard.** A facility whose primary purpose is the storage, recycling and/or reprocessing of junk or salvage materials, including vehicles, machinery and/or other equipment.
- (109) **Sanitary Sewer.** A constructed conduit for the collection and carrying of liquid and solid sewage wastes from two (2) or more premises, other than storm water, to a sewage treatment plant, and which is approved by the Wisconsin Department of Natural Resources.
- (110) **School, Private.** An elementary or intermediate school other than a parochial school giving regular instruction capable of meeting the requirements of state compulsory education laws and approved as such and operating at least five (5) days a week for a normal school year and supported by other than public funds, but not including a college or other institution of higher learning.
- (111) **School, Commercial.** A school limited to special instruction such as business, art, music, trades, handcraft, dancing or riding.
- (112) **Service Station.** A business whose primary purpose is providing fuel and/or repair services to motor vehicles.
- (113) **Setback.** Lines established along highways at specified distances from the center line, which permitted buildings or structures shall be set back of, or outside of, and within which they may not be placed except as hereinafter provided. "Within the setback lines" means between the setback line and the highway.
- (114) **Sign.** Any structure or device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge, or insignia of any government or governmental agency, or any civic, charitable, religious, patriotic, fraternal or similar organization, or any sign indicating address. Each display surface of a sign shall be considered a sign.
- (115) **Sign, Copy.** The message or advertisement, and any other symbols on the face of sign.

- (116) **Sign, Face.** The area or display surface used for the message.
- (117) **Sign, Ground.** Any sign placed upon or supported by the ground independent of any other structure.
- (118) **Sign, Portable.** A sign that is not permanent, affixed to a building, structure, or to the ground. Such sign may be mounted on wheels to make it transportable.
- (119) **Sign, Projecting.** A sign that is wholly or partly dependent upon a building for support and which projects more than twelve (12) inches from such building.
- (120) **Sign, Roof.** A sign that is mounted on the roof of a building or which is wholly dependent upon a building for support and which projects above the point of a building with a flat roof, the eave line of a building with a gambrel, gable, or hip roof, or the deck line of a building with a mansard roof.
- (121) **Sign, Wall.** A sign fastened to or painted on the wall of an building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of the sign and which does not project more than twelve (12) inches from such building or structure.
- (122) **Sign, Window.** A sign that is applied or attached to the exterior or interior of a window or located in such manner within the building that it can readily be seen from the exterior of the building through a window.
- (123) **Sign, Directional.** A sign erected for the purpose of directing persons to a place of business, recreation or public building, school or church.
- (124) **Stable.** A structure used primarily for the housing and boarding of horses.
- (125) **Story.** That portion of a building included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, then the space between such floor and the ceiling next above it.
- (126) **Story, Half.** A story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than two (2) feet above the floor of such story.
- (127) **Street.** A public or private thoroughfare which affords the principal means of access to abutting property.
- (128) **Street Line.** A dividing line between a lot, tract or parcel of land and a contiguous street.
- (129) **Structural Alteration.** Any change in the bearing walls, columns, beams, girders, or supporting members of a structure; any change or rearrangement in the floor area of a building, any enlargement of a structure whether by extending horizontally or by increasing in height, and/or any movement of a structure from one (1) location or position to another.
- (130) **Structure.** Anything constructed or erected, the use of which requires a more or less permanent location on or in the ground. Includes but is not limited to objects such as buildings, factories, sheds, cabins, wells, septic tanks and disposal fields.
- (131) **Subdivides.** A person who divides land, typically for development purposes, by plat or certified survey map under Ch. 236, Wis. Stats.
- (132) **Temporary Structure.** A structure which is built of such materials and in such a way that it would commonly be expected to have a relatively short useful life, or is built for a purpose that would commonly be expected to be relatively short-term and not to be habitable.
- (133) **Traffic Lane.** A strip of roadway intended to accommodate a single lane of moving vehicles.
- (134) **Trailer Park.** Any lot on which are parked two (2) or more house trailers or mobile homes for longer than forty-eight (48) hours.
- (135) **Use.** The use of property is the purpose or activity for which the land or building thereon is designed, arranged or intended, or for which it is occupied or maintained, and shall include any manner of standards of this Chapter.

- (136) **Use, Conditional.** See "conditional use".
- (137) **Use, Principal.** The main use of land or buildings as distinguished from a subordinate or accessory use. A principal use may be "permitted" or "conditional."
- (138) **Use, Permitted.** A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations and performance standards, if any, of such districts.
- (139) **Variance.** A special exception granted from the requirements of this Zoning Code by the Board of Appeals due to unique undue hardship.
- (140) **Vending Machine.** A retail business device, electrically or manually operated, used by the general public to obtain dairy products, cigarettes, foodstuffs or other merchandise without entering a public shop, store, market or other such building.
- (141) **Vision Setback Area.** An unoccupied triangular space at the intersection of highways or streets with other highways or streets or at the intersection of highways or streets. Such vision clearance triangle shall be bounded by the intersecting highway or street lines and a setback line connecting points located on such, right-of-way lines by measurement from the intersection as specified in this Chapter.
- (142) **Wind Generator.** A device, typically tower mounted, whose primary purpose is the generation of energy from a wind-powered source.
- (143) **Yard.** An open space on the same lot with a structure, unoccupied and unobstructed from the ground upward, except for vegetation as permitted. The front and rear yards extend the full width of the lot.
- (144) **Yard, Front.** A yard extending along the full length of the front lot line between the side lot lines.
- (145) **Yard, Rear.** A yard extending along the full length of the rear lot line between the side lot lines.
- (146) **Yard, Side.** A yard extending, along a side lot line from the front yard to the rear yard.
- (147) **Yard, Corner Side.** A side yard which adjoins a public street.
- (148) **Yard, Interior Side.** A side yard which is located immediately adjacent to another zoning lot or to an alley separating such yard from another zoning lot.
- (149) **Yard, Street.** Yard abutting a street.
- (150) **Yard, Transitional.** That yard which must be provided on a zoning lot in a Business District which adjoins a zoning lot in a Residential District, or that yard which must be provided on a zoning lot in an Industrial District which adjoins a zoning lot in either a Residential or Business District.
- (151) **Zoning District.** An area or areas within the corporate limits for which the regulations and requirements governing use, lot and bulk of buildings and premises are uniform.

Sec. 13-1-9 through sec. 13-1-19 Reserved for Future Use.

Article B: General Provisions

Sec. 13-1-20 Jurisdiction and Compliance.

- (a) **Jurisdiction.** The jurisdiction of this Chapter shall include all lands and water within the Town of Farmington, Washington County, Wisconsin.
- (b) **Compliance.** No structure, land or water shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without full compliance with the provisions of this Chapter and all other applicable Town, county and state regulations.

Sec. 13-1-21 Use Restrictions.

The following use restrictions and regulations shall apply:

- (a) **Principal Uses.** Only those principal uses specified for a district and their essential services shall be permitted in that district.
- (b) **Unclassified or Unspecified Uses.** Unclassified or unspecified uses may be permitted by the Town Board, provided that such uses are similar in character to the principal uses permitted in the District.
- (c) **Performance Standards.** Performance standards listed in Article H shall be complied with by all uses in all districts.
- (d) **Conditional Uses.** Provisions applicable to conditional uses generally:
 - (1) Conditional uses and their accessory uses are considered as special uses requiring, for their authorization, review, public hearing and approval by the Town Board in accordance with Article D of this Chapter excepting those existent at time of adoption of the Zoning Code.
 - (2) Those existing uses which are classified as "conditional uses" for the districts in which they are located at the time of adoption of this Code require no action by the Town Board to continue as valid conditional uses, and the same shall be deemed to be "regular" conditional uses.
 - (3) Proposed change from permitted use in a district to conditional use shall require review, public hearing and approval by the Town Board in accordance with Article D.
 - (4) Conditional use(s), when replaced by permitted use(s), shall terminate. In such case(s), the reestablishment of any previous conditional use(s), or establishment of new conditional uses) shall require review, public hearing and approval by the Town Board in accordance with Article D.
 - (5) Provisions in this Chapter relating generally to conditional uses shall, except when in conflict with specific provisions relating to either regular or limited conditional uses (which specific provision would then control), be deemed to be applicable to both regular and limited conditional uses.
 - (6) Conditional uses authorized by Town Board resolution shall be established for a period of time or until a future happening or event at which the same shall terminate.
 - (7) Conditional uses authorized by the Town Board shall not be subject to substitution with other conditional uses, either regular or limited, whether similar type or not, without Board approval and the procedures required in Article D.

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

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

Sec. 13-1-23 Site Regulations.

- (a) **Site Suitability.** No land shall be used or structure erected where the land is held unsuitable for such use or structure by the Town Board by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics and general welfare of this community. The Town Board, in applying the provisions of the Section, shall in writing recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he/she so desires.
- (b) **Street Frontage.** All lots shall abut upon a public street or other officially approved means of access, and each lot shall have a minimum frontage of sixty-six (66) feet; however, to be buildable, the lot shall comply with the frontage requirements of the Zoning District in which it is located.
- (c) **Principal Structures.** All principal structures shall be located on a lot. In residential districts, only one (1) principal structure shall be located, erected or moved onto a lot. The Town Board may permit as a conditional use more than one (1) principal structure per lot in any district where more than one (1) such structure is needed for the orderly development of the parcel. Where additional structures are permitted, the Town Board may impose additional yard requirements, landscaping requirements or parking requirements, or require a minimum separation distance between principal structures.
- (d) **Dedicated Street.** No zoning permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width and located on that side thereof from which the required dedication has not been secured.
- (e) **Lots Abutting More Restrictive Districts.** Lots abutting more restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting district. This does not apply to adjacent residential districts. This provision would apply, for example, to a commercial district adjacent to any type of residential district, but would not apply to one type of residential district bordering another residential district.
- (f) **Preservation of Topography.** In order to protect the property owner from possible damage due to change in the existing grade of adjoining lands, and to aid in preserving and protecting the natural beauty and character of the landscape, no change in the existing topography of any land shall be made which would result in increasing any portion of the slope to a ratio greater than one and one-half (1-1/2) horizontal to one (1) vertical, within a distance of twenty (20) feet from the property line, except with the written consent of the owner of the abutting property and with the approval of the Town Board; or which would alter the existing drainage or topography in any way as to adversely affect the adjoining property. In no case shall any slope exceed the normal angle of slippage of the material involved, and all slopes shall be protected against erosion.
- (g) **Decks.** Decks may project into a required setback area ("yard") but not closer than five (5) feet to a lot line.

- (h) **Garages Required.** All dwelling projects shall include either an attached or detached two vehicle garage which shall be completed when the dwelling is completed; such garage shall be a minimum of six hundred (600) square feet.
- (i) **Floor Size; Foundation.** All dwellings, including mobile homes, shall conform to a minimum floor size and be set upon a permanent footed foundation or a permanent footed slab.
- (j) **Height and Yard Exceptions.** The regulations contained herein relating to the heights of buildings and the size of yards and other open spaces shall be subject to the following exceptions:
- (1) Churches, schools, hospitals, sanatoriums and other public and quasi-public buildings may be erected to a height not exceeding thirty-five (35) feet nor two and one-half (2 1/2) stories, provided the front, side and rear yards required in the district in which such building is to be located are each increased at least one (1) foot for each foot of additional building height above the height limit otherwise established for the district in which such building is to be located.
 - (2) Chimneys, cooling towers, elevator bulkheads, wind generator towers, fire towers, silos, monuments, penthouses, setbacks, scenery lofts, tanks, water towers, ornamental towers, spires, wireless, television or broadcasting towers, masts or aerials, telephone, telegraph and power poles and lines, microwave radio relay structures, and necessary mechanical appurtenances are hereby excepted from the height regulations of this Section and may be erected in accordance with the other regulations or ordinances of the Town of Farmington.
 - (3) Sills, belt courses, cornices, canopies, eaves, and ornamental architectural features may project into a required yard provided that no such feature shall project over a property line.
 - (4) Bay windows, balconies and residential chimneys may project into a required yard not more than two (2) feet in any case but not more than twenty percent (20%) of the width of any side yard which does not abut on a street, provided that the total length of such projection is not more than one-third (1/3) of the lengths of the building on which it is located.
 - (5) Fire escapes may project into a required yard not more than four (4) feet in any case but not more than twenty percent (20%) of the width of any side yard which does not abut on a street, provided that no such fire escape need be less than three (3) feet in width.
 - (6) Uncovered steps, landings and decks may project into a required yard but no closer than five (5) feet to a lot line.
- (k) **Abandoned Motor Vehicles.** The storage of a motor vehicle which is abandoned, junked or mechanically inoperative and not currently licensed shall be prohibited in agricultural, residential and commercial districts unless such vehicle is completely enclosed in a permitted structure, except that in an agricultural district three (3) such vehicles may be kept on a lot in excess of forty (40) acres. Only three (3) such vehicles may be kept on a lot in an industrial district unless such vehicles are enclosed in a permitted structure or the location is an approved salvage yard as provided in Article D.
- (l) **Junk Yard Restrictions.** All legal nonconforming junk yards must comply with the following public health and safety restrictions effective July 1, 1986:
- (1) All junk yard materials must be set back from the road right-of-way and other lot lines at least twenty-five (25) feet.
 - (2) The junk yard must be completely enclosed in an opaque permanent fence at least six (6) feet in height.

- (3) All junk yard entrances must be secured by a locked entrance gate when the property is not attended by someone.
- (4) Evergreen trees must be planted on the outside of all fencing.

Sec. 13-1-24 Highway Setback Lines.

- (a) **Purpose:** In order to **promote and enhance the public** safety, general welfare and convenience, it is necessary that highway setback lines be and they are hereby established in the Town of Farmington, Washington County, Wisconsin, outside the limits of incorporated cities and villages; along all public highways; at the intersections of highways with highways and highways with railways as hereafter provided, and at the waters edge on riparian lands.
- (b) **Riparian Land Setbacks.** The setback line on riparian lands shall be the water line as defined in the Washington County Shoreland Zoning Ordinance.
- (c) **Centerlines of Highways.** For purposes of this Section, the centerline of any road or highway is the legal centerline according to the description as recorded with the County Register of Deeds. If there is no such legal description, the centerline is the midway point between fences or other markers indicating the boundaries of the highway on opposite sides thereof. If there are no such fences or markers, the centerline is the midpoint between opposite sides of the road surface. In cases where the provisions of this Section may be interpreted to provide for different setback distances, the greater setback distance shall prevail. Except as otherwise provided, the distances from the centerline or from the nearest highway right-of-way line to the setback line shall be as follows:
 - (1) **Class A Highways.** The setback distance from a Class A Highway shall be one hundred (100) feet from the centerline of the highway or forty-two (42) feet from the highway right-of-way line, whichever is greater. The setback distances shall be increased by fifty (50) feet on highways, which have been designated by the State Division of Highways or the County Highway Committee as controlled or partially controlled highways. The following highways in the Town are hereby designated as Class A Highways:
 - a. All U.S. and state (numbered) highways.
 - b. All county trunk (lettered) highways.
 - c. Any town road designated by the Town Board as a Class A road.
 - (2) **Class B Highways.** The setback distance from a Class B highway shall be seventy-five (75) feet from the centerline of the highway or thirty (30) feet from the highway right-of-way line, whichever is greater. The following highways in the Town are hereby designated as Class B highways:
 - d. All Town roads other than interior streets within recorded subdivisions.
 - e. Any other Town road designated by the Town Board as a Class B road.
 - (3) **Class C Highways:** The setback distance from a Class C highway shall be fifty-five (55) feet from the centerline of the highway or twenty-five (25) feet from the highway right-of-way line, whichever is greater. All interior streets in recorded subdivision plats are hereby designated as Class C highways unless designated otherwise by the Town Board.
 - (4) **Private Roads.** The minimum setback distance for all structures located on lands which utilize private roads for access shall be twenty-five (25) feet from the nearest edge of the private roadway right-of-way or easement; provided, however, that if the structure is intended to be located on a lot which is adjacent on both sides to lots having structures closer than twenty-five (25) feet to the nearest edge of the private road right-of-way or easement, the proposed structure may be as close to the edge as the existing structure setbacks on both adjacent lots.

(d) **Vision Clearance.**

- (1) **Requirement.** There shall be a vision clearance triangle in each quadrant of all intersections of highways or streets with other highways or streets and of highways or streets with railroads. Such vision clearance triangle shall be bounded by the highway, street or railroad right-of-way lines and a vision clearance setback line connecting points on each right-of-way line which are located a distance back from the centerlines equal to one and one-half (1-1/2) times the setback required on the intersecting highway or street. A diagram illustrating the vision clearance triangle is incorporated herein by reference and is on file with the Zoning Administrator.
- (2) **Undetermined Right-of-Way.** In the case of railroads, and roads for which the right-of-way cannot be determined, the setback for purposes of this paragraph shall be considered to be one hundred (100) feet from the centerline of the road bed or road surface.
- (3) **Structures Restricted.** Within a vision clearance triangle, no structure or object of natural growth shall be constructed, maintained or permitted to grow between a height of two and one-half (2 1/2) feet and ten (10) feet above the elevation of the street or highway grade at the centerline or of the top of the curb if there is a curb. This shall not apply to the trunks of trees, posts not over six (6) inches square or in diameter, retaining walls used to support ground at or below its natural level, field crops in season or wire fences so designed and constructed as not to constitute a substantial obstruction to the view of motorists and pedestrians across the vision clearance opening from one highway or street to another.

- (e) **Structures Prohibited Within Setback Lines.** No new building, mobile home, new sign or other structure or part thereof shall be placed between the setback lines established in this Section and the highway, except as provided by this Section, and no building, mobile home, sign or structure or part thereof existing within such setback lines on the original effective date of this Chapter shall be altered, enlarged or added to in any way that increases or prolongs the permanency thereof, or be reconstructed in its original existing location after having been destroyed by fire, storm or other catastrophe to the extent of fifty percent (50%) or more of its current value as determined by the Town Assessor.

- (f) **Structures Permitted Within Setback Lines.** The following kinds of structures may be placed between the setback line and the highway:
- (1) Open fences.
 - (2) Telephone, telegraph and power transmission poles and lines and microwave radio relay structures may be constructed within the setback lines, and additions to and replacements of existing structures may be made, provided the owner files with the Town Board an agreement in writing to the effect that the owner will remove all new construction, additions and replacements erected after the adoption of this Section at his/her expense, when necessary for the improvement of the highway.
 - (3) Underground structures not capable of being used as foundations for future prohibited overground structures.
 - (4) Access or service highways constructed according to plans as approved by the Board of Appeals. In giving such approval, the Board of Appeals shall give due consideration to highway safety and maximum sight distances.
 - (5) This Section shall not be interpreted so as to prohibit the planting and harvesting of field crops, shrubbery or trees; provided, however, that no building or structure, trees or shrubbery, shall be so located, maintained or permitted to grow so that the view across the sectors at the intersections shall be obstructed.

Sec. 13-1-25 Moving Buildings.

- (a) Any building intended to be used for residential purposes shall not be moved into or moved within the jurisdictional area of this Chapter unless such move has been approved by the Town Board after a public hearing.
- (b) Notices of the hearing shall, at least ten (10) days prior to the hearing, be sent to all owners of real property within two hundred (200) feet of the exterior boundaries of the property on which the building is proposed to be located.
- (c) An application to the Town Board filed pursuant to this Section shall be accompanied by detailed moving plans and a site plan for the building being moved. These plans must be approved by the Town Board before the building can be moved into or within the Town. The Town Board may ask the Building Inspector to inspect the structure and make a determination regarding the soundness of the structure. The petitioner shall deposit a certified check with the Town Clerk in the amount of twenty-five percent (25%) of the completed value of the building as determined by the Town Board, but in no case shall said certified check be in excess of Two Thousand Five Hundred Dollars (\$2,500.00). The certified check shall be returned to the petitioner if, within one hundred eighty (180) days following the date said bond is deposited, the petitioner shall have completed the building according to the approved plans.
- (d) Failure of the petitioner to complete the building shall cause the certified check to be forfeited. Upon cause shown by the petitioner to the Town Board, it may grant the petitioner additional time to complete the building.

Sec. 13-1-26 Shoreland-Flood plain Zoning.

The Town acknowledges that Washington County has established Shoreland and Floodplain Overlay Zoning Districts for the regulation of shorelands and floodplains in accordance with Chapters 23 and 26 of the Washington County Code. Accordingly, the Zoning Administrator shall refer to Washington County all applicants seeking zoning permits for structures or uses which are proposed to be located or conducted within the Shoreland or Floodplain Overlay Districts. If the Zoning Administrator determines that any Town zoning permit is required for such project, the permit shall not be issued until the County permit has been issued.

Sec. 13-1-27 through Sec. 13-1-39 Reserved for Future Use.

Article C: Zoning Districts

Sec. 13-1-40 Zoning Districts Designated.

- (a) For the purpose of this Chapter, the Town of Farmington is hereby divided into the following six (6) zoning districts:
- (1) RD Residential District
 - (2) CE Country Estate Residential District
 - (3) AG Agricultural District
 - (4) CD Commercial District
 - (5) ID Industrial District
 - (6) PUD Planned Unit Developments (Overlay District)

Sec. 13-1-41 District Boundaries.

- (a) **Zoning Map.** The boundaries of the districts enumerated in Section 13-1-40 above are hereby established as shown on a map entitled "Zoning Map, Town of Farmington, Wisconsin," which is adopted by reference and made a part hereof. The map shall be available to the public in the office of the Town Clerk.
- (b) **Boundary Lines.** The district boundaries, unless otherwise indicated, are street or highway center lines, railroad right-of-way lines extended, lines parallel or perpendicular to such street, highway or railroad lines, the shore line of lakes or streams, lot or alley lines, section lines, quarter section lines, or quarter-quarter section lines, and when the designation on the district map indicates that the various districts are approximately bounded by any of the above lines, such lines shall be construed to be the district boundary line.
- (c) **Vacation.** Vacation of public streets and alleys shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts.

Sec. 13-1-42 RD Residential District.

(a) **Purpose** The RD Residential District is intended to provide single family residential lots in conventional subdivisions or Certified Survey Mapped parcels that existed prior to ¹October 18, 2005, and on lands contiguous to the existing hamlets of Boltonville, Fillmore and St Michael's after adoption of this ordinance.

(b) **Permitted Uses.** The following uses are permitted in the RD District:

- (1) Single-family dwellings, excluding all mobile homes; for purposes of this Chapter manufactured homes are included in the definition of single-family dwelling.
- (2) Manufactured single-family dwelling complying with all of the following requirements and limitations:
 - a. The home shall meet the area, height and yard requirements of Subsection (e) below.
 - b. The home shall be installed on an approved foundation system in conformity with the Uniform Dwelling Code. The wheels and axles must be removed. The enclosed foundation system shall be approved by the Building Inspector and/or Town Engineer; the Building Inspector shall require a plan to be certified by a registered architect or engineer to ensure a proper support for the home.
 - c. The home shall be equipped with foundation siding which in design, color and texture appears to be an integral part of the adjacent exterior wall of the manufactured home.
 - d. The home shall be covered by a roof pitched at a minimum slope of four (4) inches in twelve (12) inches, which is permanently covered with non-reflective material.
 - e. The home shall have a pitched roof, overhanging eaves and such other design features required of all new single-family dwellings located within the Town of Farmington.
- (3) Public parks and playgrounds.
- (4) Conversion of any existing buildings to a permitted use.
- (5) Community living arrangements and **day care centers**, which have a capacity for eight (8) or fewer persons.
- (6) Home occupations and professional home offices.
- (7) Uses customarily incidental to any of the above uses, provided that no such use generates traffic or noise that would create a public or private nuisance.

(c) **Accessory Uses.** See Section 13-1-140 for Accessory Use Regulations

(d) **Conditional Uses.** The following uses are permitted as conditional uses within the RD District:

- (1) Community living arrangements which have a capacity for nine (9) or more persons.
- (2) Dependent units per Subsection (g) below.
- (3) Bed and breakfast inns.
- (4) Schools and public buildings, except public building housing uses incompatible with the characteristics of the district, such as incinerators and shops.
- (5) Public utility structures, except those incompatible with the characteristics of the district.
- (6) Churches.
- (7) Nursery schools/day care facilities requiring state licensing.
- (8) Two-Family Dwelling

¹ Revised 1-23-07

(e) **Area, Height and Yard Requirements.**

- (1) **Lot Area.** The minimum lot area for one-family units shall be forty thousand (40,000) square feet for parcels created prior to the adoption date of this ordinance, and one and a half (1½) acre parcels created after the adoption date of this ordinance.
- (2) **Lot Width.** The average minimum lot width of one-hundred twenty-five (125) feet at the building setback line.
- (3) **Location.** Dwellings shall be located so as to abut a public highway and have a minimum of sixty-six (66) feet of frontage thereon.
- (4) **Ground Floor Area.** The minimum ground floor area per dwelling unit shall not be less than one thousand two hundred (1,200) square feet for a single-story structure, one thousand four hundred (1,400) square feet for a two-story structure of which a minimum of eight hundred (800) square feet shall be on the first floor.
- (5) **Height.** Not to exceed thirty-five (35) feet measured from the grade of the first floor to the ridgeline.
- (6) **Front Yard.** See Highway Setback lines in Section 13-1-24.
- (7) **Side Yards.** There shall be a minimum side yard setback provided of seven and one half (7 1/2) feet on one side and a total of twenty (20) feet on both sides, unless otherwise provided by this Zoning Code.
- (8) **Rear Yard.** Minimum setback of twenty-five (25) feet.

(f) **Substandard Lots.** Substandard lots meeting the requirements of Section 13-1-83 may be utilized.

(g) **Dependent Units (Accessory Apartments).** One dependent unit (typically for use by an elderly family member) is permitted as part of a single-family residence. A dependent unit shall be part of the principal structure and shall meet the following requirements:

- (1) Dependent units shall not be commercially rented and shall be occupied by a person related to the unit owner by blood, marriage, or adoption.
- (2) The principal single-family dwelling and the dependent unit shall share a single common primary entrance. The dependent unit shall also have an emergency entrance/exit.
- (3) A dependent unit shall not exceed five hundred (500) square feet in size.
- (4) Dependent units require approval as a conditional use.

Sec. 13-1-43 Space Reserved for Future Zoning Category

Sec. 13-1-44 CE Country Estate Residential District.

- (a) **Purpose.** The CE Country Estate Residential District is limited to lands contiguous to, and within ¼ mile of the boundary of an existing country subdivision not contiguous to Boltonville, Fillmore, or St. Michaels, and is intended to provide for a single family residential development at densities having a minimum of three (3) acres per dwelling unit in an estate or farmette setting, served by private sewer and water facilities.
- (b) **Permitted Uses.** The following uses are permitted in the CE District:
- (1) Single-family dwellings, excluding all mobile homes; for purposes of this Chapter manufactured homes are included in the definition of single-family dwelling.
 - (2) Manufactured homes complying with all of the following requirements and limitations:
 - a. The home shall meet the requirements of Section 13-1-44 (e).
 - b. The home shall be installed on an approved foundation system in conformity with the uniform dwelling code. The wheels and axles must be removed. The enclosed foundation system shall be approved by the Building Inspector. The Building Inspector may require a plan to be certified by a registered architect or engineer to ensure proper support for the home.
 - c. The home shall be equipped with foundation siding which in design, color and texture appears to be an integral part of the adjacent exterior wall of the manufactured home.
 - d. The home shall be covered by a roof pitched at a minimum slope of four (4) inches in twelve (12) inches, which is permanently covered with non-reflective material.
 - e. The home shall have a pitched roof, overhanging eaves and such other design features required of all new single-family dwellings located within the Town of Farmington.
 - (3) Community living arrangements which have a capacity for eight (8) or fewer persons subject to the limitations set forth in Sec. 62.23(7)(i), Wis. Stats.
 - (4) Accessory structures per Section 13-1-140.
 - (5) Home occupations and professional home offices.
- (c) **Accessory Uses.** See Section 13-1-140 for Accessory Use Regulations
- (d) **Conditional Uses.**
- (1) Utility substations (electric substations, telephone switching stations, gas regulators, etc.).
 - (2) Solar collectors erected as an accessory structure.
 - (3) Community living arrangements which have a capacity for nine (9) or more persons.
 - (4) Bed and breakfast inns.
 - (5) Planned unit developments.
 - (6) Nursery schools/day care facilities requiring state licensing.
 - (7) Dependent Units (Accessory Apartments). One dependent unit (typically for use by an elderly family member) is permitted as part of a single-family residence. A dependent unit shall be part of the principal structure and shall meet the following requirements:
 - a. Dependent units shall not be commercially rented and shall be occupied by a person related to the unit owner by blood, marriage or adoption.
 - b. The principal single-family dwelling and the dependent unit shall share a single-family dwelling and the dependent unit shall share a single common primary entrance. The dependent unit shall also have an emergency entrance/exit.
 - c. A dependent unit shall not exceed five hundred (500) square feet in size.
 - d. Dependent units require approval as a conditional use.

(e) **Area, Height and Yard Requirements.**

- (1) **Lot Area.** Lots shall be a minimum of three (3) acres in area and shall have an average minimum width of two-hundred (200) feet.
- (2) **Building Area.** The Total floor area of a dwelling in the CE District shall meet the following:
 - a. One (1) story: One thousand two hundred (1,200) square feet.
 - b. Two (2) story: One thousand four hundred (1,400) square feet; first floor minimum eight hundred (800) square feet.
 - c. Bi-level: One thousand four hundred (1,400) square feet.
 - d. Tri-level: One thousand four hundred (1,400) square feet; total combined living area on two levels to meet one thousand two hundred (1,200) square feet, with balance on third level.
- (3) **Height.** No building or parts of a building shall exceed thirty-five (35) feet measured from the grade of the main level to the ridge line.
- (4) **Lot Width.** The average minimum lot width in the CE District is two-hundred (200) feet at the building setback line.
- (5) **Location.** Dwellings shall be located so as to abut a public highway and have a minimum of sixty-six (66) feet of frontage thereon.
- (6) **Side Yards.** There shall be a minimum side yard setback provided of seven and one half (7 1/2) feet on one side and a total of twenty (20) feet on both sides, unless otherwise provided by this Zoning Code.
- (7) **Rear Yard.** Minimum setback of twenty-five (25) feet.
- (8) **Front Yard.** See Highway Setback lines in Section 13-1-24.

- (f) **Animals On Single Family Subdivided Lots** No more than five (5) chickens, ducks or similar poultry, or eight (8) rabbits, are permitted on a lot of at least one and one-half (1½) acres. No more than one (1) animal (such as a horse, cow, sheep or llama) on a lot having at least three (3) acres, and two (2) animals on a lot having at least four and a half (4½) acres. Exotic animals requiring a state permit authorizing possession are prohibited within this district.

Sec. 13-1-45 AG Agricultural District.

- (a) **Purposes.** The purposes of the AG Agricultural District are to:
- (1) Preserve productive agricultural land for food and fiber production;
 - (2) Preserve productive farms by preventing land use conflicts between incompatible uses and controlling public service costs;
 - (3) Maintain a viable agricultural base to support agricultural processing and service industries; and
 - (4) Prevent conflicts between incompatible uses;
- (b) **Permitted Uses.** The following are permitted uses unless regulated as conditional uses under Subsection (c) below:
- (1) Beekeeping;
 - (2) Churches and schools;
 - (3) Commercial feedlots under nine hundred (900) head;
 - (4) Dairying, egg production;
 - (5) Day care centers with a capacity for eight (8) or fewer persons¹
 - (6) Fish or fur farming;
 - (7) Floriculture;
 - (8) Forest and game management;
 - (9) Gas and electric utility uses not requiring authorization under Sec. 196.491, Wis. Stats. (Certain electric generating facilities and transmission lines).
 - (10) Grazing;
 - (11) Home occupations and professional home offices;
 - (12) Orchards;
 - (13) Plant greenhouses and nurseries (non-retail) (Retail requires Conditional Use Permit);
 - (14) Poultry raising [less than one thousand (1,000) fowl];
 - (15) Public parks including golf courses;
 - (16) Raising of grain, grass, mint, and seed crops;
 - (17) Raising fruits, nuts, berries; sod farming and vegetable raising;
 - (18) Roadside produce stands;
 - (19) Single family dwellings;
 - (20) Sod farming;
- (c) **Accessory Uses.** See Section 13-1-140 for Accessory Use Regulations
- (d) **Conditional Uses.**
- (1) Agricultural supporting services;
 - (2) Agricultural warehouses or milk processing plants;
 - (3) All other agriculture-related retail or wholesale businesses.
 - (4) Bed and breakfast establishments;
 - (5) Cemeteries;
 - (6) Day care/Nursery School facilities requiring state licensing²
 - (7) Dependent units (accessory apartments) meeting the standards of Section 13-1-42(g);
 - (8) Greenhouses, nurseries, truck farms and orchards which also have commercial trade connected with the business;
 - (9) Home Industry Business
 - (10) Kennels;
 - (11) Livestock operations over nine hundred (900) head and poultry raising (with or without egg production) over one thousand (1,000) birds;

¹ Added 8-28-07

² Added 8-28-07

- (12) Manure pits.
- (13) Plant greenhouses and nurseries (retail)
- (14) Remodeling of farm dwellings which existed prior to April 16, 1957, into two-family dwellings provided that each unit shall have at least nine hundred (900) square feet of living area;
- (15) Storage and sale of seed, feed, fertilizer and other products essential to agricultural production;
- (16) Two-family dwellings.

(e) **Area, Height and Yard Requirements.**

- (1) Minimum Lot Size.
 - (a) The minimum lot area for one-family units shall be forty thousand (40,000) square feet for parcels created prior to the adoption date of this ordinance, and five (5) acre parcels created after the adoption date of this ordinance.
 - (b) The minimum average lot width shall be two-hundred (200) feet.
- (2) Yards.
 - (a) The minimum side and rear yards for dwellings shall be twenty-five (25) feet from the nearest lot lines.
 - (b) Highway setbacks for farm dwellings and structures shall be as specified in Section 13-1-24. Agricultural accessory buildings eight hundred sixty-four (864) square feet or less shall have side and rear yard setbacks of five (5) feet.
 - (c) Agricultural accessory buildings over eight hundred sixty-four (864) square feet shall have side and rear yard setbacks of twenty-five (25) feet.
 - 1. Total floor area of a dwelling:
 - a. One (1) story: One thousand two hundred (1,200) square feet.
 - b. Two (2) story: One thousand four hundred (1,400) square feet; first floor minimum eight hundred (800) square feet.
 - c. Bi-level: One thousand four hundred (1,400) square feet.
 - d. Tri-level: One thousand four hundred (1,400) square feet; total combined living area on two levels to meet one thousand two hundred (1,200) square feet, with balance on third level.
- (3) Maximum Building Coverage of Lot. Twenty percent (20%).
- (4) Maximum Building Height for Residences. Thirty-five (35) feet or two and one-half (2 1/2) stories.
- (5) Maximum Accessory Building Height. One hundred (100) feet.

- (f) **Animals On Single Family Subdivided Lots** No more than five (5) chickens, ducks or similar poultry, or eight (8) rabbits, are permitted on a lot of at least one and one-half (1½) acres. No more than one (1) animal (such as a horse, cow, sheep or llama) on a lot having at least three (3) acres, and two (2) animals on a lot having at least four and a half (4½) acres. Exotic animals requiring a state permit authorizing possession are prohibited within this district.

- ~~(g) **¹Livestock Facility Siting Law.** Pursuant to the provisions of Sec. 93.90, Wis. Stats., the Town of Farmington does hereby adopt and incorporate into this chapter of the Town Zoning Code the provisions of Sec. 93.90 of Wis. Statutes and ATCP 51 of the Wisconsin Administrative Rules, inclusive of all future amendments to any provisions of those sections of the Wisconsin Statutes and Administrative Rules.~~

¹ Livestock Facility Siting Law deleted August 24, 2010

Sec. 13-1-46 CD Commercial District.

- (a) **Purpose.** The purpose of this District is intended to provide an area without public sewer for the business, retail, financial, professional, and commercial needs of the community.
- (b) **Permitted Uses.** The following uses are permitted in the CD Commercial District:
- (1) Accounting, auditing and bookkeeping firms or services.
 - (2) Banks and other financial institutions.
 - (3) Barbershops and beauty shops.
 - (4) Civic, fraternal and social clubs.
 - (5) Cleaners.
 - (6) Dairy products stores, including ice cream stores.
 - (7) Department stores, variety stores, general merchandise stores.
 - (8) Drug stores/pharmacies.
 - (9) Electronic equipment sales and service.
 - (10) Engineering and architectural firms or consultants.
 - (11) Farm implement sales.
 - (12) Feed mills.
 - (13) Flower, candy, nut, confectionery or gift stores.
 - (14) Furniture stores.
 - (15) General grocery stores, supermarkets, fruit and vegetable stores, delicatessens, meat and fish stores and miscellaneous food stores.
 - (16) Hardware stores.
 - (17) Heating, electrical and plumbing supplies.
 - (18) Law offices.
 - (19) Lawn and garden shops, florist shops, tree and nursery stock.
 - (20) Miscellaneous retail stores.
 - (21) Miscellaneous business offices.
 - (22) Motion picture theaters, not including drive-in theaters.
 - (23) Offices/clinics of physicians and surgeons, dentists and dental surgeons, osteopathic physicians, optometrists and chiropractors, but not veterinarian's offices.
 - (24) Offices of insurance companies, agents, brokers and service representatives.
 - (25) Offices of real estate agents, brokers, managers and title companies.
 - (26) Package liquor stores.
 - (27) Paint, glass and wallpaper stores.
 - (28) Professional, scientific, or educational firms, agencies, offices, or services, but not research laboratories or manufacturing operations.
 - (29) Restaurants, lunch rooms and other eating places.
 - (30) Retail bakeries, including those which produce some or all of the products sold on the premises, but not including establishments which manufacture bakery products primarily for sale through outlets located elsewhere or through home service delivery.
 - (31) Shoe sales and repair.
 - (32) Single-residential residences, attached or detached.
 - (33) Storage units or mini-warehouses, but no outdoor storage.
 - (34) Taverns, bars and other drinking places having no outdoor service, with permit by Town Board.
 - (35) Telephone and internet offices.
 - (36) The offices, meeting places, churches, and premises of professional membership associations; civic, social, and fraternal associations; business associations, labor unions and similar labor organizations; political organizations; religious organizations; charitable organizations; or other non-profit membership organizations.

- (37) The offices of governmental agencies and post offices.
- (38) Trade and contractor's offices (office only).
- (39) Wholesale merchandise establishments, only for retail items listed above.

(c) **Conditional Uses.** The following uses are permitted as conditional uses within the CD District; provided that no nuisance shall be afforded to the public through noise, the discharge of exhaust gases from smoke, steam, harmful vapors, noxious materials, unsightly conditions, obstruction of passage on the public street or sidewalk, or other conditions generally regarded as nuisances; and provided that where operations necessary or incident to the proper performance of these services or occupations would tend to afford such nuisances, areas, facilities, barriers, or other devices shall be provided in such a manner that the public is effectively protected from any and all such nuisances. These uses shall be subject to the consideration of the Town Board with regard to such matters.

- (1) Automobile body shops.
- (2) Blacksmith shops, machine shops, welding shops, sheet metal shops.
- (3) Establishments engaged in the retail sale of automobiles, trailers, mobile homes or campers.
- (4) Establishments engaged in the daily or extended-term rental or leasing of house trailers, mobile homes or campers.
- (5) Establishments engaged in the daily or extended-term rental or leasing of passenger automobiles, limousines or trucks, without drivers, or of truck trailers or utility trailers.
- (6) Gasoline service stations.
- (7) Kennels.
- (8) Miscellaneous repair shops and related services.
- (9) Stores for sale and installation of tires, batteries, mufflers or other automotive accessories.
- (10) Motels and hotels.

(d) **Area, Height and Yard Requirements.**

- (1) **Minimum Lot Size.** The minimum lot area for a commercial use shall be forty thousand (40,000) square feet for parcels created prior to the adoption date of this ordinance, and one and a half (1½) acre parcels created after the adoption date of this ordinance.
- (2) **Minimum Lot Width.** One-hundred twenty-five (125) feet at the building line;
- (3) **Ground Floor Area.** For residential buildings in this District, the minimum ground floor area per dwelling unit shall be one thousand two hundred (1,200) square feet for commercial use and one-story residential use, one thousand four hundred (1,400) square feet for multi-story structures.
- (4) **Height of Buildings.** Thirty-five (35) feet for residential buildings. The height of commercial buildings shall be one foot for each foot of front yard setback.
- (5) **Side Yard.** A minimum of twenty-five (25) feet per side, a total of fifty (50) feet for both sides:
- (6) **Setback.** As provided in Section 13-1-24.
- (7) **Rear Yard.** Minimum of ten (10) feet.

Sec. 13-1-47 ID Industrial District.

- (a) **Purpose.** The I-1 Industrial District is intended to provide an area for manufacturing, marketing, and industrial and agribusiness activities. It is also intended to provide an area for a variety of uses which require relatively large installations, facilities or land areas, or which would create or tend to create conditions of public or private nuisance, hazard, or other undesirable conditions, or which for these or other reasons may require special safeguards, equipment, processes, barriers, or other forms of protection, including spatial distance, in order to reduce, eliminate, or shield the public from such conditions.
- (b) **Permitted Uses.**
- (1) Warehouses.
 - (2) All uses permitted in the CD Commercial District, except for churches, schools and residential uses. No other uses are permitted as a matter of right within the ID District. All uses within this District are conditional, requiring a public hearing and consideration of specific site factors and impacts on surrounding land uses. All conditional uses must be approved in accordance with the procedures established in Article D.
- (c) **Conditional Uses.** The following are permitted as conditional uses within the ID District. Such use shall be subject to the consideration of the Town Board with regard to such matters as the creation of nuisance conditions for the public or for the users of nearby areas, the creation of traffic hazards, the creation of health hazards, or other factors:
- (1) Manufacturing establishments, usually described as factories, mills or plants, in which raw materials are transformed into finished products, and establishments engaged in assembling component parts of manufactured products.
 - (2) Other industrial or commercial activities which possess the special problem characteristics described above relating to the creation of hazards or nuisance conditions.
 - (3) The outdoor storage of industrial products, machinery, equipment, or other materials, provided that such storage be enclosed by a suitable fence or other manner of screening.
 - (4) Wholesale establishments and warehouses.
 - (5) Building construction contractors.
 - (6) Highway passenger and motor freight transportation.
 - (7) Light Industry and Service Uses.
 - a. Automotive repair and body repair.
 - b. Automotive upholstery.
 - c. Cleaning, pressing, dyeing.
 - d. Commercial bakeries.
 - e. Commercial greenhouses.
 - f. Distributors.
 - g. Food locker plants.
 - h. Printing and publishing.
 - i. Trade and contractor's facilities.
 - j. Offices.
 - k. Painting services.
 - l. Retail sales and service facilities such as retail and surplus outlet stores, and restaurants and food service facilities when established in conjunction with a permitted manufacturing or processing facility.
 - m. Recreation vehicle, boat and miscellaneous storage.
 - n. Facilities to collect and/or process recycled paper, cardboard, plastics, light scrap metals, glass, oil, grease and other similar materials. All materials collected, stored or processed on the premises must be kept within fully enclosed permitted structures or operational vehicles and, may not accumulate out of doors unless in

a lawful junk yard or salvage yard, or unless permitted by conditional use permit. This Section does not include highly flammable, explosive or noxious materials, or junk vehicles.

(8) Public Facilities and Uses.

- a. Governmental, cultural and public buildings or uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds and museums.
- b. Schools and churches.
- c. Airports, airstrips and landing fields.

(9) Agriculture Related Industry and Service Uses.

- a. Production of natural and processed cheese.
- b. Production of shortening, table oils, margarine and other edible fats and oils.
- c. Production of condensed and evaporated milk.
- d. Wet milling of corn.
- e. Production of creamery butter.
- f. Drying and dehydrating fruits and vegetables.
- g. Preparation of feeds for animal and fowl.
- h. Pea vineries.
- i. Creameries.
- j. Production of flour and other grain mill products; blending and preparing of flour.
- k. Fluid milk processing.
- l. Production of frozen fruits, fruit juices, vegetables and other specialties.
- m. Fruit and vegetable sauces and seasoning, and salad dressing preparation.
- n. Poultry and small game dressing and packing providing that all operations be conducted within an enclosed building.
- o. Production of sausages and other meat products providing that all operations be conducted within an enclosed building.
- p. Corn shelling, hay baling and threshing services.
- q. Grist mill services.
- r. Horticultural services.
- s. Canning of fruits, vegetables, preserves, jams and jellies.
- t. Canning of specialty foods.
- u. Grain elevators and bulk storage of feed grains.
- v. Fertilizer production, sales, storage, mixing and blending.
- w. Sales or maintenance of farm implements and related equipment.
- x. Animal hospitals, shelters and kennels.
- y. Veterinarian services.

(10) Quarrying. Mining and quarrying provided that the requirements for location, operation and reclamation set out in Article D are complied with.

(11) Storage of Fuel, Materials, and Junked Vehicles. Storage and warehousing of fuel and materials, and the storage of wrecked and dismantled vehicles, junk, explosives, or inflammable gases or liquids, automobile wrecking yards, junk or scrap metal yards, and salvage yards for paper, glass, lumber, rags, tires or other materials provided that each such use shall be completely screened by a solid wall, fence, evergreen planting of equivalent opacity, or other equally effective means built to or maintained at a minimum height of six (6) feet, except for one (1) entrance or exit not more than twelve (12) feet wide and not directly facing an existing residence or residential district.

(d) **Lot, Yard and Building Requirements.**

- (1) **Minimum Lot Size.** The minimum lot area for an industrial use shall be forty thousand (40,000) square feet for parcels created prior to the adoption date of this ordinance, and one and a half (1½) acre parcels created after the adoption date of this ordinance.
- (2) **Minimum Lot Width.** One-hundred twenty-five (125) feet at the building line;
- (3) **Maximum Coverage.** The amount of the total lot area which may be covered by all principal and accessory buildings shall not exceed fifty percent (50%).
- (4) **Special Yard Requirement.** A front yard on each lot line abutting a street, a side and rear yard, except in the case where three (3) sides of a lot abut a street, there shall be required in addition to three (3) front yards, a side yard.
- (5) **Front Yard.** Depth where a lot abuts a highway or street shall be sixty (60) feet from the right-of-way. If the building is to be constructed in an established block where there are existing buildings, the yard depth shall be the average of the yard depths of buildings existing on the block face where the building is to be located, but not less than fifteen (15) feet from the right-of-way.
- (6) **Side Yard.** Width shall be fifteen (15) feet or greater, no accessory building shall project into the required side yard space.
- (7) **Rear Yard.** Depth shall not be less than twenty-five (25) feet. Within the required yards or in addition thereto, there shall be sufficient space for the loading and unloading of motor vehicles off the street.
- (8) **Nuisances Prohibited.** Any permitted use shall be so constructed and operated as to create no nuisance with respect to noise, vibration, emission of smoke or particulate matter, glare and heat or as to create fire or explosive hazards.
- (9) **Required Buffer Strips in Industrial Districts.** Where an Industrial District abuts a Residential District, there shall be provided along any rear, side or front line, coincidental with any industrial-residential boundary, a buffer strip not less than forty (40) feet in width as measured at right angles to said lot line. Plant materials at least six (6) feet in height of such variety and growth habits as to provide a year-round, effective visual screen when viewed from the Residential District shall be planted in the exterior twenty-five (25) feet abutting the Residential District. If the required planting screen is set back from the industrial-residential boundary, the portion of the buffer strip facing the Residential District shall be attractively maintained. Fencing may be used in lieu of planting materials to provide said screening. The fencing shall be not less than four (4) nor more than eight (8) feet in height, and shall be of such materials as to effectively screen the industrial area. The exterior twenty-five (25) feet of the buffer strip shall not be devoted to the parking of vehicles or storage of any material or accessory uses. The interior fifteen (15) feet may be devoted to parking of vehicles.

Sec. 13-1-48 Planned Unit Developments (PUD).

- (a) **Permit Required.** In the case of a Planned Unit Development consisting of two (2) or more principal buildings, the contemplated arrangement of which makes it impractical to apply the requirements of this Chapter to the individual building units in the group, a conditional use permit for the construction of such development may be issued by the Town Board. Permitted PUDs shall have the effect of serving as a zoning overlay district, superseding the requirements of the underlying zoning. Use, lot dimensions, bulk, yard, sign and other requirements will be as specified in the district regulations or conditional use permit.

- (b) **Conditions.** The Town Board shall not authorize such permit unless it finds that the plans for a PUD comply with the following conditions:
 - (1) The site shall be at least two (2) acres.
 - (2) Buildings in a PUD must be generally compatible in appearance.
 - (3) The Town Board may require such planting, fences, sidewalks, screening and access points as it deems necessary.
 - (4) The Town Board shall require a written PUD plan, completion schedule, including public improvements completion, and financial security (performance bond or irrevocable letter of credit).

Sec. 13-1-49 through Sec. 13-1-59 Reserved for Future Use.

Article D: Conditional Uses

Sec. 13-1-60 Statement of Purpose Conditional Uses.

The development and execution of this Article is based upon the division of the Town of Farmington into districts, within which districts the use of land and buildings, and bulk and location of buildings and structures in relation to the land, are mutually compatible and substantially uniform. However, there are certain uses which, because of their unique characteristics, cannot be properly classified as unrestricted permitted uses in any particular district or districts, without consideration, in each case, of the impact of those uses upon neighboring land or public facilities, and of the public need for the particular use of a particular location. Such uses, nevertheless, may be necessary or desirable to be allowed in a particular district provided that due consideration is given to location, development and operation of such uses. Such uses are classified as conditional uses.

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

- (a) The Town Board hereby authorizes the Zoning Administrator to issue a conditional use permit after review and public hearing, provided that such conditional use and involved structures are found to be in accordance with the purpose and intent of this Zoning Code and are further found to be not hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or the community. Such Town Board action, and the resulting conditional use permit shall specify the period of time for which effective, if specified, the name of the permittee, the location and legal description of the affected premises. Prior to the granting of a conditional use, the Town Board shall make findings based upon the evidence presented that the standards herein prescribed are being complied with.
- (b) Any development within five hundred (500) feet of the existing or proposed rights-of-way of freeways, expressways and within one-half (1/2) mile of their existing or proposed interchange or turning lane rights-of-way shall be specifically reviewed by the highway agency that has jurisdiction over the traffic way. The Town Board shall request such review and await the highway agency's recommendation for a period not to exceed twenty (20) days before taking final action.
- (c) Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operation control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or parking requirements may be required by the Town Board upon its finding that these are necessary to fulfill the purpose and intent of this Chapter.
- (d) Compliance with all other provisions of this Chapter, such as lot width and area, yards, height, parking, loading, traffic, highway access and performance standards shall be required of all conditional uses.

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

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

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

All requests for conditional uses shall be applied for with the Town Clerk on a form prescribed by the Town. The application shall be accompanied by a plan showing the location, size and shape of the lots involved and of any proposed structures, the existing and proposed use of each structure and lot, and shall include a statement in writing by the applicant and adequate evidence showing that the proposed conditional use shall conform to the standards set forth in Section 131-066 hereinafter. The Town Board may require such other information as may be necessary to determine and provide for an enforcement of this Chapter, including a plan showing contours and soil types; highwater mark and groundwater conditions; bedrock, vegetative cover, specifications for areas of proposed filling, grading, and lagooning; location of buildings, parking areas, traffic access, driveways, walkways, open spaces and landscaping; plans of buildings, sewage disposal facilities, water supply systems and arrangements of operations.

Sec. 13-1-64 Hearing an Application.

Upon receipt of the application referred to in Section 13-1-63 above, the Town Board shall hold a public hearing on each application for a conditional use at such time and place as shall be established by the Town Board. The hearing shall be conducted and a record of the proceedings shall be preserved in such a manner and according to such procedures as the Town Board shall, by rule, prescribe from time to time.

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

Notice of the time, place and purpose of such hearing shall be given by publication of a Class 2 notice under the Wisconsin Statutes in the official Town newspaper or by legal posting. Notice of the time, place and purpose of such public hearing shall also be sent to the applicant, the Zoning Administrator, members of the Town Board and the owners of record as listed in the office of the Town Assessor who are owners of property in whole or in part situated within two hundred (200) feet of the boundaries of the properties affected, said notice to be sent at least seven (7) days prior to the date of such public hearing.

Sec. 13-1-66 Standards Conditional Uses.

- (a) **Standards.** No application for a conditional use shall be granted by the Town Board unless the Board finds that the following factors exist:
- (1) That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
 - (2) That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use and the proposed use is compatible with the use of adjacent land.
 - (3) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
 - (4) That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.

- (5) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- (6) That the conditional use shall, except for yard requirements, conform to all applicable regulations of the district in which it is located.
- (7) That the proposed use does not violate flood plain regulations governed by the County.
- (8) That adequate measures have been or will be taken. to prevent and control water pollution, including sedimentation, erosion and runoff; approved by the appropriate jurisdictional authority.

- (b) **Application of Standards. When applying the above standards** to any new construction of a building or an addition to an existing building, the Town Board shall bear in mind the statement of purpose for the zoning district such that the proposed building or addition at its location does not defeat the purposes and objective of the zoning district.

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

When a denial of a conditional use application is made by the Town Board, the Town Board shall furnish the applicant with a copy of the meeting minutes.

Sec. 13-1-68 Conditions and Guarantees.

The following conditions may apply to all conditional uses:

- (a) **Conditions.** Prior to the granting of any conditional use, the Town Board may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as deemed necessary to promote the public health, safety and general welfare of the community, and to secure compliance with the standards and requirements specified in Section 13-1-66 above. In all cases in which conditional uses are granted, the Town shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with. Such conditions may include specifications for, without limitation because of specific enumeration:
- (1) Landscaping;
 - (2) Type of construction;
 - (3) Construction commencement and completion dates;
 - (4) Sureties;
 - (5) Lighting;
 - (6) Fencing;
 - (7) Operational control;
 - (8) Hours of operation;
 - (9) Traffic circulation;
 - (10) Deed restrictions;
 - (11) Access restrictions;
 - (12) Setbacks and yards;
 - (13) Planting screens;
 - (14) Increased parking; or
 - (15) Any other requirements necessary to fulfill the purpose and intent of this Chapter.
- (b) **Site Review.** In making its decision, the Town Board shall evaluate each application and may request assistance from any source which can provide technical assistance. The Town Board may review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems and the proposed operation/use.

- (c) **Alteration of Conditional Use.** No alteration of a conditional use shall be permitted unless approved by the Town Board following a new public hearing.
- (d) **Architectural Treatment.** Proposed architectural treatment will be in general harmony with surrounding uses and the landscape. To this end, the Town Board may require the use of certain general types of exterior construction materials and/or architectural treatment.

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

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

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

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

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

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

**Sec. 13-1-72 Home Occupations; Professional Home Offices;
Home Industry Businesses.**

- (a) **Intent.** The intent of this Section is to provide a means to accommodate a small family home-based business or professional home office as a permitted or conditional use without the necessity of a rezone into a commercial district. Approval of an expansion of a limited family business or home occupation at a future time beyond the limitations of this Section is not to be anticipated; relocation of the business to an area that is appropriately zoned may be necessary.
- (b) **Restrictions on Home Occupations.** Home occupations and professional home offices are a permitted use in all Agricultural and Residential Districts and are subject to the requirements of the District in which the use is located, in addition to the following requirements:
- (1) The home occupation shall be conducted only within the enclosed area of the dwelling unit or a garage.
 - (2) There shall be no exterior alterations which change the character thereof as a dwelling and/or exterior evidence of the home occupation other than those signs permitted in the district.
 - (3) No storage or display of materials, goods, supplies or equipment related to the operation of the home occupation shall be visible outside any structure located on the premises.
 - (4) No use shall create smoke, odor, glare, noise, dust, vibration, fire hazard, small electrical interference or any other nuisance not normally associated with the average residential use in the district.
 - (5) Only one (1) sign may be used to indicate the type of occupation or business. Such sign shall not be illuminated and shall comply with district sign regulations.
 - (6) The use shall not involve the use of commercial vehicles for more than occasional delivery of materials to or from the premises.
 - (7) The Town Board may determine the percentage of the property that may be devoted to the occupation, but shall not exceed thirty percent (30%).
 - (8) No stock in trade is kept or sold except that which is made in connection with such occupation.
 - (9) The types and number of equipment or machinery may be restricted by the Town Board.
 - (10) Sale or transfer of the property shall cause the Conditional Use Permit to be null and void.
 - (11) Under no circumstances shall a vehicle repair or body work business qualify as a home occupation.
 - (12) No more than three (3) family employees may work on the premises.
- (c) **Home Industry Business conditional Use.** Home industry businesses are allowed as conditional uses, provided they are operated by family and/or non-family member employees; and involve either occasional sale of products not produced on the premises, or involve fabricating on the premises, either within the dwelling unit or in an accessory structure, a product which is not included in the definition of "home occupation."

Sec. 13-1-73 General Conditional Uses.

In addition to specific zoning district conditional uses and pertinent district requirements, the following are general conditional uses in districts as noted:

- (a) **Agricultural Products Processors.** Canneries, cheese factories, condenseries, creameries, pea vipers and such other establishments for the processing, packing or manufacture of the agricultural products as may have a nuisance factor not separable there-from, such as the emission or effluence of noxious or odorous wastes or by-products (Agricultural and Industrial districts).
- (b) **Charitable Institutions.** Facilities of charitable institutions determined to be tax exempt by the IRS which are not otherwise specifically permitted in any district.
- (c) **Mineral Extraction.** Mineral extraction operations which comply with applicable Town mineral extraction ordinances.
- (d) **Private Clubs.** Private clubs (All districts).
- (e) **Asphalt Plants.** Asphalt manufacturing, mixing and distribution operations (Commercial and Industrial districts).
- (f) **Waste Disposal.** All privately owned sites used for the storage, collection, transportation, treatment, utilization, processing and final disposal of compacted, solid or liquid wastes, except recycling facilities specifically permitted (Commercial, Industrial and Agricultural districts).
- (g) **Antique Shops.** Antique shops and similar commercial storage uses.
- (h) **Auction Facilities.** Auction sales facilities (Non-Residential districts).
- (i) **Stables.** Boarding and riding stable facilities where five (5) or more horses not owned by the owner of the premises are kept for boarding or training purposes, or facilities where horses are rented for riding purposes by persons other than the owner (Agricultural districts).
- (j) **Bulk Milk Stations.** Bulk milk and other agricultural product transfer stations (Agricultural and Industrial districts).
- (k) **Cement Plants.** Cement, concrete or asphalt manufacturing, mixing and distribution operations in industrial districts, subject to the Town Board's review of plan of operation to include at least the following information:
 - (1) A list of equipment, machinery and structures to be used including their height;
 - (2) A site plan of the operation;
 - (3) A description of the source, quantity and disposition of water to be used;
 - (4) Disposal of waste cement and concrete;
 - (5) A description of proposed noise and dust control procedures; and
 - (6) Proposed hours of operation.
- (l) **Towers/Windmills.** Towers, windmills and radio relay towers, allowed only in Agricultural, Industrial, and Commercial Districts.

Sec. 13-1-74. through Sec. 13-1-79 Reserved for Future Use.

Article E: Nonconforming Uses, Structures and Lots

Sec. 13-1-80 Existing Nonconforming Uses.

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

Sec. 13-1-81 Existing Nonconforming Structures.

- (a) The existing lawful use of a building or premises at the time of the enactment or amendment of this Section may be continued although such use does not conform with the regulations for the district in which it is located. Except in the Agricultural District, such nonconforming uses shall not be extended. Nonconforming mobile homes shall not be moved, relocated or placed unless in conformity with this Section. This Section does not apply to pre-existing residences located in the Agricultural District.
- (b) If no structural alternations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or a more restricted classification. Whenever a nonconforming use has been changed to a more restricted nonconforming use or a conforming use, such use shall not thereafter be changed to a less restricted use.

Sec. 13-1-82 Changes and Substitutions.

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

Sec. 13-1-83 Substandard Lots.

- (a) **Substandard Lot Area.** Where a lot has an area less than the minimum number of square feet required for the district in which it is located and was a lot of record on May 12, 1954, such lot may be occupied by single-family dwelling, commercial or industrial uses as permitted in the appropriate districts. In addition, the Board of Zoning Appeals may permit new construction on such lots which does not meet current bulk or yard requirements. If two (2) or

more abutting substandard lots are owned by the same owner, they are deemed to be combined and may not be sold or divided except in conformity with this Chapter.

- (b) **Substandard Lot Width.** Where a lot has a minimum width less than that required for the district in which it is located and was a lot of record on May 12, 1954, the side yards shall be as provided for the district in which the lot is located if possible, but if not possible, existing buildings which are as close as three (3) feet to lot lines may be altered, enlarged or extended except that such alteration shall not encroach further into the existing nonconforming side yard. If two (2) or more abutting substandard lots are owned by the same owner, they are deemed to be combined and may not be sold or divided except in conformity with this Chapter.
- (c) **Substandard Lot Public Access Road Frontage.** Where a lot has less than the minimum road frontage as required by this Chapter and was a lot of record on November 1, 1977, such lot may be occupied by any permitted use of the zoning district within which the lot is located, providing that such proposed use complies with all other applicable provisions of this Chapter.

¹Sec. 13-1-84 Special Non-Conforming Uses.

Section 13-1-80 thru sections 13-1-83 inclusive are not applicable to properties made non-conforming by road right-of-way acquisitions. All other provisions of the Zoning Code, as appropriate, are applicable to the properties.

Sec: 13-1-85 through Sec. 13-1-89 Reserved for Future Use.

¹ 13-1-84 added 8/24/2010

Article F: Traffic Visibility, Loading, Parking and Access

Sec. 13-1-90 Traffic Visibility.

On a corner lot in all zoning districts, no fence, wall, hedge, planting or structure shall be erected, placed, planted or allowed to grow in such a manner as to obstruct vision between a height of two and one-half (2 ½) feet and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining the points along said street lines twenty-five (25) feet from the point of intersection. In the case of arterial streets intersecting with other arterial streets or railways, the corner cutoff distances establishing the triangular vision clearance space shall be increased to fifty (50) feet.

Sec. 13-1-91 Parking Requirements.

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

- (a) **Access:** Adequate access to a public street shall be provided for each parking space.
- (b) **Design Standards.** Each required off-street parking space shall have a stall width of at least nine (9) feet and a stall length of at least eighteen (18) feet. Such space shall have a vertical clearance of at least six and one-half (6 ½) feet. Minimum width of aisles providing access to stalls for one-way traffic shall be as follows: Aisles shall be not less than twenty-four (24) feet wide for ninety (90) degree parking, eighteen (18) feet wide for sixty (60) degree parking, fifteen (15) feet wide for forty-five (45) degree parking (angle shall be measured between centerline of parking space and centerline of aisle), and twelve (12) feet wide for parallel parking. For parallel parking, the minimum length of the parking space shall be increased to twenty-three (23) feet. No parking area of more than two (2) spaces shall be designed as to require any vehicle to back into a public street. Any parking area of more than five (5) spaces shall be sufficiently screened in the form of a solid fence or shrubbery to protect adjacent residential uses.
- (c) **Location.**
 - (1) Location to be on the same lot as the principal use or not over four hundred (400) feet from the principal use.
 - (2) Off-street parking is permitted in all yards of all districts.
- (d) **Special Residential Requirements.** Those parking areas for five (5) or more vehicles if adjoining a residential use shall be screened from such use by a solid wall, fence, evergreen planting of equivalent visual density, or other effective means, built and maintained at a minimum height of five (5) feet. Where a solidly constructed decorative fence is provided along the interior lot line, the minimum setback for the parking area shall be five (5) feet from said lot line. Any fence shall be located a minimum of three (3) feet from said lot line.
- (e) **Lighting.** Any lighting used to illuminate off-street parking areas shall be directed away from residential properties and public streets in such a way as not to create a nuisance. However, in no case shall such lighting exceed three (3) foot candles measured at the lot line.
- (f) **Handicapped Parking Requirements.** The provisions contained in Secs. 10 1. 13, 346.503 and 346.56, Wis. Stats., and any Wisconsin Administrative Code sections adopted pursuant to

these statutes are hereby adopted by reference and made applicable to all new parking facilities being constructed.

Sec 13-1-92 Highway Access.

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

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

Article G: Signs

Sec. 13-1-100 Purpose and Intent of Sign Regulations.

The intent of this Article is to provide for and regulate the location and safe construction of signs in a manner to ensure that signs are compatible with surrounding land uses, are well maintained and express the identity of individual proprietors and the Town as a whole.

Sec. 13-1-101 Compliance.

No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without conforming with the provisions of this Zoning Code.

Sec. 13-1-102 Signs Permitted in All Districts Without a Permit.

The following signs are permitted in all zoning districts without a permit, subject to the following regulations:

- (a) Real estate signs not to exceed eight (8) square feet in area which advertise the sale, rental or lease of the premises upon which said signs are temporarily located.
- (b) Home occupation and professional home office signs not to exceed two (2) square feet in area.
- (c) Election campaign signs, provided that permission shall be obtained from the property owner, renter or lessee and provided that such sign shall not be erected prior to the first day of the "election campaign period" as defined in Sec. 12.04 of the Wisconsin Statutes and shall be removed within four (4) days following the election.
- (d) Rummage sale and garage sale signs, provided that no such signs shall be erected or placed within a public right-of-way and further provided that such signs are removed within twenty-four (24) hours following the sale.
- (e) Bulletin boards for public, charitable or religious institutions not to exceed thirty-two (32) square feet in area located on the premises.
- (f) Memorial signs, tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of metal and affixed flat against a structure.
- (g) Official signs, such as traffic control, parking restrictions, information and notices.
- (h) Farm identification signs showing the name of the owner or corporate affiliation or memberships not to exceed sixteen (16) square feet in area.

Sec. 13-1-103 Signs Permitted in All Residential Districts.

The following signs are permitted in any residential district and are subject to the following regulations:

- (a) Permanent signs placed at the entrance to a subdivision or development shall contain the name of the subdivision or development, shall have a minimum ten (10) foot side yard, and shall not be located in a road right-of-way. The Plan Commission shall determine the appropriate size of the sign based on the design of the sign and its compatibility with adjacent land uses.
- (b) Temporary development signs for the purpose of designating a new building or development or for the promotion of a subdivision may be permitted for a limited period of time, provided

that the sign shall not exceed forty-eight (48) square feet in area, shall have a minimum ten (10) feet side yard, and shall not be located in a road right-of-way. The Plan Commission shall specify the period of time the sign may remain based on the size of the development, allowing a reasonable time to market the development.

Sec. 13-1-104 Signs Permitted in All Agricultural Districts.

The following signs may be permitted in all Agricultural Districts and are subject to the following regulations:

- (a) Wall signs affixed to or painted on farm buildings advertising farm products produced on and/or sold on the premises or displaying the owner's name shall not exceed two hundred (200) square feet.
- (b) Ground signs advertising products produced on and/or sold on the premises shall not exceed fifteen (15) feet in height above the ground surface, shall have a minimum ten (10) foot side yard, shall not be located in a road right-of-way, and shall not exceed thirty-two (32) square feet.
- (c) Directional signs indicating the name of a business or other establishment and the direction and distance to the establishment. No directional sign shall be placed within the road right-of-way or within the vision clearance triangle of any intersecting roads. No directional sign shall exceed twelve (12) square feet in area.

Sec. 13-1-105 Signs Permitted in All Commercial and Industrial Districts.

Signs are permitted in all commercial and industrial districts subject to the following restrictions:

- (a) Walls signs placed against the exterior walls of buildings shall not extend more than twelve (12) inches outside of a buildings wall surface, shall not exceed two hundred (200) square feet in area for any one (1) premises and shall not extend above the roof line of the building.
- (b) Projecting signs (including marquee, awning or canopy signs) fastened to, suspended from or supported by structures shall not exceed twenty (20) square feet in area for any one (1) premises, shall not extend more than six (6) feet into any required yard, shall not extend more than three (3) feet into any public right-of-way, shall not be less than ten (10) feet from all side lot lines, shall not exceed a height of twenty (20) feet above the mean centerline street grade, shall have a minimum ten (10) foot side yard, shall not be located in a road right-of-way, and shall not be less than ten (10) feet above the sidewalk nor fifteen (15) feet above a driveway or an alley.
- (c) Ground signs shall not exceed twenty (20) feet in height above the mean centerline street grade, shall have a minimum ten (10) foot side yard, shall not be located in a road right-of-way, and shall not exceed one hundred (100) square feet on one (1) side nor two hundred (200) square feet on all sides for any one (1) premises.

Sec. 13-1-106 Portable Signs.

The Zoning Administrator/Building Inspector may permit the temporary use of a portable sign for advertising purposes in any district, provided that the portable sign will not be located on any public right-of-way, will not be located closer than ten (10) feet to an adjacent property and will not cause a hazard to traffic or adjoining properties. Such signs shall not be displayed more frequently than five (5) times per calendar year, not more than thirty (30) days at a time.

Sec. 13-1-107 Lighting and Color.

Signs shall not resemble, imitate or approximate the shape, size, form or color of railroad or traffic signs, signals or devices. Signs shall not obstruct or interfere with the effectiveness of railroad or

traffic signs, signals or devices. Signs shall not be erected, relocated or maintained so as to prevent free ingress to or egress from any door, window or fire escape; and no sign shall be attached to a standpipe or fire escape. Signs shall not be placed so as to obstruct or interfere with traffic visibility, nor be lighted in such a way as to cause glare or impair driver visibility upon public ways. Signs may be illuminated but nonflashing. Signs shall not be revolving or animated; however, copy on time and temperature devices may be cyclical. Signs in residential districts may be illuminated only with Plan Commission, approval.

Sec. 13-1-108 Measuring Signs.

In calculating the area of a sign to determine whether it meets the requirement of this Zoning Code, the Zoning Administrator shall include the sign copy and any border or frame surrounding that copy. Supporting members of a sign shall be excluded from the area calculation. Area of irregularly shaped signs or signs containing two (2) or more detached elements shall be determined by the area of the smallest regular polygon that will encompass all elements of the sign.

Sec. 13-1-109 through Sec. 13-1-119 Reserved for Future Use.

Article H: Performance Standards

Sec. 13-1-120 Article Intent.

It is the intent of this Article to use performance standards for the regulation of uses to facilitate a more objective and equitable basis for control and to insure that the community is adequately protected from potential hazardous and nuisance-like effects. The standards contained in this Article shall not be applicable to properties zoned agricultural. This Chapter permits specific uses in specific districts and these performance standards are designed to limit, restrict and prohibit the effects of those uses outside their premises or district. No structure, land or water shall hereafter be used except in compliance with the district regulations and with the following environmental performance standards.

Sec. 13-1-121 Noise.

No non-agricultural operation or activity shall transmit any noise exceeding 75 dBA from 7:00 a.m. to 11:00 p.m. and 70 dBA from 11:00 p.m. to 7:00 a.m. beyond the property line. The following noises are exempt from the regulations:

- (a) Noises from temporary construction or maintenance activities during daylight hours.
- (b) Noises from emergency, safety or warning devices.

Sec. 13-1-122 Vibration.

(a) No operation or activity shall transmit any physical vibration that is above the vibration perception threshold of an individual at or beyond the property line of the source. Vibration perception threshold means the minimum ground- or structure-borne vibrational motion necessary to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.

(b) Vibrations from temporary construction or maintenance activities shall be exempt from the above standard.

Sec. 13-1-123 Glare and Heat.

No unsanctioned activity shall emit glare or heat that is visible or measurable outside its premises, except activities in the industrial district which may emit direct or sky-reflected glare which shall not be visible outside their district. All operations producing intense glare or heat shall be conducted within a completely enclosed building. Exposed sources of light shall be shielded so as not to be visible outside their premises.

Sec. 13-1-124 Odor.

No operation or activity shall emit any substance or combination of substances in such quantities that create an objectionable odor as defined in Chapter NR 154.18, Wisconsin Administrative Code. Odors from normal farming operations are exempt from this standard, provided such farming operations are being done within the standards established by State farming regulations.

Sec. 13-1-125 Fire and Explosive Hazards.

All activities involving the manufacturing, utilization, processing or storage of inflammable and explosive material shall be provided with adequate safety devices against the hazard of fire and explosion, and with adequate fire-fighting and fire-suppression equipment and devices that are standard in the industry. All materials that range from active to intense burning shall be manufactured, utilized, processed and stored only in completely enclosed buildings which have incombustible exterior walls and an automatic fire extinguishing system.

Sec. 13-1-126 Air Pollution.

- (a) No non-agricultural operation or activity shall emit into the ambient air from any direct or portable source any matter that will affect visibility in excess of the limitations established in Chapter NR 154.11(6), Wisconsin Administrative Code.

- (b) No non-agricultural activity or operation shall be established or maintained which by reason of its nature causes emission of any fly ash, dust, fumes, vapors, mists or gases in such quantities as to cause soiling or danger to the health of persons, animals, vegetation or property. In no case shall any activity emit any liquid or solid particles in concentrations exceeding 0.3 grains per cubic foot of the conveying gas; nor any color visible smoke equal to or darker than No. 2 on the Ringlemann Chart described in the United States Bureau of Mines Information Circular 7718 in any Industrial District. Fugitive emissions shall not exceed the ambient standards for respiratorial dust as established by the United States Environmental Protection Agency currently known as the PM Standard.

Sec. 13-1-127 through Sec. 13-1-129 Reserved for Future Use.

Article I: Signal Receiving Antennas; Wind Energy Systems;

Wireless Telecommunications Systems

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

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

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

- (a) **Application.** The permit application for a wind energy system shall be made to the Zoning Administrator on forms provided by the Town of Farmington. The application shall include the following information:
 - (1) The name and address of the applicant.
 - (2) The address of the property on which the system will be located.
 - (3) Applications for the erection of a wind energy conversion system shall be accompanied by a plat or survey for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures. If the system is intended to provide power to more than one (1) premises, the plat or survey shall show all properties to be served and the means of connection to the wind energy conversion system. A copy of all agreements with system users off the premises shall accompany the application. The application shall further indicate the level of noise to be generated by the system and provide assurances as to the safety features of the system. Energy easements shall accompany the application.
 - (4) An accurate and complete written description of the use for which special grant is being requested, including pertinent statistics and operational characteristics.
 - (5) Plans and other drawings showing proposed development of the site and buildings, including landscape plans, location of parking and service areas, driveways, exterior lighting, type of building material, etc., if applicable.
 - (6) Any other information which the Zoning Administrator, Town Board or Building Inspector may deem to be necessary to the proper review of the application.
 - (7) The Zoning Administrator shall review the application and, if the application is complete and contains all required information, shall refer it to the Town Board.

- (b) **Hearing.** Upon referral of the application, the Town Board shall schedule a public hearing thereof following the procedures for conditional use permits in Article D.
- (c) **Determination.** Following public hearing and necessary study and investigation, the Town Board shall, as soon as practical, render its decision and a copy be made a permanent part of the Board's minutes. Such decision shall include an accurate description of the special use permitted, of the property on which permitted, and any and all conditions made applicable thereto, or, if disapproved, shall indicate the reasons for disapproval. The Town Board may impose any conditions or exemptions necessary to minimize any burden on the persons affected by granting the special use permit.
- (d) **Termination.** When a special use does not continue in conformity with the conditions of the original approval, or where a change in the character of the surrounding area or of the use itself cause it to be no longer compatible with surrounding areas, or for similar cause based upon consideration for the public welfare, the special grant may be terminated by action of the Town Board following a public hearing thereon.
- (e) **Changes.** Subsequent change or addition to the approved plans or use shall first be submitted for approval to the Town Board and if, in the opinion of the Town Board, such change or addition constitutes a substantial alteration, a public hearing before the Town Board shall be required and notice thereof be given.
- (f) **Approval Does Not Waive Permit Requirements.** The approval of a permit under this Article shall not be construed to waive the requirement to obtain electrical, building or plumbing permits prior to installation of any system.

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

- (a) **Additional Standards.** Wind energy conversion systems, commonly referred to as "windmills," which are used to produce electrical power, shall also satisfy the requirements of this Section in addition to those found elsewhere in this Article.
- (b) **Application.** Applications for the erection of a wind energy conversion system shall be accompanied by a plat or survey for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures. If the system is intended to provide power to more than one (1) premises, the plat or survey shall show all properties to be served and the means of connection to the wind energy conversion system. A copy of all agreements with system users off the premises shall accompany the application. The application shall further indicate the level of noise to be generated by the system and provide assurances as to the safety features of the system. Energy easements shall accompany the application.
- (c) **Construction.** Wind energy conversion systems shall be constructed and anchored in such a manner to withstand wind pressure of not less than forty (40) pounds per square foot in area
- (d) **Noise.** The maximum level of noise permitted to be generated by a wind energy conversion system shall be fifty (50) decibels, as measured on a dB(A) scale, measured at the lot line.
- (e) **Electro-magnetic Interference.** Wind energy conversion system generators and alternators shall be filtered and/or shielded so as to prevent the emission of radio-frequency energy that would cause any harmful interference with radio and/or television broadcasting or reception. In the event that harmful interference is caused subsequent to the granting of a conditional use permit, the operator of the wind energy conversion system shall promptly take steps to

eliminate the harmful interference in accordance with Federal Communications Commission regulations.

- (f) **Location and Height.** Wind energy conversion systems shall be located in the rear yard only and shall meet all setback and yard requirements for the district in which they are located and, in addition, shall be located not closer to a property boundary than a distance equal to their height. Wind energy conversion systems are exempt from the height requirements of this Chapter; however, all such systems over seventy-five (75) feet in height shall submit plans to the Federal Aviation Administration (FAA) to determine whether the system is to be considered an object affecting navigable air space and subject to FAA restrictions. A copy of any FAA restrictions imposed shall be included as a part of the wind energy conversion system conditional use permit application.
- (g) **Fence Required.** All wind energy conversion systems shall be surrounded by a security fence not less than six (6) feet in height. A sign shall be posted on the fence warning of high voltages.
- (h) **Utility Company Notification.** The appropriate electric power company shall be notified, in writing, of any proposed interface with that company's grid prior to installing said interface. Copies of comments by the appropriate utility company shall accompany and be part of the application for a conditional use permit.

Sec. 13-1-133 Wireless Telecommunications Systems.

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

¹ Removed 10-28-08

~~from or attributable to the sale, lease, rental or exchange of Wireless Telecommunications Services or the equipment by the Permittee within the Town or in any way derived from the operation of its Wireless Telecommunications System, including, but not limited to, any interconnection between its system and the Town and any system whatsoever. This shall be the basis for computing the fee imposed pursuant to Subsection (b)(2). Such sum shall not include any bad debts, deposits, promotional or vendor discounts or credits or sales, service, occupation or other excise tax to the extent that such taxes are charged separately from normal services charges and are remitted by the Permittee directly to the taxing authority.~~

- (8) **Tower.** Any ground, building or roof-mounted pole, spire, structure, or combination thereof including supporting lines, cables, wires, braces, masts, intended primarily for the purpose of mounting an antenna.
- (9) **Wireless Telecommunications Permit.** The privilege granted by the Town by which it authorizes an entity to erect, construct, reconstruct, operate, dismantle, test, use, maintain, repair, build or replace a Wireless Telecommunications System. Any permit issued in accordance herewith shall be a non-exclusive permit.
- (10) **Wireless Telecommunications Service.** A licensed commercial wireless telecommunications service including cellular, Personal Communication Services ("PCS"), Specialized Mobile Radio ("SMR"), Enhanced Specialized Mobilized Radio ("ESMR") paging, and similar services that are marketed to the general public.
- (b) **License Requirements; fees.**
- (1) No entity may construct, operate or continue to operate a Wireless Telecommunications System within the Town without having been issued a Wireless Telecommunications Permit by the Zoning Administrator.
- (2) ~~¹It shall be a term and condition of any Wireless Telecommunications Permit issued in accordance herewith and part of the consideration supporting the issuance of such Wireless Telecommunications Permit that the Permittee shall pay to the Town the sum of five percent (5%) of all Total Gross Revenue derived from the operation of Wireless Telecommunications System. Such payments shall be made annually within one hundred twenty (120) days after the close of the calendar year. All fee payments shall be subject to audit by the Town and assessment or refund if the payment is found to be in error. In the event that an audit by the Town results in an assessment of an additional payment to the Town, such additional payment shall be subject to interest at the rate of one and one-half percent (1 1/2%) per month retroactive to the date such payment originally should have been made. Such payment shall be due and payable immediately and shall include the costs of conducting said audit.~~
- (2) Structure Location Permit Fees.
- a. All applicants for a Structure Location Permit shall pay to the Town a permit request fee of One Hundred Dollars (\$100.00) per site.
- b. Any entity operating a Wireless Telecommunications System shall pay to the Town an annual Structure Location Permit Fee of One Hundred Dollars (\$100.00) per site.
- (4) ~~²The request fee shall be paid to the Zoning Administrator at the time of making application for a Structure Location Permit. The annual Structure Location Permit Fee provided for in Subsection (c) above shall be paid to the zoning Administrator annually on or before October 1 of each calendar year for the portion of the Wireless Telecommunications System within the Town right-of-way on January 1 of that year, and a prorated license fee, based upon the calendar quarter in which the application is filed, shall be paid at the time of the~~

¹ Removed 10-28-08

² Removed 10-28-08

~~application for a Structure Location Permit. Such quarterly fees are due on January 1, April 1, July 1 and September 1.~~

~~¹(5) Fees not paid within ten (10) days after the due date shall incur interest at the rate of one and one-half percent (1 1/2%) per month from the date due until paid.~~

~~²(6) The acceptance of any fee payment required hereunder by Town shall not be construed as an acknowledgment that the payment paid is the correct amount due, nor shall such acceptance of payment be construed as release of any claim which the Town may have for additional sums due and payable.~~

(c) **Conditions of Permit.**

- (1) Any Wireless Telecommunications Permit or Structure Location Permit issued by the Town shall be a non-exclusive permit for the use of those areas within the Town specified in the Wireless Telecommunications Permit or Structure Location Permit.
- (2) Any Wireless Telecommunications Permit or Structure Location Permit issued by the Town shall continue in full force and effect so long as the Permittee is in compliance with this Chapter, all applicable federal, state and local ordinances and regulations and the space occupied is not deemed to be needed by the Town for any other public purpose.
- (3) In the event any Wireless Telecommunications Permit or Structure Location Permit is revoked by the Town, the Wireless Telecommunications System shall, at the sole option of the Town, be removed within thirty (30) days at the sole expense of the Permittee.

(d) **Permit Locations and Conditions.** Antennas and towers authorized by a Structure Location Permit shall comply with the following requirements:

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

¹ Removed 10-29-08

² Removed 10-29-08

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

(e) **Use of Streets and Pole Attachments.**

- (1) Before commencing construction of a Wireless Telecommunications System in, above, over, under, across, through or in any way connected with the streets, public ways or public places of the Town, the permittee shall first obtain the written approval of, and all other necessary permits from, all appropriate Town agencies, including, but not limited to, the Zoning Administrator. Applicants for such approval shall be made in the form prescribed by the Town Engineer.
- (2) Upon obtaining such written approval, the Permittee shall give the Town Engineer and any other appropriate agency written notice within a reasonable time for proposed construction, but in no event shall such notice be given less than ten (10) days before commencement of such construction, except for emergency repairs of existing lines and cables.
- (3) Any entity that submits a request for a Wireless Telecommunications Permit in accordance herewith shall include therein proposed agreements for the use of existing towers and antennas, if applicable, with the owners) of such facilities to be used or affected by the construction of the proposed Wireless Telecommunications System.
- (4) It shall be unlawful for the Permittee or any other person or entity to open or otherwise disturb the surface of any street, sidewalk, driveway, public way or other public place for any purpose whatsoever without first obtaining approval to do so after proceeding in the manner described in Subsection (e)(1) and (2). Violation of this. Subsection shall subject the Permittee to all penalties and remedies prescribed herein and to all other remedies, legal or equitable, which are available to the Town.
- (5) The Permittee shall restore any street or sidewalk it has disturbed in accordance with the provisions of the Town's standard specifications for streets and sidewalks, and shall at its own cost and expense, restore and replace any other property disturbed, damaged or in any way injured, by or on account of its activities, to as good as the condition such property was immediately prior to the disturbance, damage or injury, or pay the fair market value of such property to its owner(s), or shall make such other repairs or restoration as outlined in the approved permit.
- (6) The Permittee shall, at its own cost and expense, protect, support, temporarily disconnect, relocate in the same street or other public place, or remove from such street or other public place, any of its property when required to do so by the Town because of street or other public excavation, construction, repair, regrading or grading, traffic conditions, installation of sewers, drains, water pipes, Town-owned power or signal lines, tracts, vacation or relocation of streets or any other type of construction or improvement of a public agency, or any type of improvement necessary for the public health, safety or welfare, or upon termination or expiration of the permit.
- (7) The Permittee shall maintain all wires, conduits, cables or other real and personal property and facilities in good condition, order and repair. The Permittee shall provide indemnity insurance and performance bonds or demonstrate financial responsibility as shall comply with all rules and regulations issued by the Town Engineer governing the construction and installation of Wireless Telecommunications Systems.

- (8) The Permittee shall keep accurate, complete and current maps and records of its system and facilities which occupy the streets, public ways and public places within the Town and shall furnish, as soon as they are available, two (2) complete copies of such maps and records, including as-built drawings, to the Town Engineer.
- (9) The Permittee shall comply with all rules and regulations issued by the Town Engineer governing the construction and installation of Wireless Telecommunications Systems.
- (f) **Violation and Penalties.** Any entity who shall carry on or conduct any business or occupation or profession for which a Wireless Telecommunications Permit or a Structure Location Permit is required by this Section without first obtaining such a permit shall be considered to be in violation of this Section and, upon conviction, shall be punished as provided in Section 13-1-172. Each day any violation continues shall be deemed a separate, chargeable offense. No tower or antenna may be sited on residential property within the Town. Placement of towers or antennas on such residentially-zoned property shall be a violation of this Section and shall be subject to a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) per day for each day that the tower or antenna is in place. Any other violation of this Section shall be punished as provided in Section 13-1-172.
- (g) **Restrictions on Assignment, Transfer, Sale and Subleasing.**
- (1) The rights and privileges hereby granted are considered personal, and if the Permittee sells, assigns, transfers, leases or pledges such rights or privileges, or both, in whole or in part, either directly or by operation of the law, then the Town shall have the right to terminate any and all permits issued hereunder for no other cause. The Town shall terminate such permits in writing, by certified mail, return receipt requested, to the Permittee, and such termination shall be effective sixty (60) days from said date of mailing. The rights and privileges hereby granted shall not be mortgaged or encumbered without the prior consent and approval of the Town given by written resolution.
- (2) In addition to the provisions of termination provided for in Subsection (g)(1), the Town shall have the right to terminate any and all permits issued hereunder upon any actual or pending change in, or transfer of, acquisition by any other party, or control of Permittee. The word "control" as used in this context is not limited to major stockholders, but includes actual working control in whatever manner exercised. The Permittee shall annually submit to the Town a list of all shareholders and a list of all officers and directors. By acceptance of the Wireless Telecommunications Permit, the Permittee specifically agrees that any violation of this Section shall, at the Town's option, cause any and all permits granted the Permittee under this Section to be revoked.
- ~~(h) **Reports.**~~
- ~~(1) Entities requesting a Wireless Telecommunications Permit may be required by the Town to submit evidence of financial capability to construct and operate a Wireless Telecommunications Permit. Such evidence may include, but is not limited to, previous years audited financial statements for the entity, individual financial statements of principals or investors or such other financial information as the Town may desire. ¹~~
- ~~(2) The Permittee shall provide the Town with a written statement from an independent certified public accountant within one hundred twenty (120) days after the close of the calendar year that such certified public accountant has reviewed the books and records of the Permittee as they related to any permits issued under this Section, and based upon such review, the certified public accountant believes the payment received by the Town property reflects the fee due to the Town with respect to this Section. The Town~~

~~shall have the right to reasonable inspection of the Permittee's books and records during normal business hours. 2~~

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

Article J: Accessory Uses and Structures; fences;

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

- (a) **Compliance with District Regulations.** Any accessory use or structure shall conform to the applicable regulations of the district in which it is located, except as specifically otherwise provided.
- (b) **Placement Restrictions.** An accessory use or structure may be established subject to the following regulations:
- (1) **Attached Accessory Building Size Limits.** No attached accessory building or structure shall exceed the height of the principal building or structure.
 - (2) **Attached Accessory Buildings Yard Requirements.** All accessory buildings which are attached to the principal building shall comply with the yard requirements of the principal building.
 - (3) **Detached Garages or Accessory Buildings.** In specified Zoning categories, the following shall apply:
 - a. On a lot having at least 3 acres, non-dwelling uses and structures accessory to permitted and conditional uses may not exceed twelve hundred (1,200) square feet, with an additional 100 sq. ft. for each additional acre of land up to five acres (See Section 13-1-23(h) regarding new garage requirement and minimum square footage).
 - b. On a lot having less than 3 acres, non-dwelling uses and structures accessory to permitted and conditional uses may not exceed eight-hundred sixty-four (864) square feet. (See Section 13-1-23(h) regarding new garage requirement and minimum square footage).
 - c. In the RD Residential District and CE Country Estates Residential District, no detached garage or accessory building(s) or structures shall occupy more than twenty-five percent (25%) of the required rear yard area.
 - d. For parcels of 5 acres or more in the AG Agricultural District, non-dwelling uses and structures accessory to permitted and conditional uses are not required to meet any specific size requirements.
 - e. For a garden/tool/storage shed 120 sq. ft. or less in area which has no foundation or slab, a zoning permit is not required; however, all other zoning regulations are still applicable.
 - f. Residential district accessory buildings shall not exceed thirty-five (35) feet in height and agricultural district accessory buildings shall not exceed one hundred (100) feet in height.
 - g. No detached garage or accessory building shall be located within three (3) feet of any other accessory building, or within five (5) feet of a side or rear lot line.
 - h. An accessory building shall not be nearer than ten (10) feet to the principal structure unless the applicable building code regulations in regard to one- (1) hour fire resistive construction are complied with.
- (c) **Use Restrictions - Residential District.** Accessory uses or structures in residential districts shall not involve the conduct of any business, trade or industry except for home occupations as defined and authorized herein and shall not be occupied as a dwelling unit.
- (d) **Use Restrictions - Nonresidential Districts.** An accessory use or structure in a commercial or industrial district may be established in the rear yard or side yard and shall have setbacks as prescribed as follows:
- (1) Side Yard Setback. Fifteen (15) feet.

- (2) Rear Yard Setback. Twenty-five (25) feet.
- (e) **Reversed Corner Lots.** When an accessory structure is located on the rear of a reversed corner lot, it shall not be located beyond the front yard required on the adjacent interior lot to the rear, nor nearer than five (5) feet to the side line of the adjacent structure.
- (f) **Landscaping and Decorative Uses.** Accessory structures and vegetation used for landscaping and decorating may be placed in any required yard area. Permitted structures and vegetation include flag poles, ornamental light standards, lawn furniture, sun dials, bird baths, trees, shrubs and flowers and gardens.
- (g) **Temporary Uses.** Temporary accessory uses such as real estate sale field offices or shelters for materials and equipment being used in the construction of the permanent structure may be permitted by the Zoning Administrator/Permit Issuer, and shall be removed within thirty (30) days of occupancy of the project.
- (h) **Retaining Walls.** Retaining walls may be permitted anywhere on the lot, provided, however, that no individual wall shall exceed six (6) feet in height, and a terrace of at least three (3) feet in width shall be provided between any series of such walls and provided further that along a street frontage no such wall shall be closer than three (3) feet to the property line.

Sec. 13-1-141 Fences.

- (a) **Fences Defined.** For the purpose of this Section,
 - (1) **Fence.** An enclosed barrier consisting of wood, plastic, stone or metal intended to prevent ingress or egress. No fence shall be constructed of unsightly or dangerous materials which would constitute a nuisance.
 - (2) **Boundary Fence.** A fence placed on the property lines of adjacent properties.
 - (3) **Protective Fence.** A fence constructed to enclose a hazard to the public health, safety and welfare.
 - (4) **Architectural or Aesthetic Fence.** A fence constructed to enhance the appearance of the structure or the landscape, with its decorative or finished side facing the adjoining lots or streets.
 - (5) **Hedge.** A row of bushes or small trees planted close together which may form a barrier, enclosure or boundary.
 - (6) **Picket Fence.** A fence having a pointed post, stake, pale or peg laced vertically with the point or sharp part pointing upward to form a part of the fence.
- (b) **Fence Construction.** The decorative or finished side of a fence shall face the adjoining properties and streets.
- (c) **Height of Fences Regulated.**
 - (1) Except as provided in Section 13-1-90, regarding corner lot vision clearance, a fence or wall may be erected, placed, or maintained along a lot line to a height not exceeding six (6) feet above the ground level, except that no fence or wall that is located in a required front or corner side yard shall exceed a height of three (3) feet. Any such fence exceeding six (6) feet in height shall be set back a minimum of three (3) feet from all lot lines. Where such lot line is adjacent to a non-residentially zoned property, there shall be an eight (8) foot limit on the height of a fence or wall along such lot line.
 - (2) No fence or wall shall be erected, placed or maintained along a lot line on any business or industrially zoned property, adjacent to a residentially zoned property, to a height exceeding eight (8) feet.

- (3) In any residence district, no fence or wall shall be erected, constructed or maintained to a height exceeding three (3) feet above the street grade nearest thereto, within twenty-five (25) feet of the intersection of any street lines or of street lines projected. (See Section 13-1-90).
- (d) **Setback for Fences.** Fences may be constructed on lot lines. Fences may be constructed parallel to lot lines but shall not extend into the ¹road right-of-way.
- (e) **Security Fences.** Security fences are permitted on the property lines in all districts except residential districts, but shall not exceed ten (10) feet in height and shall be of an open type similar to woven wire or wrought iron fencing.
- (f) **Prohibited Fences.** No residential fence shall be constructed which is in a dangerous condition, or which conducts electricity or is designed to electrically shock or which uses barbed wire, provided, however, that barbed wire may be used in industrially zoned areas if the devices securing the barbed wire to the fence are ten (10) feet above the ground or height and project toward the fenced property and away from any public area.
- (g) **Fences to be Repaired.** All fences shall be maintained and kept safe and in a state of good repair.
- (h) **Temporary Fences.** Fences erected for the protection of planting or to warn of construction hazard, or for similar purposes, shall be clearly visible or marked with colored streamers or zither such warning devices at four (4) foot intervals. Such fences shall comply with the setback requirements set forth in this Section.
- (i) **Nonconforming Fences.** Any fence existing on the effective date of this Code of Ordinances and not in conformance with this Section may be maintained, but any alteration, modification or improvement of more than fifty percent (50%) of said fence shall result in the entire fence being brought into compliance with this Section,
- (j) **Location Determination.** The property owner erecting a fence is solely responsible for ensuring that the fence is located properly on his/her property.

Sec. 13-1-142 Swimming Pools.

- (a) **Definition.** A private or residential swimming pool is an outdoor structure containing a body of water in a receptacle or other container having a depth for water at any point greater than one and one-half (1-1/2) feet located above or below the surface of ground elevation, used or intended to be used solely by the owner, operator or lessee thereof and his/her family, and by friends invited to use it, and includes all structural facilities, appliances and appurtenances, equipment and other items used and intended to be used for the operation and maintenance of a private or residential swimming pool.
- (b) **Exempt Pools.** Storable children's swimming or wading pools, with a maximum dimension of fifteen (15) feet and a maximum wall height of fifteen (15) inches and which are so constructed that they may be readily disassembled for storage and reassembled to their original integrity, are exempt from the provisions of this Section.
- (c) **Permit Required.** Before work is commenced on the construction or erection of private or residential swimming pools or on any alterations, additions, remodeling or other

¹ Revised 6-27-06

improvements, an application for a swimming pool building/zoning permit to construct, erect, alter, remodel or add must be submitted in writing to the Building Inspector or Zoning Administrator. Plans and specifications and pertinent explanatory data should be submitted to the Building Inspector/Zoning Administrator at the time of application. No work or any part of the work shall be commenced until a written permit for such work is obtained by the applicant. The minimum building permit fee pursuant to the Town Building Code shall accompany such application.

- (d) **Construction Requirements.** In addition to such other requirements as may be reasonably imposed by the Building Inspector/Zoning Administrator, the Building Inspector/Zoning Administrator shall not issue a permit for construction as provided for in Subsection (b), unless the following construction requirements are observed:
- (1) All materials and methods for construction in the construction, alteration, addition, remodeling or other improvements and pool installation shall be in accord with all state regulations and codes and with any and all ordinances of the Town now in effect or hereafter enacted.
 - (2) All plumbing work shall be in accordance with all applicable ordinances of the Town and all state codes. Every private or residential swimming pool shall be provided with a suitable draining method and, in no case, shall waters from any pool be drained into the sanitary sewer system, onto lands of other property owners adjacent to that on which the pool is located or in the general vicinity.
 - (3) All electrical installations, including lighting and heating but not limited thereto, which are provided for, installed and used in conjunction with a private swimming pool shall be in conformance with the state laws and Town ordinances regulating electrical installations.
- (e) **Setbacks and Other Requirements.**
- (1) No swimming pool shall be erected or constructed on an otherwise vacant lot. A lot shall not be considered vacant if the owner owns the contiguous lot and said lot is occupied by a principal building.
 - (2) Permanent pools shall maintain a minimum side and rear yard clearance of twenty (20) feet from the adjoining property; above-ground pools shall maintain a minimum side and rear yard clearance of five (5) feet, including decking.
- (f) **Fences.** All in-ground pools shall be completely enclosed with a fence having a minimum height of four (4) feet of non-climbable fencing material with a locking gate. All above ground pools with a deck height above (4) feet at any point are exempt from the fencing requirement, except that all points where a ladder or steps or other means of access to the pool is to be located must be safeguarded by means of a locking gate. A portion of a building may be used as a portion of the fence, provided the pool is located at least ten (10) feet from the building.
- (g) **Draining and Approval Thereof.** No private swimming pool shall be constructed so as to allow water therefrom to drain into any sanitary sewer or septic tank nor to overflow upon or cause damage to any adjoining property. Pool drains shall be located so no discharge of water from the pool takes place closer than twenty-five (25) feet from a septic field or drywall.

Sec. 13-1-143 through Sec. 13-1-149 Reserved for Future Use.

Article K: Modifications

Sec. 13-1-150 Height Modifications.

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

- (a) **Architectural Projections.** Architectural projections such as spires, belfries, parapet walls, cupolas, domes, flues and chimneys are exempt from the height limitations of this Chapter.
- (b) **Special Structure Height Limitations.** Special structures such as elevator penthouses, gas tanks, grain elevators, scenery lofts, radio and television receiving antennas, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations and smokestacks are exempt from the height limitations of this Chapter.
- (c) **Essential Services Height Limitations.** Essential services, utilities, water towers, and electric power and communication transmission lines over one hundred (100) feet are subject to conditional use permit.
- (d) **Communications Structures Height Restrictions.** Communications structures such as radio and television transmission and relay towers, aerial and observation towers, shall be set back one (1) foot from the lot line for every foot of height.
- (e) **Public Facilities Height Restrictions.** Public or semi-public facilities such as schools, churches, hospitals, monuments, sanitariums, libraries, governmental offices and stations may be erected to a height of sixty (60) feet.

Sec. 13-1-151 Yards Modifications.

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

- (a) **Uncovered Stair Restrictions.** Uncovered stairs, landings and fire escapes may project into any yard, but not to exceed six (6) feet and not closer than three (3) feet to any lot line, and must be eight (8) feet or more above ground.
- (b) **Architectural Projection Restrictions.** Architectural projections such as chimneys, flues, sills, eaves, belt courses and ornaments may project into any required yard (setback requirements), but such projection shall not exceed two (2) feet.
- (c) **Cul-de-Sac and Curve Restrictions.** Residential lot frontage on cul-de-sacs and curves may be less than sixty-six (66) feet provided the width at the building setback line arc is at least sixty-six (66) feet and the street frontage is no less than forty-five (45) feet.
- (d) **Essential Services Exemptions.** Essential services, utilities, electric power and communication transmission lines are exempt from the yard and distance requirements of this Chapter.
- (e) **Decks.** Decks ¹shall be no closer than five (5) feet to a lot line.

Sec. 13-1-152 through Sec. 13-1-169 Reserved for Future Use.

¹ Revised 6-27-06

Article L: Administration

Sec. 13-1-170 General Administrative System.

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

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

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

- (a) Issue all zoning certificates, and make and maintain records.
- (b) Maintain permanent and current records of this Chapter, including but not limited to, all maps, amendments, conditional uses, variances, appeals and applications therefore.
- (c) Provide and maintain a public information function relative to all matters arising out of this Chapter.
- (d) Receive, file and forward to the Town Clerk all applications for amendments to this Chapter.
- (e) Receive, file and forward to the Town Board all applications for conditional uses.
- (f) Receive, file and forward to the Board of Appeals all applications for appeals, variances, or other matters on which the Board of Appeals is required to act under this Chapter, and shall attend all Board of Appeals meetings to provide technical assistance when requested by the Town Board.

Sec. 13-1-172 Violations and Penalties.

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

Sec. 13-1-173 through Sec. 13-1-179 Reserved for Future Use.

Article M: Changes and Amendments to the Zoning Code

Sec. 13-1-180 Authority.

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

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

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

Sec. 13-1-182 Protest.

- (a) In the event of a protest against amendment to the zoning map, duly signed and acknowledged by the owners of twenty percent (20%) or more, either of the areas of the land included in such proposed change, or by the owners of twenty percent (20%) or more of the land immediately adjacent extending one hundred (100) feet therefrom, or by the owners of twenty percent (20%) or more of the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by the favorable vote of the full Town Board membership.
- (b) In the event of protest against amendment to the text of the regulations of this Chapter, duly signed and acknowledged by twenty percent (20%) of the number of persons casting ballots in the last general election, it shall cause a three-fourths (3/4) vote of the full Town Board membership to adopt such amendment.

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

Article N: Appeals

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

- (a) **Scope of Appeals.** Appeals to the Board of Appeals, which is a five (5)¹ member board appointed by the Town Chairman, may be taken by any person aggrieved or by any officer, department, board or bureau of the Town affected by any decision of the administrative officer. Such appeal shall be taken within thirty (30) days of the alleged grievance or judgment in question by filing with the officers from whom the appeal is taken and with the Board of Appeals a notice of appeal specifying the grounds thereof, together with payment of a filing fee as may be established by the Town Board. The officers from whom the appeal is taken shall forthwith transmit to the Board of Appeals all papers constituting the record of appeals upon which the action appeals from was taken.
- (b) **Appeals and Applications.** Appeals from a decision of the Zoning Administrator concerning the literal enforcement of this Chapter may be made by any person aggrieved, or by any officer, department, board, or bureau of the Town. Such appeals shall be filed with the Recording Secretary of the Zoning Board of Appeals or Town Clerk within thirty (30) days after the date of written notice of the decision or order of the Zoning Administrator. Applications may be made by the owner or lessee with signed written permission of the owner(s) only of the structure, land or water to be affected at any time and shall be filed with the Secretary.
- (c) **Stay of Proceedings.** An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certified to the Board of Appeals that, by reason of facts stated in the certificate, a stay would, in his/her opinion, cause immediate peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.
- (d) **Powers of Zoning Board of Appeals.** In addition to these powers enumerated in Section 13-1-195, the Board of Appeals shall have the following powers:
- (1) **Errors.** To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator/Permit Issuer or Building Inspector.
 - (2) **Variances:** To hear and grant appeals for variances as will not be contrary to the public interest where, owing to practical difficulty or unnecessary hardship, so that the spirit and purposes of this Chapter shall be observed and the public safety, welfare and justice secured. Use variances shall not be granted.
 - (3) **Interpretations.** To hear and decide application for interpretations of the zoning regulations and the boundaries of the zoning districts after the Town Board has made a review and recommendation.
 - (4) **Substitutions.** To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses provided no structural alterations are to be made and the Town Board has made a review and recommendation. Whenever the Board permits such a substitution, the use may not thereafter be changed without application.
 - (5) **Unclassified Uses.** To hear and grant applications for unclassified and unspecified uses provided that such uses are similar in character to the principal uses permitted in the district and the Town Board has made a review and recommendation.

¹ Revised 1-23-07

- (6) **Temporary Uses.** To hear and grant applications for temporary uses, in any district provided that such uses are of a temporary nature, do not involve the erection of a substantial structure and are compatible with the neighboring uses and the Town Board has made a review and recommendation. The permit shall be temporary, revocable, subject to any condition required by the Board of Zoning Appeals and shall be issued for a period not to exceed twelve (12) months. Compliance with all other provisions of this Chapter shall be required.
- (7) **Permits.** The Board may reverse, affirm wholly or partly, modify the requirements appealed from and may issue or direct the issue of a permit.

Sec. 13-1-191 Hearing on Appeals.

The Board of Appeals shall fix a reasonable time for the hearing, cause notice thereof to be published in the official newspaper not less than seven (7) days prior thereto, cause notice to be given to the appellant or applicant and the administrative officers appealed from by regular mail or by personal service not less than five (5) days prior to the date of hearing. In every case involving a variance, notice shall also be mailed not less than five (5) days prior to the hearing to the fee owners of records of all land within two hundred (200) feet of any part of the subject building or premises involved in the appeal.

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

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

Sec. 13-1-193 Variances.

- (a) "Purpose".
 - (1) A request for a variance may be made when an aggrieved party can submit proof that strict adherence to the provisions of this Zoning Code would cause him/her undue hardship or create conditions causing greater harmful effects than the initial condition. A variance granted to a nonconforming use brings that use into conformance with the district and zoning requirements.
 - (2) The Board of Appeals may authorize upon appeal, in specific cases, such variance from the terms of the Zoning Code as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the Zoning Code will result in unnecessary hardship and so that the spirit of the Zoning Code shall be observed and substantial justice done. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the flood protection elevation for the particular area or permit standards lower than those required by state law.
 - (3) For the purposes of this Section, "unnecessary hardship" shall be defined as an unusual or extreme decrease in the adaptability of the property to the uses permitted by the zoning district which is caused by facts, such as rough terrain or good soil conditions, uniquely applicable to the particular piece of property as distinguished from those applicable to most or all property in the same zoning district.

- (b) **Application for a Variance.** The application for a variance shall be filed with the Zoning Administrator. Applications may be made by the owner or lessee of the structure, land or water to be affected. The application shall contain the following information:
- (1) Name and address of applicant and all abutting and opposite property owners of record.
 - (2) Statement that the applicant is the owner or the authorized agent of the owner of the property.
 - (3) Address and description of the property.
 - (4) A site plan showing an accurate depiction of the property.
 - (5) Additional information required by the Town Engineer, Town Board, Zoning Board of Appeals or Zoning Administrator/Permit Issuer.
 - (6) Fee receipt in the amount as determined by the Town Board.
- (c) **Public Hearing of Application.** Prior to decisions on such petitions, the Zoning Board of Appeals shall hold a public hearing thereon, notice of which shall be mailed to the petitioner, owners of property within two hundred (200) feet, and shall be noticed as a Class 2 notice. The cost of notifying affected property owners and the cost of advertising the notice of the public hearing shall be borne by the petitioner. The Zoning Board of Appeals shall fix a reasonable time and place for the hearing, give public notice thereof at least seven (7) days prior, and shall give due notice to the parties of interest and the Town Board. The Board of Appeals shall conduct at least one (1) public hearing on the proposed variance. At the hearing, the appellant or applicant may appear in person, by agent or by attorney. The Board of Appeals shall thereafter reach its decision within thirty (30) days after the final hearing and shall transmit a written copy of its decision to the appellant or applicant.
- (d) **Authorized Variances.** Variances from the regulations of this Chapter shall be granted by the Zoning Board of Appeals only in accordance with the standards established in this Section, and may be granted in the following instances:
- (1) To permit any yard or setback less than the yard or setback required by the applicable regulations;
 - (2) To permit the use of a lot or lots for a use otherwise prohibited solely because of insufficient area or width of the lot or lots, but in no event shall the respective area and width of a lot or lots be less than ninety percent (90%) of the required lot area and width, provided it was a lot of record on May 12, 1954;
 - (3) To exceed any of the authorized variations allowed under this Section, when a lot of record or a zoning lot, vacant or legally used on the effective date of this Chapter is, by reason of the exercise of the right of eminent domain by any authorized governmental body or by reason of a nonconveyance under threat of an eminent domain proceeding, reduced in size so that the remainder of said lot of record or zoning lot or structure of said lot does not conform with one (1) or more of the regulations of the district in which said lot of record or zoning lot or structure is located.
- (e) **Findings.** No variance to the provisions of this Chapter shall be granted by the Zoning Board of Appeals unless it finds beyond a reasonable doubt that all the following facts and conditions exist and so indicates in the minutes of its proceedings:
- (1) **Preservation of Intent.** No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted use, accessory use, or special use in that particular district.
 - (2) **Exceptional Circumstances.** There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district and the

granting of the variance would not be of so general or recurrent nature as to suggest that the Zoning Code could be changed.

- (3) **Economic Hardship and Self-Imposed Hardship Not Grounds for Variance.** No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of the variance.
 - (4) **Preservation of Property Rights.** The variance must be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.
 - (5) **Absence of Decrement.** No variance shall be granted that will create substantial detriment to adjacent property and will materially impair or be contrary to the purpose and spirit of this Chapter or the public interest.
- (f) **Conditions.** The Board of Appeals on appeal may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards established in this Section.
- (g) **Decision.** The concurring vote of ¹three (3) members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which the Zoning Board of Appeals is required to pass, or to effect any variation to the provisions of this Chapter.
- (h) **Expiration of Variances, Substitutions, and Permits.** Variances, substitutions, or use permits granted by the Zoning Board of Appeals shall expire within six (6) months unless substantial work has commenced pursuant to such grant.

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

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

Sec. 13-1-195 Zoning Board of Appeals.

- (a) **Establishment.** There is hereby established a Zoning Board of Appeals in the Town of Farmington for the purpose of hearing appeals and applications, and granting variations and exceptions to the provisions of this Chapter in harmony with the purpose and intent of the Zoning Code.
- (b) **Membership.** The Zoning Board of Appeals shall consist of ²five (5) members appointed by the Town Chairperson and confirmed by the Town Board. In addition:
- (1) **Terms.** Terms of the Zoning Board of Appeals shall be staggered three (3) year periods.
 - (2) **Chairperson.** The chairperson of the Zoning Board of Appeals shall be designated by the Town Chairperson.
 - (3) **Vice-Chairperson.** The vice-chairperson of the Zoning Board of Appeals shall be designated by the Town Chairperson.
 - (4) **Two (2) Alternate Members.** Two (2) alternate members of the Zoning Board of Appeals shall be appointed by the Town Chairperson for a term of three (3) years and shall act only when a regular member is absent or refused to vote because of conflict of interest.

¹ Revised 2-27-07

² Revised 1-23-07

- (5) **Zoning Administrator.** The Zoning Administrator shall attend all meetings of the Zoning Board of Appeals for the purpose of providing technical assistance when requested by the Zoning Board of Appeals.
 - (6) **Official Oaths:** Official oaths shall be taken by all members of the Zoning Board of Appeals in accordance with Sec. 19.01, Wis. Stats., within ten (10) days of receiving notice of their appointment.
 - (7) **Vacancies.** Vacancies of the Zoning Board of Appeals shall be filled for the unexpired term in the same manner as appointments for a full term.
 - (8) **Recording Secretary.** The recording secretary shall be the Zoning Administrator.
- (c) **Organization.** The Zoning Board of Appeals shall organize and adopt rules of procedure for its own government in accordance with the provisions of this Chapter:
- (1) **Meetings.** Meetings of the Zoning Board of Appeals shall be held at the call of the Chairperson or, if the Chairperson is not available, the Vice-Chairperson, based upon an application filed with the Zoning Administrator. All meetings of the Zoning Board of Appeals shall be open to the public.
 - (2) **Minutes.** Minutes of the proceedings of the Zoning Board of Appeals and a record of all actions shall be kept by the Secretary, showing the vote of each member upon every question, the reasons for the Zoning Board of Appeals determination, and its findings of facts. These records shall be immediately filed in the office of the Zoning Board of Appeals and shall be a public record.

Article O: Site Plan

Sec. 13-1-196 Site Plan Review for Commercial and Industrial Uses

- (a) **Purpose and Intent.** The intent and purpose of this section is to establish a procedure which will enable the Town of Farmington to plan for and review proposed commercial, industrial, and public developments and improvements. Developments subject to review include all new construction of buildings, addition to existing buildings which alter the outside dimensions of the building or internal functions of the site, and the development of or expansion of parking, in order to further promote the safe and efficient use of land and to further enhance the value of property in the Town of Farmington. The site plan review process is intended to help ensure that newly developed properties or redeveloped properties are compatible with adjacent development and safety, traffic, overcrowding and environmental problems are minimized to the maximum extent possible.

The site plan review requirements of this section are designed to insure the orderly and harmonious development of property in the Town of Farmington in a manner that shall:

- (1) Promote the most beneficial relationship between adjacent land uses.
 - (2) Facilitate efficient and safe circulation of traffic both on the site and as it interfaces with the public right-of-way and adjacent properties.
 - (3) Permit development to a level commensurate with the availability of public facilities and services.
 - (4) Encourage adequate provision for surface and subsurface drainage.
 - (5) Provide appropriate screening of parking, truck loading, refuse containers and outdoor storage areas from adjacent residential districts and public rights-of-way.
- (b) **Development Subject To Site Plan Review.** The following uses and structures shall be subject to site plan review and approval:
- (1) Any new structures in the CD or ID Zoning Category.
 - (2) Additions to existing structures or uses in the CD or ID Zoning Category, when such additions exceed one thousand (1,000) square feet or twenty (20) percent of the gross floor area of the building or uses, whatever is greater.
 - (3) Internal function of a building in the CD or ID Zoning Category that would result in twenty (20) percent more off-street parking spaces.
- (c) **Authority.** The Plan Commission must review the Site Plan application and make a recommendation to the Town Board, upon which the Board shall make the final decision to grant site plan approval.
- (d) **Procedure.** Whenever any property owner or individual having a contractual interest proposes to develop/redevelop any tract or parcel of land where site plan review is required, that person shall submit to the Town Board a request for site plan review. All required information shall be submitted

to the Town Clerk for review and processing. Within sixty (60) days after submittal, the Plan Commission will review and make a recommendation to the Town Board, at which point the Town Board shall deny, approve, or conditionally approve a site plan.

If, in the judgment of the Town Board, the site plan application does not contain sufficient information to enable it to properly discharge its responsibilities, the Town Board may request additional information from the applicant. In that event, the sixty-day period referred to above shall be suspended pending the receipt of the requested information.

The Town of Farmington shall issue no building permit until site plan approval has been granted as provided in this chapter.

- (e) **Fees and Structure.** Fees for site plan review shall be established and reviewed annually for re-adjustment by the Town Board to cover review costs. Site Plan fees will be available at the Town Hall or from the Town Clerk.
- (f) **Required Information.** Plans that are submitted for review shall be drawn to an appropriate scale and shall include as a minimum, the following items of information. The Town Board may require additional information or may waive certain requirements as deemed necessary for adequate review:
- (1) Name of project, address, legal description of property, description of proposed use and zoning description.
 - (2) Location map.
 - (3) Name, address, and phone number of the record property owner and site plan preparer (include fax number if available).
 - (4) North arrow, date of preparation, revision dates and scale.
 - (5) Name(s) of adjacent or surrounding streets.
 - (6) Recorded property lines and their dimensions.
 - (7) Structural aspects of all existing and proposed buildings, including use of each structure, dimensions, number of stories and their locations on the parcel.
 - (8) Floor area for existing buildings and proposed additions (listed separately). A note shall appear on the face of the site plan that indicates the calculations for parking and loading requirements.
 - (9) Show existing and proposed landscaping. Identify size and variety of existing and proposed landscaping including the preservation of existing trees on the site.
 - (10) Existing and proposed driveways and parking lots, including: pavement markings to show traffic flow, parking stall sizes and layouts, handicap stalls and ramps, loading zones, driveway widths and radii or flares on driveway aprons to public streets.
 - (11) The location and detail of refuse container and/or mechanical equipment enclosures to screen their view from adjacent properties or roadway.
 - (12) Location, heights, elevations and materials of all fences or retaining walls.
 - (13) Identify all exterior lighting fixtures, either mounted on the building or freestanding light along with dispersion pattern, intensity of light and cut-off shielding that reflects light downward and in which the light source is not visible from adjacent properties.
 - (14) Identify the type of all surfaces, including seeded grass, sod, type of mulch in planting beds, pavers, concrete and asphalt, including pavement and subgrade gravel thickness.
 - (15) If applicable, identify a 100 year floodplain, including floodfringe, floodway, flood storage areas, wetlands and wetland setbacks.

- (g) **Validity of Approval.** A site plan shall become effective upon obtaining certification of approval by the Town Board on the site plan application. The approval of any site plan required by this section shall remain valid for one (1) year after the date of approval, after which time the site plan shall be deemed null and void if the development has not been established or actual construction commenced. For the purpose of this section, "actual construction" shall mean that the permanent placement of construction materials has started and is proceeding without undue delay. Preparation of plans, securing financial arrangements, issuance of building permits, letting of contracts, grading of property or stockpiling of materials on the site shall not constitute actual construction. Cases that require extension of time can be submitted to the Town Board.
- (h) **Violation.** Construction or other activities contrary to the approved site plan, or in the absence of an approved plan, shall be a violation of this section.
- (i) **Penalty.** Any person, firm or corporation who fails to comply with the provisions of this ordinance shall be subject to the penalty clause as specified in section 13-1-172 of the Farmington Zoning Code.