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Wisconsin Department of Natural Resources
Bureau of Watershed Management (WT/3)
101 S. Webster Street
PO Box 7921
Madison, WI 53707-7921
dnr.wi.gov

Final Report**Urban Nonpoint Source & Storm Water Management Planning Grant**

Form 3400-189P (R 11/18)

Page 1 of 4

NOTICE: This document is required under s. 281.66, Wis. Stats., and chs. NR 154 and 155, Wis. Adm. Code. A final project report must be submitted as part of the final reimbursement request. Personally identifiable information contained in this form will be used for determining reimbursement eligibility in the Urban Nonpoint Source & Storm Water Management Grant Program and will not be used for any other purpose.

Planning Grant – Urban Nonpoint Source & Storm Water Management Program

INSTRUCTIONS: Send the completed, electronic copy of this form and all attachments to the Department of Natural Resources (DNR) Regional Nonpoint Source Coordinator. Please read all instructions prior to completing the form.

Grant Information

Governmental Unit Name		Grant Number
Winnebago County LWCD		USP70000Y18
Project Name		
Stormwater Quality Modeling Update		
Project Contact Name	Phone Number	E-mail Address
Andrew Maracini	(920) 232-1950	amaracini@co.winnebago.wi.us

Project Location Information

Additional project locations may be added by clicking on the [+] button

Municipality Name	Latitude	Longitude
Winnebago County	44.266	-88.473
County	12-Digit HUC	12-digit HUC watershed name
Winnebago	040302040202	Mud Creek
Nearest Receiving Waterbody	Primary Waterbody addressed by project	
Mud Creek	Lower Fox River	
Municipality Name	Latitude	Longitude
Winnebago County	44.072	-88.527
County	12-Digit HUC	12-digit HUC watershed name
Winnebago	040302030101	City of Oshkosh-Lake Winnebago
Nearest Receiving Waterbody	Primary Waterbody addressed by project	
Lake Winnebago	Lake Winnebago	
Municipality Name	Latitude	Longitude
Winnebago County	44.092	-88.568
County	12-Digit HUC	12-digit HUC watershed name
Winnebago	040302011203	Brooks Cemetery
Nearest Receiving Waterbody	Primary Waterbody addressed by project	
Lake Winnebago	Lake Winnebago	
Municipality Name	Latitude	Longitude
Winnebago County	43.964	-88.549
County	12-Digit HUC	12-digit HUC watershed name
Winnebago	040302030102	Willow Harbor-Lake Winnebago
Nearest Receiving Waterbody	Primary Waterbody addressed by project	
Lake Winnebago	Lake Winnebago	
Municipality Name	Latitude	Longitude
Winnebago County	44.175	-88.501
County	12-Digit HUC	12-digit HUC watershed name
Winnebago	040302040201	Little Lake Butte des Morts
Nearest Receiving Waterbody	Primary Waterbody addressed by project	
Little Lake Butte des Morts	Little Lake Butte des Morts	

Project Area(s)

Describe the project area(s) covered by the Planning Grant Product(s)
The area for the modeling cost-shared by this grant is the MS4 for Winnebago County consisting of specific county road sections that are located in the urbanized area for Winnebago County based on the 2010 U.S. Census (See MS4 Map). The area served by the new and revised ordinances is the unincorporated area of Winnebago County where the County has legal authority and jurisdiction.

Summary of Deliverables - Ordinances

Additional ordinance deliverables be added by clicking on the [+] button

Planning Deliverable Developed	Deliverable Type	Area covered by planning deliverable (acres)	Deliverable Name and Explanation	Deliverable has been reviewed & approved by DNR storm water staff?
Illicit Discharge Ordinance	Developed new	617.4	Ordinance Name & Number Illicit Discharge and Illicit Connection- Chapter 14 Explain the purpose of the new deliverable or need for an update: Achieve compliance with our MS4 Permit	Yes
Erosion Control Ordinance	Updated existing	617.4	Ordinance Name & Number 23.15 Sec. A. Construction Site Erosion Control Explain the purpose of the new deliverable or need for an update: To bring the ordinance into compliance with State guidelines.	Yes
Post-construction storm water management ordinance	Updated existing	617.4	Ordinance Name & Number 23.15 Sec. B. Stormwater Management Explain the purpose of the new deliverable or need for an update: To bring the ordinance into compliance with State guidelines.	Yes

Summary of Deliverables - Storm water Quality Plan

Additional planning deliverables be added by clicking on the [+] button

Components of storm water plan deliverable	Deliverable Type	Area covered by planning deliverable (acres)	Deliverable Name and Explanation	Deliverable has been reviewed & approved by DNR storm water staff?
Stormwater quality management plan for meeting developed urban area performance standards	Developed new	617.4	Plan name and section or page number Stormwater Quality Model Report and MS4 Managt Explain the purpose of the new plan element or need for an update: Achieve compliance with our MS4 Permit	Yes

Summary of Deliverables - Financial feasibility analysis of alternative storm water quality program revenue source

Financial Feasibility Analysis Deliverable	Deliverable Type	Alternative revenue source(s) evaluated	Deliverable Name and Explanation	Deliverable has been reviewed & approved by DNR storm water staff?
			Deliverable name	
			Summary of results and final recommendation(s):	

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Summary of Deliverables - Program Development & Implementation Activities

Program Development & Implementation Activities	Deliverable Type	Area covered by planning deliverable (acres)	Deliverable Name and Explanation	Deliverable has been reviewed & approved by DNR storm water staff?
			Name of implemented program	
			Explain the purpose of the implemented program	

Storm water performance standards addressed by deliverables

Additional rows may be added by clicking on the [+] button

Performance Standard addressed	Identify the deliverable(s) that address this performance standard and explain how it is addressed by the deliverable
Identify/Eliminate Illicit Discharges	New Illicit Discharge Ordinance provides a mechanism for enforcement to abate illegal discharges or connections in the MS4.
Reduce TSS	Updated stormwater modeling in the MS4 will identify those areas that may need reductions to meet the TMDLs. Also the Construction Site Erosion Control and Stormwater Management Ordinance also sets requirements to reduce TSS loading.
Reduce P Loading to address TMDL goals	Updated stormwater modeling in the MS4 will identify those areas that may need reductions to meet the TMDLs. Also the Construction Site Erosion Control and Stormwater Management Ordinance also sets requirements to reduce P loading via sediment reduction.

Project Comments

The governmental unit has approved or adopted the product(s) developed. ☒ Yes ☐ No Explain status below.

Provide a summary of project challenges and accomplishments. Also report the status of the local municipality's acceptance, approval, adoption, or implementation of the products, including ordinances, developed under the grant. (Narrative space expands.)

All new ordinances and ordinance revisions have been approved by the Winnebago County Board and are being fully implemented by County staff. Options provided in the new Stormwater Plan based on the new MS4 modeling that was cost-shared via this grant will be set in motion by the MS4 management team to achieve compliance with the permit requirements.

Required Attachments:

Required Attachments – Check the boxes below if the applicable final deliverables (hardcopy or electronic) are attached to this form, or if they were previously provided to the DNR Regional Nonpoint Source Coordinator

- ☒ All new and updated ordinances developed under this project and identified above
- ☒ All new and updated storm water quality plan components developed under this project and identified above
- ☐ Financial feasibility analysis of alternative storm water quality program revenue source
- ☐ Documentation of all storm water program implementation activities conducted under this project and identified above
- ☒ Aerial photo map of project area
- ☒ GIS mapping information
- ☐ Water quality monitoring results summary, if applicable

Grantee Certification

A responsible government official (authorized signatory) must authorize and date the final report form prior to electronic submittal to the DNR Regional Nonpoint Source Coordinator.

I certify that, to the best of my knowledge, the project is complete and the information contained in this final report and attachments is correct and true.

Name of Authorized Government Official	Title of Authorized Government Official	Date
Thomas Davies	Director of Land and Water Conservation	01/22/2019

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For DNR Nonpoint Source Coordinator Use Only	
☒ Received complete reports with all attachments	☒ DNR accepts and approves the activities/products as consistent with the grant agreement and 281.66, Wis. Stat.
Comments about this project: (Narrative space expands.)	
Name of Region Nonpoint Source Coordinator	Date
Eric Evensen	04/19/2019
Send the Final Report and attachments to the Community Financial Assistance Grant Manager and to the Runoff Management Grant Coordinator. Keep a printed copy for the Region file.	



April 16, 2019

Tom Davies, Director LWCD
Winnebago County
625 E County Road Y Suite 100
Oshkosh WI 54901
Via Email: tdavies@co.winnebago.wi.us

Subject: Winnebago County Municipal Separate Storm Sewer (MS4) Discharge Permit
WPDES General Permit WI-S0050075-2
FIN: 33642
Grant: USP70000Y18

Dear Mr. Davies:

Thank you for submitting the Stormwater Quality Model Report and MS4 Management Plan Revised April 5, 2019 to the Wisconsin Department of Natural Resources (Department) via email on April 15, 2019. The Department has reviewed the Plan and other materials submitted by the Town and prepared by OMNNI to meet requirements of Nonpoint Source Urban Storm Water Planning Grant No. USP70000Y18. The ordinances developed under the grant were submitted to Eric Evensen via email on January 30, 2019. The project is in conformance with applicable requirements of ch. NR 155, Wis. Adm. Code and is hereby approved.

This letter also serves to document that Department has reviewed the County's pollutant load analysis and the modeled storm water management controls for the County appear to comply with the 20% total suspended solids performance standard of s. NR 151.13, Wis. Adm. Code.

Thank you for your work to improve the affected watersheds. Please call me at 920-662-5461 or email Amy.Minser@wisconsin.gov if you have any questions. Thank you.

Sincerely,

Amy Minser, PE
Storm Water Engineer

cc: Andy Maracini, Winnebago County
Bob Givens, OMNNI
Sean Bekx, OMNNI
Sue Larson, DNR Storm Water Specialist
Eric Evensen, DNR NPS Specialist
Joe Baeten, DNR Runoff Field Supervisor
Anne Hirekatur, DNR Grant Coordinator
Jessica Wagner, DNR CFA



April 16, 2019

Tom Davies, Director LWCD
Winnebago County
625 E County Road Y Suite 100
Oshkosh WI 54901
Via Email: tdavies@co.winnebago.wi.us

Subject: Lower Fox TMDL Implementation Plan
FIN: 33642

Dear Mr. Davies:

The Department has conducted a review of the Lower Fox TMDL Implementation Plan submitted by the County via email on April 5, 2019. Based on the information submitted, the Department is in concurrence that the County has submitted a written plan that describes how the permittee will make progress toward achieving TMDL compliance as required in Section 1.5.4.5 of WPDES Permit No. WI-S0500075-02. This concurrence is only valid for the term of WPDES Permit No. WI-S0500075-03 (issuance pending). Please note that implementation may not be entirely dependent on receipt of grant funding and/or cost share.

Please call me at 920-662-5461 or email Amy.Minser@wisconsin.gov if you have any questions. Thank you.

Sincerely,

Amy Minser, PE
Storm Water Engineer

Cc: Andy Maracini, Winnebago County
Sue Larson, DNR

1 198-92017

2
3 **ORDINANCE: Adopt Chapter 14 of the General Code of Winnebago County: Illicit Discharge**
4 **and Illicit Connection Ordinance**

5
6
7 **TO THE WINNEBAGO COUNTY BOARD OF SUPERVISORS:**

8
9 **WHEREAS**, the Winnebago County Board of Supervisors finds that the uncontrolled discharge of pollutants
10 to its Municipal Separate Storm Sewer System (MS4) has an adverse impact on the water quality of receiving waters;
11 and

12 **WHEREAS**, the United States Environmental Protection Agency (EPA) has promulgated regulations
13 implementing the National Pollution Discharge Elimination System (NPDES) program; and

14 **WHEREAS**, the EPA has authorized the State of Wisconsin to issue NPDES permits under the Wisconsin
15 Pollutant Discharge Elimination System (WPDES) permit system; and

16 **WHEREAS**, the WPDES regulations require Winnebago County to control the contribution of pollutants to its
17 regulated MS4 by prohibiting illicit discharges, and to inspect, monitor, and enforce the prohibitions of illicit
18 discharges to its regulated MS4 via an Illicit Discharge and Illicit Connection Ordinance.

19
20 **NOW, THEREFORE, BE IT ORDAINED** by the Winnebago County Board of Supervisors that Chapter 14 of
21 the General Code of Winnebago County is hereby adopted to read as follows:

22 ***See attached Document***

23
24 Respectfully submitted by:

25 **LAND CONSERVATION COMMITTEE**

26 Committee Vote: **6-1**

27 Respectfully submitted by:

28 **HIGHWAY COMMITTEE**

29 Committee Vote: **5-0**

30 Vote Required for Passage: **Majority of Those Present**

31
32
33 Approved by the Winnebago County Executive this 22nd day of September, 2017.

34
35
36
37
38

RECEIVED

OCT 13 2017

WINNEBAGO COUNTY
LAND & WATER CONSERVATION DEPT.

Mark L. Harris
Mark L Harris
Winnebago County Executive



Winnebago County
Chapter 23

Town/County Zoning Codes

Chapter 23

Town/County Zoning

Article

1. [General Provisions](#)
2. [Interpretation and Construction](#)
3. [Definitions](#)
4. [Administrative Bodies](#)
5. [Reserved](#)
6. [General Review Requirements](#)
7. [Specific Review Procedures and Requirements](#)
8. [Land Use](#)
9. [Buffer Yards and Landscaping](#)
10. [Reserved](#)
11. [Parking](#)
12. [Signs](#)
13. [Nonconformities](#)
14. [Enforcement](#)
15. [Erosion Control and Stormwater](#)

Appendix

- A. [Mapping Requirements](#)
- B. [Microwave Radio Path Height Elevations](#)

ARTICLE 1 GENERAL PROVISIONS

Sections

23.1-1	Name of chapter	23.1-9	Relationship of this chapter to private agreements
23.1-2	Authority	23.1-10	Additional local regulations
23.1-3	Jurisdiction	23.1-11	No defense to nuisance action
23.1-4	Legislative findings	23.1-12	Applicability to public entities
23.1-5	Purpose	23.1-13	Applicability to projects under the purview of the Public Service Commission
23.1-6	Compliance		
23.1-7	Liability		
23.1-8	Relationship of this chapter to state and federal regulations		

23.1-1 Name of chapter

This chapter shall be known as “Town/County Zoning” and may be referred to herein as “this chapter.”

23.1-2 Authority

The regulations contained in this chapter are specifically authorized by s. 59.69, Wis. Stats., or are adopted consistent with the county’s police powers as authorized in state law.

23.1-3 Jurisdiction

The provisions of this chapter shall only apply in those towns in Winnebago County where such town board has passed a resolution adopting this chapter and a certified copy of the approving resolution is filed with the county clerk by the town clerk. This chapter shall become effective in such town on the date the resolution is filed with the clerk.¹

23.1-4 Legislative findings

(a) **General findings.** The Board of County Supervisors makes the following legislative findings:

- (1) Pursuant to ss. 59.69(2) and (3) and s. 66.1001, Wis. Stats., the Board of County Supervisors adopted a comprehensive plan on March 21, 2006.
- (2) This chapter is consistent with and furthers the overall intent of the county’s comprehensive plan, as may be amended.
- (3) There were no migrant labor camps as defined in state law within the county on September 1, 2001.²

(b) **Other findings.** Other legislative findings are included in the various articles, divisions, and sections of this chapter as may be appropriate.

23.1-5 Purpose

(a) **General purpose.** This chapter promotes the public health, safety, and welfare and is intended to:

- (1) implement the goals, objectives, and policies of the county’s comprehensive plan to the greatest extent practicable;
- (2) establish clear and consistent standards, regulations, and procedures for the review of proposed development as may be regulated by this code; and
- (3) establish minimum standards for the use or development of land within the county.

(b) **Specific purposes.** Consistent with s. 59.69(1), Wis. Stats., this chapter is also intended to:

- (1) promote the public health, safety, convenience, and general welfare;
- (2) encourage planned and orderly land use development;

¹ Commentary: See s. 59.69(5)(c), Wis. Stats.

² Commentary: See s. 59.69(4e), Wis. Stats.

- (3) protect property values and the property tax base;
- (4) permit the careful planning and efficient maintenance of highway systems;
- (5) ensure adequate highway, utility, health, educational and recreational facilities;
- (6) recognize the needs of agriculture, forestry, industry and business in future growth;
- (7) encourage use of land and other natural resources which are in accordance with their character and adaptability;
- (8) provide adequate light and air, including access to sunlight for solar collectors and to wind for wind energy systems;
- (9) conserve soil, water and forest resources;
- (10) protect the beauty and healthy surroundings for family life; and
- (11) promote the efficient and economical use of public funds.

(c) **Other purposes.** Other purposes are included in the various articles, divisions, and sections as may be appropriate.

23.1-6 Compliance

(a) **Generally.** Except as specifically provided, the provisions of this chapter shall apply to all development within those towns under the jurisdiction of this chapter. No development shall be undertaken without the prior authorizations required by this chapter and other applicable chapters of the general code of Winnebago County.

(b) **Previously granted permits, an exception.** When a permit has been issued in accordance with law prior to the effective date of this chapter, or amendment thereto, it shall be valid for one year from date of issuance, even if it authorizes an action that is not allowed under this chapter or amendment. If the action, as authorized by the permit, does not commence within that time period and continue in good faith to completion, such permit shall lapse and be null and void.

(c) **Establishment of a use, structure, building not requiring authorization, an exception.** If prior to the adoption of this chapter, or amendment thereto, a use, structure, or building is actively being established that did not require a permit or authorization, said work may continue to completion even when the use, structure, or building requires a permit or other authorization under this chapter, is being developed contrary to this chapter, or is otherwise prohibited under this chapter.

23.1-7 Liability

Winnebago County and its officials, agencies, employees, agents, and assigns, shall not be liable for any flood damage, sanitation problems, structural damage, or other damages or loss of property value that may occur as a result of reliance upon and conformance with this chapter.

23.1-8 Relationship of this chapter to state and federal regulations

In addition to meeting the requirements contained in this chapter, development shall comply with all applicable regulations of federal and state agencies. In all cases, the strictest of the applicable provisions shall apply.

23.1-9 Relationship of this chapter to private agreements

This chapter is not intended to repeal, abrogate, annul, impair, or interfere with any easement, covenant, deed restriction, or other private agreement governing land development. However, when this chapter imposes a greater restriction than the aforementioned, the provisions of this chapter shall apply.³

23.1-10 Additional local regulations

In addition to meeting the regulations contained in this chapter, development shall comply with all applicable regulations in the general code for Winnebago County, including the following chapters:

³ Commentary: Winnebago County does not enforce private agreements to which it is not a party.

- | | | |
|-----|------------|---|
| (1) | Chapter 18 | Subdivision and Platting |
| (2) | Chapter 20 | Non-Metallic Mining Reclamation |
| (3) | Chapter 24 | Wittman Regional Airport Zoning Code |
| (4) | Chapter 26 | Floodplain Zoning Code |
| (5) | Chapter 27 | Shoreland Zoning Code |
| (6) | Chapter 28 | Stormwater Management and Construction Site Erosion Control |

In all cases, the strictest of the applicable provisions shall apply.

Land located in the vicinity of the Outagamie County Regional Airport may also be subject to additional land use regulations as may be adopted by Outagamie County under s. 114.136, Wis. Stats.

23.1-11 No defense to nuisance action

Compliance with the standards and requirements in this chapter shall not constitute an absolute defense to an action to abate a public or private nuisance.

23.1-12 Applicability to public entities

This chapter shall apply to all publicly-owned land to the fullest extent allowed by state and federal law. When a public entity undertakes any development that is exempted from this chapter, in whole or in part, it is strongly encouraged to meet the provisions of this chapter.

23.1-13 Applicability to projects under the purview of the Public Service Commission

This chapter shall apply to projects under the purview of the Wisconsin Public Service Commission (PSC) to the fullest extent allowed by state law.⁴ The Planning and Zoning Committee or the Board of County Supervisors, or both, may submit a written request to the PSC outlining those standards and/or requirements of this chapter that the PSC should impose as conditions of project approval, if approval is to be granted.

⁴ Commentary: See s. 196.491(3)(i), Wis. Stats., and also *American Transmission Co., LLC v. Dane County*, 2009 WI App. 126

ARTICLE 2 INTERPRETATION AND CONSTRUCTION

Sections

23.2-1	General rules of construction	23.2-6	Interpretation of boundaries and designations for base districts
23.2-2	Responsibility for interpretation	23.2-7	Interpretation of boundaries and designations for overlay districts
23.2-3	Delegation of authority	23.2-8	General rules of interpretation
23.2-4	Internal conflicts	23.2-9	Computation of time
23.2-5	Use of graphics, illustrations, headings, references, statutory citations, and commentary notes	23.2-10	Calculations

23.2-1 General rules of construction

(a) **Generally.** In the interpretation and application of this chapter, all provisions shall be construed so the true intent and meaning of this chapter is carried out.

(b) **Minimum requirements.** The interpretation and application of any provision of this chapter shall be held to be the minimum requirement adopted for the promotion of the public health, safety, and general welfare and not be deemed a limitation or repeal of any other powers granted by state statute.

23.2-2 Responsibility for interpretation

In the event a question arises concerning any provision or the application of any provision of this chapter, interpretations shall be issued consistent with article 7 of this chapter.

23.2-3 Delegation of authority

If a provision in this chapter states that an elected official, department supervisor, or some other employee is to perform some act, such individual may designate, delegate, or authorize a subordinate to perform the act unless state law or the provision clearly prohibits such delegation.

23.2-4 Internal conflicts

More specific provisions of this chapter shall be followed in lieu of more general provisions that may be more lenient than or in conflict with the more specific provision.

23.2-5 Use of graphics, illustrations, headings, references, statutory citations, and commentary notes

(a) **Purpose.** Graphics, illustrations, headings, references, statutory citations, and commentary notes are included to improve the readability of this chapter and increase reader comprehension. Specifically, graphics and illustrations are included to help the reader visualize the meaning of the text. Headings and subheadings generally state the content of that section and are intended to help the reader quickly find information. References and statutory citations are included when the section is related to a state or local law or another section in this chapter. These are included to help the reader understand the relationship among various provisions. Commentary notes are included to supplement and/or further clarify a sentence or provision.

(b) **Interpretation.** A graphic, illustration, heading, reference, statutory citation, or commentary note shall not govern, limit, modify, or in any manner affect the scope, meaning, or intent of any provision.

(c) **Effect of deficiency.** Because the text controls, no provision shall be held invalid by reason of any deficiency in any graphic, illustration, heading, reference, statutory citation, or commentary note.

23.2-6 Interpretation of boundaries and designations for base districts

(a) **Boundary line interpretations.** Interpretations regarding boundaries of base land use districts shall be made in accordance with the following rules:

- (1) **Centerlines.** Boundaries shown as following, or approximately following, any easement, railroad, alley, road, street, highway, or similar feature shall be construed as following the centerline of such feature.

- (2) **Property lines.** Boundaries shown as following, or approximately following, any platted lot line or other property line shall be construed as following such line.
- (3) **Political boundaries.** Boundaries shown as following, or approximately following, any political boundary shall be construed as following such line.
- (4) **Section lines.** Boundaries shown as following, or approximately following, a section line, half-section line, or quarter-section line shall be construed as following such line.
- (5) **Natural boundaries.** Boundaries shown as following, or approximately following, any natural feature such as a stream, river, canal, other bodies of water, or topographical features, such as a watershed boundary, shall be construed as following such natural feature as verified by field inspection when necessary.

(b) **Street abandonment.** In the event a public road, street, or alley is officially vacated or abandoned, the regulations applicable to the land to which it reverted shall apply to such vacated or abandoned road, street, or alley, unless otherwise provided by county action.

23.2-7 Interpretation of boundaries and designations for overlay districts

The location of the overlay district boundaries shall be as shown on the zoning map, or other supplemental map, except as may be provided in the appropriate section of the general code of the county.

23.2-8 General rules of interpretation

In the construction of this chapter, the following shall be observed, unless such construction would be inconsistent with the text or with the manifest intent of this chapter:

- (1) **Gender.** Words of the masculine gender include the feminine and neuter, and vice versa.
- (2) **Singular and plural words.** Words in the singular include the plural and words in the plural include the singular.
- (3) **Tense.** Words in the present tense include the past and future tense, and the future tense includes the present tense.
- (4) **“Must”, “shall” and “will”.** The words “must”, “shall” and “will” imply a mandatory condition.
- (5) **“May” or “should”.** The words “may” and “should” imply a permissive condition.
- (6) **“Includes” or “including”.** The words “includes” or “including” shall not limit a provision to the specific example(s) listed, but are intended to extend their meaning to all other instances or circumstances of like kind or character.
- (7) **“Such as”.** The phrase “such as” shall not limit a provision to the specific example(s) listed, but is intended to extend its meaning to all other instances or circumstances of like kind or character.
- (8) **Conjunctions.** When used at the end of a series, the word “and” indicates that all listed items apply. When the word “or” is used at the end of a series, it indicates that one or more of the listed items apply.

23.2-9 Computation of time

When a time period is specified in this chapter, the first day of the period shall be the first day after the event that triggered the time clock to start. If the last day of the time period is a Saturday, Sunday, or a legal holiday, that day shall be excluded and the time period shall be extended to the next business day.

23.2-10 Calculations

(a) **Required quantities.** When a calculation is made to determine the minimum number of a required quantity (e.g., landscaping and parking spaces) and results in a fraction, the number shall be rounded up to the next whole number.

(b) **Allowable units.** When a calculation is made to determine the number of dwelling units that may be allowed based on a density factor and results in a fraction, the number shall be rounded down to the next whole number.

ARTICLE 3 DEFINITIONS

Sections

23.3-1	General definitions	
23.3-2	Land use definitions	

23.3-1 General definitions

(a) **Words and phrases not defined.** Unless specifically defined in this section, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter it's most reasonable application. Any word or phrase relating to livestock facilities that is used in this chapter but which is not defined in this article shall have the meaning given in s. ATCP 51.01 (Livestock Facility Siting), Wis. Admin. Code.

(b) **Words and terms defined.** For the purpose of this chapter, certain terms and phrases are defined below and shall have the meaning ascribed to them, except where the context clearly indicates a different meaning.

A

- (1) **Accessory area** The floor area of an accessory structure or combination of accessory structures, whether attached or detached from the principal structure. When calculating this area the following areas are exempt from contributing: stairwells when leading to a separate floor of the principal structure; and rooms with direct access into the principal structure provided that they have the amenities (e.g. electrical, heating and cooling, plumbing, etc) of living space and do not have characteristics of accessory structures such as a garage door.
- (2) **Accessory building** See Building, accessory
- (3) **Accessory land use** See Land use, accessory
- (4) **Adult arcade** An establishment where coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to 5 or fewer individuals per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.
- (5) **Adult bath house** An establishment which provides the services of baths, including all forms and methods of hydrotherapy, that is not operated by a medical practitioner or a professional physical therapist licensed by the state of Wisconsin and which establishment provides to its patrons an opportunity for engaging in specified sexual activities.
- (6) **Adult body painting studio** An establishment wherein patrons are afforded an opportunity to paint images on another person's body which is wholly or partially nude. An adult body painting studio shall not be deemed to include a tattoo parlor.
- (7) **Adult book/video store** An establishment that as one of its principal business purposes offers for sale, lease, or rental any of the following (1) books, magazines, periodicals, or other printed matter that are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas; (2) photographs, paintings, or other visual renderings that are distinguished or characterized by an emphasis on the depiction of specified sexual activities or specified anatomical areas; (3) films, motion pictures, video cassettes, video reproductions, DVDs, CD-ROMs, or similar media that are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas; (4) games, whether electronic or non-electronic, that are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas; or (4) instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities. A principal business purpose need not be a primary use of an establishment so long as it is a significant use based upon the visible inventory or commercial

activity of the establishment. This definition excludes films, motion pictures, video cassettes, streaming videos, DVDs, slides or other similar photographic reproductions given an “R” or “NC-17” rating by the Motion Picture Association of America.

- (8) **Adult cabaret** An establishment, such as a nightclub, dance hall, bar, restaurant, or similar establishment, that regularly features (1) persons who appear semi-nude; (2) live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities; or (3) film, motion pictures, video cassettes, streaming videos, DVDs, slides or other photographic reproductions, which are characterized by the exhibition or display of specified sexual activities or specified anatomical areas. This definition excludes films, motion pictures, video cassettes, slides, or other similar photographic reproductions given an “R” or “NC-17” rating by the Motion Picture Association of America.
- (9) **Adult massage parlor** An establishment with or without sleeping accommodations that provides the services of massage and body manipulation, including exercises, heat and light treatments of the body, and all forms and methods of physiotherapy, not operated by a medical practitioner or professional physical therapist licensed by the state of Wisconsin and which establishment provides for its patrons the opportunity to engage in specified sexual activities.
- (10) **Adult modeling studio** An establishment that provides the services of modeling for the purpose of reproducing the human body wholly or partially in the nude by means of photography, painting, sketching, drawing, or otherwise.
- (11) **Adult motion picture theater** An establishment that, for any form of consideration, regularly shows films, motion pictures, video cassettes, streaming videos, DVDs, slides, or similar photographic reproductions, which are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas. This definition excludes films, motion pictures, videocassettes, streaming videos, DVDs, slides or other similar photographic given an “R” or “NC-17” rating by the Motion Picture Association of America.
- (12) **Agricultural waste** Manure, milking center waste, and other organic waste generated by a livestock facility.⁵
- (13) **Agricultural zoning district** A zoning district established by this chapter that has an “A” followed by a number as its abbreviation (e.g., A-1).
- (14) **Alley** A vehicular accessway that provides primary vehicular access to the back of the lots that front on a street.
- (15) **Alternative tower structure** Manmade towers, water towers, buildings, bell steeples, light poles, electric transmission and distribution structures, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers. (Exhibits 3-1 and 3-2)
- (16) **Animal unit** A unit of measure used to regulate the number of various types of livestock and other farm animals by type. In Wisconsin, one animal unit is equivalent to one beef cow or steer (600 lbs. or more) or any combination of other animals based on assigned animal unit factors.

Exhibit 3-1 An antenna array mounted on top of a transmission tower



Exhibit 3-2 Two antenna arrays on top of silos



⁵ Commentary: This definition is based on the corresponding definition in s. ATPC 51.01, Wis. Admin. Code.

- (17) **Animal unit equivalent factor** A numeric value assigned to various types of livestock and other farm animals in relation to one beef cow or steer (600 lbs. to market). For the purpose of this chapter, the animal unit factors established by the Wisconsin Department of Agriculture, Trade and Consumer Protection under ch. NR 43, Wis. Admin. Code, are to be used. Those factors as of January 2006 are listed in Table 3-1.

Table 3-1 Animal Unit Factors

Livestock Type		Animal Unit Factor
Dairy Cattle	Milking and dry cows	1.4
	Heifers (800 lbs. to 1,200 lbs)	1.1
	Heifers (400 lbs. to 800 lbs)	0.6
	Calves (up to 400 lbs.)	0.2
Beef Cattle	Steers or cows (600 lbs. to market)	1.0
	Calves (under 600 lbs.)	0.5
	Bulls (each)	1.4
Swine	Pigs (55 lbs. to market)	0.4
	Pigs (up to 55 lbs.)	0.1
	Sows (each)	0.4
	Boars (each)	0.5
Poultry	Layers (each)	0.01
	Broilers (each)	0.005
	Broilers – continuous overflow watering	0.01
	Layers or broilers – liquid manure system	0.033
	Ducks – wet lot (each)	0.2
	Ducks – dry lot (each)	0.01
	Turkeys (each)	0.018
	Sheep (each)	0.1
	Goats (each)	0.1

Source: Wisconsin Department of Agriculture, Trade and Consumer Protection

- (18) **Appeal** A process initiated by an aggrieved person to review a decision made pursuant to this chapter, or an alleged failure to act as required by this chapter.
- (19) **Applicant** A person that submits an application as required by this chapter.
- (20) **Arbor** A structure over a walkway or other open area often supporting vines or other plants. (Exhibit 3-3)
- (21) **Auto title loan business** Any person licensed pursuant to s. 139.09, Wis. Stats., who makes a loan that is secured by an interest, other than a purchase money security interest, in the borrower's motor vehicle.

- (22) **Awning sign** See Sign, awning

B

- (23) **Base farm tract** All land as of August 21, 2012, whether one parcel or 2 or more contiguous parcels, which is in an A-1 agribusiness zoning district and was part of a single farm and so designated by the Planning and Zoning Committee, regardless of any subsequent changes in the size of the farm.⁶

Exhibit 3-3 An example of an arbor over a sidewalk



⁶ Commentary: Base farm tracts are defined only for the purpose of calculating residential densities in connection with conditional use permit applications. They have no other legal or ownership implications, and are not used for any other purpose. A "base farm tract" is a fixed geographical reference area that once determined remains constant over time. A "base farm tract" is not necessarily synonymous with a "farm," except on the date that it is determined.

- (24) **Base zoning district** See Zoning district, base
- (25) **Berm** A mound or embankment of earth typically installed to provide screening or for aesthetic effect.
- (26) **Blade sign** See Sign, blade
- (27) **Blasting** The use of an explosive material to loosen, move, or shatter a mass of earth materials.
- (28) **Board of Adjustment** The body appointed under authority of s. 59.694, Wis. Stats., to hear and decide administrative appeals, variances, and other matters as allowed by this chapter and state law.
- (29) **Board of County Commissioners** The body of elected supervisors as established in chapter 2 of the general code.
- (30) **Body piercer** An individual who performs body piercing on another upon his or her request.
- (31) **Body piercing** The perforating of any human body part or tissue, except an ear, and placing a foreign object in the perforation to prevent the perforation from closing.
- (32) **Buffer yard** A linear strip of undeveloped land, along with landscaping or a fence, that is located between two different zoning districts that have potentially incompatible characteristics. Buffer yards are intended to create separation between the incompatible land uses and eliminate or lessen the impacts (e.g., noise, dust, glare of lights, outdoor activities) of the most intrusive land use on the other.
- (33) **Building** A structure having a roof supported by walls or columns, or other supports intended for the shelter or enclosure of people, animals, chattels, or property of any kind.
- (34) **Building, accessory** A building that is clearly incidental and subordinate to and customarily found with a principal use.
- (35) **Building, principal** The building on a lot in which is conducted the principal use as permitted on such lot by the regulations of the district in which it is located.
- (36) **Building area** The total horizontal projected area of a building.
- (37) **Building codes** Those regulations adopted by a municipality or the state that regulate the construction, repair, alteration, and maintenance of buildings.
- (38) **Building permit** A permit issued prior to the construction of, or addition to, a structure. (In contrast see Zoning permit)
- (39) **Building scale** The relationship between the mass of a building and its surroundings; including streets, open spaces, and surrounding buildings. Mass is the three-dimensional bulk of a structure: height, width, and depth.
- (40) **Burden of proof** The obligation of a party to establish a fact by evidence.

C

- (41) **Caliper** The diameter of a tree, measured at a point 6 inches above the ground line if the resulting measurement is not more than 4 inches. If the resulting measurement is more than 4 inches, the measurement is taken 12 inches above the ground line.⁷
- (42) **Campground space** A designated portion of a campground that is rented for the exclusive use of its occupants. A campground space may include a parking spur, fire ring, table, and other amenities.

⁷ Commentary: The plant nursery trade uses this measurement standard, while the timber industry uses diameter breast height (DBH).

- (43) **CFR** An acronym for Code of Federal Regulations
- (44) **Co-location** The location of multiple antennas of more than one commercial wireless communication service provider or governmental entity on a single tower or alternative tower structure.
- (45) **Commercial zoning district** A base zoning district established by this chapter that has a “B” followed by a number as its abbreviation (e.g., B-1).
- (46) **Common ownership** When used in the context of determining base farm tracts, ownership by the same person or persons. The term includes joint tenancy and tenancy in common. For the purpose of this definition, a parcel owned by one member of a married couple is deemed to be owned by the married couple.⁸
- (47) **Comprehensive plan** The document the Winnebago County board of supervisors adopted consistent with s. 66.1001, Wis. Stats.
- (48) **Conditional use** See Land use, conditional
- (49) **Conditional use order** A written decision issued by the Planning and Zoning Committee authorizing the zoning administrator to issue a conditional use permit provided those conditions imposed by the committee precedent to the issuance of the permit have been satisfied.
- (50) **Conditional use permit** A permit issued by the zoning administrator authorizing establishment of a conditional use consistent with the provisions of this chapter.
- (51) **Condominium** A form of ownership with unrestricted right of disposal of one or more units in a multiple unit project with the land and all other parts of the project held in common ownership or use with owners of the other units.
- (52) **Contiguous** When used in the context of determining base farm tracts, two parcels are “contiguous” if they adjoin, border, or abut along a common boundary at any point or if they are only separated by a public road right-of-way that is 100 feet in width or less, private road, pipeline, transmission line, railroad right-of-way, state-owned bike trail, creek or river, or privately-owned access, whether improved or unimproved, that is 66 feet in width or less (e.g., stem of a flag lot). Two parcels are not contiguous if they meet only at a single point.
- (53) **Corner lot** See Lot, corner
- (54) **County development plan** See Comprehensive plan
- (55) **Curb** The barrier used to separate a street and other vehicle use areas from the surrounding environs.

D

- (56) **Dawn to dusk** The time period extending from 30 minutes before sunrise to 30 minutes after sunset of any given day. (In contrast see Dusk to dawn)
- (57) **dBA** An abbreviation for decibels, A-weighted
- (58) **Decibels, A-weighted** A unit for expressing the relative intensity of sounds in air on a scale from zero for the average least perceptible sound to about 130 for the average level at which sound causes pain to humans. The A-weighting system is typically used to measure environmental noise (e.g., noise from aircraft, railroad lines, and roadways).

⁸ Commentary: Land is deemed to be under “common ownership” if it is all owned by the same individual, married couple, joint tenants, tenants in common, corporation, limited liability company, partnership, estate, or trust.

- (59) **Density** As the context would indicate, the number of existing, proposed, or permitted dwelling units in a given area.
- (60) **Development** Any activity that must comply with, or is anyway regulated by, this chapter.
- (61) **Development agreement** A contract between a developer and a municipality that describes the obligations of both parties regarding a private development project.
- (62) **Directional sign** See Sign, directional
- (63) **Disability** A mental or physical impairment that substantially limits one or more life activity.
- (64) **Distinguished by or characterized by** When used in the context of adult uses, the dominant or principal theme of the object referenced. For instance, when the phrase refers to films “which are distinguished or characterized by an emphasis upon the exhibition or display of specified sexual activities or specified anatomical areas”, the films so described are those who’s dominant or principal character and theme are the exhibition or display of specified sexual activities or specified anatomical areas.
- (65) **District** See Zoning district
- (66) **Double frontage lot** See Lot, through
- (67) **Dusk to dawn** The time period extending from 30 minutes after sunset to 30 minutes before sunrise of any given day. (In contrast see Dawn to dusk)
- (68) **Dwelling unit** A single building, or portion thereof, that provides complete, independent living facilities for one family, including permanent provisions for living, sleeping, eating, cooking, and sanitation.
- (69) **Dynamic sign display** See Electronic message display

E

- (70) **Easement** A non-possessory legal interest a person has in the property of another for a specific use. An easement may apply to the entire property or a portion thereof and may be perpetual or temporary, expiring after a period of time or after a certain event occurs. A utility easement, for example, would allow any person with a right to use the easement to install and maintain utilities across, over, or under the subject land. A road easement would likewise allow the installation and maintenance of a driveway or roadway along with ancillary utilities.
- (71) **Electronic message display** A type of sign display where the message is created with a number of internal lights, such as light emitting diodes (LEDs), and which may be changed at intervals by an electronic process.
- (72) **Environmental Protection Agency (EPA)** An independent federal agency established in the executive branch in 1970 that implements major environmental legislation.
- (73) **EPA** An acronym for Environmental Protection Agency
- (74) **Equalized assessed value** The estimated market value of a property including land and improvements.⁹
- (75) **Expanded livestock facility** The entire livestock facility that is created by expansion, after May 1, 2006 regardless of whether those structures are new, existing, or altered.¹⁰ (Also see New livestock facility)

⁹ Commentary: In Wisconsin, the local assessor determines the assessed value for each property in the municipality. These values are then adjusted using an assessment ratio which is set by the Department of Revenue for that municipality. That value is referred to as the “equalized assessed value.”

¹⁰ Commentary: This definition is based on the corresponding definition in s. ATCP 51.01, Wis. Admin. Code.

- (76) **Expansion** When used in the context of livestock facilities, an increase in the largest number of animal units kept at a livestock facility on at least 90 days in any 12-month period. The acquisition of an existing livestock facility, by the operator of an adjacent livestock facility, does not constitute an “expansion” unless that operator increases the largest number of animal units kept at the combined livestock facilities on at least 90 days in any 12-month period.¹¹

F

- (77) **FAA** An acronym for Federal Aviation Administration
- (78) **Family** An individual living alone in a dwelling unit, or 2 or more individuals living together in a dwelling unit who are related by blood, marriage, adoption, or other legal means, or a group of not more than 4 individuals who are not so related who live together as a single housekeeping unit in a dwelling unit.
- (79) **Farm** When used in the context of farmland preservation in the A-1 zoning district, a parcel of land or a collection of 2 or more contiguous parcels of land in common ownership provided more than 50 percent of the entire land area is assigned for property tax purposes to one or more of the following use classifications as defined by the Wisconsin Department of Revenue pursuant to s. 70.32(2), Wis. Stats., (1) agricultural land – class 4, (2) agricultural forest – class 5m, and productive forest – class 6.¹²
- (80) **Farm products** Agricultural, horticultural, and arboricultural crops. Animals considered within the definition of agricultural include livestock, stable animals, bees, poultry, fur-bearing animals, and wildlife or aquatic life.
- (81) **Farmland preservation plan** That portion of the county’s comprehensive plan adopted consistent with ch. 91, Wis. Stats., that describes the ways the county will encourage preservation of farmland.
- (82) **FCC** An acronym for Federal Communications Commission
- (83) **Federal Aviation Administration (FAA)** A federal agency within the U.S. Department of Transportation with the authority to regulate air commerce to promote its safety and development; encourage and develop civil aviation, air traffic control, and air navigation; and promote the development of a national system of airports.
- (84) **Federal Communications Commission (FCC)** A federal agency established by the Communications Act of 1934 to regulate broadcast communications (wire, radio, and television) in the United States.
- (85) **Federal Emergency Management Agency (FEMA)** A federal agency created in 1979 with a mission to reduce loss of life and property and protect our nation's critical infrastructure from all types of hazards through a comprehensive, risk-based emergency management program of mitigation, preparedness, response, and recovery.
- (86) **FEMA** An acronym for Federal Emergency Management Agency
- (87) **Finding** A written conclusion or determination that is considered in reaching a decision.
- (88) **Flag lot** See Lot, flag
- (89) **Floodplain** That land which has been or may be covered by floodwater during the regional flood. The floodplain includes the floodway and the flood fringe and may include other designated floodplain areas for regulatory purposes.
- (90) **Floor area** The total horizontal area contained within the outside perimeter of a building.

¹¹ Commentary: This definition is based on the corresponding definition in s. ATCP 51.01, Wis. Admin. Code.

¹² Commentary: This definition is used for zoning purposes only. It does not change or limit a landowner’s statutory eligibility for farmland preservation tax credits. A landowner claiming such tax credits must meet various requirements under s. 71.613, Wis. Stats., including gross farm revenue requirements.

- (91) **Fugitive dust** The solid airborne particulate matter resulting from any activity conducted on a parcel zoned, or used for industrial or commercial purposes.
- (92) **General code** The compilation of laws as adopted by the Winnebago County Board of County Supervisors.

H

- (93) **Hazard** A condition, whether manmade or natural, that presents a tangible danger to the public health, safety, and general welfare.
- (94) **Hazardous substance** A material regulated by the Emergency Planning and Community Right-to-Know Act of 1986, 42 USC 1101-11050, as may be amended.
- (95) **Hazardous waste** A waste or combination of wastes that because of its quantity, concentration, or physical, chemical, or infectious characteristics, may (1) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise managed.
- (96) **Highway width map** A map adopted by Winnebago County pursuant to s. 66.1031, Wis. Stats.

I

- (97) **Impervious surface** The portion of a lot that substantially reduces or prevents the infiltration of stormwater into the ground. It includes areas of compacted soil, buildings, and nonporous surfaces such as sidewalks, parking lots, driveways, and similar features.
- (98) **Industrial zoning district** A base zoning district established by this chapter that has an “I” followed by a number as its abbreviation (e.g., I-1).
- (99) **Interior lot** See Lot, interior
- (100) **Interstate highway** A highway at any time officially designated as part of the national system of interstate and defense highways by the Wisconsin Department of Transportation and as approved by the appropriate authority of the federal government.¹³

K

- (101) **Kilowatt (kW)** A unit of power equal to 1,000 watts.

L

- (102) **Land** The earth, water, and air, above, below, or on the surface.
- (103) **Land use** As the context indicates (1) the development that has occurred on the land, (2) development that is proposed for the land, or (3) the use permitted for the land under this chapter.
- (104) **Land use, accessory** A land use that is incidental and subordinate to and customarily found with a principal land use.

¹³ Commentary: This definition is based on the corresponding definition in s. 84.31(2), Wis. Stats.

- (105) **Land use, conditional** A land use that would not be appropriate generally or without restriction throughout a specified area, but if controlled as to the number, area, location, or relation to the surrounding properties by the imposition of appropriate conditions, could promote the public health, safety, or general welfare.
- (106) **Land use, permitted by right** A land use that is allowed throughout a specified area. Land uses permitted by right may be reviewed through a site review process and shall otherwise be reviewed to ensure that all provisions of local, state, and federal regulations are met.
- (107) **Land use, principal** The dominant land use or uses of a parcel of land.¹⁴
- (108) **Land use, temporary** A land use which is on a parcel of land for a limited and specified period of time.
- (109) **Landscaping plan** A drawing of a subject property that shows existing and/or proposed landscaping elements and other features as required by this chapter. Depending on the nature of the development project, the content of a landscaping plan can be shown on a site plan. (Also see Site plan)
- (110) **Livestock** When used in the context of livestock facility siting, “livestock” shall only include cattle, swine, poultry, sheep, and goats.¹⁵ When not used in the context of livestock facility siting, “livestock” shall include bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, camelids, ratites, and farm-raised fish.
- (111) **Livestock facility** A feedlot, dairy farm, or other operation where livestock are or will be fed, confined, maintained or stabled for a total of 45 days or more in any 12-month period. A livestock facility includes all of the tax parcels of land on which the facility is located, but does not include a pasture or winter grazing area. Related livestock facilities are collectively treated as a single “livestock facility” for purposes of this chapter, except that an operator may elect to treat a separate species facility as a separate livestock facility.¹⁶
- (112) **Livestock structure** A building or other structure used to house or feed livestock, to confine livestock for milking, to confine livestock for feeding other than grazing, to store livestock feed, or to collect or store waste generated at a livestock facility. The term includes a barn, milking parlor, feed storage facility, feeding facility, animal lot or waste storage facility. The term does not include a pasture or winter grazing area, a fence surrounding a pasture or winter grazing area, a livestock watering or feeding facility in a pasture or winter grazing area, or a machine shed or like facility that is not used for livestock.¹⁷
- (113) **Livestock waste storage structure** An impoundment made by constructing embankments, a pit or dugout, or a structure used to hold agricultural waste. The term does not include equipment used to apply agricultural waste to land. For purposes of ss. ATCP 51.12(2) and 51.14, Wis. Admin. Code, the term does not include a structure used to collect and store agricultural waste under a livestock housing facility or a manure digester consisting of a sealed structure.¹⁸
- (114) **Living space** The square feet of floor space contained within a structure and includes the total of all space on all floors of a structure. It does not include porches, garages, or space in an unfinished attic, basement or cellar when said unfinished attic, basement or cellar is used for storage of incidental uses.
- (115) **Loading area** An off-street area set aside for the purpose of unloading or loading a motor vehicle, trailer, or truck.

Exhibit 3-4 An example of a corner lot



¹⁴ Commentary: In some situations, a parcel of land can have more than one principal land use.

¹⁵ Commentary: This definition is based on the corresponding definition in s. ATCP 51.01, Wis. Admin. Code.

¹⁶ Commentary: This definition is based on the corresponding definition in s. ATCP 51.01, Wis. Admin. Code.

¹⁷ Commentary: This definition is based on the corresponding definition in s. ATCP 51.01, Wis. Admin. Code.

¹⁸ Commentary: This definition is based on the corresponding definition in s. ATCP 51.01, Wis. Admin. Code.

- (116) **Lot** A parcel of ground with a definable location based on a recorded survey or similar instrument.
- (117) **Lot, corner** A lot situated at the junction of and fronting on two more streets. A lot abutting on a curved street shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees. (Exhibit 3-4)
- (118) **Lot, flag** A lot with access provided by a corridor from a street to the bulk of the lot.
- (119) **Lot, interior** A lot that abuts only one street.
- (120) **Lot, through** A lot having a frontage on two streets that are more or less parallel to one another.
- (121) **Lot area** As the context would indicate, lot area can refer to the minimum required area, actual area, or proposed area.¹⁹
- (122) **Lot frontage** The linear distance a lot abuts on a street right-of-way or other similar feature. As the context would indicate, lot frontage can refer to the minimum required distance, actual distance, or proposed distance.²⁰
- (123) **Lot line** See Property boundary line
- (124) **Lot line, front** A property boundary line described for each of the following types of lots (1) interior lot, the property boundary line abutting a street; or, on a corner lot, the shorter property boundary line abutting a street; (2) through lot, the property boundary line abutting the street providing the primary access to the lot; and (3) flag lot, the interior property boundary line most parallel to and nearest the street from which access is obtained.
- (125) **Lot line, rear** A property boundary line that does not intersect a front lot line and that is most distant from and most closely parallel to the front lot line.
- (126) **Lot line, side** A property boundary line that is not a front or rear lot line.
- (127) **Low-impact stormwater design** A design approach to stormwater management intended to mimic the predevelopment hydrology of a site. Initial site design strategies include minimizing impervious surfaces and the integration of existing wetlands, riparian areas, and other environmentally sensitive natural resources into the overall site design. Manmade features, generally distributed throughout the site, are also used to store, infiltrate, evaporate, and detain stormwater runoff. Examples of such features include bioswales, rain gardens, and pervious surfaces.

M

- (128) **Maintenance and repair** See Ordinary maintenance and repair
- (129) **Manufactured home** A dwelling unit that is constructed in an off-site facility in conformance with the federal construction and safety standards established by the Secretary of Housing and Urban Development pursuant to the Manufactured Housing Construction and Safety Standards Act of 1974, as amended.²¹
- (130) **Manure** Excreta from livestock kept at a livestock facility along with any livestock bedding, water, soil, hair, feathers, and other debris that becomes intermingled with the excreta in normal manure handling operations.²²
- (131) **Megawatt (MW)** A unit of power equal to one million watts.

¹⁹ Commentary: See the applicable section in division 4 of article 8 for a description of how lot area is measured.

²⁰ Commentary: See the applicable section in division 4 of article 8 for a description of how lot frontage is measured.

²¹ Commentary: A manufactured home bears a red insignia which certifies that it meets all applicable federal construction and safety standards. A manufactured home is one type of factory-built housing.

²² Commentary: This definition is based on the corresponding definition in s. ATCP 51.01, Wis. Admin. Code.

- (132) **Migrant worker** This term shall have the meaning under s. 103.90(5), Wis. Stats.
- (133) **Mitigate** To take an action designed to offset or rectify a negative effect.
- (134) **Mixed-use zoning district** A zoning district established by this chapter that has an “M” followed by a number as its abbreviation (e.g., M-1).
- (135) **Mobile home** A dwelling unit that was originally constructed prior to June 15, 1976, and that is (1) constructed off-site, (2) equipped with the necessary utility service connections, (3) made to be readily movable as a unit or units on its (their) own running gear, and (4) designed to be used with or without a permanent foundation.²³
- (136) **Mobile home pad** The area of a mobile home space that has been prepared for the placement of a mobile home or a manufactured home.
- (137) **Mobile home space** A designated area of a mobile home park that is designed to accommodate either one manufactured home or one mobile home for exclusive use of the occupants.
- (138) **Modular home** A dwelling unit that meets local building codes and which was constructed off site in a factory as separate modules which are joined together and set on a permanent foundation.²⁴
- (139) **Monument sign** See Sign, monument
- (140) **Mulch** A nonliving organic or inorganic material customarily used in landscape design to retard erosion, retain soil moisture, maintain even soil temperature, control weeds, and/or enrich the soil. Examples of materials often used include tree bark, wood chips, and decorative stones.

N

- (141) **Natural Resources Conservation Service (NRCS)** A federal agency created in 1935 within the U.S. Department of Agriculture to work with private land owners and managers to conserve their soil, water, and other natural resources by providing technical and financial assistance. From 1935 to 1994, it was known as the Soil Conservation Service (SCS).
- (142) **Navigable waterway** Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin, and all streams, ponds, sloughs, flowages, and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state.²⁵ The term does not include a farm drainage ditch if (1) such lands are not adjacent to a natural navigable stream or river, (2) those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching, and (3) such lands are maintained in nonstructural agricultural use.
- (143) **New livestock facility** A livestock facility that will be used as a livestock facility for the first time, or for the first time in at least 5 years. The term does not include an expanded livestock facility if any portion of that facility has been used as a livestock facility in the preceding 5 years.²⁶ (Also see Expanded livestock facility)
- (144) **Nonconforming building** A building that at the time of construction conformed to existing regulations including size, location, and other dimensional standards, but is now inconsistent with this chapter.
- (145) **Nonconforming conditional use** A use that was classified as a nonconforming use but which has since been reviewed and approved as a conditional use using the procedures and requirements specified in this chapter.

²³ Commentary: After June 15, 1976 no mobile homes have been constructed. A mobile home is one type of factory-built housing.

²⁴ Commentary: A modular home is one type of factory-built housing.

²⁵ Commentary: In Wisconsin, a navigable body of water is capable of floating the lightest boat or skiff used for recreation or any other purpose on a regularly recurring basis. See *DeGayner & Co., Inc. v. DNR*, 70 Wis. 2d 936 (1975) and *Village of Menomonee Falls v. DNR*, 140 Wis. 2d 579 (Ct. App. 1987).

²⁶ Commentary: This definition is based on the corresponding definition in s. ATCP 51.01, Wis. Admin. Code.

- (146) **Nonconforming lot** A lot that at the time of creation conformed to existing regulations including lot size, dimensions, lot configuration, and other dimensional and design standards, but is now inconsistent with this chapter.
- (147) **Nonconforming structure** A structure that at the time of construction or placement conformed to existing regulations including size, location, and other dimensional standards, but is now inconsistent with this chapter.
- (148) **Nonconforming use** A use of land that at the time of establishment conformed to existing regulations, but is now inconsistent with this chapter.
- (149) **Nonmetallic mineral** A product, commodity, or material consisting principally of naturally occurring, organic or inorganic, nonmetallic, nonrenewable material. Nonmetallic minerals include stone, sand, gravel, asbestos, beryl, diamond, clay, coal, feldspar, peat, talc, and topsoil.²⁷
- (150) **NRCS** An acronym for Natural Resources Conservation Service

O

- (151) **Occupancy** The purpose for which a building, or part thereof, is used or intended to be used.
- (152) **Operating standards** Regulations governing the ongoing operation of a land use, including related business practices.
- (153) **Ordinary high-water mark (OHWM)** The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic. Where the bank or shore of any particular place is of such character that it is difficult or impossible to ascertain where the point of ordinary high-water mark is, recourse may be had to the opposite bank of a stream or to other places on the shore of a lake or flowage to determine whether a given stage of water is above or below the ordinary high-water mark.
- (154) **Ordinary maintenance and repair** Those activities related to the general day-to-day maintenance of a building or other similar structure including interior remodeling; painting, decorating, paneling, plumbing, insulation, the repair of cracks in a foundation wall, the application of waterproof coatings to a foundation wall, and the replacement of windows, doors, electric wiring, siding, roofing materials, and other nonstructural components. (In contrast see Structural alteration)
- (155) **Overlay zoning district** See Zoning district, overlay

P

- (156) **Panelized home** A dwelling unit that meets local building codes and which was constructed off site in a factory as flat panels (e.g., walls, roof, and floor) which are joined together and set on a permanent foundation.²⁸
- (157) **Parking space** An area permanently reserved and maintained for the parking of one motor vehicle which meets the dimensional standards of this chapter.
- (158) **Payday loan business** Any person licensed pursuant to s. 218.05, Wis. Stats., or a person licensed pursuant to s. 139.09, Wis. Stats., who accepts a check, holds the check for a period of time before negotiating or presenting the check for payment, and pays to the issuer an agreed-upon amount of cash, or who refinances or consolidates such a transaction.

²⁷ Commentary: This definition is based on the corresponding definition in s. NR 135.02, Wis. Admin. Code.

²⁸ Commentary: A panelized home is one type of factory-built housing.

- (159) **Permanent foundation** A continuous foundation wall at the perimeter of a building.
- (160) **Permitted use** See Land use, permitted by right
- (161) **Person** An individual, corporation, governmental agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity.
- (162) **Pier** A structure extending into navigable waters from the shore with water on both sides, that is built or maintained for the purpose of providing a berth for watercraft or for loading or unloading cargo or passengers onto or from watercraft. Such a structure may include a boat shelter which is removed seasonally. Such a structure may include a boat hoist or boat lift, and the hoist or lift may be permanent or may be removed seasonally. (Also see Wharf)
- (163) **Plan of operation** A document describing the operation of a particular enterprise and other related matters as may be required by this chapter. (Also see Site plan)
- (164) **Planned development district (PDD)** A base zoning district established by this chapter that has “PDD” followed by a number as its abbreviation (e.g., PDD-1).
- (165) **Planning and Zoning Committee** The five-member committee appointed by the Winnebago County Board of County Supervisors to review and make recommendations to the County Board on planning and land use issues as authorized by Wisconsin Statutes. The Planning and Zoning Committee is also known as the “P&Z.”
- (166) **Playhouse** An accessory building, either at ground level or elevated, or supported by a tree, characteristically used by children for play.
- (167) **Polystructure** A structure having a frame of steel or other material that is covered with plastic, polyurethane, vinyl, canvas, or other flexible sheeting material. (Exhibit 3-5)
- (168) **Populate** When used in the context of a livestock operation, to add animal units for which local approval is required.
- (169) **Porch** A part of a building with a roof of its own that covers an entrance. (Exhibit 3-6)
- (170) **Pre-cut home** A dwelling unit that meets local building codes and which was largely constructed off site in a factory and then disassembled and transported to the site where it is reassembled and set on a permanent foundation.²⁹
- (171) **Premises** When used in the context of sign regulations, the land area, whether consisting of one or more lots, on which a land use may install signs as may be allowed. For example, if a restaurant is situated on two lots, the premises is a singular unit consisting of the two lots.
- (172) **Primary highway** A highway, other than an interstate highway, at any time officially designated as part of the federal-aid primary system by the Wisconsin Department of Transportation

Exhibit 3-5 An example of a polystructure



Exhibit 3-6 An example of a porch



²⁹ Commentary: A pre-cut home is a type of factory-built housing.

and as approved by the appropriate authority of the federal government.³⁰

- (173) **Prime farmland** Land with a class I or class II land capability classification as identified by the Natural Resources Conservation Service or land that is otherwise identified as prime farmland in the county’s certified farmland preservation plan.
- (174) **Principal building** See Building, principal
- (175) **Principal land use** See Land use, principal
- (176) **Projecting sign** See Sign, projecting
- (177) **Property boundary line** A line dividing one parcel of land from another.
- (178) **Protected farmland** When used in the context of farmland preservation, land (1) located in a farmland preservation zoning district certified under ch. 91, Wis. Stats.; (2) covered by a farmland preservation agreement under ch. 91, Wis. Stats.; (3) covered by an agricultural conservation easement under s. 93.73, Wis. Stats.; or (4) otherwise legally protected from nonagricultural development, as evidenced by documentation provided by the landowner who claims that the land is legally protected from nonagricultural development.³¹
- (179) **Public notice** The means that a governmental body uses, or is required to use, to formally notify people and other interested entities of a pending governmental hearing or proposed action.

R

- (180) **Recreational vehicle** A vehicular type unit primarily designed as a temporary living quarters for recreational, camping, or travel use that either has its own motor power or is mounted on or drawn by another vehicle. Recreational vehicles are to remain mobile and operable. The term includes park model trailers.
- (181) **Regularly features or regularly shows** When used in the context of adult uses, a consistent or substantial course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered as part of the ongoing business of the adult establishment.
- (182) **Related livestock facilities** Livestock facilities that are owned or managed by the same person, and related to each other in that (1) they are located on the same tax parcel or adjacent tax parcels of land; (2) they use one or more of the same livestock structures to collect or store manure, or (3) at least a portion of their manure is applied to the same land-spreading acreage.³²
- (183) **Residential zoning district** A zoning district established by this chapter that has an “R” followed by a number as its abbreviation (e.g., R-1).
- (184) **Reviewing authority** As the context would indicate, the zoning administrator, Planning and Zoning Committee, Board of Adjustment, or Board of County Supervisors.
- (185) **Right-of-way** A strip of land dedicated or acquired for public use.

S

- (186) **Screen** A feature, such as a wall, fence, hedge, berm, or similar feature used to shield or obscure elements of a development from adjacent sites.

³⁰ Commentary: This definition is based on the corresponding definition in s. 84.31(2), Wis. Stats.

³¹ Commentary: This definition is based on the corresponding definition in s. 91.01, Wis. Stats.

³² Commentary: This definition is based on the corresponding definition in s. ATPC 51.01, Wis. Admin. Code. A mere acquisition of a neighboring livestock facility does not constitute an “expansion” unless more animal units are added to the combined facilities.

- (187) **Semi-nude or semi-nude condition** The showing of the human male or female genitals, pubic area, vulva or anus, with not more than a complete opaque covering, or the showing of the female breast with not more than a complete opaque covering of any part of the nipple or areola.
- (188) **Separate livestock facility** A livestock facility that (1) has only one type of livestock (i.e., cattle, swine, poultry, sheep, or goats) and that type of livestock is not kept on any other livestock facility to which the separate species facility is related (see definition of “related livestock facility”); (2) has no more than 500 animal units; (3) its livestock housing and manure storage structures, if any, are separate from the livestock housing and manure storage structures used by livestock facilities to which it is related; and (4) meets one of the following criteria:
- (1) Its livestock housing and manure storage structures, if any, are located at least 750 feet from the nearest livestock housing or manure storage structure used by a livestock facility to which it is related.
 - (2) It and the other livestock facilities to which it is related have a combined total of fewer than 1,000 animal units.³³
- (189) **Setback** A specified horizontal distance between two actual or imaginary features (e.g., property boundary lines, ordinary high-water mark, structures, wells, and septic systems).
- (190) **Sewage sludge** The residue matter resulting from the treatment of sewage.³⁴
- (191) **Shared parking** One or more parking spaces that partially or entirely meet the parking requirements of two or more land uses.
- (192) **Sight triangle** See Vision clearance triangle
- (193) **Sign** Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.
- (194) **Sign, awning** A sign displayed on the surface of an awning.
- (195) **Sign, banner** A sign made of a light, pliable material (e.g., fabric, plastic, paper, or vinyl) not enclosed in a rigid frame that is tethered between vertical poles or buildings using string, wire, or rope.
- (196) **Sign, blade** A sign affixed to a structure that is taller than it is wide.
- (197) **Sign, directional** A permanent off-premise sign that provides information indicating the location (e.g., name, direction, and/or distance) of a business, club, worship facility, or other such organization which is located on a local road (i.e., town road).
- (198) **Sign, hanging** A sign suspended above a pedestrian walkway that fronts a multi-tenant building from the underside of an awning, canopy, marquee, or floor overhang.
- (199) **Sign, monument** A freestanding sign affixed to a solid, low-profile base structure. (Exhibit 3-7)
- (200) **Sign, pole** A sign supported by one or more vertical poles or pylons that are generally exposed to view.

Exhibit 3-7 An example of a monument sign



³³ Commentary: This definition is based on the corresponding definition in s. ATCP 51.01, Wis. Admin. Code. For purposes of this definition, cattle and poultry are different “types” of livestock, but dairy and beef cattle are livestock of the same “type” (“cattle”). Milking cows, heifers, calves and steers (all “cattle”) are livestock of the same “type.” Turkeys, ducks, geese and chickens are livestock of the same “type” (“poultry”).

³⁴ Commentary: This definition is based on the corresponding definition in s. 94.64(1)(pm), Wis. Stats.

- (201) **Sign, projecting** A sign that is attached to the wall of a building and projects more than 12 inches beyond such wall. (Exhibit 3-8)
- (202) **Sign, wall** A sign that is painted directly on an exterior wall of a building or is attached to the exterior wall of a building with the exposed face of the sign in a plane approximately parallel to the plane of the exterior wall.
- (203) **Sign, window** A sign that is painted on, attached to, or suspended directly behind or in front of a window or the glass portion of an exterior door. (Exhibit 3-9)
- (204) **Site plan** A drawing of a subject property that shows existing and proposed conditions and other features required by this chapter. (Also see Plan of operation and landscaping plan)
- (205) **Site-built home** A dwelling unit that meets the Wisconsin Uniform Dwelling Code standards and which was largely constructed on site. Also known as a "conventional home" or "stick-built home."
- (206) **Special exception** An approval that may be granted to deviate from otherwise applicable provisions of this chapter. (In contrast see Variance)
- (207) **Specified anatomical areas** The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or less than completely and opaquely covered human genitals, pubic region, vulva, anus, or the nipple and areola of the human female breast.
- (208) **Specified sexual activity** Any of the following (1) showing of human genitals in a state of sexual stimulation or arousal; (2) the fondling or erotic touching of human genitals, pubic region, anus, or female breasts; (3) the act of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sado-masochistic abuse, fellatio, or cunnilingus; or (4) excretory functions as part of, or in connection with, any of the activities set forth above.
- (209) **Sport court** A hard-surfaced area located out of doors used exclusively for basketball, tennis, or other similar sports-related activity. This term does not include any portion of a driveway that is also used as a basketball court.
- (210) **State** The state of Wisconsin.
- (211) **Static message display** A type of sign display where the message does not change by an electronic process.
- (212) **Stoop** A raised platform in front of an entrance to a building with one or more steps.
- (213) **Stop work order** An order issued by a municipal government requiring the cessation of an activity that violates a building code or zoning code.
- (214) **Stormwater** Water from a rainfall event or melting snow or ice.
- (215) **Stream** A natural body of running water flowing continuously or intermittently in a channel on or below the surface of the ground.
- (216) **Street** A public accessway within a public right-of-way or an easement.
- (217) **Street terrace** That area between the back of a curb (or the edge of pavement where there is no curb) and the property boundary line.

Exhibit 3-8 An example of a projecting sign



Exhibit 3-9 An example of a window sign



- (218) **Structural alteration** Any change in a supporting member of a structure such as foundation, bearing wall, column, beam or girder, footing, or pile, or any substantial change in the roof structure or in an exterior wall. (In contrast see Ordinary maintenance and repair)
- (219) **Structure** A manmade object with form, shape, and utility that is either permanently or temporarily placed on or into the ground, a stream bed, or a lake bed or on another structure. Examples include buildings, decks, patios, stoops, play structures, swimming pools, hot tubs, bridges, storage tanks, fences, towers, flag poles, utility poles, pipelines, transmission lines, smokestacks, and signs.
- (220) **Substandard lot** A lot, with or without a structure, having a lesser dimension or area, or both, than what is required for the zoning district in which it is located.

T

- (221) **Tattoo** To insert pigment under the surface of the skin of an individual by pricking with a needle or other instrument or technique so as to produce an indelible mark or figure through the skin.
- (222) **Tattooist** An individual who tattoos another upon his or her request.
- (223) **Temporary use** See Land use, temporary
- (224) **Through lot** See Lot, through
- (225) **Trellis** A structure consisting of lattice with supporting posts and rails often supporting vines or other plants and used for aesthetic purposes or as a visual screen or barrier, or both.

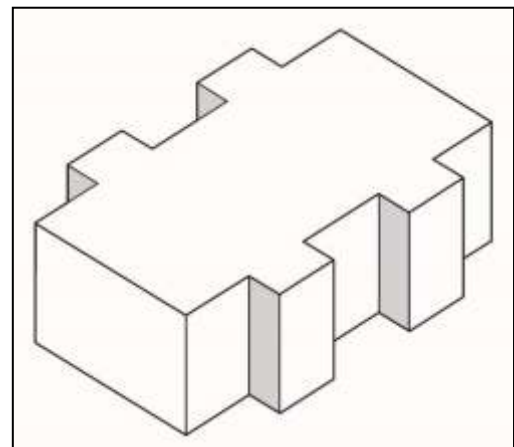
U

- (226) **U.S. Army Corps of Engineers** A federal agency within the U.S. Department of Defense that serves the Armed Forces and the nation by providing vital engineering services and capabilities, as a public service, across the full spectrum of operations, from peace to war, in support of national interests.

V

- (227) **Variance** A grant of relief from the strict application of a rule or regulation that would permit development in a manner otherwise prohibited. (In contrast see Special exception)
- (228) **Vertical offset** A jog in an exterior wall of a building so that one of the wall's surfaces is in front of another. (Exhibit 3-10)
- (229) **Vision clearance triangle** The area in the shape of a triangle located at the intersection of two streets within which the type and placement of structures and vegetation are controlled to ensure adequate sight distances for pedestrians and motorists. This area is the triangular space formed by any 2 existing or proposed intersecting street or alley right-of-way lines and a line joining points on such lines located a minimum of 30 feet from their intersection. In the case of arterial streets intersecting with other arterial streets, the corner cutoff distances establishing the triangular vision clearance space shall be increased to 50 feet. In the vision clearance triangle no obstructions (i.e. structures, parking or vegetation) shall be permitted in any district between the heights of 2.5 feet and 10 feet above the plane through the mean curb grades.

Exhibit 3-10 Vertical offset



W

- (230) **Wall sign** See Sign, wall
- (231) **Watercraft** Any device used and designed for navigation on water.
- (232) **Wetland** An area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.
- (233) **Wharf** A structure in navigable waters extending along the shore and generally connected with the uplands throughout its length, built or maintained for the purpose of providing a berth for watercraft or for loading or unloading cargo or passengers onto or from watercraft. Such a structure may include a boat hoist or boat lift, and the hoist or lift may be permanent or may be removed. (Also see Pier)
- (234) **Window sign** See Sign, window
- (235) **Winter grazing area** Cropland or pasture where livestock feed on dormant vegetation or crop residue, with or without supplementary feed, during the period October 1 to April 30. The term does not include (1) an area, other than a pasture, where livestock are kept during the period from May 1 to September 30; (2) an area which at any time has an average of more than 4 livestock animal units per acre; (3) an area from which livestock have unrestricted access to navigable waters of the state, such that the livestock access prevents adequate vegetative cover on banks adjoining the water; or (4) an area in which manure deposited by livestock causes nutrient level to exceed standards in s. ATCP 51.16, Wis. Admin. Code.³⁵
- (236) **Written or in writing** Any representation of words, letters, drawings, graphics, or pictures.

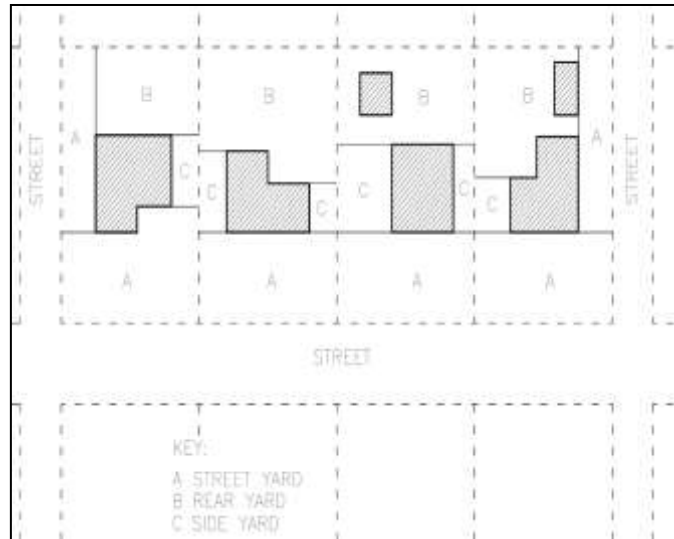
Y

- (237) **Yard** The area of a lot that is required to be unoccupied and unobstructed from the ground upward, except by trees, shrubbery, or as otherwise provided in this chapter.
- (238) **Yard, rear** A yard as described for each of the following types of lots: interior lot, that area that extends across the rear of a lot between the side lot lines from the rear lot line to the rear of the building; and corner lot, that area that extends between the street yard abutting the street right of way and the opposing side lot line from the rear lot line to the rear of the principal building. (Exhibit 3-11)
- (239) **Yard, side** A yard as described for each of the following types of lots: interior lot, the area that extends between the front yard and rear yard from the side lot line to the side of the building; corner lot, that area that extends between the front yard and the rear yard from the side lot line to the side of the principal building; and double frontage lot, that area that extends between the street yard from the side lot line to the side of the principal building. (Exhibit 3-11)

³⁵ Commentary: This definition is based on the corresponding definition in s. ATCP 51.01, Wis. Admin. Code.

- (240) **Yard, street** A yard as described for each of the following types of lots: interior lot, that area that extends across the front of a lot between the side lot lines from the front lot line to the front of the principal building; corner lot, that area that extends across the front of a lot between the side lot lines from the front lot line to the front of the principal building and that area that extends between the rear lot line to the front lot line from the side lot line to the side of the building; double frontage lot, that area that extends across the front of a lot between the side lot lines from the front lot line to the front of the principal building. (Exhibit 3-11)

Exhibit 3-11 Yard types



Z

- (241) **Zoning administrator** The individual so designated by the county executive for Winnebago County to perform those duties as enumerated in this chapter and as authorized by state law.
- (242) **Zoning district, base** A type of zoning district that establishes uniform regulations for the use and development of land.
- (243) **Zoning district, overlay** A type of zoning district that is superimposed over one or base zoning districts, or portions thereof, and which imposes additional requirements, of the underlying base zoning district.
- (244) **Zoning permit** A written permit issued for a specified parcel of land prior to the issuance of a building permit to ensure that the proposed use is consistent with the zoning requirements of the zoning district in which it is to be located.

23.3-2 Land use definitions

For the purpose of this chapter, certain land uses are defined below and shall have the meaning ascribed to them. For organizational purposes, similar land uses are grouped together to form a series. The first 16 series are principal land uses, accessory land uses are found in series 17, and temporary land uses are found in series 18.

Land Use Series

1. Agriculture	8. General Sales	13. Transportation
2. Resource-Based Uses	9. General Services	14. General Storage
3. Residential	10. Recreation and Entertainment	15. Industrial
4. Special Care Facilities	11. Government and Community Services	16. Solid Waste
5. Group Accommodations	12. Telecommunications and Utilities	17. Accessory Uses
6. Food and Beverage Sales		18. Temporary Uses
7. Vehicle Rental, Sales, and Service		

1.0 AGRICULTURE

- 1.01 **Agriculture-related use** A place primarily involved in (1) providing agricultural supplies, agricultural equipment, agricultural inputs, or agricultural services; (2) storing, processing, or handling raw agricultural commodities; (3) slaughtering livestock; (4) marketing livestock; and/or (5) processing agricultural byproducts or wastes. Examples include (1) a grain warehouse, potato warehouse, or other warehouse that stores raw agricultural commodities received from farms; (2) a dairy plant that processes or handles milk from farms; (3) a meat slaughter establishment; (4) a food processing plant that processes raw agricultural commodities received from farms; (5) a feed mill or rendering plant that processes raw agricultural commodities or agricultural by-products received directly from farms, or supplies animal feed directly to farms; (6) a communal manure digester; (7) a pelletizing plant or other facility that processes raw agricultural commodities, by-products, or wastes (received directly from farms) to produce fuel or other products; (8) a sawmill or other facility that processes wood or other forest products received directly from farms; (9) a facility that provides farm inputs such as fertilizer, pesticides, seed, or feed directly to farms; (10) a facility that is primarily engaged in providing agronomy or veterinary services to farms; and (11) a winery, distillery, or microbrew. The term does not include an ethanol plant or a bio-diesel plant.



- 1.02 **Agriculture, crop** A place where nursery stock, trees, sod, fruit, vegetables, flowers, agricultural crops and forage, and other plants typically grown by agricultural operations in the region are grown.



- 1.03 **Agriculture, general** A place where nursery stock, trees, sod, fruit, vegetables, flowers, agricultural crops and forage, and other plants are primarily grown for commercial purposes and/or livestock is raised primarily for commercial purposes.. The term does not include commercial stable, farm stand retail outlet, or agricultural product sales

- 1.04 **Greenhouse** A place where fruit, vegetables, flowers and other types of plants are grown within an enclosed building for commercial purposes, whether using sunlight or artificial lighting. For the purpose of this definition, a mushroom farm is considered a greenhouse.



2.0 RESOURCE-BASED USES

- 2.01 **Dam** An artificial barrier in or across a navigable watercourse which has the primary purpose of impounding or diverting water along with the impounded water. A dam includes all appurtenant works, such as a dike, canal, or powerhouse.
- 2.02 **Forestry** The harvesting, thinning, and planting of trees and related forest management activities whether for commercial or noncommercial purposes. The term includes temporary skidding yards necessary to store and sort logs harvested on the premises. The term does not include on-site processing and permanent skidding yards.
- 2.03 **Hunting preserve** A place where the public or those with a membership can, for a fee or other consideration, hunt game animals not confined within a fenced enclosure. This use may include one or more buildings and other structures directly related to operation of this use, such as an office, structures and enclosures for rearing game animals for hunting purposes, and buildings for housing maintenance equipment, supplies, and related materials. The term does not include lands leased for private, individual use.
- 2.04 **Sewage sludge disposal** The application of sewage sludge to a land area for final disposal.
- 2.05 **Wildlife park** A place where the public can, for a fee or other consideration, view free-roaming wildlife from a motor vehicle. This use may include one or more buildings and other structures directly related to operation of this use, such as an office, structures and enclosures for rearing wild animals, and buildings for housing maintenance equipment, supplies, and related materials.

3.0 RESIDENTIAL USES

- 3.01 **Mixed-use housing** One or more dwelling units located in a building, commonly on the second floor, that also houses a commercial land use, such as a retail use or a professional office.
- 3.02 **Manufactured Community** A place where 2 or more spaces may be rented or leased for the placement of a mobile home or manufactured home.
- 3.03 **Multifamily building, 2 units** A building containing 2 dwelling units that is situated on one lot. The units may be rented or owned as in a condominium.
- 3.04 **Multifamily building, 3 or more units** A building containing 3 or more dwelling units that is situated on one lot. The units may be rented or owned as in a condominium.
- 3.05 **Nonfarm residence** A single-family or multifamily residence other than a farm residence.



- 3.06 **Single-family dwelling** A building containing one dwelling unit that is situated on one lot and is not attached to any other dwelling unit by any means. The term includes manufactured homes, modular homes, panelized homes, pre-cut homes, and site-built homes, but excludes mobile homes.
- 3.07 **Townhouse** A building containing 3 or more dwelling units that are separated by a party wall that extends from the ground to the roof and each of the units are located on a separate lot and have a separate entrance.
- 3.08 **Twin home** A building containing 2 dwelling units that are separated by a party wall that extends from the ground to the roof and each of the units are located on a separate lot and have a separate entrance.



4.0 SPECIAL CARE FACILITIES

- 4.01 **Adult family home** A place licensed by the state under s. 50.033(1m), Wis. Stats.³⁶
- 4.02 **Community living arrangement** Any one of the following facilities (1) residential care centers for children and youth, as defined in s. 48.02(15d), Wis. Stats., operated by a child welfare agency licensed under s. 48.60, Wis. Stats.; (2) group homes for children, as defined in s. 48.02(7), Wis. Stats.; and (3) community-based residential facilities, as defined in s. 50.01(lg), Wis. Stats. The term does not include adult family homes, as defined in s. 50.01, Wis. Stats.
- 4.03 **Foster home and treatment foster home** A place licensed by the state for the care of foster children and which is operated by a corporation, child welfare agency, church, or other such entity.³⁷
- 4.04 **Group day care center** A place licensed as a day care by the state where care is provided for 9 or more children.³⁸ This use may include outdoor play areas, playhouses, and related recreational equipment, such as swings, slides, basketball hoops, and jungle gyms.
- 4.05 **Hospice care center** A place licensed by the state that provides palliative and supportive care and a place of residence to individuals with terminal illness and provides or arranges for short-term inpatient care as needed.³⁹
- 4.06 **Nursing home** A place where 5 or more persons who are not related to the operator or administrator reside, receive care or treatment and, because of their mental or physical condition, require 24-hour nursing services, including limited nursing care, intermediate level nursing care, and skilled



³⁶ Commentary: An adult family home can either be a principal use or an accessory use. If the operator does not live in the residence with the adults, it is considered a principal use.

³⁷ Commentary: See s. 48.62, Wis. Stats. A foster home and treatment foster home can either be a principal use or an accessory use. If the operator lives in the residence with the children, it is considered an accessory use.

³⁸ Commentary: A family day care home (4-8 children) is considered an accessory use and is therefore listed in the 17 series.

³⁹ Commentary: See s. 50.90(1), Wis. Stats.

nursing services. The term does not include (1) a convent or facility owned or operated exclusively by and for members of a religious order that provides reception and care or treatment of an individual, (2) a hospice as defined in state law, or (3) a residential care apartment complex as defined in state law.⁴⁰

4.07 **Retirement home** A place where individuals, generally 62 years of age or older, may occupy independent dwelling units. The units may be rented or owned as in a condominium. This use may include limited on-site commercial and medical facilities for the exclusive use of residents.

4.08 **Temporary shelter** A place where abuse victims or homeless individuals are temporary housed and provided with ancillary services.

5.0 GROUP ACCOMMODATIONS⁴¹

5.01 **Boardinghouse** A place, other than a hotel or restaurant, where meals or lodging are regularly furnished by prearrangement for compensation for 4 or more persons not members of a family, but not exceeding 12 persons and not open to transient customers.

5.02 **Campground** A place where members of the general public may set up tents, campers and trailers of all types, and recreational vehicles (including park model trailers) for camping and sleeping purposes. Accessory uses may include individual cabins, a dwelling unit for the manager of the campground, and one or more buildings to house a laundromat and retail sales for the convenience of campground guests, an office, maintenance equipment, supplies, and related materials.

5.03 **Group recreation camp** A place where members of an association or other similar group, which operates the premises, and their invited guests may set up tents, campers and trailers of all types, and recreational vehicles for camping and sleeping purposes or stay overnight in a lodge, cabin, or other similar accommodation. Accessory uses may include a dwelling unit for the manager of the camp, sleeping accommodations for resident staff, and one or more buildings to house guest services, administrative offices, recreational facilities, maintenance equipment, supplies, and related materials. The term includes youth camps and church camps.

5.04 **Migrant labor camp** Living quarters under the control and supervision of any person for any migrant worker or any other person who is not related by blood, marriage, or adoption to his or her employer and who occasionally or habitually leaves an established place of residence to travel to another locality to accept seasonal employment in the planting, cultivating, raising, harvesting, handling, drying, packing, packaging, processing, freezing, grading, or storing of any agricultural or horticultural commodity in its unmanufactured state. The term does not include a premises occupied by the employer as a personal residence and by no more than two migrant workers or any accommodation subject to chapter 50 of the Wisconsin Statutes.

5.05 **Overnight lodging** A place where individual guest rooms with private bathrooms are offered to transient guests for rent. This use may also include recreational/fitness rooms and a food service area for the exclusive use of guests and banquet facilities for meetings and other gatherings. The term includes hotels and motels but does not include bed and breakfasts.

5.06 **Resort** A place with lodging facilities and on-site amenities primarily intended for the use of overnight guests. Guest rooms may be located in one or more buildings and may include kitchen facilities. In addition to lodging facilities and recreational amenities, such as golf, horseback riding, or lake/beach access, a resort may also include a lodge or other gathering place for guests, dining facilities, administrative facilities, and maintenance and storage facilities.

⁴⁰ Commentary: See s. 50.01(3), Wis. Stats.

⁴¹ Commentary: A bed and breakfast is considered an accessory use and is therefore listed in the 17 series.

6.0 FOOD AND BEVERAGE SALES

- 6.01 **Brewpub** A place where fermented malt beverages are manufactured and those beverages, along with other beverages and food, are offered for retail sale and on-site consumption.
- 6.02 **Restaurant** A place where food and beverages are offered for retail sale for on-site or off-site consumption, and where the on-site consumption of fermented malt beverages, wine, or liquor, if any, is clearly secondary and subordinate to the sale of food and nonalcoholic beverages. A restaurant may also prepare food as part of a catering business. The term does not include a grocery store with a food service section.
- 6.03 **Tavern** A place where fermented malt beverages, wine, or liquor are offered for retail sale for on-site consumption and where food consumption, if any, is clearly secondary and subordinate to the sale of alcoholic beverages. The term includes bars, drinking establishments, sports bar, and lounges.

7.0 VEHICLE RENTAL, SALES, AND SERVICE

- 7.01 **Heavy vehicle sales and rental** A place where new and used large vehicles, such as recreational vehicles and campers, personal watercraft, and heavy trucks, are offered for rent, sale, lease, or exchange, or are taken on consignment. This use may include the repair of such vehicles as a subordinate use.
- 7.02 **Truck stop** A place where fuels primarily for tractor trucks are offered for retail sale. Ancillary uses are limited to retail sale of motor vehicle fuel for cars, motorcycles, and light trucks; retail sale of food and beverages; a restaurant; sleeping quarters; overnight parking; a truck wash; truck scales; tire repair and sales; light maintenance activities, such as engine tune-ups, lubrication, and minor repairs; and other incidental uses customarily associated with a truck stop.
- 7.03 **Vehicle fuel station** A place where fuels for cars, motorcycles, and light trucks are offered for retail sale. Ancillary uses are limited to the retail sale of food and beverages and light maintenance activities, such as engine tune-ups, lubrication, and minor repairs.
- 7.04 **Vehicle repair shop** A place where motor vehicles, such as cars, motorcycles, and light trucks, are typically left overnight for maintenance, service, or repair. Typical services include transmission repair, body work and painting, vehicle upholstery, engine repair and overhauls, and similar activities. The term includes do-it-yourself shops where patrons use the facility, tools, and other equipment for a fee and perform the work themselves.
- 7.05 **Vehicle sales and rental** A place where new and used cars, light trucks, motorcycles, mopeds, snowmobiles, and all-terrain vehicles (ATVs) are offered for rent, sale, lease, or exchange, or are taken on consignment. This use may include the repair of such vehicles as a subordinate use.



7.06 Vehicle service shop A place where motor vehicles, such as cars, motorcycles, and light trucks, are serviced while the owner waits and typically are not left overnight. Examples include quick lube/oil change facilities, tire stores, car washes, and vehicle detailing.

7.07 Vehicle storage yard A place where impounded motor vehicles are temporarily stored or where damaged motor vehicles are temporarily stored before being taken to a repair shop or while waiting for an insurance adjustment to occur. The salvaging of motor vehicle parts or the repair of motor vehicles is not allowed.



8.0 GENERAL SALES

8.01 Convenience retail sales A place where a limited product line of frequently needed personal items is offered for retail sale. The term includes convenience stores and small grocery stores.

8.02 General retail sales A place where a diverse product line is offered for retail sale. The term includes grocery stores, retail outlets, comparison shopping stores, full-line department stores, and dollar stores.

8.03 General retail sales, large format (1) A single building that contains more than 20,000 gross square feet on a single parcel where the primary tenant occupies 65 percent or more of the gross floor area, (2) two or more buildings with a total of 20,000 gross square feet on a single parcel where the primary tenant occupies 65 percent or more of the gross floor area, or (3) a group of buildings on adjoining lots with more than 20,000 gross square feet of floor where the primary tenant owns the lots and occupies 65 percent or more of the gross floor area. The term does not include a retail store that is part of an industrial building or warehouse when the floor area of such store is less than 20,000 gross square feet.



8.04 Outdoor sales A place where the merchandise offered for sale is primarily displayed outside of a building or other structure. This term does not include those land uses otherwise defined in this section.

9.0 GENERAL SERVICES

9.01 Administrative services A place where employees primarily perform administrative functions and where customers are infrequent. The term includes data processing centers, customer service centers via telecommunications, architectural firms, and engineering firms.

9.02 Adult-oriented establishment A place where no more than one of the following are located: adult arcade, adult bath house, adult body painting studio, adult book/video store, adult cabaret, adult massage parlor, adult modeling studio, or adult motion picture theater.

9.03 Body-piercing establishment A place where a body piercer performs body piercing.

9.04 Commercial kennel A place where 4 or more dogs or other similar domesticated animals over 6 months of age are housed for the purpose of boarding, breeding, training, or sale. The term includes boarding kennels, dog motels, and dog training centers. The term does not include animal hospitals, animal grooming parlors, or pet shops.⁴²

⁴² Commentary: Also see "kennel, hobby" and "kennel, private" which are accessory uses to a residential use (Series 17).

- 9.05 **Commercial stable** A place where horses, donkeys, and other similar domesticated animals are kept for boarding, instructional purposes, or hire on trail rides. Nonresidential buildings and other structures, such as barns, stables, riding arenas, and sheds, necessary for the operation are allowed.
- 9.06 **Equipment rental, large** A place where large equipment that is normally stored out of doors is offered for rent. Typical items include modular buildings, trucks and trailers, vertical lifts, skid loaders, forklifts, backhoes, and other types of heavy equipment.
- 9.07 **Equipment rental, small** A place where small equipment is offered for rent and related supplies are offered for retail sale or rent. Items for rent or sale are stored indoors and may include hand tools, party equipment, and lawn and yard equipment.
- 9.08 **Financial services** A place where financial and banking services are offered. The term includes banks, savings and loan institutions, other lending institutions, auto title loan businesses, and payday loan businesses. The term does not include automated teller machines, which are considered an accessory use.
- 9.09 **Funeral home** A place where the deceased may be prepared for burial or cremation and people may gather for visitation or funeral ceremonies. The indoor display of funeral equipment may also occur. The term includes mortuaries.
- 9.10 **General repair** A place where consumer goods such as shoes, bicycles, appliances, and business equipment are repaired. The term does not include repair of motor vehicles or industrial equipment.
- 9.11 **General services** A place where services not otherwise included in any other service type category are offered. The term includes photography studios, weight loss centers, commercial postal services, beauty shops, pet grooming shops, photocopying and printing services, linen services, dry cleaning services, and diaper services.
- 9.12 **Health care clinic** A place where medical services are offered and patients do not stay overnight. The term includes dental clinics, medical offices, chiropractic offices, acupuncture centers, and sports medicine facilities. The term does not include those uses as classified as a health care center.
- 9.13 **Health care center** A place where medical treatment or nursing, rehabilitative, or preventative care is offered. The term includes ambulatory surgical facilities, hospitals, kidney treatment centers, long-term care facilities, medical assistance facilities, mental health centers, outpatient facilities, public health centers, and rehabilitation facilities.
- 9.14 **Instructional services** A place where instruction, training, or tutelage is offered in such areas as gymnastics, dance, art, music, and martial arts.
- 9.15 **Landscape business** A place where a landscape contractor may establish a base of operation, which may include one or more of the following: retail sale of plant and landscape materials; office space; indoor and outdoor storage of materials, equipment, and machinery, such as trucks and heavy equipment; and shops for the repair of machinery and equipment owned by the operator.
- 9.16 **Professional services** A place where services involving predominantly professional, clerical, or similar operations are preformed and where customers may or could come on a regular basis. The term includes law offices, real estate offices, insurance offices, and travel agencies.
- 9.17 **Tattoo establishment** A place where a tattooist applies a tattoo to another individual.



- 9.18 **Veterinary clinic, general** A place where medical services for small and large animals, such as horses and livestock, are offered. This use may include office space, medical labs, appurtenant facilities, and indoor and outdoor enclosures for animals under the immediate medical care of a veterinarian.
- 9.19 **Veterinary clinic, small animal** A place where medical services for small household animals are offered. This use may include office space, medical labs, appurtenant facilities, and indoor enclosures for animals under the immediate medical care of a veterinarian. The term includes pet clinics, dog and cat hospitals, and animal hospitals.

10.0 RECREATION AND ENTERTAINMENT

- 10.01 **Driving range** A place where golfers practice driving golf balls from a fixed central location. This use may include one or more buildings and other structures directly related to the operation of this use, such as an office, snack bar, and buildings for housing maintenance equipment, supplies, and related materials.
- 10.02 **Golf course** A place where individuals, for a fee or other consideration, play golf outdoors. This use may include one or more buildings and other structures directly related to the operation of this use, such as an office, game room with snack bar, and buildings for housing maintenance equipment, supplies, and related materials.
- 10.03 **Indoor entertainment** A place where indoor entertainment is offered. The term includes theaters, movie theaters, dance halls, and theaters for performing arts. The term does not include adult-oriented establishments.
- 10.04 **Indoor recreation** A place where indoor recreational activities are offered. The term includes bowling alleys, skating rinks, billiard and pool halls, and arcades.
- 10.05 **Outdoor entertainment** A place where outdoor, spectator-type uses or events are offered. The term includes race tracks, motocross courses, tractor-pulling events, and sports arenas.
- 10.06 **Outdoor recreation** A place where outdoor recreational activities are offered. The term includes miniature golf, batting cages, water parks, and amusement parks. The term does not include driving ranges and golf courses.
- 10.07 **Outdoor shooting range** An outdoor area where patrons shoot guns, such as pistols, rifles, and shotguns, and bow and arrows for target practice. The term includes archery ranges, trap and skeet clubs, and target ranges.

11.0 GOVERNMENT AND COMMUNITY SERVICES

- 11.01 **Administrative government center** A place where government employees perform administrative functions on behalf of the public. The term includes administrative offices, post offices, and courthouses.
- 11.02 **Animal shelter** A place where stray household pets are temporarily housed.
- 11.03 **Cemetery** A place where human remains may be buried or interned. Accessory uses may include columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such area.
- 11.04 **Civic use facility** A place where large gatherings of people may assemble for public purposes. The term includes zoos, arenas, stadiums, and fairgrounds.
- 11.05 **Community center** A place where short-term and intermittent meetings or gatherings of individuals are held for purposes of sharing information, entertainment, social service, or similar activities. The term includes senior



centers; neighborhood recreational centers; fraternal, social, or civic clubs; lodges; wedding venues and banquet facilities; and union halls.

- 11.06 **Community cultural facility** A place where people may gather for studying, reading, personal education, or viewing the visual arts. The term includes libraries, museums, art galleries, and observatories. The term does not include performing arts.
- 11.07 **Community garden** A place where a group of unrelated individuals grow vegetables, fruits, and flowers for their personal use. A community garden can be divided into individual plots of land for the exclusive use of the person assigned each plot, or the entire garden may be a cooperative effort of any number of people, or a combination thereof.
- 11.08 **Correctional facility** A place where individuals who are serving a comparatively long court-imposed sentence may be housed.
- 11.09 **Educational facility, pre-K through 12** A place where primary and secondary educational opportunities are offered. The term includes preschools, elementary schools, junior high schools, and high schools.
- 11.10 **Educational facility, post-secondary** A place where post-secondary educational opportunities are offered. The term includes colleges, universities, community colleges, and vocational schools.
- 11.11 **Maintenance garage** A place where a municipal government maintains administrative offices, equipment, and supplies necessary for maintaining public roadways, parks, and other types of public facilities.
- 11.12 **Park** A place where primarily outdoor recreational activities may occur. A park may be operated by a public entity for the benefit of the general public or by a homeowners association for the benefit of its members. A park may be developed with recreational facilities or undeveloped. The term includes dog parks and neighborhood recreation centers.
- 11.13 **Public safety facility** A place where public safety services are offered. The term includes ambulance services, fire stations, police stations, and jails. The term does not include correctional facilities.
- 11.14 **Recreation trail** A place where a linear path may be dedicated to a single recreational use or multiple uses. Examples include hiking trails, bike trails, cross-country ski trails, and horse trails.
- 11.15 **Unspecified public use** A place, whether in public or private ownership, that is used or intended for a public purpose as determined by the zoning administrator.
- 11.16 **Worship facility** A place where people can regularly assemble for religious worship and associated activities and which is operated by an entity with tax-exempt status. The term includes sanctuaries, chapels, cathedrals, churches, synagogues, and temples and other onsite accessory buildings such as parsonages, friaries, convents, fellowship halls, and rectories. The term does not include day care centers, community recreation facilities, dormitories, private educational facilities, emergency shelters, and health care facilities.



12.0 TELECOMMUNICATIONS AND UTILITIES

- 12.01 **Solar energy system** A free-standing solar energy system that constitutes the principal use of the property or that exceeds the limitations established for a free-standing energy system as an accessory use. (In contrast see Solar energy system, free-standing – series 17.38)
- 12.02 **Stormwater management facility** A natural or manmade feature that collects, conveys, channels, holds, inhibits, or diverts the movement of stormwater.

- 12.03 **Telecommunication facility, concealed** An antenna that a casual observer would consider a part of the structure to which it is attached or made a part of.
- 12.04 **Telecommunication facility, unconcealed** An antenna that a casual observer would consider a separate and distinct structure that may be mounted on a tower or mounted on the ground.
- 12.05 **Utility installation, major** A place, building and/or structure, or portion thereof, whether public or private, used or is intended for providing basic infrastructure or utility services and which could potentially have a moderate to high impact on neighboring property. The term includes pipeline pumping stations, sewage treatment plants, electric substations, and water towers.
- 12.06 **Utility installation, minor** A utility installation generally having low impact on neighboring property. The term includes public water system wells, without a tower; below ground sewer lift stations; and stormwater pumping stations. The term does not include utility cabinets, which are classified as an accessory use (Series 17).
- 12.07 **Utility maintenance yard** A place where a public or private entity maintains administrative offices, equipment, and supplies necessary for maintaining the infrastructure it provides.
- 12.08 **Wind Energy System, large** A wind energy system that exceeds the definition of a small wind energy system, but totals a capacity of less than 100 megawatts (wind energy systems exceeding 100 megawatts are regulated by the State of Wisconsin Public Service Commission).
- 12.09 **Wind Energy System, small** A wind energy system that has a total installed nameplate capacity of 300 kilowatts or less and that consists of individual wind turbines that have an installed nameplate capacity of not more than 100 kilowatts.



13.0 TRANSPORTATION FACILITIES

- 13.01 **Airport** A place where airplanes, ultralights, helicopters, or similar aircraft may land and takeoff. This use may also include facilities for the housing and maintenance of the same and facilities for passenger ticket sales and accessory food service areas primarily intended for pilots and passengers.
- 13.02 **Bus storage facility** A place where buses are parked when not in use and may include administrative offices and a building for the storage, care, and maintenance of buses in the fleet.
- 13.03 **Marina** A place where pleasure watercraft may dock on a temporary or permanent basis, watercraft may be trailered or untrailered, or both, and related services may be provided, such as retail sale of fuel for watercraft and supplies and minor servicing and repair of watercraft.



- 13.04 **Mass transit terminal** A place where passengers can board mass transit. This use may include facilities for ticket sales and accessory food service areas primarily intended for passengers.
- 13.05 **Off-site parking lot** A place where motor vehicles associated with an offsite use may be parked for a short duration. It may be available to the public or reserved to accommodate parking for a specific purpose.
- 13.06 **Parking structure** A place where motor vehicles may be parked in a multi-level structure for a short duration. The term does not include underground parking.
- 13.07 **Park-and-ride lot** A designated place where people can park their motor vehicles for a short duration to board public transportation or to carpool or vanpool.
- 13.08 **Railroad line** A linear strip of land with rail tracks and auxiliary facilities for track operation such as signal bungalows. The term does not include passenger stations, freight terminals, loading platforms, train sheds, warehouses, car or locomotive maintenance shops, and switchyards. The term further does not include properties owned by a railroad company that are leased for use by others.
- 13.09 **Street** A surfaced travel way for motor vehicles that is located within an easement or right-of-way.

14.0 GENERAL STORAGE

- 14.01 **Bulk fuel storage** A place where liquid or compressed fuel products may be stored in bulk.
- 14.02 **Personal storage facility** A place where individual storage units or general space within a building is offered for rent, lease, sale, or other arrangement. The term includes a tract of land used to store motor vehicles and watercraft.



- 14.03 **Truck terminal** A place where goods carried by motor transport are received and temporarily stored until transferred to another truck for delivery.
- 14.04 **Warehouse** A place where goods, merchandise, and other materials are temporarily stored for eventual shipment. The term includes moving and storage facilities. The term does not include bulk fuel storage.

15.0 INDUSTRIAL USES

- 15.01 **Artisan shop** A place where handmade craft items or works of art are made on a small-scale and offered for retail sale. Examples of such items include paintings, textiles, photography, sculptures, pottery, leather products, handmade paper, jewelry, hand-blown glass, small wooden items, candles, soaps, and lotions.

- 15.02 **Batching plant associated with a nonmetallic mine** An installation of equipment, including batchers and mixers, used to produce wet concrete and/or asphaltic concrete. The equipment can be stationary or mobile.⁴³

- 15.03 **Bio-fuels production plant** A facility where alcohol-based fuel products are produced from biomass and other materials. Various types of byproducts may be produced as part of the production process.

- 15.04 **Construction equipment repair** A place where construction equipment, such as dump trucks, excavators, graders, and scrapers, are typically left overnight for maintenance, service, or repair.

- 15.05 **Construction equipment sales and rental** A place where new and used construction equipment, such as dump trucks, excavators, graders, and scrapers, are offered for rent, sale, lease, or exchange, or are taken on consignment. This use may include the repair of such equipment.

- 15.06 **Contractor yard** A place where a contractor or builder may establish a base of operation, which may include one or more of the following: office space; indoor and outdoor storage of construction materials, equipment, and machinery, such as trucks and heavy equipment; and shops for the repair of machinery and equipment owned by the operator.



⁴³ Commentary: A batching plant is also listed as a use under "industrial, heavy."

- 15.07 **Industrial, heavy** A place where raw materials are processed or refined. The term includes batching plants, sawmills, foundries, and power plants.⁴⁴ The term does not include a biofuels production plant which is listed as a separate land use in this series.



- 15.08 **Industrial, light** A place where finished products or parts from previously prepared materials are manufactured, including processing, fabrication, assembly, treatment, packaging, incidental storage, and administrative offices. The term includes furniture production, metal fabrication, apparel manufacturing, printing, and publishing.
- 15.09 **Nonmetallic mine** A place where nonmetallic minerals are removed from the ground by any method for use on-site or off-site. Activities include excavating and transporting nonmetallic minerals, stockpiling of nonmetallic minerals, blending of nonmetallic minerals, blasting, grading, crushing, screening, scalping, and dewatering.⁴⁵
- 15.10 **Salvage yard** A place where salvage materials, such as scrap metal, rubber tires, and used timber and lumber, may be bought, sold, exchanged, stored, baled, packed, disassembled, or handled. (In contrast see Recycling center.)

16.0 SOLID WASTE FACILITIES

- 16.01 **Composting facility** A place where vegetation (but not food wastes) may be collected and composted. The term includes the storage and manipulation of materials prior to, during, and following composting.

- 16.02 **Recycling center** A place where recoverable materials, which have been previously removed from the waste stream, may be stored prior to shipment to others who use those materials to manufacture new products. Typical recoverable materials include glass, paper, metal, and plastic. (In contrast see Salvage yard.)

- 16.03 **Solid waste landfill** A place where solid waste from municipal and/or industrial sources may be permanently buried consistent with environmental protection standards. Typically, the solid waste is spread in layers, compacted, and covered with a fresh layer of earth materials each day. The term does not include land application units, surface impoundments, injection wells, or waste piles.

- 16.04 **Solid waste transfer station** A place where solid waste may be temporary stored prior to transport to a processing plant or to final disposal.



⁴⁴ Commentary: A batching plant when associated with an existing nonmetallic mine is considered a separate land use in this series.

⁴⁵ Commentary: A number of activities that meet the definition of nonmetallic mine are exempted as listed in s. 23.8-144.

17.0 ACCESSORY USES

- 17.01 **Adult family home** A private residence licensed by the state under s. 50.032(1m), Wis. Stats.⁴⁶
- 17.02 **Amateur radio antenna** An antenna and related support structure used by a licensed user to send and receive telecommunications for noncommercial purposes.
- 17.03 **Automated teller machine** An automated device for conducting financial transactions that is accessed from outside of a building.
- 17.04 **Backyard chickens** A place where chickens are kept for the use and enjoyment of those living on the premises, but not for commercial purposes. The sale of a chicken as part of a 4-H or similar educational project shall not be considered a commercial purpose. (Also see Household livestock, which is considered a separate and distinct accessory use.)
- 17.05 **Bed and breakfast** A single-family residence that offers overnight accommodations for a daily charge and that also serves as a primary residence of the operator or owner.
- 17.06 **Boat dock** A pier or wharf.
- 17.07 **Boathouse** A building placed above or near a waterbody that is used for the noncommercial storage of one or more watercraft and related equipment.
- 17.08 **Boathouse, off-site** A building placed above or near a waterbody that is used for the noncommercial storage of one or more watercraft and related equipment belonging to the people that own the lot on which it is located.⁴⁷
- 17.09 **Commercial vehicle parking** The parking of a commercial type vehicle on a residential lot when such vehicle is owned or leased and operated by a person living in the dwelling unit and used on a daily basis for transportation to and from a separate work place.
- 17.10 **Deck** An above-ground, unroofed platform free standing or extending from a building or structure and intended for outdoor living.
- 17.11 **Exterior communication device** An antenna used to capture wireless telecommunication signals.
- 17.12 **Family day care home** A private residence licensed as a day care center by the state where care is provided for 4 to 8 children.⁴⁸



⁴⁶ Commentary: An adult family home can either be a principal use or an accessory use. If the operator lives in the residence with the adults, it is considered an accessory use.

⁴⁷ Commentary: Although an off-site boathouse is the only building permitted on a lot hosting this use, it is considered an accessory use to the parent parcel to which it is associated.

⁴⁸ Commentary: See s. 66.1017, Wis. Stats. A group day care (9 or more children) is considered a principal use and is therefore listed as a special care facility (Series 4.0).

- 17.13 **Farm building storage** A building once used for agricultural purposes in which motor vehicles, construction equipment and vehicles, recreational vehicles, boats, and other related items may be stored. Minor repair and maintenance of those objects in storage is permitted, provided such activity is for noncommercial purposes.
- 17.14 **Farm residence** A single family dwelling located on a farm.
- 17.15 **Farmstead retail outlet** A place where food products are offered for retail that are predominantly produced on the farm on which it is located. The term includes wine tasting rooms.
- 17.16 **Fence** A linear structure constructed for aesthetics, as a visual barrier, and/or to control entry or exit into an area. Typical materials include wood, concrete, metal, wire, masonry, stacked rocks, or logs.
- 17.17 **Foster home and treatment foster home** A facility licensed by the state for the care of foster children and which is operated by a foster parent who lives with the children.⁴⁹
- 17.18 **Garage, nonresidential** A building intended to house motor vehicles, yard equipment, and/or items related to the principal use of the premises.
- 17.19 **Garage, off-site** A free-standing building intended to house motor vehicles, yard equipment, and household items belonging to the people that own the lot on which it is located.⁵⁰
- 17.20 **Garage, residential** A building intended to house motor vehicles, yard equipment, and household items belonging to the people occupying the principal residence on the lot. A residential garage may be detached or attached to a building with a residential use. A carport shall be considered to be a residential garage.
- 17.21 **Garden** A plot of tilled soil where flowers and food-producing plants are grown out-of-doors.
- 17.22 **Gazebo** A roofed structure, generally with open sides, used for outdoor living.
- 17.23 **Greenhouse** A building, intended for the propagation of delicate or out-of-season plants, whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated.
- 17.24 **Helipad** A designated place where helicopters can land and take off, and which has no related support services or facilities.
- 17.25 **Home occupation, major** An occupation, profession, enterprise, or similar commercial activity that is conducted within a dwelling unit and/or an accessory building and that is compatible in size and scope in a residential setting. The term does not include hobbies or similar noncommercial activities.
- 17.26 **Home occupation, minor** An occupation, profession, enterprise, or similar commercial activity that is conducted entirely within a dwelling unit and that is compatible in size and scope in a residential setting. The term does not include hobbies or similar noncommercial activities.
- 17.27 **Hot tub** An outdoor warm water reservoir usually with hydro-massage jets. A hot tub may be built in or portable.



⁴⁹ Commentary: See s. 48.62, Wis. Stats. A foster home and treatment foster home can either be a principal use or an accessory use. If the operator lives in the residence with the children, it is considered an accessory use.

⁵⁰ Commentary: Although an off-site garage is the only building permitted on a lot hosting this use, it is considered an accessory use to the parent parcel to which it is associated.

- 17.28 **Household livestock** A place where livestock are kept for the use and enjoyment of those living on the premises, but not for commercial purposes. The sale of an animal as part of a 4-H or similar educational project shall not be considered a commercial purpose. (Also see Backyard chickens, which is considered a separate and distinct accessory use.)
- 17.29 **Indoor sales incidental to light industrial use** A place where items manufactured on site are offered as a subordinate use to the manufacturing operation.
- 17.30 **Kennel, hobby** In the A-1 or A-2 zoning districts, a place where 6 or more dogs or other domesticated animals over 6 months of age are housed. In all other zoning districts, a place where 4 or more dogs or other domesticated animals over 6 months of age are housed.
- 17.31 **Kennel, private** In the A-1 or A-2 zoning districts, a place where no more than 5 dogs or other domesticated animals over 6 months of age are housed. In all other zoning districts, a place where no more than 3 dogs or other domesticated animals over 6 months of age are housed. Domesticated animals shall not include those animals of such size or character as to normally be considered big game, e.g. lions, tigers, bears, etc. and not to include fur-bearing animals, e.g. mink, chinchilla, etc. except rabbits.
- 17.32 **Lean-to** A roof of a single pitch with the higher end abutting a wall or larger building.
- 17.33 **Light industrial use incidental to indoor sales** A place where light repairs are made to products that are offered for retail or wholesale sale.
- 17.34 **Mother-in-law-suite** Residential quarters accessory to, but contained entirely within, the principal residence and used by immediate relatives.
- 17.35 **Outdoor display incidental to indoor sales** A place where a limited line of merchandise is displayed outside of a retail sales business over an extended period of time. Sales agents are not assigned to assist customers here and sales transactions occur inside the building.
- 17.36 **Outdoor food and beverage service** An outdoor area with tables and chairs located on the same lot as a brewpub, restaurant, or tavern where customers can consume food and drink.
- 17.37 **Outdoor furnace** An apparatus designed to burn solid or liquid combustible materials (e.g., corn, ear corn, wood, wood pellets, coal, and fuel oil) to produce heat and/or heat water for a building in which it is not located.
- 17.38 **Parking lot (on-site)** A parking lot located entirely on the parcel it is intended to serve.
- 17.39 **Patio** An at-grade surfaced area intended for outdoor living that may be next to a building or separated from a building.
- 17.40 **Pergola** A horizontal trellis or framework, supported on posts or columns.



- 17.41 **Play structure** A playhouse and recreational equipment, such as swings, slides, basketball hoops, and jungle gyms, normally found in a residential setting.
- 17.42 **Pond** A manmade body of water exceeding 100 square feet in area that is not required for stormwater management purposes.
- 17.43 **Private reception venue** A location, indoors or outdoors, which is used primarily to host events such as weddings, corporate events, fundraisers, and anniversary celebrations. The term includes event barns.
- 17.44 **Rural accessory structure** A structure so designated consistent with division 17 of article 7 of this chapter.
- 17.45 **Service window, drive-up** An opening in a building through which patrons are served while remaining in a motor vehicle.
- 17.46 **Service window, walk-up** An opening in a building through which patrons are served while standing outside of the building.
- 17.47 **Solar energy system, building-mounted** An installation of equipment mounted on a building or incorporated into the exterior building materials that uses sunlight to produce electricity or provide heat or water to a building.
- 17.48 **Solar energy system, free-standing** An installation of equipment mounted on the ground that uses sunlight to produce electricity or provide heat or hot water to a building. (In contrast see Solar energy system – series 12.01)
- 17.49 **Storage container** An enclosed metal container exceeding 900 cubic feet typically used to temporarily store merchandise.
- 17.50 **Swimming pool** A structure placed on the ground surface that is filled with water for swimming. The term does not include those pools that are below ground or those pools that are less than 15 feet in diameter and which are taken down and stored in the off-season.
- 17.51 **Temporary shelter** A place where abuse victims or homeless individuals are temporary housed and provided with ancillary services.
- 17.52 **Utility cabinet** A ground-mounted pedestal, junction box, cabinet, or similar feature that a service provider uses to provide telephone, electric, natural gas, cable television, cable Internet, or similar public service. A utility cabinet may be located within a public right-of-way or on private property.
- 17.53 **Yard shed** An accessory building designed to store yard furniture and tools, equipment, and supplies normally associated with lawn and garden care.

18.0 TEMPORARY USES

- 18.01 **Agricultural product sales, off-site** A place where agricultural products not produced on the premises are offered for sale at retail.
- 18.02 **Agricultural product sales, on-site** A place where agricultural products produced exclusively on the premises are offered for sale at retail.



17.52



17.53



18.01



18.02



18.03



18.04

- 18.03 **Earth materials stockpile** A place where an earth material, such as topsoil and gravel, derived from an on-site land development project, is piled and temporarily stored until taken to an off-site location.
- 18.04 **Farmers market** A place where agricultural producers gather on a regular basis to offer their agricultural products directly to retail consumers.
- 18.05 **General outdoor sales** An outdoor area where merchandise is displayed for retail sales over a limited duration. The merchandise may be offered by one or more vendors and be displayed out of doors and/or within a nonpermanent structure, such as a trailer or tent. The term includes flea markets and bazaars. The term does not include seasonal product sales, rummage sales, agricultural product sales, or farmer markets.

- 18.06 **Model home** A residential dwelling in a residential development temporarily used as a sales office for other on-site and off-site residential dwellings and properties.
- 18.07 **Off-site construction yard** A place where construction materials and equipment may be stored, prepped, or staged for an off-site construction project (e.g., highway reconstruction project or construction of an electric transmission line or pipeline).
- 18.08 **On-site construction office** A portable building or enclosed trailer temporarily placed on a construction site for use by the contractor as a field office.
- 18.09 **On-site construction yard** A place where construction materials, equipment, and the like may be stored, prepped, or staged for an on-site construction project.
- 18.10 **Portable storage container** An enclosed metal container that is used to temporarily store household items and similar goods.
- 18.11 **Relocatable building** A portable building or enclosed trailer temporarily placed on a parcel that may be used in conjunction with the principal use of the property. For example, relocatable buildings are used to house students during a construction project or accommodate enrollment in excess of the principal building's design capacity. A mobile home or manufactured home is not considered a relocatable building.
- 18.12 **Seasonal product sales** An outdoor area where merchandise typically associated with a seasonal holiday or festival is displayed and offered for sale at retail immediately before the event. Examples of such merchandise include Christmas trees and wreaths for Christmas and pumpkins for Halloween.
- 18.13 **Snow disposal site** A place where snow that accumulates on another site is stored and allowed to naturally melt.
- 18.14 **Special event** An event of limited duration which is open to the public and is not otherwise permitted in the zoning district. Examples include auctions, art fairs, festivals, fundraisers, and bike races. This use may also include camping, parking, and concessions in conjunction with the event.
- 18.15 **Special event of regional significance** An event that is anticipated to draw a large number of short-term visitors to the county and which is so designated by the Planning and Zoning Committee by resolution. Examples include Country USA, Rock USA, Woodstock, and EAA AirVenture Oshkosh.
- 18.16 **Special event camping** A place where camping is allowed when specifically related to a special event of regional significance as designated by the Planning and Zoning Committee.
- 18.17 **Special event concessions** A place where concessions are sold when specifically related to a special event of regional significance as designated by the Planning and Zoning Committee.



- 18.18 **Special event parking** A place where parking for motor vehicles is allowed when specifically related to a special event of regional significance as designated by the Planning and Zoning Committee.
- 18.19 **Wind test tower** A temporary tower on which equipment is attached that measures parameters needed to assess the site's suitability for a wind energy system.
- 18.20 **Yard sale** A temporary event where used household items are offered for sale.

ARTICLE 4 ADMINISTRATIVE BODIES

Divisions

1. Planning and zoning committee 2. Board of adjustment 3. Zoning administrator	
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DIVISION 1 PLANNING AND ZONING COMMITTEE

Sections

23.4-1 Establishment 23.4-2 Authority 23.4-3 Composition and appointment of members 23.4-4 Officers 23.4-5 Committee procedures	23.4-6 Meetings 23.4-7 Meeting minutes 23.4-8 Schedule of meetings 23.4-9 Voting and quorum 23.4-10 Compensation of members
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23.4-1 Establishment

Pursuant to s. 59.69(2), Wis. Stats., a committee of the county board is established to undertake the responsibilities as defined in this chapter and as allowed by state law. Such committee shall be known as the “Planning and Zoning Committee.”

23.4-2 Authority

(a) **Generally.** The Planning and Zoning Committee shall have such powers as may be necessary to enable it to perform its functions and promote the proper planning for unincorporated Winnebago County, whether enumerated in this section or not.

(b) **Adoption of rules governing its procedures.** The Planning and Zoning Committee may, subject to revision by the county board, adopt such rules and regulations governing its procedures as it considers necessary or advisable.⁵¹

(c) **Right to enter property.** The Planning and Zoning Committee, along with its individual members and authorized agents, may enter upon land which is the subject of a pending application it has authority to act on.

(d) **Staff.** The Planning and Zoning Committee may employ, or contract for the services of, such professional planning technicians and staff as are considered necessary for the discharge of the duties and responsibilities of the committee.⁵²

(e) **Comprehensive plan.** The Planning and Zoning Committee may recommend to the Board of County Supervisors the adoption of or amendment to a comprehensive plan, also referred to as “development plan.”⁵³

(f) **Code amendments – text.** The Planning and Zoning Committee may recommend to the Board of County Supervisors changes to the text of this chapter.

(g) **Code amendments – zoning map.** The Planning and Zoning Committee shall review, hear, and render decisions regarding the rezoning of land in those towns under the jurisdiction of this chapter.⁵⁴

(h) **Conditional uses.** The Planning and Zoning Committee shall review, hear, and render decisions regarding conditional uses.⁵⁵

⁵¹ Commentary: See s. 59.69(2)(c), Wis. Stats.

⁵² Commentary: See s. 59.69(2)(d), Wis. Stats.

⁵³ Commentary: See s. 59.69(3), Wis. Stats.

⁵⁴ Commentary: See s. 59.69(2)(bm), Wis. Stats.

⁵⁵ Commentary: See s. 59.69(2)(bm), Wis. Stats.

(i) **Planned development overlay districts.** The Planning and Zoning Committee shall review, hear, and render decisions regarding planned development overlay districts.⁵⁶

23.4-3 Composition and appointment of members

(a) **Regular members.** The Planning and Zoning Committee shall consist of 5 regular members who are also serving concurrently as county supervisors for Winnebago County. The chairperson of the county board shall make all appointments to the committee. If a county supervisor serving on the committee resigns or is removed from his or her office as a supervisor, his or her term on the committee shall automatically terminate.

(b) **Ex-officio member.** Consistent with s. 5.4 of the county board rules of Winnebago County, the chairperson of the county board shall be an ex-officio member of the committee.

23.4-4 Officers

The members of the Planning and Zoning Committee shall elect a chairperson from its membership.⁵⁷ If the chairperson is absent for a meeting, another member of the committee shall serve as acting chairperson in his or her absence. The committee may create and fill other offices.⁵⁸

23.4-5 Committee procedures

The Planning and Zoning Committee may adopt rules of procedure to carry out its purposes. All such rules shall conform to this chapter, other county regulations, and state law and shall be filed in the office of the county clerk.⁵⁹

23.4-6 Meetings

Meetings of the Planning and Zoning Committee shall be open to the public unless conducted in close session as authorized by state law. All meetings except site visits shall be conducted in the county courthouse or in such other public place as may be selected by the committee.

23.4-7 Meeting minutes

The Planning and Zoning Committee shall keep minutes of its proceedings, showing the vote of each voting member upon each motion, or, if absent or failing to vote, indicating such fact. Minutes once approved by the committee shall constitute a public record and shall be kept in the office of the county clerk consistent with s. 1.11 of the general code of Winnebago County.

23.4-8 Schedule of meetings

Meetings of the Planning and Zoning Committee shall be held at the call of the chairperson of the committee and at such other times as the committee may determine.

23.4-9 Voting and quorum

(a) **Requirements for quorum.** A quorum of the Planning and Zoning Committee shall consist of 3 voting members.

(b) **Requirements for voting.** Unless otherwise specifically stated, a decision of the Planning and Zoning Committee shall be approved by a majority vote of the members present at a meeting in which a quorum is in attendance and voting.

(c) **Disqualification or voluntary abstention.** For adjudicative decisions, a member of the Planning and Zoning Committee shall abstain from voting on a particular issue or shall be disqualified by majority vote of the remaining members present when (1) the member has a direct financial interest in the outcome of the matter at issue; (2) the member has such close personal ties to the applicant, the project, or to a party opposing the application that the member cannot reasonably be expected to exercise sound judgment in the public interest; (3) participation in the matter might violate the letter or spirit of a member's code of professional responsibility; or (4) another law precludes participation.

⁵⁶ Commentary: See s. 59.69(2)(bm), Wis. Stats.

⁵⁷ Commentary: See s. 59.69(2)(b), Wis. Stats.

⁵⁸ Commentary: See s. 59.69(2)(b), Wis. Stats.

⁵⁹ Commentary: See s. 59.69(2)(c), Wis. Stats.

23.4-10 Compensation of members

Members of the Planning and Zoning Committee shall not receive compensation for serving on the committee in addition to their normal compensation.

23.4-11 to 23.4-20 Reserved

**DIVISION 2
BOARD OF ADJUSTMENT**

Sections

23.4-21	Establishment	23.4-27	Meetings
23.4-22	Authority	23.4-28	Meeting minutes
23.4-23	Authority of chairperson	23.4-29	Schedule of meetings
23.4-24	Composition and appointment of members	23.4-30	Voting and quorum
23.4-25	Officers	23.4-31	Compensation of members
23.4-26	Board procedures		

23.4-21 Establishment

Pursuant to s. 59.694, Wis. Stats., a Board of Adjustment is established to undertake the responsibilities as defined in this chapter and as allowed by state law.

23.4-22 Authority

(a) **Administrative appeals.** The Board of Adjustment shall hear and decide administrative appeals consistent with the requirements in article 7 of this chapter where it is alleged that the zoning administrator (1) failed to act as required by this chapter; (2) made an error in issuing a permit or in denying an application; (3) made an error in enforcement; or (4) made an error in an interpretation or any other determination. In exercising these powers, the board may compel the administrative official to act as required or reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination being appealed and may make such order, requirement, decision, or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken.⁶⁰

(b) **Variances.** The Board of Adjustment shall hear and decide variances consistent with the requirements in article 7 of this chapter.⁶¹

(c) **Right to enter.** The Board of Adjustment, along with its individual members and authorized agents, may enter upon land which is the subject of a pending application.

(d) **Amendments to this chapter.** The Board of Adjustment may recommend amendments to this chapter it deems advisable.

23.4-23 Authority of chairperson

The chairperson of the Board of Adjustment or acting chairperson may administer oaths and compel the attendance of witnesses.⁶²

23.4-24 Composition and appointment of members

(a) **Number and appointment.** The Board of Adjustment shall consist of 5 regular members as appointed by the chairperson of the county board with the approval of the county board.⁶³

(b) **Alternates.** The chairperson of the county board with the approval of the county board shall appoint 2 alternates to the Board of Adjustment for staggered 3-year terms and annually appoint one of them as the first alternate and the other as the second alternate.⁶⁴

⁶⁰ Commentary: See ss. 59.694(7)(a) and 59.694(8), Wis. Stats.

⁶¹ Commentary: See s. 59.694(7)(c), Wis. Stats.

⁶² Commentary: See s. 59.694(3), Wis. Stats.

⁶³ Commentary: See s. 59.694(2), Wis. Stats.

⁶⁴ Commentary: See s. 59.694(2)(am), Wis. Stats.

(c) **Considerations in making appointments.** Regular members and alternates of the Board of Adjustment shall reside in the unincorporated area of Winnebago County, provided that no two members shall reside in the same town.⁶⁵ A county official or county employee shall not serve as a regular member or as an alternate.

(d) **Terms.** Each regular member and alternate on the Board of Adjustment shall be appointed to hold office for a period of 3 years, except those regular members first appointed as follows: one shall serve for one year, 2 for 2 years, and 2 for 3 years. Terms shall commence and expire on July 1 of the appropriate year. The incumbent members shall continue to serve until their term expires.⁶⁶

(e) **Vacancies.** Vacancies on the Board of Adjustment shall be filled for the unexpired term of any member or alternate whose term becomes vacant.⁶⁷

(f) **Removal.** The chairperson of the county board may remove a regular member or an alternate from the Board of Adjustment for cause.

23.4-25 Officers

The Board of Adjustment shall choose a chairperson from among its regular members.⁶⁸

23.4-26 Board procedures

The Board of Adjustment may adopt rules of procedure to carry out its purposes.⁶⁹ All such rules shall conform to this chapter, other county regulations, and state law and shall be filed in the office of the county clerk.

23.4-27 Meetings

Meetings of the Board of Adjustment shall be open to the public unless conducted in close session as authorized by state law.⁷⁰ Meetings, except for site visits, shall be conducted in the county courthouse or in such other public place as may be selected by the board.

23.4-28 Meeting minutes

The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each voting member on each question, or, if absent or failing to vote, indicating such fact.⁷¹ Minutes once approved by the board shall constitute a public record and shall be kept in the office of the county clerk consistent with s. 1.11 of the general code of Winnebago County. The board may amend previously adopted minutes provided such revision is based on substantive evidence.

23.4-29 Schedule of meetings

Meetings shall be held at the call of the chairperson and at such other times as the Board of Adjustment may determine.⁷²

23.4-30 Voting and quorum

(a) **Requirements for quorum.** A quorum shall consist of 3 voting members.

(b) **Requirements for voting.** A decision of the board shall be by majority vote of the members present at a meeting in which a quorum is in attendance and voting.⁷³

(c) **Disqualification or voluntary abstention.** A member shall abstain from voting on a particular issue or shall be disqualified by majority vote of the remaining members present when (1) the member has a direct financial interest in the outcome of the matter at issue; (2) the member has such close personal ties to the applicant, the project, or to a party opposing the application that the member cannot reasonably be expected to exercise sound judgment in the public interest; (3) participation in the matter might violate the letter or spirit of a member's code of professional responsibility; or (4) another law precludes participation.

⁶⁵ Commentary: See s. 59.694(2)(c), Wis. Stats.

⁶⁶ Commentary: See ss. 59.694(2)(a) and 59.694(2)(am), Wis. Stats.

⁶⁷ Commentary: See s. 59.694(2)(c), Wis. Stats.

⁶⁸ Commentary: See s. 59.694(2)(c), Wis. Stats.

⁶⁹ Commentary: See s. 59.694(2)(c), Wis. Stats.

⁷⁰ Commentary: See s. 59.694(3), Wis. Stats.

⁷¹ Commentary: See s. 59.694(3), Wis. Stats.

⁷² Commentary: See s. 59.694(3), Wis. Stats.

⁷³ Commentary: See s. 59.694(3m), Wis. Stats.

(d) **Voting by alternates.** The first alternate may vote only when one of the regular members of the board is absent or is not able to vote on a pending matter. The second alternate may vote only when the first alternate is absent or is not able to vote or when more than one regular member is absent or is not able to vote.⁷⁴

23.4-31 Compensation of members

The regular members and alternates of the Board of Adjustment may be compensated as determined by the county board.⁷⁵

23.4-32 to 23.4-50 Reserved

DIVISION 3 ZONING ADMINISTRATOR

Sections

23.4-51	Establishment	23.4-53	Authority
23.4-52	Appointment	23.4-54	Conflict of interest

23.4-51 Establishment

The position of zoning administrator is established to undertake the responsibilities as defined in this chapter and as allowed by state law.

23.4-52 Appointment

The county executive shall appoint and supervise the zoning administrator. Such appointment is subject to confirmation by the county board unless the board, by ordinance, elects to waive confirmation or unless the appointment is made under a civil service system competitive examination procedure established under s. 59.52(8) or ch. 63, Wis. Stats. The board may, by resolution or ordinance, provide that, notwithstanding s. 17.10(6), Wis. Stats., the zoning administrator may not be removed from his or her position except for cause.⁷⁶

23.4-53 Authority

The zoning administrator shall administer, supervise, and enforce the provisions of this chapter and in furtherance of those duties shall have the authority to:

- (1) meet with applicants to advise them of the requirements of this chapter;
- (2) issue administrative permits;
- (3) issue written interpretations relating to this chapter;
- (4) revoke or modify any administratively-issued permit or interpretation with reasonable cause;
- (5) keep a written record of permits issued, interpretations made, inspections, work approved, enforcement activities, and other similar official actions;
- (6) prepare staff reports consistent with this chapter and make recommendations as may be required or deemed appropriate;
- (7) prepare meeting agendas for the Planning and Zoning Committee and Board of Adjustment and submit them to the appropriate chairperson for review and approval;
- (8) investigate complaints regarding alleged violations of this chapter;
- (9) have access to premises, public or private, during reasonable hours to conduct inspections deemed necessary to ensure compliance with this chapter;

⁷⁴ Commentary: See s. 59.694(2)(am), Wis. Stats.

⁷⁵ Commentary: See s. 59.694(2)(a)(c), Wis. Stats.

⁷⁶ Commentary: See s. 59.69(10)(a)(2), Wis. Stats.

- (10) procure a special inspection warrant in accordance with s. 66.0119, Wis. Stats., if a property owner does not give the administrator permission to enter a property to verify compliance with this chapter;
- (11) issue violation notices;
- (12) issue stop work orders;
- (13) initiate legal proceedings to correct violations in consultation with Winnebago County's corporation counsel;
- (14) develop, amend, and utilize application forms, checklists, and other forms he or she deems appropriate to administer the development review processes contained in this chapter;
- (15) recommend amendments to this chapter and to other chapters of the general code of Winnebago County relating to land use and development; and
- (16) under take any other activity not enumerated in this section but necessary to administer and enforce this chapter or any other section of the general code of Winnebago County as may be appropriate.

23.4-54 Conflict of interest

The zoning administrator and/or authorized designee of the zoning administrator shall not perform work on a proposed or approved development project in which he or she has a conflict of interest.

ARTICLE 5

RESERVED

ARTICLE 6 GENERAL REVIEW REQUIREMENTS

Divisions

1. Generally	
2. Notice requirements	
3. Public hearings	

DIVISION 1 GENERALLY

Sections

23.6-1 Legislative findings	23.6-9 Charge back of professional service fees
23.6-2 Purpose	23.6-10 Non-confidentiality of submitted information
23.6-3 Authority to file an application	23.6-11 Nature of staff comments
23.6-4 Permission to enter subject property	23.6-12 Withdrawal of application
23.6-5 Burden of proof	23.6-13 Appeals
23.6-6 Effect of an outstanding violation	23.6-14 Application review schedule
23.6-7 Concurrent review	23.6-15 Application forms
23.6-8 Application fees and other charges	23.6-16 Other approvals
	23.6-17 Building permit

23.6-1 Legislative findings

The Board of County Supervisors makes the following legislative findings:

- (1) Development review processes should be easily understood and well-structured, and only involve those steps and requirements that are needed to properly review the application. Excessive procedural requirements add unnecessary costs to development projects.
- (2) The general public, property owners in the area, and affected agencies have a right to know about certain proposed development projects and have meaningful participation in the review process.
- (3) Written findings should accompany adjudicative decisions to serve as a permanent record documenting the reasons for approval or denial and the conditions of approval, if any.
- (4) Enforcing the rules and regulations contained in this chapter is an important function of government.

23.6-2 Purpose

The development review requirements and procedures in this chapter are intended to:

- (1) provide efficient and timely review of applications and ensure fairness and due process;
- (2) ensure that applications are reviewed consistently by establishing criteria in making recommendations and final decisions; and
- (3) ensure complete and timely compliance.

23.6-3 Authority to file an application

Unless otherwise specified in this chapter, the owner of the property or a person having the power of attorney for the property owner shall sign the application submitted for review.

23.6-4 Permission to enter subject property

Submission of an application as may be required in this chapter authorizes county officials and employees, or other designated agents to enter the subject property to verify information in the application and to conduct other site investigations as may be necessary to review the application. This does not authorize any individual to enter any building

on the subject property in the absence of the property owner or his or her authorized agent. Failure to allow access to the subject property is sufficient grounds to deny the application.

23.6-5 Burden of proof

(a) **During application review process.** During the application review process, the applicant has the burden of proof to show that the application should be approved based on the decision criteria relating to that application.

(b) **During appeal of an administrative decision.** During an administrative appeal proceeding, the petitioner has the burden of proof to show that such decision is not consistent with this chapter

(c) **During enforcement proceedings.** During an enforcement proceeding, the zoning administrator or administrative unit taking enforcement action has the burden of proof to show that the action or development is in violation of this chapter.

23.6-6 Effect of an outstanding violation

If the zoning administrator determines that a parcel is in violation of this chapter, no permit or approval of any kind shall be granted under this chapter that would benefit such parcel, except to correct the violation or as may be required by state law.

23.6-7 Concurrent review

To the extent possible, a development project requiring multiple reviews should be done concurrently. When one approval is a condition precedent to approval of another application, the approvals shall be issued in the requisite order.

23.6-8 Application fees and other charges

(a) **Assessment of fees.** From time to time, the Board of County Supervisors may adopt a resolution establishing application fees and other charges it deems necessary in the administration of this chapter.

(b) **Timing for payment.** Application fees shall be paid at the time the application is submitted for review.

(c) **Doubling of application fee.** If an activity which requires prior authorization under this chapter is started before the authorization is granted, the application fee is automatically doubled unless the Board of County Supervisors specifically establishes a different fee by resolution. Payment of such fee shall not release the applicant from full compliance with this chapter nor from prosecution for violation of this chapter.

(d) **Refunds.** Application fees are nonrefundable, except when the application and fee were accepted by the zoning administrator or county staff in error.

23.6-9 Charge back of professional service fees

(a) **Generally.** When specifically authorized by this chapter and pursuant to s. 66.0627, Wis. Stats., an applicant shall be responsible for paying the professional service fees of individuals or private firms the county elects to hire to assist in the review of a submitted application. Such fees may cover time, materials, and other related expenses of attorneys, planners, engineers, and other specialists, and their support staff. Payment of fees is required whether the application is approved or not.

(b) **Billing procedure.** The zoning administrator shall prepare an itemized statement of the professional service fees to be charged and provide a copy to the applicant. Such statement shall be in writing and shall contain, at a minimum, the following information:

- (1) a statement that the applicant has a specified period of time, not less than 30 days, to pay;
- (2) a statement that the applicant may appeal one or more of the itemized charges within 15 days of the date of the statement to the Planning and Zoning Committee; and
- (3) a statement that any unpaid charge will be assessed as a delinquent charge against the subject property.

(c) **Appeal of charges.** To appeal one or more charges, the applicant shall submit a written appeal to the zoning administrator within the appeal period stated on the statement. The Planning and Zoning Committee shall consider the matter at its next regular meeting, provided the date of the meeting is 10 days or more from the date the appeal is received. The Planning and Zoning Committee shall have the power to approve the charges as assessed or reduce the amount of charges in whole or in part with cause.

(d) **Nonpayment.** If the applicant does not appeal the charges within the time period specified in the statement, the county treasurer shall automatically charge any unpaid amount as a delinquent tax against the property as provided by state law. In the event the applicant submits an appeal as provided in this section, no charges shall be placed on the tax roll unless and until such time the Planning and Zoning Committee approves the charges against the tax roll in whole or in part. In the event the statement provided to the applicant or the time given for the applicant to pay or following a hearing if the Planning and Zoning Committee approves all or part of the charge, it is too late in the current year for the charge, when it becomes delinquent, to be extended on that year's tax roll, then the delinquent charge shall be extended to the following year's tax roll.

23.6-10 Non-confidentiality of submitted information

All written information that an applicant submits to county staff during a pre-submittal meeting or at any point in the review process is considered part of the public record subject to state and local law.

23.6-11 Nature of staff comments

Statements and recommendations that are made by the zoning administrator, other county staff, and other representatives prior to or during the application review process shall not be binding on the decision-making body responsible for making the final decision.

23.6-12 Withdrawal of application

(a) **Timing of withdrawal.** An applicant may withdraw an application anytime after submittal, but prior to a final decision.

(b) **Effect of withdrawal.** A request to withdraw an application terminates the review process and no decision shall be rendered.

(c) **Retention of application materials.** A withdrawn application and related review documents shall be kept as a permanent public record.

23.6-13 Appeals

(a) **Commencement of work prior to end of appeal period.** If a development project is approved under this chapter, the applicant may, upon receipt of the decision notice and satisfaction of all precedent conditions of approval, commence with the work as authorized under the approval with the understanding that an aggrieved person may file an appeal with the appropriate review body. Prior to the end of the appeal period, all such work proceeds at the risk of the applicant.

(b) **Effect of appeal on approval.** If an aggrieved person appeals a decision granting approval, the approval shall be stayed and all work authorized by the approval shall cease until the reviewing body issues a final ruling relating to the approval.

23.6-14 Application review schedule

(a) **Authority.** The zoning administrator shall from time to time prepare a schedule establishing deadlines for submitting the various types of applications.

(b) **Publication of schedule.** The zoning administrator shall make the current review schedule available to the public and may post it on the county's website.

23.6-15 Application forms

The zoning administrator shall prepare application forms and may amend them from time to time.

23.6-16 Other approvals

It is the responsibility of those undertaking development projects within the county to obtain all applicable permits and other approvals as may be required elsewhere in the general code of Winnebago County and from federal, state, and local authorities as may be required.

23.6-17 Building permit

A building permit for the construction of a new building or the expansion of an existing building shall not be issued until such time as a zoning permit has been issued or a written determination is made that one is not required.

23.6-18 to 23.6-30 Reserved**DIVISION 2
NOTICE REQUIREMENTS****Sections**

23.6-31	Generally	23.6-37	Town notice
23.6-32	When notice is required	23.6-38	Property owner notice
23.6-33	Content of required notice	23.6-39	Agency notice
23.6-34	Cost to provide notice	23.6-40	Distribution list notice
23.6-35	Public notice	23.6-41	Meeting agenda
23.6-36	On-site sign	23.6-42	Affidavit of mailing

23.6-31 Generally

The type of notice that is given for each of the various procedures outlined in this article is dictated by the nature of the decision. Administrative decisions, such as a zoning permit, involve very little discretion. Either the proposed development meets the standards in this chapter or it does not. In contrast, there are other decisions that involve more discretion and judgment based on particular circumstances. The review of a conditional use application, for example, involves discretion on the part of those involved in making recommendations and a final determination whether the application should be approved or not. As a general rule, notice for an application is not given for administrative decisions. More notice is given when a proposed action could potentially affect other parties, including nearby property owners, other governmental bodies, and the general public. This division outlines when notice is to be given and the nature of the notice when it is required.

23.6-32 When notice is required

Notice shall be provided as shown in Exhibit 6-1.

Exhibit 6-1. Notice

Division in Article 7	Type of Action	Public	Notice	On-site	Town	Property	Agency	Distribution	Meeting
		Class 1	Class 2	Sign	Notice	Owner Notice	Notice	List Notice	Agenda
1.	Code amendment – map amendment – landowner initiated	-	X [1]	X	X [2]	X	X	X	X
1.	Code amendment – map amendment – county initiated	-	X [1]	-	X [2]	-	X	X	X
1.	Code amendment – text amendment	-	X [1]	-	X [3]	-	X	X	X
2.	Zoning map amendment due to annexation	-	-	-	-	-	-	-	X
3.	Establishment of zoning for county-owned lands	-	X[4]	X[4]	X	X[4]	X[4]	X[4]	X
4.	Planned development overlay district	-	X	X	X [2]	X	X	-	X
6.	Conditional use	-	X	X	X [2]	X	X	-	X
7.	Special use permit for specified livestock operation	-	-	X[4]	X	-	-	-	X
8.	Determination of unsafe conditions	-	X	-	X [2]	X	-	-	X
9.	Termination of approval	-	X	-	X [2]	X	-	-	X
11.	Special exception	-	-	-	X	-	-	-	X
12.	Variance	-	X	X	X [2]	X	X	-	X
13.	Administrative appeal	-	X	-	X [3]	-	X	-	X
14.	Zoning permit	-	-	-	-	-	-	-	-
15.	Site and operation plan	-	-	-	-	-	-	-	-
15.	Site and operation plan upon appeal	-	-	-	-	-	-	-	X
17.	Rural accessory structure determination	-	-	-	-	-	-	-	-
17.	Rural accessory structure determination upon appeal	-	-	-	-	-	-	-	X
18.	Registration of a nonconforming use	X [5]	-	-	X	X	-	-	-
18.	Registration of a nonconforming use upon appeal	-	-	-	X	X	-	-	X
19.	Code interpretation	-	-	-	-	-	-	-	-

Key: An "X" means that the indicated notice is required; a dash "-" means that the indicated notice is not required

Notes:

1. If the proposed amendment would have the effect of changing the allowable use of any property, the notice shall include either a map showing the property affected by the amendment or a description of the property affected by the amendment and a statement that a map may be obtained from the county clerk.
2. The notice shall be mailed by certified mail to the town clerk of the town in which the subject property is located.
3. The notice shall be mailed by certified mail to the town clerk of all towns subject to this chapter.
4. This type of notice is not required by state law, and as such, the Planning and Zoning Committee may waive this notice when the committee determines that such notice is not necessary given the nature or scope of the action.
5. This type of notice is only required if the zoning administrator determines that a public hearing should be conducted.

23.6-33 Content of required notice

Notices shall include the information as listed in Exhibit 6-2.

Exhibit 6-2. Content of notice

	Public Notice	On-site Sign	Town Notice	Property Owner Notice	Agency Notice	Distribution List Notice
Applicant name	X	-	X	X	X	X
Subject property address or legal description by which the public can locate the subject property	X	-	X	X	X	X
Nature of the application	X	-	X	X	X	X
A description of the proposed project	X	-	X	X	X	X
Name of body or official who will consider the application	X	-	X	X	X	X
Date, time and location of the public hearing	X	-	X	X	X	X
If the action is administrative, the date by which an administrative decision will be made (no sooner than 21 days from the date of the notice)	-	-	X	X	X	-
If the action is administrative, a statement that interested parties may request the reviewing entity conduct a public hearing to accept public input	-	-	X	X	-	-
Location where the public can view the application	X	-	X	X	X	X
The criteria that will be used to evaluate the proposal	-	-	X	X	X	-
General location map	-	-	X	X	-	-
Telephone number for pre-recorded message	-	X	-	-	-	-

Key: An "X" means that the indicated information is required; a dash "-" means that the indicated information is not required

23.6-34 Cost to provide notice

Using proceeds from the application fee, the county shall pay the costs related to the provision of notice required under this division.

23.6-35 Public and adjacent property owner notice

(a) **Generally, public notice.** When required, the official responsible for processing the application shall place public notice in the official newspaper consistent with the following provisions:

- (1) **Time requirements.** A class 1 notice shall be published one time at least 7 days before the meeting or hearing. A class 2 notice shall be published once each week for 2 consecutive weeks, the last one occurring at least 7 days before the meeting or hearing.⁷⁷
- (2) **Content.** The notice shall include the information listed in Exhibit 6-2.

(b) **Generally, adjacent property owner notice.** When required, the zoning administrator shall mail a notice to each owner of record of property within 300 feet of the subject property involved in the application consistent with the following provisions:

- (1) **Time requirements.** The notice shall be mailed by regular mail at least 10 business days prior to the date of the meeting at which the matter will be considered.
- (2) **Content.** The notice shall include the information listed in Exhibit 6-2.
- (3) **Source of names and addresses.** The names and addresses of property owners shall be deemed to be those listed on the tax records maintained by the county.
- (4) **Failure to notify owner.** The failure of a person to receive notice as described in this section shall not invalidate or otherwise have any effect upon a public hearing or other action taken on the application.

⁷⁷ Commentary: See ss. 985.01(1m) and 985.07, Wis. Stats.

- (5) **Additional notice.** When the applicant also owns the land adjoining the subject property involved in the application, the administrator shall mail a notice to those property owners within 300 feet of such property.
- (6) **Affidavit of mailing.** The zoning administrator shall prepare an affidavit of mailing to certify that a notice was mailed as described in this section.

23.6-36 On-site sign

When required, the official responsible for processing the application shall place a sign on the subject property involved in the application consistent with the following provisions:

- (1) **Time requirements.** The sign shall be posted at least 5 business days prior to the date of the meeting at which the matter will be considered.
- (2) **Content.** The sign shall include the information listed in Exhibit 6-2.
- (3) **Placement and removal of sign.** County staff shall install and remove the sign. Any person that removes a sign without the prior approval of the zoning administrator shall be in violation of this chapter and subject to those penalties provided for in this chapter and the general code of Winnebago County.

23.6-37 Town notice

When required, the zoning administrator shall mail a notice to the town in which the proposed project is located consistent with the following provisions:

- (1) **Time requirements.** The notice shall be mailed by regular mail at least 10 business days prior to the date of the meeting at which the matter will be considered.
- (2) **Content.** The notice shall include the information listed in Exhibit 6-2.

23.6-38 Property owner notice

(a) **Generally.** When required, the zoning administrator shall mail a notice to the owner of record of the subject property and to the applicant, if different consistent with the following provisions:

- (1) **Time requirements.** The notice shall be mailed by regular mail at least 10 business days prior to the date of the meeting at which the matter will be considered.
- (2) **Content.** The notice shall include the information listed in Exhibit 6-2.

23.6-39 Agency notice

(a) **Generally.** When required, the zoning administrator shall mail a notice to affected agencies consistent with the following provisions:

- (1) **Time requirements.** The notice shall be mailed by regular mail at least 10 business days prior to the date of the meeting at which the matter will be considered.
- (2) **Content.** The notice shall include the information listed in Exhibit 6-2.

(b) **Failure to notify owner.** The failure of an agency to receive notice as described in this section shall not invalidate or otherwise have any effect upon a public hearing or other action taken on the application.

(c) **Affidavit of mailing.** The zoning administrator shall prepare an affidavit of mailing to certify that a notice was mailed as described in this section.

23.6-40 Distribution list notice ⁷⁸

(a) **Establishment of distribution list.** The Planning and Zoning Department shall maintain a list of persons who submit a written request to receive notice of a proposed regulation or amendment that may affect the allowable use of the person's property.

(b) **When notice is required.** The body conducting the public hearing shall send a notice, which contains a copy of the proposed regulation or amendment, to each person on the distribution list whose property, the allowable use of which may be affected by the proposed regulation or amendment.

⁷⁸ Commentary: See s. 59.69(5)(f), Wis. Stats.

(c) **Method of distribution of notices.** The notice shall be by mail or in any reasonable form that is agreed to by the person and the Planning and Zoning Committee.

(d) **Establishment of charges.** The Board of County Supervisors may from time to time adopt a resolution establishing a processing fee that shall be charged to each person on the list who is sent a notice. The amount of such fee shall not exceed the approximate cost of providing the notice to the person.

(e) **Effect of failure to send notice.** An ordinance or amendment shall take effect if the body conducting the meeting fails to send the notice as required by this section.

(f) **Affidavit.** The zoning administrator shall prepare an affidavit of mailing to certify that notices were provided to those persons listed on the above-mentioned distribution list consistent with the requirements in this section.

23.6-41 Meeting agenda notice

When required, the body responsible for acting on the application shall place the item on its meeting agenda.

23.6-42 Affidavit of mailing

An affidavit of mailing provides documentary evidence that a mailing as required in this chapter was mailed. An affidavit of mailing shall be kept as a public record.

23.6-43 to 23.6-50 Reserved

DIVISION 3 PUBLIC HEARINGS

Sections

23.6-51	Legislative findings	23.6-54	Continuances
23.6-52	General requirements	23.6-55	Public comment
23.6-53	General procedure		

23.6-51 Legislative findings

The Board of County Supervisors makes the following legislative findings relating to public hearings:

- (1) Public hearings should be conducted in an orderly, timely, and efficient manner.
- (2) Public input is important and should be encouraged.

23.6-52 General requirements

(a) **Meetings to be public.** All public hearings shall be conducted in the county courthouse or in such other public place as may be selected by the body conducting the hearing.⁷⁹

(b) **Notice of meetings.** Notice of public hearings shall be given as provided for in division 2 of this article.

23.6-53 General procedure

The presiding officer conducting the public hearing shall follow the following procedure as a general guideline:

- (1) Announce the purpose and subject of the public hearing.
- (2) Determine whether public notice as required by this chapter has been provided. If notice has not been provided, the hearing shall be postponed until such time as proper notice has been provided.
- (3) Ask if any member of the body conducting the public hearing has a conflict of interest in regard to the matter being discussed and excuse those who do.
- (4) Ask if any member of the body conducting the public hearing believes another member has a conflict of interest in regard to the matter being discussed. If so, and following a discussion of the alleged conflict of interest, the members (except the member with the alleged conflict) shall determine by vote whether a

⁷⁹ Commentary: See s. 59.69(2)(e), Wis. Stats.

reasonable man may conclude that the member has a conflict of interest and should be removed from the pending decision.

- (5) Ask the applicant to describe the proposal.
- (6) Ask the staff to present a staff report, if required.
- (7) Allow members of the body conducting the public hearing to direct questions to the applicant and staff, if present.
- (8) Ask for statements from the public.
- (9) Read aloud written comments which were submitted when the individual submitting the comments is not in attendance.
- (10) Call for discussion of the members of the body conducting the public hearing during which time they may ask questions of a member of the public, the applicant, and the staff, if present.
- (11) Ask the applicant if he or she wishes to (1) respond to any comment made by an individual during the proceeding, (2) submit additional information, (3) amend the application, or (4) request a continuance.
- (12) Announce that the body may not accept any additional comment from the applicant or any member of the public once the public hearing is closed.
- (13) Ask for a motion and second to close the public hearing.

23.6-54 Continuances

- (a) **Prior to start of public hearing.** In the event the applicant or the applicant's agent is not present for the public hearing, the body conducting the public hearing may authorize a continuance.
- (b) **During a public hearing.** Prior to the close of the public hearing, the applicant may request a continuance and the body conducting the public hearing may agree to the continuance upon a showing of good cause. Likewise, the body conducting the public hearing may ask the applicant for a continuance, but the applicant is not required to grant such request. If the applicant does not grant a continuance, the body shall act on the information at its disposal.
- (c) **Effect.** A continuance stops the time clock for making a decision.
- (d) **Notice requirements.** A public hearing may be continued to a later date without again providing public notice, provided the time and date for the continued hearing are announced at the time of the continuance.

23.6-55 Public comment

- (a) **Time limitations on public comment.** The presiding officer may impose a time limit on members of the public who wish to address the body conducting the public hearing to assure completion of the agenda in a timely manner. Under no circumstance shall such time limit be less than 3 minutes.
- (b) **Written comment.** Prior to the close of the public hearing, members of the public may submit written comments to the body conducting the public hearing. Such documents shall be retained and made part of the public record for the proceeding.

ARTICLE 7

SPECIFIC REVIEW PROCEDURES AND REQUIREMENTS

Divisions

1. Code amendment (text and zoning map)	11. Special exception
2. Zoning map amendment due to annexation	12. Variance
3. Establishment of zoning for county-owned lands	13. Administrative appeal
4. Planned development overlay district	14. Zoning permit
5. Reserved	15. Temporary Use Permit
6. Conditional use	16. Site and operation plan
7. Special use permit for specified livestock operations	17. Rural accessory building determination
8. Determination of unsafe conditions	18. Registration of a nonconforming use
9. Termination of approval	19. Code interpretation
10. Reserved	

DIVISION 1

CODE AMENDMENT

Sections

23.7-1 Generally	23.7-6 Application content
23.7-2 Initiation	23.7-7 Staff report content
23.7-3 Application and review procedure	23.7-8 Appeal
23.7-4 Effective date of adopted ordinance	23.7-9 Informational brochure
23.7-5 Basis of decision	

23.7-1 Generally

From time to time, it may be necessary or desirable to amend the text of this chapter and the zoning map as established in division 2 of article 8. This division describes the procedures and requirements to amend this chapter and the zoning map.

23.7-2 Initiation

Any of the following may submit an application to amend the text of this chapter or the zoning map as established in division 2 of article 8:

- (1) a property owner in the area to be affected by the proposed amendment;
- (2) the town board of any town in which this chapter is in effect;
- (3) the Planning and Zoning Committee; and
- (4) any member of the Board of County Supervisors.⁸⁰

23.7-3 Application and review procedure⁸¹

The general steps outlined below shall be used to amend the text of this chapter and the zoning map.

- (1) **Submittal of application materials.** The applicant shall submit a complete application to the county clerk along with the application fee as may be established by the Board of County Supervisors.
- (2) **Staff review.** Within 30 days of submittal, the administrator shall either schedule a date for the public hearing with the Planning and Zoning Committee if the application is deemed complete or make a determination that the application is incomplete and notify the applicant of any deficiencies. If the

⁸⁰ Commentary: See s. 59.69(5)(e)(1), Wis. Stats.

⁸¹ Commentary: See ss. 59.69(5)(e) and 59.69(6), Wis. Stats.

- application is incomplete, the applicant has 3 months after the date of such determination to resubmit the application or forfeit the application fee. The administrator shall take no further steps to process the application until the deficiencies are remedied. The incomplete application shall be retained as a public record.
- (3) **Transmittal of application.** The clerk shall forward one copy of the application to the committee and to each county supervisor whose district would be affected by a revision to the zoning map.
 - (4) **Notice to county board.** The clerk shall provide a report to the Board of County Supervisors regarding the application at its next succeeding meeting.
 - (5) **Special notice to airport.** If the application is for any change in an airport affected area, as defined in s. 62.23(6)(am)1.b., Wis. Stats., the administrator shall mail a copy of the notice by regular mail to the owner or operator of the airport bordered by the airport affected area.
 - (6) **General notice by type of application.** If a proposed amendment would revise the text of this chapter, the administrator shall provide for class 2 public notice, town notice, agency notice, distribution list notice, and meeting agenda notice consistent with division 2 of article 6. If a proposed amendment would revise the zoning map and is initiated by a property owner, the administrator shall provide for class 2 public notice, an on-site sign, town notice, property owner notice, agency notice, distribution list notice, and meeting agenda notice consistent with division 2 of article 6. If a proposed amendment would revise the zoning map and is initiated by the county, the administrator shall provide for class 2 public notice, town notice, agency notice, distribution list notice, and meeting agenda notice consistent with division 2 of article 6.
 - (7) **Town review and determination.** The town board of a town affected by the proposed amendment may review the application and may adopt a resolution opposing the proposed amendment and forward a certified copy of the same to the committee before, at, or within 10 days after the public hearing. The town board may extend its time for adopting such resolution by an additional 20 days (i.e., a total of 30 days after the public hearing) by passing a resolution and providing a certified copy of the same to the county clerk within 10 days after the public hearing. The extension shall remain in effect for not more than 30 days after the public hearing or until the town board adopts a resolution rescinding the extension and provides a certified copy of the same to the county clerk.
 - (8) **Public hearing.** Allowing for proper notice, the committee shall conduct a public hearing consistent with division 3 of article 6.
 - (9) **Staff report preparation and distribution.** The administrator shall prepare a written staff report as described in this division and provide a copy of it to each member of the committee and the applicant. The administrator shall also provide a copy to interested people upon request.
 - (10) **Planning and Zoning Committee recommendation.** As soon after the public hearing as possible, but no sooner than 10 days after the public hearing or 30 days after the public hearing if the town board passed a resolution establishing a 20-day extension, the committee shall meet to make a written recommendation to the Board of County Supervisors to (1) deny the proposed amendment, (2) approve the proposed amendment without revision, or (3) approve the proposed amendment with revision(s) it deems appropriate. Such revision to the proposed amendment shall relate to those matters considered at the public hearing or to a town's resolution of opposition. If a town board adopts a resolution opposing a proposed zoning map amendment within its jurisdiction, or if a majority of town boards under the jurisdiction of this chapter adopt a resolution opposing a proposed text amendment, the committee shall either recommend denial of the proposed amendment or recommend approval with change.
 - (11) **Transmittal of determination.** If the committee action is favorable, it shall cause an ordinance to be drafted effectuating its determination and shall forward the proposed ordinance along with its recommendation to the Board of County Supervisors. If the committee action is not favorable, the committee shall report its determination to the board including its reasons for denial. Proof of publication of the public notice and proof of the giving of notice to the town clerk of the public hearing shall be attached to either report. In addition, town board resolutions opposing the proposed amendment, if any, shall be attached to either report.
 - (12) **County Board of Supervisors' decision.** After reviewing the proposed ordinance and the committee's report, the board may (1) enact the proposed ordinance as drafted or with amendments, (2) deny the proposed

- amendment, or (3) refuse to deny the petition as recommended in which case it shall refer the petition to the committee with directions to draft an ordinance to effectuate the proposed amendment and report the ordinance back to the board which may then enact or reject the ordinance.
- (13) **Required vote with protest of airport.** If a proposed amendment would make any change in an airport affected area, as defined under s. 62.23(6)(am)1.b., Wis. Stats., and the owner or operator of the airport bordered by the airport affected area files a protest against the proposed amendment with the county clerk at least 24 hours prior to the date of the meeting of the board at which the report of the committee is to be considered, no ordinance which makes such change may be approved except by the affirmative vote of two-thirds of the members of the board present and voting.
- (14) **Required vote with a protest by qualified property owners.** If a protest against a proposed amendment is filed with the clerk at least 24 hours prior to the date of the meeting of the board at which the report of the committee is to be considered, duly signed and acknowledged by the owners of 50 percent or more of the area proposed to be altered, or by abutting owners of over 50 percent of the total perimeter of the area proposed to be altered included within 300 feet of the parcel or parcels proposed to be rezoned, action on the proposed ordinance may be deferred until the committee has had a reasonable opportunity to ascertain and report to the board as to the authenticity of the ownership statements. Each signer shall state the amount of area or frontage owned by that signer and shall include a description of the lands owned by that signer. If the statements are found to be true, the proposed ordinance may not be enacted except by the affirmative vote of three-fourths of the members of the board present and voting. If the statements are found to be untrue to the extent that the required frontage or area ownership is not present, the protest may be disregarded.⁸²
- (15) **Notification of decision.** Within a reasonable time following the board's decision, the administrator shall notify the applicant and the committee of its decision.
- (16) **Town notification of decision.** Within 7 days of the board's decision, the administrator shall notify the municipal clerk of the effected towns and the county clerk shall certify a duplicate copy of the ordinance if one was adopted and send the same to the municipal clerks of the effected towns.⁸³
- (17) **Preparation of new zoning map.** If the zoning map is amended, the administrator shall within 60 days of the date of decision cause a new zoning map to be prepared consistent with division 2 of article 8.

23.7-4 Effective date of adopted ordinance

If an adopted ordinance makes only the change sought in the petition and if the petition was not disapproved prior to, at, or within 10 days after the public hearing or 30 days after the public hearing with a valid resolution establishing a 20-day extension, whichever is applicable, after the public hearing by the town board of the town affected in the case of an ordinance relating to the location of district boundaries or by the town boards of a majority of the towns affected in the case of all other amendatory ordinances, it shall become effective on passage. The county clerk shall record in the clerk's office the date on which the ordinance becomes effective and notify the town clerk of all towns affected by the ordinance of the effective date and also insert the effective date in the proceedings of the county board. Any other amendatory ordinance when enacted shall within 7 days thereafter be submitted in duplicate by the county clerk by registered mail to the town clerk of each town in which lands affected by the ordinance are located. If after 40 days from the date of the enactment a majority of the towns have not filed certified copies of resolutions disapproving the amendment with the county clerk, or if, within a shorter time a majority of the towns in which the ordinance is in effect have filed certified copies of resolutions approving the amendment with the county clerk, the amendment shall be in effect in all of the towns affected by the ordinance. Any ordinance relating to the location of boundaries of districts shall within 7 days after enactment by the county board and approval of the county executive be transmitted by the county clerk by registered mail only to the town clerk of the town in which the lands affected by the change are located and shall become effective 40 days after enactment of the ordinance by the county board unless such town board prior to such date files a certified copy of a resolution disapproving of the ordinance with the county clerk. If such town board approves the ordinance, the ordinance shall become effective upon the filing of the resolution of the town board approving the ordinance with the county clerk. The clerk shall record in the clerk's office the date on which the ordinance becomes effective and notify the town clerk of all

⁸² Commentary: See s. 23.6-10 regarding an informational brochure describing the requirements of a protest.

⁸³ Commentary: See s. 59.69(2)(f), Wis. Stats.

towns affected by such ordinance of such effective date and also make such report to the county board, which report shall be printed in the proceedings of the county board.⁸⁴

23.7-5 Basis of decision

(a) **Text amendment.** If a proposed amendment would revise the text of this chapter, the Planning and Zoning Committee in making its recommendation and the Board of County Supervisors in making its decision shall consider the following factors:

- (1) whether the amendment is consistent with the county's comprehensive plan;
- (2) whether the amendment is consistent with other planning documents adopted by the Board of County Supervisors;
- (3) whether the code with the amendment is internally consistent;
- (4) whether the amendment is the least restrictive approach to address issues of public health, safety, and welfare; and
- (5) any other factor not specifically or generally listed, but deemed appropriate by the committee or board given the particular circumstances.

(b) **Zoning map amendment initiated by a property owner.** If a proposed zoning map amendment is initiated by a property owner and would change the zoning classification of a parcel not classified as A-1, the Planning and Zoning Committee in making its recommendation and the Board of County Supervisors in making its decision shall consider the following factors:

- (1) whether the amendment is consistent with the county's comprehensive plan, including any future land use maps or similar maps;
- (2) the extent to which the lot and structures on the subject property conform to the dimensional standards that apply to the proposed zoning district; and
- (3) any other factor not specifically or generally listed, but deemed appropriate by the committee or board given the particular circumstances.

If a proposed zoning map amendment is initiated by a property owner and would change the zoning classification of land classified as A-1, the Planning and Zoning Committee shall only recommend approval and the Board of County Supervisors shall only approve the proposed amendment when all of the following findings can be made:

- (1) Such land is better suited for a use not otherwise allowed in the A-1 district.
- (2) The amendment is consistent with the county's comprehensive plan.
- (3) The amendment is substantially consistent with the county's farmland preservation plan as certified by the Wisconsin Department of Agriculture, Trade and Consumer Protection.
- (4) The amendment will not substantially impair or limit current or future agricultural use of other protected farmland in the area.

The special requirements stated above relating to the rezoning of land in a A-1 district do not apply to a map amendment that (1) is certified by the Wisconsin Department of Agriculture, Trade and Consumer Protection under ch. 91, Wis. Stats., or (2) makes the zoning map more consistent with county's farmland preservation plan map, certified under ch. 91, Wis. Stats., which is in effect at the time of the amendment. A political subdivision shall by March 1 of each year provide to the department a report of the number of acres that the political subdivision has rezoned out of a Farmland Preservation District under sub. (1) during the previous year and a map that clearly shows the location of those areas.

(c) **Zoning map amendment initiated by the county.** If a proposed zoning map amendment is initiated by the county, the Planning and Zoning Committee in making its recommendation and the Board of County Supervisors in making its decision shall consider the following factors:

- (1) whether the amendment is consistent with the county's comprehensive plan, including any future land use maps or similar maps;
- (2) whether the amendment is consistent with other planning documents adopted by the Board of County Supervisors; and

⁸⁴ Commentary: See s. 59.69(5)(e)(6), Wis. Stats.

- (3) any other factor not specifically or generally listed, but deemed appropriate by the committee or board given the particular circumstances.

23.7-6 Application content

(a) **Landowner-initiated map amendment.** An application for a landowner-initiated zoning map amendment shall include the following:

- (1) an application form as may be used by the county;
- (2) a project map prepared at an appropriate scale depicting the information listed in appendix A; and
- (3) other supporting information the applicant deems appropriate.

(b) **Other amendments.** For all other types of amendments, the application shall include the following:

- (1) an application form as may be used by the county; and
- (2) other supporting information the applicant deems appropriate.

23.7-7 Staff report content

The staff report shall contain the following:

- (1) a summary of the comments received from the interdepartmental/agency review;
- (2) preliminary findings based upon the decision criteria listed in this division;
- (3) a recommendation to approve the proposed amendment, approve the proposed amendment with conditions, or deny the proposed amendment;
- (4) a preliminary list of revisions, if appropriate, regardless of whether the staff recommendation is for approval or denial; and
- (5) other information deemed necessary by the staff.

23.7-8 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 days of the final decision.

23.7-9 Informational brochure

The zoning administrator is authorized to prepare and to update from time to time an informational brochure that describes the requirements relating to a protest of a zoning map amendment as allowed by s. 59.69(5)(e)(5g), Wis. Stats.

23.7-10 to 23.7-20 Reserved

DIVISION 2

ZONING MAP AMENDMENT DUE TO ANNEXATION⁸⁵

Sections

23.7-21	Generally	23.7-24	Basis of decision
23.7-22	Initiation	23.7-25	Appeal
23.7-23	Review procedure		

23.7-21 Generally

From time to time, cities and villages in the county may annex lands in those towns that are subject to this chapter. This division describes the procedures and requirements to amend the zoning map following such annexation.

⁸⁵ Commentary: See s. 59.69(5)(e)(7), Wis. Stats.

23.7-22 Initiation

Following the approval of an ordinance annexing land into a city or village, any of the following may initiate the process to amend the zoning map as described in this division:

- (1) the person owning the annexed land;
- (2) the municipality that annexed the subject property;
- (3) the zoning administrator;
- (4) the corporation counsel for Winnebago County;
- (5) the town board of the town in which this chapter is in effect;
- (6) the Planning and Zoning Committee, or any member thereof; or
- (7) the Board of County Supervisors, or any member thereof.

23.7-23 Review procedure

The general steps outlined below shall be used to amend the zoning map following an annexation.

- (1) **Initiation.** Upon written notice that a village or city has annexed land, the zoning administrator shall prepare a draft ordinance that if adopted would remove the annexed lands from the county's zoning map.
- (2) **Schedule date of review.** The Board of County Supervisors shall schedule the date the board will review the draft ordinance and take action on the same.
- (3) **General notice.** Notice for this review shall consist of meeting agenda notice.
- (4) **Meeting.** Allowing for proper notice, the board shall review the draft ordinance at a regular or special meeting.
- (5) **Decision.** The board shall make a decision based on the decision criteria contained in this division to remove the annexed lands from the county's zoning map or not remove the annexed lands from the county's zoning map. The board may render its decision at the same meeting the matter was initially considered or at a subsequent meeting, but no later than 40 days from the date of first consideration.
- (6) **Town notification of decision.** If the board adopts an ordinance removing annexed lands from the county's zoning map, the county clerk shall within 30 days of adoption mail a duplicate copy of the ordinance by regular mail to the clerk of each town in which the affected lands were located.
- (7) **Preparation of new zoning map.** If the board adopts an ordinance removing annexed lands from the county's zoning map, the administrator shall within 60 days of the date of adoption cause a new zoning map to be prepared consistent with division 2 of article 8.

23.7-24 Basis of decision

The Board of County Supervisors in making its decision shall determine whether a city or village has annexed the subject property.

23.7-25 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 days of the date of the final decision.

23.7-26 to 23.7-40 Reserved

DIVISION 3
ESTABLISHMENT OF ZONING FOR COUNTY-OWNED LANDS⁸⁶

Sections

23.7-41	Generally	23.7-44	Review procedure
23.7-42	Limitations on authority	23.7-45	Basis of decision
23.7-43	Initiation	23.7-46	Appeal

23.7-41 Generally

From time to time, the Board of County Supervisors may, within certain limitations, zone and rezone land owned by the county in the unincorporated areas of the county. This division describes the procedures and requirements.

23.7-42 Limitations on authority

This division does not apply to county-owned land that is subject to a town zoning ordinance which is purchased for use as a solid or hazardous waste disposal facility or hazardous waste storage or treatment facility, as these terms are defined in s. 289.01, Wis. Stats.

23.7-43 Initiation

The Board of County Supervisors or the Planning and Zoning Committee may cause an ordinance to be drafted for the purpose of establishing zoning on county-owned land or the rezoning of the same.

23.7-44 Review procedure

The general steps outlined below shall be used to establish zoning on county-owned land and to rezone the same.

- (1) **Preparation of draft ordinance.** The zoning administrator shall prepare a draft ordinance that if adopted would (1) revise the county's zoning map if the subject property is located in a town subject to this chapter or (2) establish zoning on county-owned land or the rezoning of the same if the subject property is not located in a town subject to this chapter.
- (2) **Schedule date of review.** The Board of County Supervisors shall schedule the date the board will review the draft ordinance and take action.
- (3) **Special notice to town.** The board shall give written notice to the town board of the town in which the county-owned land is located of its intent to establish zoning or to rezone the same at least 21 days prior to the date of the meeting.
- (4) **Special notice by posting of notice.** The board shall post notice of the public hearing in 5 public places in the town in which the subject property is located.
- (5) **General notice.** Notice for this review shall consist of meeting agenda notice.
- (6) **Public hearing.** Allowing for proper notice, the board shall conduct a public hearing following the rules of the board.
- (7) **Decision.** After the public hearing has been closed, the board shall make a decision to (1) adopt the ordinance; (2) adopt the ordinance as may be amended, or (3) reject the ordinance. The board may render its decision at the same meeting the public hearing is conducted or at a subsequent meeting, but no later than 60 days from the date of first consideration.
- (8) **Town notification of decision.** If the board adopts the ordinance, the county clerk shall mail a duplicate copy of the ordinance by regular mail to the town clerk of the town in which the subject land is located within 15 days of the board's decision.
- (9) **Preparation of new zoning map.** If the board adopts the ordinance and the subject property is located in a town subject to this chapter, the administrator shall within 60 days of the date of adoption cause a new zoning map to be prepared consistent with division 2 of article 8.

⁸⁶ Commentary: See s. 59.69(9), Wis. Stats.

23.7-45 Basis of decision

The adoption of an ordinance establishing zoning on county-owned lands or the rezoning of the same is considered a legislative decision. As such, there are no specific criteria the Board of County Supervisors should consider in making its decision. The board may consider the current and anticipated use of surrounding properties.

23.7-46 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 days of the final decision.

23.7-47 to 23.7-60 Reserved

**DIVISION 4
PLANNED DEVELOPMENT OVERLAY DISTRICT**

Sections

23.7-61	Generally	23.7-72	Effect of approval
23.7-62	Initiation	23.7-73	Effect of approved planned development overlay district on land division standards
23.7-63	Where allowed	23.7-74	Review of actual development within an approved planned development district
23.7-64	Ownership	23.7-75	Amendment of an approved planned development overlay district
23.7-65	Minimum project size	23.7-76	Revocation or modification of an approval
23.7-66	Development agreement	23.7-77	Expiration of approval
23.7-67	Application and review procedure	23.7-78	Appeal
23.7-68	Basis of decision	23.7-79	Development within a pre-existing Planned Development District
23.7-69	Imposition of conditions		
23.7-70	Application form and content		
23.7-71	Staff report content		

23.7-61 Generally

A planned development overlay district is a special zoning district that allows for more flexibility in the development of land while ensuring substantial compliance with the basic intent of this chapter and the county's comprehensive plan.

23.7-62 Initiation

The owner of the subject property may submit an application for the establishment of a planned development overlay district.

23.7-63 Where allowed

A planned development overlay district shall only be established in the following zoning districts: R-1, R-2, R-3, R-4, B-1, B-2, B-3, and M-1.

23.7-64 Ownership

At the time of establishment, all land within a planned development overlay district shall be under single ownership or control.

23.7-65 Minimum project size

Lot sizes within a planned development overlay district shall be in accordance with the most restrictive zoning district where the proposed use is allowed.

23.7-66 Development agreement

Depending on the nature of the planned development overlay district, the developer and county may enter into a development agreement that specifies the duties and obligations of both parties with respect to development in the district.

23.7-67 Application and review procedure

The general steps outlined below shall be used in the review of an application for the establishment of a planned development overlay district.

- (1) **Pre-submittal meeting.** Before submitting an application, the applicant or the applicant's agent shall meet with the zoning administrator to review (1) applicable regulations and procedures, (2) applicable sections of the county's comprehensive plan, and (3) the proposal. The administrator may waive the requirement to hold a pre-submittal meeting when he or she determines such meeting is not necessary.
- (2) **Submittal of application materials.** The applicant shall submit a completed application and other required materials to the administrator along with the application fee as may be established by the Board of County Supervisors.
- (3) **Staff review.** Within 30 days of submittal, the administrator shall either schedule a date for the public hearing allowing for proper public notice or make a determination that the application is incomplete and notify the applicant of any deficiencies. If the application is incomplete, the applicant has 3 months after the date of such determination to resubmit the application or forfeit the application fee. The administrator shall take no further steps to process the application until the deficiencies are remedied. The incomplete application shall be retained as a public record.
- (4) **General notice.** Consistent with division 2 of article 6, the administrator shall provide for class 2 public notice, an on-site sign, town notice, property owner notice, agency notice, and meeting agenda notice.
- (5) **Town review.** The town board and town plan commission may review the application at a regular or special meeting.
- (6) **Town decision.** The plan commission may render a recommendation to the town board and the board may render a recommendation to the committee based on the decision criteria contained in this division to (1) approve the creation of the district, (2) approve the creation of the district with conditions, or (3) deny the creation of the district. Such decision shall be supported by written findings. If the decision is to approve the creation of the district with conditions, the town board may also submit conditions of approval. If the town board does not submit a decision supported by written findings to the committee prior to or at the public hearing, it shall be deemed to have consented to whatever action the committee may take.
- (7) **Public hearing.** Allowing for proper notice, the committee shall conduct a public hearing to review the application consistent with division 3 of article 6. Prior to the close of the public hearing, the applicant or the committee may request a continuance consistent with division 3 of article 6. The Planning and Zoning Committee shall not render its decision at this meeting.
- (8) **Staff report preparation and distribution.** The administrator shall prepare a written staff report as described in this division and provide a copy of it to each member of the Planning and Zoning Committee, the applicant, and to the clerk of each town in which the proposed district is located. The administrator shall also provide a copy to interested people upon request.
- (9) **Decision.** At a subsequent meeting of the committee, but no more than 60 days after the public hearing, the committee after considering the comments and the staff report shall make a decision based on the decision criteria contained in this division to (1) approve the creation of the district, (2) approve the creation of the district with conditions, or (3) deny the creation of the district.
- (10) **Applicant notification.** Within a reasonable time following the committee's decision, the administrator shall mail the decision notice to the applicant by regular mail.
- (11) **Acceptance by property owner required.** If an approval includes one or more condition of approval, the property owner shall sign the decision notice to acknowledge the imposition of such condition or conditions and return the same to the administrator. Failure to sign and return the decision notice within 45 days of the

committee's decision shall void the approval. The decision notice shall become effective upon the property owner's signature.

- (12) **Preparation of new zoning map.** If the district is approved, the administrator shall within 60 days of the date of adoption cause a new zoning map to be prepared consistent with division 2 of article 8.
- (13) **Public records.** If the district is approved, the administrator shall keep a duplicate copy of the approved project plan and development agreement, if any, as a permanent record.

23.7-68 Basis of decision

The Planning and Zoning Committee in making its decision shall consider the following factors:

- (1) whether development in the proposed district is in keeping with the spirit and intent of this chapter;
- (2) whether development in the proposed district is consistent with the county's comprehensive plan;
- (3) the effects of development in the proposed district on traffic safety and efficiency and pedestrian circulation, both within and outside of the district;
- (4) whether the proposed plan for development in the district is properly planned and is properly coordinated with the existing and anticipated land uses on properties in the immediate and surrounding area;
- (5) the effects of development within the proposed district on the natural environment;
- (6) whether development in the proposed district complies with provisions of this chapter and other chapters of the general code of Winnebago County that may apply;
- (7) the effects of development in the proposed district on public services and facilities;
- (8) whether adequate water and sanitary sewer facilities can be provided to development in the proposed district;
- (9) the proposed means of maintaining the undeveloped area of the district for the purpose for which it was set aside;
- (10) whether the plan for development in the proposed district is clearly superior to development that is permitted based on the design and development standards of the underlying zoning district; and
- (11) any other factor that relates to the purposes of this chapter as set forth in s. 23.1-5 and other sections as may apply.

23.7-69 Imposition of conditions

(a) **Generally.** The Planning and Zoning Committee may impose conditions as may be necessary to grant approval. Such conditions may relate to any of the factors it considered in reaching its decision. In addition, the committee may require the provision of off-site exactions that may be necessary to approve the establishment of the planned development overlay district.

(b) **Effect on contracts with another party.** The Planning and Zoning Committee shall not condition or withhold approval based upon the property owner entering into a contract or discontinuing, modifying, extending, or renewing any contract with a third party under which the third party is engaging in a lawful use of the property.⁸⁷

23.7-70 Application form and content

The application submittal shall include the following:

- (1) an application form as may be used by the county;
- (2) a master development plan prepared at an appropriate scale depicting the information listed in appendix A;
- (3) a preliminary draft of covenants if any are to be imposed; and
- (4) a development schedule, if the project is to be constructed in phases, which includes the anticipated beginning date and ending date of each phase and a description of those project-related elements to be completed in each phase.

⁸⁷ Commentary: See s. 59.6 9(2)(g), Wis. Stats. The county, for example, could not require an applicant to terminate an existing contract with another party that is engaged in a lawful use of the property.

23.7-71 Staff report content

The staff report shall contain the following:

- (1) a summary of the comments received from the interdepartmental/agency review;
- (2) preliminary findings based upon the decision criteria listed in this division;
- (3) a recommendation to approve the application, approve the application with conditions, or deny the application;
- (4) a preliminary list of conditions of approval regardless of whether the staff recommendation is for approval or denial; and
- (5) other information deemed necessary by the staff.

23.7-72 Effect of approval

If the planned development overlay district is established, the approval shall run with the land and be binding on all subsequent property owners.

23.7-73 Effect of approved planned development overlay district on land division standards

Development in a planned development overlay district shall be subject to the land division regulations in chapter 18 of the general code of Winnebago County to the extent applicable, except that the Planning and Zoning Committee may waive a development standard in the land division regulations as provided therein.

23.7-74 Review of actual development within an approved planned development overlay district

Once a planned development overlay district is established, proposed development in the district shall be reviewed consistent with the requirements of this article as may apply.

23.7-75 Amendment of an approved planned development overlay district

Following establishment of a planned unit development overlay district, the Planning and Zoning Committee shall review all proposed changes to the project plan that were approved at the time of approval of the district. If in the opinion of the committee, the proposed change constitutes a minor alteration, the committee may approve the requested change at a regular or special meeting of the committee. If the proposed change constitutes a major alteration, the application and review procedure in this division shall be followed.

23.7-76 Revocation or modification of an approval

Following a public hearing, the Planning and Zoning Committee may revoke or modify an approval if it determines that information in the application or otherwise provided by the applicant or the applicant's agent was incomplete, false, misleading, or inaccurate and such information would have altered its decision to approve the application or the conditions of approval which were or were not imposed.

23.7-77 Expiration of approval

If any area of a planned development overlay district that can be developed remains substantially undeveloped 3 years after the creation of the district, the Planning and Zoning Committee shall have the authority to unilaterally rezone such area to a suitable classification. Upon written petition and with good cause, the committee may grant a one-time extension not to exceed 3 years.

23.7-78 Appeal

(a) **Appeal relating to procedural requirements.** An aggrieved person who claims the required procedural requirements were not followed, in whole or in part, may file a written appeal with the Board of Adjustment prior to issuance of a final decision or within 30 days of issuance of a final decision. If an appeal is filed with the board prior to issuance of a final decision, the zoning administrator at his or her discretion, with concurrence of the applicant, if not the appellant, may suspend the review process until such time as the deficiency is remedied. The board shall only consider the procedural requirements and may not alter the decision of the Planning and Zoning Committee. If the board determines that a procedure, in whole or in part, was not followed as required, the review process shall not progress until such time as the deficiency has been remedied or the decision shall be stayed until such time as the deficiency and subsequent steps have been completed.

(b) **Appeal relating to Board of Adjustment decision or relating to the substantive decision.** An aggrieved person may appeal the final decision of the Board of Adjustment to a court of competent jurisdiction within 30 days of the final decision or the final decision of the Planning and Zoning Committee to a court of competent jurisdiction within 30 days of the final decision.

23.7-79 Development within a pre-existing Planned Development District

Development in a Planned Development District which existed prior to the adoption of this ordinance shall be held to the standards approved by the Conditional Use Permit. For developments where no conditional use has been approved or the conditional use did not specify development standards, R-1 zoning district standards shall apply.

23.7-80 to 23.7-90 Reserved

DIVISION 5 RESERVED

23.7-91 TO 23.7-110 Reserved

DIVISION 6 CONDITIONAL USE

Sections

23.7-111	Generally	23.7-118	Staff report content
23.7-112	Initiation	23.7-119	Content of decision notice
23.7-113	Application and review procedure	23.7-120	Effect of approval
23.7-114	Basis of decision	23.7-121	Revocation or modification of an approval
23.7-115	Special requirements for certain land uses in a A-1 district	23.7-122	Expiration of approval
23.7-116	Imposition of conditions	23.7-123	Amendment of an approved conditional use
23.7-117	Application form and content	23.7-124	Violation of a condition of approval
		23.7-125	Appeal

23.7-111 Generally

Although each zoning district is primarily intended for a predominant type of land use, there are a number of uses that may be appropriate under certain conditions. These are referred to as “conditional uses” and are listed in division 3 of article 8. This division describes the requirements and procedures for reviewing a conditional use, including an amendment of an approved conditional use.

23.7-112 Initiation

The owner of the subject property may submit an application for the establishment of a conditional use.

23.7-113 Application and review procedure

The general steps outlined below shall be used in the review of an application for a conditional use.

- (1) **Pre-submittal meeting.** Before submitting an application, the applicant or the applicant's agent shall meet with the zoning administrator to review (1) applicable regulations and procedures, (2) applicable sections of the county's comprehensive plan, and (3) the proposal. The administrator may waive the requirement to hold a pre-submittal meeting when he or she determines such meeting is not necessary.
- (2) **Submittal of application materials.** The applicant shall submit a completed application and other required materials to the administrator along with the application fee as may be established by the Board of County Supervisors.

- (3) **Staff review.** Within 30 days of submittal, the administrator shall either schedule a date for the public hearing with the Planning and Zoning Committee allowing for proper public notice or make a determination that the application is incomplete and notify the applicant of any deficiencies. If the application is incomplete, the applicant has 3 months after the date of such determination to resubmit the application or forfeit the application fee. The administrator shall take no further steps to process the application until the deficiencies are remedied. The incomplete application shall be retained as a public record.
- (4) **General notice.** Consistent with division 2 of article 6, the administrator shall provide for a class 2 public notice, an on-site sign, town notice, property owner notice, agency notice, and meeting agenda notice.
- (5) **Town review.** The town board and town plan commission may review the application at a regular or special meeting.
- (6) **Town decision.** The plan commission may render a recommendation to the town board and the board may render a recommendation to the committee based on the decision criteria contained in this division to (1) approve the conditional use, (2) approve the conditional use with conditions, or (3) deny the conditional use. Such decision shall be supported by written findings. If the decision is to approve the conditional use with conditions, the Town Board may also submit conditions of approval. If the town board does not submit a decision supported by written findings to the committee prior to or at the public hearing, it shall be deemed to have consented to whatever action the committee may take.
- (7) **Public hearing.** Allowing for proper notice, the committee shall conduct a public hearing consistent with division 3 of article 6. Prior to the close of the public hearing, the applicant, the town, or the committee may request a continuance consistent with division 3 of article 6. The committee shall not render a decision at the meeting.
- (8) **Staff report preparation and distribution.** Following the public hearing, the administrator shall prepare a written staff report as described in this division and provide a copy of it to each member of the committee and the applicant. The administrator shall also provide a copy to interested people upon request.
- (9) **Decision.** At a subsequent meeting but no later than 40 days after the public hearing, the committee after considering the comments and the staff report shall make a decision based on the decision criteria contained in this division to (1) approve the conditional use, (2) approve the conditional use with conditions, or (3) deny the conditional use.
- (10) **Preparation of decision notice.** Based on the action of the committee, the administrator shall within 15 days of such decision prepare a decision notice consistent with this division.
- (11) **Applicant notification.** Within a reasonable time following the committee's decision, the administrator shall mail the decision notice to the applicant by regular mail.
- (12) **Acceptance by property owner required.** If an approval includes one or more condition of approval, the property owner shall sign the decision notice to acknowledge the imposition of such condition or conditions and return the same to the administrator. Failure to sign and return the decision notice within 45 days of the committee's decision shall void the approval. The decision notice shall become effective upon the property owner's signature.
- (13) **Public record copy.** A duplicate copy of the decision notice shall be retained as a public record.

23.7-114 Basis of decision

The town board and town plan commission of the town in which the proposed conditional use is located in making their recommendation and Planning and Zoning Committee in making its decision shall consider the following factors:

- (1) the size of the parcel on which the proposed use will occur;
- (2) the presence of and compatibility with other uses on the subject property;
- (3) the location of the proposed use on the subject property (e.g., proximity of the proposed use to other existing or potential land uses);
- (4) effects of the proposed use on traffic safety and efficiency and pedestrian circulation, both on-site and off-site;
- (5) the suitability of the subject property for the proposed use;

- (6) effects of the proposed use on the natural environment;
- (7) effects of the proposed use on surrounding properties, including operational considerations relating to hours of operation and creation of potential nuisances;
- (8) effects of the proposed use on the normal and orderly development and improvement of the surrounding property for uses permitted in the zoning district and adjoining districts; and
- (9) any other factor that relates to the purposes of this chapter as set forth in s. 23.1-5 and other sections as may apply.

In the event the conditional use being proposed is an adult-oriented establishment, the above-named decision-making bodies shall not consider the nature of expressive conduct protected by the U.S. Constitution with regard to any of the above-mentioned criteria.⁸⁸

23.7-115 Special requirements for certain land uses in a A-1 district

(a) **Agriculture-related uses.** Subject to the general requirements under this division, the Planning and Zoning Committee may approve agriculture-related uses in a A-1 district as a conditional use only if all of the following apply:

- (1) The use supports agricultural uses in the A-1 zoning district in direct and significant ways, and is more suited to the A-1 zoning district than to an industrial or commercial zoning district.
- (2) The use and its location in the A-1 zoning district are consistent with the purposes of the A-1 zoning district.
- (3) The use and its location in the A-1 zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
- (4) The use is reasonably designed to minimize conversion of land, at and around the use site, from agricultural use or open space use.
- (5) The use does not substantially impair or limit the current or future agricultural use of other protected farmland.
- (6) Construction damage to land remaining in agricultural use is minimized and repaired to the extent feasible.

(b) **Nonmetallic mine.** Subject to the general requirements under this division, the Planning and Zoning Committee may approve a nonmetallic mine in the A-1 district as a conditional use only if all of the following apply:

- (1) The operation complies with (1) subchapter I of ch. 295, Wis. Stats., and administrative rules promulgated under that subchapter; (2) applicable provisions of chapter 20 of the general code; and (3) any applicable requirements of the Wisconsin Department of Transportation concerning the restoration of nonmetallic mineral extraction sites.
- (2) The use and the location of such use in the A-1 zoning district are consistent with the purposes of the A-1 zoning district.
- (3) The use and the location of such use in the A-1 zoning district are reasonable and appropriate, considering alternative locations outside the A-1 zoning district, or are specifically approved under state or federal law.
- (4) The use is reasonably designed to minimize the conversion of land around the extraction site from agricultural use or open space use.
- (5) The use does not substantially impair or limit the current or future agricultural use of other protected farmland.
- (6) Following cessation of this use, all disturbed areas will be restored to a condition suitable for agricultural use consistent with a written restoration plan as approved under chapter 20 of the general code.

(c) **Government and nonprofit community uses.** Subject to the general requirements under this division, the Planning and Zoning Committee may approve government and nonprofit community uses in the A-1 district as a conditional use only if all of the following apply:

- (1) The use and the location of such use in the A-1 zoning district are consistent with the purposes of the A-1 zoning district.

⁸⁸ Commentary: The development standards for adult-oriented establishments are intended to address secondary negative effects of this use.

- (2) The use and the location of such use in the A-1 zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
- (3) The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.
- (4) The use does not substantially impair or limit the current or future agricultural use of other protected farmland.
- (5) Construction damage to land remaining in agricultural use is minimized and repaired to the extent feasible.

(d) **Specified infrastructure.** Subject to the general requirements under this division, the Planning and Zoning Committee may approve certain types of compatible infrastructure in the A-1 district as a conditional use only if all of the following apply:

- (1) The use and the location of such use in the A-1 zoning district are consistent with the purposes of the A-1 zoning district.
- (2) The use and the location of such use in the A-1 zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
- (3) The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.
- (4) The use does not substantially impair or limit the current or future agricultural use of other protected farmland.
- (5) Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.

23.7-116 Imposition of conditions

(a) **Generally.** The town board may recommend and the Planning and Zoning Committee may impose one or more conditions of approval as may be necessary to grant approval. Such conditions and restrictions may relate to the establishment, location, construction, maintenance, operation of the use, off-site impacts, and any other aspect of the use that impacts the public health, safety, or general welfare. Conditions which are imposed shall be achievable.

(b) **Limitation on imposing conditions.** A condition of approval shall not lessen a development standard or other requirement contained in this chapter.

(c) **Effect on contracts with another party.** The Planning and Zoning Committee shall not condition or withhold approval based upon the property owner entering into a contract or discontinuing, modifying, extending, or renewing any contract with a third party under which the third party is engaging in a lawful use of the property.⁸⁹

(d) **Special condition for business as property owner.** As a condition of approval of a conditional use, the property owner if it is a business entity, such as a limited liability company or a corporation, shall for the life of the conditional use continuously maintain a registered office in the state of Wisconsin as evidenced by registration with the Wisconsin Department of Financial Institutions.

23.7-117 Application form and content

The application submittal shall include an application form as may be used by the county and a project map prepared at an appropriate scale depicting the information listed in appendix A. In addition, the applicant shall also provide a site plan and plan of operation along with the application materials.

23.7-118 Staff report content

The staff report shall contain the following:

- (1) a summary of the comments received from the interdepartmental/agency review;
- (2) preliminary findings based upon the decision criteria listed in this division;
- (3) a recommendation to approve the application, approve the application with conditions, or deny the application; and

⁸⁹ Commentary: See s. 59.6 9(2)(g), Wis. Stats. The county, for example, could not require an applicant to terminate an existing contract with another party that is engaged in a lawful use of the property.

- (4) a preliminary list of conditions regardless of whether the staff recommendation is for approval or denial;
- (5) other information deemed necessary by the staff.

23.7-119 Content of decision notice

- (a) **Approval.** If an application for a conditional use is approved, the decision notice shall include the following:
 - (1) a statement that the application is approved;
 - (2) a description of where the conditional use will occur on the property;
 - (3) a description of the conditional use;
 - (4) findings based upon the decision criteria listed in this division;
 - (5) a list of conditions of approval imposed by the town that must be satisfied prior to the establishment of the conditional use or complied with during the life of the conditional use, or both;⁹⁰
 - (6) a list of conditions of approval imposed by the county that must be satisfied prior to the establishment of the conditional use or complied with during the life of the conditional use, or both;
 - (7) if one or more conditions of approval are imposed, a statement indicating that the property owner must sign the decision notice and return it to the zoning administrator within 45 days of such decision to acknowledge acceptance of the same;
 - (8) a statement that the applicant may appeal the decision to a court of competent jurisdiction;
 - (9) a statement that an aggrieved person, other than the applicant, may appeal the decision to a court of competent jurisdiction and that any work done by the applicant as authorized by the approval is done at the applicant's risk;
 - (10) other information the Planning and Zoning Committee or zoning administrator deems appropriate;
 - (11) the signature of the zoning administrator on behalf of the Planning and Zoning Committee; and
 - (12) the date of the decision.
- (b) **Denial.** If an application for a conditional use is denied, the decision notice shall include the following:
 - (1) a statement that the application is denied,
 - (2) a description of the project, including acreage and proposed use characteristics,
 - (3) findings based upon the decision criteria listed in this division,
 - (4) a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration,
 - (5) a statement that the decision may be appealed as provided for in this division,
 - (6) other information the Planning and Zoning Committee or zoning administrator deems appropriate,
 - (7) the signature of the administrator on behalf of the committee; and
 - (8) the date of the decision.

23.7-120 Effect of approval

When a conditional use approval authorizes the construction of a new structure eligible for assessment for real property tax purposes, the approval shall run with the land and be binding on all subsequent property owners. In all other cases, a conditional use approval shall be personal to the applicant and shall automatically lapse when the applicant ceases to operate the conditional use.

23.7-121 Revocation or modification of an approval

Following a public hearing, the Planning and Zoning Committee may revoke or modify an approval if it determines that information in the application or otherwise provided by the applicant or the applicant's agent was incomplete, false,

⁹⁰ Commentary: As provided for in article 12 of this chapter, Winnebago County is not responsible for those conditions of approval imposed by the town.

misleading, or inaccurate and such information would have altered its decision to approve the application or the conditions of approval which were or were not imposed.

23.7-122 Expiration of approval

(a) **Non-establishment of use.** If the zoning administrator determines that substantial work as authorized by a conditional use approval did not commence within 12 months of the date of approval or if substantial work did commence within 12 months of the date of approval but has not continued in good faith to completion, he or she shall initiate the process to terminate the approval pursuant to division 9 of this article. Upon written petition and with cause, the zoning administrator may grant a one-time extension not to exceed 6 months.

(b) **Cessation of use.** If the zoning administrator determines that a conditional use has ceased to operate for any reason, whether intentional or otherwise, for more than 12 continuous months, he or she shall initiate the process to terminate the approval pursuant to division 9 of this article.

23.7-123 Amendment of an approved conditional use

Following approval of a conditional use, the Planning and Zoning Committee shall review all proposed changes to the approval. If in the opinion of the committee, the proposed change constitutes a minor alteration, the committee may approve the requested change in writing at a regular or special meeting of the committee without following the application and review procedure in this division. If the proposed change constitutes a major alteration, the application and review procedure in effect at the time of submittal shall be followed.

23.7-124 Violation of a condition of approval

If a property owner does not comply with one or more condition of approval, such action shall be deemed a violation of this chapter and cause for termination of the approval consistent with division 9 of this article.

23.7-125 Appeal

(a) **Appeal relating to procedural requirements.** An aggrieved person who claims the required procedural requirements were not followed, in whole or in part, may file a written appeal with the Board of Adjustment prior to issuance of a final decision or within 30 days of issuance of a final decision. If an appeal is filed with the board prior to issuance of a final decision, the zoning administrator at his or her discretion may suspend the review process until such time as the deficiency is remedied. The board shall only consider the procedural requirements and may not alter the decision of the Planning and Zoning Committee. If the board determines that a procedure, in whole or in part, was not followed as required, the review process shall not progress until such time as the deficiency has been remedied or the decision shall be stayed until such time as the deficiency and subsequent steps have been completed. An aggrieved person may appeal the final decision of the board to a court of competent jurisdiction within 30 days of the board's decision.

(b) **Appeal relating to Board of Adjustment decision or relating to the substantive decision.** An aggrieved person may appeal the final decision of the Planning and Zoning Committee to a court of competent jurisdiction within 30 days of the final decision.

23.7-126 to 23.7-130 Reserved

DIVISION 7

SPECIAL USE PERMIT FOR SPECIFIED LIVESTOCK OPERATIONS

Sections

23.7-131	Generally	23.7-139	Effect of approval
23.7-132	Initiation	23.7-140	Revocation or modification of an approval
23.7-133	Application and review procedure	23.7-141	Expiration of approval
23.7-134	Basis of decision	23.7-142	Amendment of an approval
23.7-135	Imposition of conditions	23.7-143	Record of decision-making
23.7-136	Application form and content	23.7-144	Violation of a condition of approval
23.7-137	Staff report content	23.7-145	Appeal
23.7-138	Content of decision notice		

23.7-131 Generally

This division describes the procedural requirements relating to the review of new or expanded livestock operations that will have 500 or more animal units.

23.7-132 Initiation

The owner of the subject property may submit an application for the establishment of a livestock operation.

23.7-133 Application and review procedure

The general steps outlined below shall be used in the review of an application for a special use permit for a new or expanded livestock operation.

- (1) **Pre-submittal meeting.** Before submitting an application, the applicant or the applicant's agent may meet with the zoning administrator to review applicable regulations and procedures and the proposed livestock operation.
- (2) **Submittal of application materials.** The applicant shall submit 4 copies of the completed application form and worksheets prescribed by s. ATPC 51.30, Wis. Admin. Code, to the administrator along with the application fee as may be established by the Board of County Supervisors.
- (3) **Determination of completeness.** Within 45 days of submittal, the administrator shall determine whether the application is complete or incomplete. If the administrator determines that the application is incomplete, he or she shall send the applicant a written notice that describes the reason or reasons why the application is incomplete. If the administrator determines that the application is complete, he or she shall send a written notice to the applicant within 14 days of such determination.⁹¹
- (4) **Staff report preparation and distribution.** The administrator shall prepare a written staff report as described in this division and provide a copy of it to each member of the Planning and Zoning Committee and the applicant. The administrator shall also provide a copy to interested people upon request.
- (5) **Notice to adjacent property owners.** Within 14 days of a determination of completeness, the zoning administrator shall mail a completed notice as in ch. ATPC 51, Wis. Admin. Code (Appendix C) to the recorded owner of each parcel of land that is adjacent to the proposed livestock facility. Such notices shall be mailed by first class mail. Failure to comply with the notice requirement under this subsection does not invalidate the approval of a proposed livestock facility, or create a cause of action by a property owner against Winnebago County or any county committee, board, or employee.⁹²
- (6) **General notice.** Consistent with division 2 of article 6, the administrator shall provide for town notice and meeting agenda notice in addition to the special notice sent to the adjoining property owners in the previous step.
- (7) **Meeting.** Allowing for proper notice, the committee shall consider the application at a regular or special meeting.
- (8) **Decision.** The committee shall (1) approve the application, (2) approve the application with conditions, or (3) deny the application based on the decision criteria contained in this division. The committee may render its decision at the same meeting the matter was initially considered or at a subsequent meeting, but no later than 90 days after the zoning administrator determines the application is complete unless the applicant agrees to an extension of a specified duration. The committee may, with or without the consent of the applicant, extend the review period with good cause, including a determination that (1) it needs more time to obtain additional information needed to act on the application, (2) the applicant materially modified the application following a determination of completeness, or (3) the applicant requested an extension. If the review period is extended, the zoning administrator shall provide the applicant with a written notice of such decision that contains a date by which the committee will act on the application.⁹³
- (9) **Preparation of decision notice.** Based on the action of the committee, the administrator shall within 15 days of such decision prepare a decision notice consistent with this division and give a copy to the applicant.

⁹¹ Commentary: See s. ATPC 51.30(5), Wis. Admin. Code

⁹² Commentary: See s. ATPC 51.30(6), Wis. Admin. Code. This type of notice is different than what is provided for a conditional use application (300 feet).

⁹³ Commentary: See s. ATPC 51.32, Wis. Admin. Code

- (10) **Recordation of approval.** If the application is approved, the applicant may record such decision in the office of the register of deeds.
- (11) **DATCP notification of decision.** The zoning administrator shall send a copy of the decision notice, within 30 days of such decision, to the Wisconsin Department of Agriculture, Trade and Consumer Protection by mail or fax as follows:
- Mail: Wisconsin Department of Agriculture, Trade and Consumer Protection
Agricultural Resource Management Division
Bureau of Land and Water Resources
PO Box 8911
Madison, WI 53708–8911
- Fax: (608) 224–4615

Failure to comply with this notice requirement shall not invalidate such decision.⁹⁴

- (12) **Compilation of public record.** The zoning administrator shall compile all of the materials specified in s. 23.7-133.

23.7-134 Basis of decision

The Planning and Zoning Committee in making its decision shall consider whether the application complies with the standards in s. 23.8-233 and other provisions of this chapter as may be applicable.

23.7-135 Imposition of conditions

The Planning and Zoning Committee may impose one or more conditions of approval provided they are limited to those actions required to comply with the standards related to livestock operations.

23.7-136 Application form and content

The application submittal shall include the application shown in Appendix A of ch. ATPC 51, Wis. Admin. Code, along with any related worksheets, maps, or other material.⁹⁵

23.7-137 Staff report content

The staff report shall contain the following:

- (1) preliminary findings based upon the decision criteria listed in this division;
- (2) a recommendation to approve the application, approve the application with conditions, or deny the application; and
- (3) other information deemed necessary by the staff.

23.7-138 Content of decision notice

- (a) **Approval.** If an application for a livestock operation is approved, the decision notice shall include the following:
- (1) a statement that the application is approved;
 - (2) conditions of approval as described in this division, if any;
 - (3) written findings of fact supported by evidence in the record that the approval is warranted;⁹⁶
 - (4) a statement that an aggrieved person may appeal the decision to the Board of Adjustment or the Wisconsin Livestock Facility Siting Review Board and that any work done by the applicant as authorized by the approval is done at the applicant's risk;
 - (5) other information the Planning and Zoning Committee or zoning administrator deems appropriate;
 - (6) the signature of the zoning administrator on behalf of the Planning and Zoning Committee;
 - (7) the date of the decision; and

⁹⁴ Commentary: See s. ATPC 51.34(5), Wis. Admin. Code

⁹⁵ Commentary: See s. ATPC 51.30(1), Wis. Admin. Code

⁹⁶ Commentary: Pursuant to s. ATPC 51.34(3)(a), Wis. Admin. Code, the findings may be based on presumptions created by ch. ATPC 51, Wis. Admin. Code.

- (8) a duplicate copy of the approved application, including all worksheets, maps, and other documents (other than engineering specifications) included in the application, marked “approved.”⁹⁷
- (b) **Denial.** If an application for a livestock operation is denied, the decision notice shall include the following:
 - (1) a statement that the application is denied;
 - (2) written findings of fact supported by evidence in the record that the denial is warranted;⁹⁸
 - (3) findings based upon the decision criteria listed in this division;
 - (4) a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration;
 - (5) a statement that the decision may be appealed as provided for in this division;
 - (6) other information the Planning and Zoning Committee or zoning administrator deems appropriate;
 - (7) the signature of the administrator on behalf of the committee; and
 - (8) the date of the decision.

23.7-139 Effect of approval

An approval granted under this division shall run with the land and be binding on all subsequent property owners.

23.7-140 Revocation or modification of an approval

(a) Following a public hearing, the Planning and Zoning Committee may revoke or modify an approval if it determines that information in the application or otherwise provided by the applicant or the applicant’s agent was incomplete, false, misleading, or inaccurate and such information would have altered its decision to approve the application or the conditions of approval which were or were not imposed.⁹⁹

(b) **Notification required for termination of approval.** If an approval is terminated under this section, the zoning administrator shall send a copy of the notice, within 30 days of such decision, to the Wisconsin Department of Agriculture, Trade and Consumer Protection by mail or fax as follows:

Mail: Wisconsin Department of Agriculture, Trade and Consumer Protection
Agricultural Resource Management Division
Bureau of Land and Water Resources
PO Box 8911
Madison, WI 53708–8911
Fax: (608) 224–4615

Failure to comply with this requirement shall not invalidate such decision.¹⁰⁰

23.7-141 Expiration of approval

If the zoning administrator determines that the livestock operator has not begun to populate the approved livestock facility within 2 years of approval and the operator has not begun construction on every new or expanded livestock housing structure and every new or expanded waste storage structure proposed in the application within 2 years of approval, he or she shall initiate the process to terminate the approval pursuant to division 9 of this article.¹⁰¹ Termination of an approval does not prevent a livestock operator from submitting a new application for review.¹⁰² If an aggrieved person appeals an approval, the date of approval shall be the date the appeal is concluded if the court does not overturn the approval.

23.7-142 Amendment of an approval

(a) **Generally.** At any time following approval of a livestock operation, the livestock operator may submit a written request to the zoning administrator proposing an amendment to the approval. So long as the proposed amendment

⁹⁷ Commentary: See s. ATCP 51.34(3)(b), Wis. Admin. Code

⁹⁸ Commentary: Pursuant to s. ATCP 51.34(3)(a), Wis. Admin. Code, the findings may be based on presumptions created in ch. ATCP 51, Wis. Admin. Code.

⁹⁹ Commentary: See s. ATCP 51.34(4)(b)(1), Wis. Admin. Code

¹⁰⁰ Commentary: See s. ATCP 51.34(5), Wis. Admin. Code

¹⁰¹ Commentary: See s. ATCP 51.08(2), Wis. Admin. Code. So long as the livestock operator begins the establishment of the authorized use, the approval remains in effect even if the expansion occurs over a period of time chosen by the operator or if the operator does not expand to the full amount of livestock units as authorized by the approval.

¹⁰² Commentary: See s. ATCP 51.08(3), Wis. Admin. Code

complies with the required standards, the Planning and Zoning Committee may allow the amendment without following the review procedures in this division.¹⁰³ If the Planning and Zoning Committee approves the proposed amendment, such decision shall be documented in writing and contain the signature of the chairperson of the Planning and Zoning Committee or the zoning administrator. Each approved amendment shall be sequentially identified (i.e., First Amendment, etc).

(b) **Recordation of approval.** If the amendment is approved, the livestock operator may record the decision document in the office of the register of deeds

23.7-143 Record of decision-making

The zoning administrator shall compile the following materials and retain them for at least 7 years after the date the Planning and Zoning Committee makes a decision to approve or deny an application:

- (1) The application and all subsequent additions or amendments to the application which were made by the applicant prior to the committee's final decision.
- (2) A copy of the notice sent to the applicant stating that the application was deemed incomplete or complete.
- (3) Copies of any other notices or correspondence that the zoning administrator or committee issued in relation to the application.
- (4) A record of any public hearing related to the application. The record may be in the form of an electronic recording, a transcript prepared from an electronic recording, or a direct transcript prepared by a court reporter or stenographer. The record shall also include any documents or evidence submitted by hearing participants.
- (5) Copies of any correspondence or evidentiary material that the committee considered in relation to the application.
- (6) Minutes of all committee meetings when the application was considered.
- (7) The written decision as required under this division.
- (8) Other documents that the committee prepared to document its decision or decision-making process.
- (9) A copy of any local ordinance cited in the committee's decision.¹⁰⁴

23.7-144 Violation of a condition of approval

(a) **Generally.** If a property owner does not comply with the terms of the approval, such action shall be deemed a violation of this chapter and cause for termination of the approval consistent with division 9 of this article.

(b) **Considerations in pursuing enforcement.** The zoning administrator and Planning and Zoning Committee should exercise sound judgment in deciding whether to take compliance action under this section. The following factors should be considered: whether adverse weather conditions may have affected an operator's ability to comply, the nature and seriousness of the violation, whether the violation was intentional or accidental, the operator's compliance history, consistency of enforcement, and whether the problem can be resolved without formal enforcement. Before taking compliance action, a political subdivision should give the operator notice and a reasonable opportunity to demonstrate compliance.¹⁰⁵

23.7-145 Appeal

(a) **Appeal to Board of Adjustment.** Because the decision of the Planning and Zoning Committee to approve or deny an application is considered an administrative matter, an aggrieved person, as defined in this section, may appeal the final decision of the committee to the Board of Adjustment within 30 days of such decision.

(b) **Appeals to Livestock Facility Siting Review Board.** As provided under the Wisconsin Livestock Siting Law, an aggrieved person may appeal the decision of the Planning and Zoning Committee to approve or deny an application to the Wisconsin Livestock Facility Siting Review Board within 30 days of such decision. An aggrieved person may appeal the

¹⁰³ Commentary: See s. ATCP 51.34(4)(b)(2), Wis. Admin. Code

¹⁰⁴ Commentary: See s. ATCP 51.36, Wis. Admin. Code

¹⁰⁵ Commentary: See s. ATCP 51.34(4), Wis. Admin. Code

decision of the Board of Adjustment to the Wisconsin Livestock Facility Siting Review Board within 30 days of such decision.¹⁰⁶

(c) **Definition of aggrieved person.** For the purpose of this division, an “aggrieved person” includes the applicant and any person who resides or owns land within 2 miles of the proposed livestock facility.

23.7-146 to 23.7-150 Reserved

DIVISION 8 DETERMINATION OF UNSAFE CONDITIONS

Sections

23.7-151	Generally	23.7-156	Content of decision notice
23.7-152	Initiation	23.7-157	Compliance with requirements of zoning district
23.7-153	Application and review procedure	23.7-158	Appeal
23.7-154	Basis of decision	23.7-159	Other remedies
23.7-155	Staff report content		

23.7-151 Generally

There may be instances where a land use has become unsafe through neglect or lack of maintenance and has become a threat to the public health, safety, or welfare. This division describes the requirements and procedures for terminating an unsafe situation.

23.7-152 Initiation

Any of the following may submit an application for a determination of unsafe conditions:

- (1) the zoning administrator;
- (2) the corporation counsel for Winnebago County;
- (3) the town board of any town in which this chapter is in effect;
- (4) the Planning and Zoning Committee, or any member thereof; or
- (5) the Board of County Supervisors, or any member thereof.

23.7-153 Application and review procedure

The general steps outlined below shall be used in the review of an application to terminate an unsafe land use authorized under this chapter.

- (1) **Submittal of application materials.** The applicant shall submit a completed application and other required materials to the zoning administrator.
- (2) **Staff review.** Within 30 days of submittal, the administrator shall either schedule a date for the public hearing allowing for proper public notice or make a determination that the application is incomplete and notify the applicant of any deficiencies. The administrator shall take no further steps to process the application until the deficiencies are remedied. The incomplete application shall be retained as a public record.
- (3) **Special notice to property owner.** The administrator shall mail a written notice to the property owner by certified mail at least 30 days prior to the date of the public hearing. Such notice shall state the reason for the public hearing; the reasons why the administrator believes the conditions are unsafe; the date and time

¹⁰⁶ Commentary: The Wisconsin Livestock Facility Siting Review Board has the authority to overturn the decision of the Planning and Zoning Committee and the Board of Adjustment. The county, however, has the right to appeal such decision to a court of competent jurisdiction within the time period specified by state law.

of the public hearing; contact information for the administrator, including telephone number; and other information deemed appropriate by the administrator.

- (4) **General public notice.** Consistent with division 2 of article 6, the administrator shall provide for a class 2 public notice, town notice, property owner notice, and meeting agenda notice.
- (5) **Public hearing.** Allowing for proper notice, the Planning and Zoning Committee shall conduct a public hearing consistent with division 3 of article 6. Prior to the close of the public hearing, the applicant or the committee may request a continuance consistent with division 3 of article 6.
- (6) **Decision.** After the public hearing has been closed, the committee shall approve or deny the application. The committee may render its decision at the same meeting the public hearing is conducted or at a subsequent meeting, but no later than 40 days after the public hearing.
- (7) **Preparation of decision notice.** Based on the action of the committee, the administrator shall within 15 days of such decision prepare a decision notice consistent with this division.
- (8) **Applicant notification.** Within a reasonable time following the committee's decision, the administrator shall mail the decision notice by regular mail to the property owner and to the town in which the subject property is located.
- (9) **Public record copy.** A duplicate copy of the decision notice shall be retained as a public record.
- (10) **Administrative steps.** If the application is approved, the administrator shall within 60 days of such decision update any county records to indicate that the use as specified in the application has been terminated because of unsafe conditions.

23.7-154 Basis of decision

The Planning and Zoning Committee in making its decision shall consider the following factors:

- (1) the type and nature of unsafe conditions;
- (2) potential remedies to correct unsafe conditions; and
- (3) any other factor that relates to the purposes of this chapter as set forth in s. 23.1-5 and other sections as may apply.

23.7-155 Staff report content

The staff report shall contain the following information:

- (1) the type and nature of the unsafe conditions;
- (2) potential remedies to correct the unsafe conditions; and
- (3) other information deemed necessary by the staff.

23.7-156 Content of decision notice

If a permit or other approval is revoked or suspended, the decision notice shall include the following:

- (1) a statement that the permit or other approval is revoked or suspended,
- (2) reasons for the revocation or suspension,
- (3) conditions that must be satisfied to reinstate the approval if the permit or other approval is suspended,
- (4) requirements for the removal of the feature that is determined to be unsafe,
- (5) a statement that the decision may be appealed as provided for in this division,
- (6) the signature of the zoning administrator on behalf of the Planning and Zoning Committee,
- (7) other information the committee or administrator deems appropriate; and
- (8) the date of the decision.

23.7-157 Compliance with requirements of zoning district

If the Planning and Zoning Committee revokes a permit or other approval under this division, the property owner shall remove the feature determined to be unsafe. The committee shall establish a timeframe it determines appropriate to

comply with this requirement. In making such determination, the committee should consider the type of actions the property owner will need to take to remove the feature and weather conditions. In no event, shall the compliance period be less than 30 days or more than 9 months.

23.7-158 Appeal

The person having a development interest in the original development order may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 days of the final decision.

23.7-159 Other remedies

In addition to the revocation or modification of the development order, the Board of County Supervisors may seek other remedies allowed by law.

23.7-160 to 23.7-170 Reserved

DIVISION 9 TERMINATION OF APPROVAL

Sections

23.7-171 Generally	23.7-176 Content of decision notice
23.7-172 Initiation	23.7-177 Compliance with requirements of zoning district
23.7-173 Application and review procedure	23.7-178 Appeal
23.7-174 Basis of decision	
23.7-175 Application form and content	

23.7-171 Generally

There are certain situations when the approval for a land use may be terminated. These are as follows:

- (1) when the property owner desires to terminate a previously issued conditional use approval for his or her property,
- (2) when the zoning administrator determines that the land use authorized by a conditional use approval has ceased to operate for more than 12 months,
- (3) when the zoning administrator determines the property owner is in violation of one or more conditions of approval for a conditional use; and
- (4) when the zoning administrator determines that a land use must be removed as specified in division 9 or 10 of article 8 because the use has ceased to operate for the time period specified for such use (e.g., the use or structure has become obsolete as in the potential case of a telecommunication tower).

This division describes the requirements and procedures for terminating an approved use.

23.7-172 Initiation

(a) **Termination of a conditional use approval by property owner.** The property owner, and no other, is authorized to submit an application to terminate a conditional use approval for his or her property, except as authorized in this section.

(b) **Termination of a conditional use approval due to cessation.** The zoning administrator, and no other, is authorized to submit an application to terminate a conditional use approval when he or she determines the land use authorized by such approval has ceased to operate for more than 12 months.

(c) **Termination of a conditional use approval due to violation.** The zoning administrator, and no other, is authorized to submit an application to terminate a conditional use approval when he or she determines that the property owner has violated one or more conditions of approval and action has not been taken to correct the violation.

(d) **Termination of a specified land use due to cessation.** The zoning administrator, and no other, is authorized to submit an application to terminate an approved land use when he or she determines that such use is no longer in use for the time period specified for such use as specified in division 6, 7, or 8 of article 8.

23.7-173 Application and review procedure

The general steps outlined below shall be used in the review of an application to terminate the approval of a land use authorized under this chapter.

- (1) **Submittal of application materials.** The applicant shall submit a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Board of County Supervisors.
- (2) **Staff review.** Within 30 days of submittal, the administrator shall either schedule a date for the public hearing allowing for proper public notice or make a determination that the application is incomplete and notify the applicant of any deficiencies. If the application is incomplete, the applicant has 3 months after the date of such determination to resubmit the application or forfeit the application fee. The administrator shall take no further steps to process the application until the deficiencies are remedied. The incomplete application shall be retained as a public record.
- (3) **Special notice to property owner.** If the administrator is the applicant, he or she shall mail a written notice to the property owner by certified mail at least 30 days prior to the date of the public hearing. Such notice shall state the reasons why the administrator has submitted an application to terminate the specified use; the date and time of the public hearing; contact information for the administrator, including telephone number; and other information deemed appropriate by the administrator. If the action is intended to terminate a conditional use for a violation, the notice shall state the alleged violation along with supporting evidence. If the action is intended to terminate an inactive land use, the notice shall state the time period when the land use was not in use along with supporting evidence.
- (4) **General public notice.** Consistent with division 2 of article 6, the administrator shall provide for a class 2 public notice, town notice, property owner notice, and meeting agenda notice.
- (5) **Public hearing.** Allowing for proper notice, the Planning and Zoning Committee shall conduct a public hearing consistent with division 3 of article 6. Prior to the close of the public hearing, the applicant or the committee may request a continuance consistent with division 3 of article 6.
- (6) **Decision.** After the public hearing has been closed, the committee shall approve or deny the application. The committee may render its decision at the same meeting the public hearing is conducted or at a subsequent meeting, but no later than 40 days after the public hearing.
- (7) **Preparation of decision notice.** Based on the action of the committee, the administrator shall within 15 days of such decision prepare a decision notice consistent with this division.
- (8) **Applicant notification.** Within a reasonable time following the committee's decision, the administrator shall mail the decision notice by regular mail to the property owner and to the town in which the subject property is located.
- (9) **Public record copy.** A duplicate copy of the decision notice shall be retained as a public record.
- (10) **Administrative steps.** If the application is approved, the administrator shall update any county records to indicate that the use as specified in the application has been terminated.

23.7-174 Basis of decision

The Planning and Zoning Committee in making its decision shall consider the following factors:

- (1) the nature of those buildings or other structures, if any, on the subject property that relate to the use and the extent to which they are or are not otherwise permitted in the district in which the subject property is located;
- (2) effects of the existing use on surrounding properties, including detriment to the full and complete use of such properties and potential for concerns related to possible nuisances;
- (3) effects of the existing use on the normal and orderly development and improvement of the surrounding property for those uses permitted in the zoning district in which they are located; and
- (4) any other factor that relates to the purposes of this chapter as set forth in s. 23.1-5 and other sections as may apply.

23.7-175 Application form and content

The application submittal shall include an application form as may be used by the county. The application form shall request the following information:

- (1) the subject property location;
- (2) a description of the original approval, including conditions of approval, if any;
- (3) verification that the property owner is voluntarily seeking termination of a conditional use approval or evidence supporting the assertion that the use may be involuntarily terminated consistent with this division;
- (4) a description of those buildings or other structures, if any, on the subject property that relate to the use and the extent to which they are or are not otherwise permitted in the district in which the subject property is located; and
- (5) other information deemed necessary.

23.7-176 Content of decision notice

- (a) **Approval.** If an application to terminate an approval is approved, the decision notice shall include the following:

- (1) a statement that the specified use is terminated,
- (2) a description of the land use being terminated,
- (3) findings based upon the decision criteria listed in this division,
- (4) requirements for the removal of any building or other structure, if any, on the subject property that are related to the terminated use and that are not otherwise permitted in the zoning district in which the subject property is located,
- (5) a statement that the decision may be appealed as provided for in this division,
- (6) other information the Planning and Zoning Committee or zoning administrator deems appropriate,
- (7) the signature of the administrator on behalf of the committee, and
- (8) the date of the decision.

- (b) **Denial.** If an application to terminate an approval is denied, the decision notice shall include the following:

- (1) a statement that the specified use continues to be an approved use,
- (2) a description of the land use,
- (3) findings based upon the decision criteria listed in this division,
- (4) a statement that the decision may be appealed as provided for in this division,
- (5) other information the Planning and Zoning Committee or zoning administrator deems appropriate,
- (6) the signature of the administrator on behalf of the committee; and
- (7) the date of the decision.

23.7-177 Compliance with requirements of zoning district

If the Planning and Zoning Committee terminates an approval under this division, the property owner shall bring the subject property into conformity with the permitted use regulations of the zoning district in which the property is located. The committee shall establish a timeframe it determines appropriate to bring the property into compliance. In making such determination, the committee should consider the type of actions the property owner will need to take to bring the property into compliance and weather conditions. In no event, shall the compliance period be less than 30 days or more than 9 months.

23.7-178 Appeal

The property owner or other person having a development interest in the terminated use may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 days of the final decision.

23.7-179 to 23.7-190 Reserved

DIVISION 10**RESERVED****23.7-191 TO 23.7-210 Reserved****DIVISION 11****SPECIAL EXCEPTION****Sections**

23.7-211	Generally	23.7-218	Staff report content
23.7-212	Initiation	23.7-219	Content of decision notice
23.7-213	Application and review procedure	23.7-220	Effect of approval
23.7-214	Basis of decision	23.7-221	Revocation or modification of an approval
23.7-215	Imposition of conditions	23.7-222	Expiration of approval
23.7-216	Limitation on issuing a special exception	23.7-223	Violation of a condition of approval
23.7-217	Application form and content	23.7-224	Appeal

23.7-211 Generally

Upon written petition, the Planning and Zoning Committee may on a case-by-case basis grant a special exception for those development standards specifically noted as special exceptions in this chapter.¹⁰⁷

23.7-212 Initiation

The owner of the subject property may submit an application for a special exception.

23.7-213 Application and review procedure

The general steps outlined below shall be used in the review of a special exception application.

- (1) **Submittal of application materials.** The applicant shall submit a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Board of County Supervisors.
- (2) **Staff review.** Within 30 days of submittal, the administrator shall either place the matter on the agenda for the meeting at which the matter will be considered allowing for proper public notice or make a determination that the application is incomplete and notify the applicant of any deficiencies. If the application is incomplete, the applicant has 3 months after the date of such determination to resubmit the application or forfeit the application fee. The administrator shall take no further steps to process the application until the deficiencies are remedied. The incomplete application shall be retained as a public record.
- (3) **Staff report preparation and distribution.** The administrator shall prepare a written staff report as described in this division and provide a copy of it to each member of the Planning and Zoning Committee and the applicant prior to the meeting at which the matter will be considered. The administrator shall also provide a copy to interested people upon request.
- (4) **General notice.** Consistent with division 2 of article 6, the administrator shall place the matter on the meeting agenda of the Planning and Zoning Committee.
- (5) **Meeting.** Allowing for proper notice, the committee shall consider the application at a regular or special meeting.
- (6) **Decision.** The committee shall (1) approve the application, (2) approve the application with conditions, or (3) deny the application. The committee may render its decision at the same meeting the matter was initially considered or at a subsequent meeting, but no later than 40 days after the public hearing unless the applicant agrees to an extension of a specified duration.

¹⁰⁷ Commentary: See s. 59.69(1), Wis. Stats.

- (7) **Preparation of decision notice.** Based on the action of the committee, the administrator shall within 15 days of such decision prepare a decision notice consistent with this division.
- (8) **Applicant notification.** Within a reasonable time following the committee’s decision, the administrator shall mail the decision notice to the applicant by regular mail.
- (9) **Acceptance by property owner required.** If an approval includes one or more condition of approval, the property owner shall sign the decision notice to acknowledge the imposition of such condition or conditions and return the same to the administrator. Failure to sign and return the decision notice within 45 days of the committee’s decision shall void the approval. The decision notice shall become effective upon the property owner’s signature.
- (10) **Public record copy.** A duplicate copy of the decision notice shall be retained as a public record.

23.7-214 Basis of decision

The Planning and Zoning Committee in making its decision shall consider the following factors:

- (1) the size of the property in comparison to other properties in the area;
- (2) the extent to which the issuance of the special exception permit would be in keeping with the overall intent of the this chapter;
- (3) whether there are any unique circumstances and the nature of those circumstances that warrant the issuance of the special exception permit;
- (4) the nature and extent of anticipated impacts to the natural environment that could potentially occur if the special exception permit was granted;
- (5) the nature and extent of anticipated positive and negative effects on properties in the area;
- (6) actions the applicant will undertake to mitigate the negative effects, if any, of the proposed special exception;
- (7) a factor specifically listed under a section of this chapter authorizing the issuance of a special exception permit; and
- (8) any other factor that relates to the purposes of this chapter as set forth in s. 23.1-5 and other sections as may apply.

23.7-215 Imposition of conditions

(a) **Generally.** In approving a special exception, the Planning and Zoning Committee may impose one or more conditions deemed necessary to further the intent and purposes of this chapter. Such conditions, for example, may relate to landscaping and screening, outdoor lighting, and hours of operation.

(b) **Effect on contracts with another party.** The Planning and Zoning Committee shall not condition or withhold approval based upon the property owner entering into a contract or discontinuing, modifying, extending, or renewing any contract with a third party under which the third party is engaging in a lawful use of the property.¹⁰⁸

23.7-216 Limitations on issuing a special exemption permit

A special exception shall only be approved in those instances where issuance is specifically authorized in this chapter.

23.7-217 Application form and content

The application submittal shall include an application form as may be used by the county and a site plan prepared at a scale of 1" = 20' or other appropriate scale depicting the information listed in appendix A.

23.7-218 Staff report content

The staff report shall contain the following:

- (1) a description of the requested special exception;
- (2) preliminary findings based upon the decision criteria listed in this division;

¹⁰⁸ Commentary: See s. 59.69(2)(g), Wis. Stats. The county, for example, could not require an applicant to terminate an existing contract with another party that is engaged in a lawful use of the property.

- (3) a recommendation to approve the application, approve the application with conditions, or deny the application;
- (4) a preliminary list of conditions regardless of whether the staff recommendation is for approval or denial; and
- (5) other information deemed necessary by the staff.

23.7-219 Content of decision notice

- (a) **Approval.** If an application for a special exception is approved, the decision notice shall include the following:
 - (1) a statement that the application is approved;
 - (2) a description of the special exception;
 - (3) findings based upon the decision criteria listed in this division;
 - (4) conditions of approval, if any;
 - (5) if one or more conditions of approval are imposed, a statement indicating that the property owner must sign the decision notice and return it to the zoning administrator within 45 days of such decision to acknowledge acceptance of the same;
 - (6) a statement that the applicant may appeal the decision to a court of competent jurisdiction;
 - (7) a statement that an aggrieved person, other than the applicant, may appeal the decision and that any work done by the applicant as authorized by the approval is done at the applicant's risk;
 - (8) other information the Planning and Zoning Committee or administrator deems appropriate;
 - (9) the signature of the administrator on behalf of the committee; and
 - (10) the date of the decision.
- (b) **Denial.** If an application for a special exception is denied, the decision notice shall include the following:
 - (1) a statement that the application is denied,
 - (2) a description of the special exception,
 - (3) findings based upon the decision criteria listed in this division,
 - (4) a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration,
 - (5) a statement that the decision may be appealed as provided for in this division,
 - (6) other information the Planning and Zoning Committee or zoning administrator deems appropriate,
 - (7) the signature of the administrator on behalf of the committee; and
 - (8) the date of the decision.

23.7-220 Effect of approval

If the Planning and Zoning Committee approves the special exception, such approval shall run with the land.

23.7-221 Revocation or modification of an approval

The Planning and Zoning Committee may revoke or modify the approval of a special exception if it determines that information in the application or otherwise provided by the applicant or the applicant's agent was incomplete, false, misleading, or inaccurate and such information would have altered its decision to approve the application or the conditions of approval which were or were not imposed.

23.7-222 Expiration of approval

If the zoning administrator determines that substantial work as authorized by a special exception approval did not commence within 12 months of the date of approval or if substantial work did commence within 12 months of the date of approval but has not continued in good faith to completion, he or she shall initiate the process to terminate the approval

pursuant to division 9 of this article. Upon written petition and with cause, the zoning administrator may grant a one-time extension not to exceed 6 months.

23.7-223 Violation of a condition of approval

If a property owner does not comply with one or more condition of approval such action shall be deemed a violation of this chapter.

23.7-224 Appeal

An aggrieved person may appeal a final decision of the Planning and Zoning Committee that is made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 days of the final decision.

23.7-225 to 23.7-230 Reserved

DIVISION 12 VARIANCE

Sections

23.7-231	Generally	23.7-238	Staff report content
23.7-232	Initiation	23.7-239	Content of decision notice
23.7-233	Application and review procedure	23.7-240	Effect of approval
23.7-234	Basis of decision	23.7-241	Revocation or modification of an approval
23.7-235	Limitations on issuing a variance	23.7-242	Effect of denial
23.7-236	Imposition of conditions	23.7-243	Expiration of approval
23.7-237	Application form and content	23.7-244	Appeal

23.7-231 Generally

Recognizing that there may be situations where the enforcement of a zoning regulation could cause unnecessary hardship to individual landowners, the state legislature established a mechanism to allow a county to issue a variance in those instances where a minor deviation would be appropriate to alleviate such hardship without circumventing or undermining the intent of the county's zoning regulations. This division describes the requirements and procedures for reviewing variance applications.

23.7-232 Initiation

The owner of the subject property may submit an application for a variance.

23.7-233 Application and review procedure

The general steps outlined below shall be used in the review of a variance application.

- (1) **Submittal of application materials.** The applicant shall submit a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Board of County Supervisors.
- (2) **Staff review.** Within 30 days of submittal, the administrator shall either schedule a date for the public hearing with the Board of Adjustment allowing for proper public notice or make a determination that the application is incomplete and notify the applicant of any deficiencies. If the application is incomplete, the applicant has 3 months after the date of such determination to resubmit the application or forfeit the application fee. The administrator shall take no further steps to process the application until the deficiencies are remedied. The incomplete application shall be retained as a public record.
- (3) **Distribution of application to the town.** The administrator shall provide a copy of the application to the town clerk in which the subject property is located.
- (4) **Town review.** The town board and town plan commission may review the application at a regular or special meeting.

- (5) **Town recommendation.** The town plan commission may render a recommendation to the town board and the board may render a recommendation to the Board of Adjustment based on the decision criteria contained in this division to (1) approve the variance, (2) approve the variance with conditions, or (3) deny the variance.
- (6) **General notice.** Consistent with division 2 of article 6, the administrator shall provide for class 2 public notice, an on-site sign, town notice, property owner notification, agency notification, and meeting agenda notice.
- (7) **Staff report preparation and distribution.** The administrator shall prepare a written staff report as described in this division and provide a copy to each member of the Board of Adjustment and the applicant. The administrator shall also provide a copy to interested people upon request.
- (8) **Public hearing.** Allowing for proper notice, the board shall hold a public hearing consistent with division 3 of article 6. Prior to the close of the public hearing, the applicant or the board may request a continuance consistent with division 3 of article 6. In limited circumstances, the committee may adjourn the public hearing for no more than 45 days to allow the town board to conduct its review.
- (9) **Decision.** After the public hearing has been closed, the board after considering the comments and the staff report shall make a decision based on the decision criteria contained in this division to (1) approve the variance, (2) approve the variance with conditions, (3) approve not as requested with or without conditions or (4) deny the variance. The board may render its decision at the same meeting the public hearing is conducted or at a subsequent meeting, but no later than 40 days after the public hearing.
- (10) **Preparation of decision notice.** Based on the action of the board, the administrator shall within 15 days of such decision prepare a decision notice consistent with this division.
- (11) **Applicant notification.** Within a reasonable time following the board's decision, the administrator shall mail the decision notice to the applicant by regular mail.
- (12) **Acceptance by property owner required.** If the board grants the variance with one or more condition of approval, the property owner shall sign the decision notice to acknowledge the imposition of such condition or conditions and return the same to the administrator. Failure to sign and return the decision notice within 45 days of the committee's decision shall void the approval. The decision notice shall become effective upon the property owner's signature.
- (13) **Public record copy.** A duplicate copy of the decision notice shall be retained as a public record.
- (14) **Additional procedural steps.** If the board grants the variance, the applicant shall then follow other review procedures as may be required.

23.7-234 Basis of decision

When making its decision, the Board of Adjustment shall consider each of the following standards:

- (1) The requirement in question would unreasonably prevent the property owner from using the property for a permitted purpose or would render conformity with such requirement unnecessarily burdensome and such circumstances were not self-created.
- (2) The subject property has unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in question.
- (3) The granting of the variance will not be contrary to or harm the public interest given the general purposes of the zoning regulations and the specific purposes of the requirement in question.

The board shall grant a variance only if the board can make an affirmative finding for all of the criteria listed in this section.

23.7-235 Limitations on issuing a variance

- (a) **Dimensional variance.** The following actions shall not be allowed by a dimensional variance:
 - (1) expansion of a nonconforming use (e.g., expansion of area, increase in operational characteristics, etc.), or
 - (2) modification to lot size density requirements so as to increase the permitted density or intensity of use.

(b) **Use variance.** The Board of Adjustment may not issue a use variance.¹⁰⁹

(c) **Area variance.** The Board of Adjustment may not issue an area variance (i.e. for the relief from maximum sign area and minimum/maximum floor area).

23.7-236 Imposition of conditions

In approving a variance, the Board of Adjustment may impose such conditions and restriction as may be necessary to grant approval.

23.7-237 Application form and content

The application submittal shall include an application form as may be used by the county and a project map prepared at an appropriate scale depicting the information listed in appendix A.

23.7-238 Staff report content

The staff report shall contain the following:

- (1) a summary of the comments received from the interdepartmental/agency review;
- (2) preliminary findings based upon the decision criteria listed in this division;
- (3) a preliminary list of conditions; and
- (4) other information deemed necessary by the staff.

23.7-239 Content of decision notice

(a) **Approval.** If an application for a variance is approved, the decision notice shall include the following:

- (1) a statement that the variance is approved;
- (2) a description of the variance;
- (3) findings based upon the decision criteria listed in this division;
- (4) conditions of approval, if any;
- (5) if one or more conditions of approval are imposed, a statement indicating that the property owner must sign the decision notice and return it to the zoning administrator within 45 days of such decision to acknowledge acceptance of the same;
- (6) a statement that the approval will automatically expire 12 months after the date of approval unless substantial work as authorized by the approval has commenced and continues in good faith to completion and that the Board of Adjustment may with cause grant a one-time extension not to exceed 6 months;
- (7) a statement that the applicant may appeal the decision to a court of competent jurisdiction;
- (8) a statement that an aggrieved person, other than the applicant, may appeal the decision and that any work done by the applicant as authorized by the approval is done at the applicant's risk;
- (9) other information the Board of Adjustment or zoning administrator deems appropriate; and
- (10) the date of the decision.

(b) **Denial.** If an application for a variance is denied, the decision shall include the following:

- (1) a statement that the variance request is denied,
- (2) a description of the proposed variance,
- (3) findings based upon the decision criteria listed in this division,
- (4) a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration provided there is a substantial change in the circumstances relating to the application,
- (5) a statement that the decision may be appealed as provided for in this division,

¹⁰⁹ Commentary: Although a municipality in Wisconsin may have the implicit authority to issue a use variance, Winnebago County has determined that use variances should not be issued.

- (6) other information the Board of Adjustment or zoning administrator deems appropriate; and
- (7) the date of the decision.

23.7-240 Effect of approval

An approved variance merely sets aside the rule or regulation from which relief is sought. All other rules and regulations not part of the variance decision must be followed. The variance runs with the land.

23.7-241 Revocation or modification of an approval

Following a public hearing, the Board of Adjustment may revoke or modify a variance approval if it determines that information in the application or otherwise provided by the applicant or the applicant's agent was incomplete, false, misleading, or inaccurate and such information would have altered its decision to approve the application or the conditions of approval which were or were not imposed.

23.7-242 Effect of denial

If the Board of Adjustment denies a variance application, the board may not rehear the same, or essentially the same, application unless there has been substantial change in the circumstances relating to the application.¹¹⁰

23.7-243 Expiration of approval

If the zoning administrator determines that substantial work as authorized by a variance did not commence within 12 months of the date of approval or if substantial work did commence within 12 months of the date of approval but has not continued in good faith to completion, he or she shall initiate the process to terminate the approval pursuant to division 9 of this article. Upon written petition and with cause, the Board of Adjustment may grant a one-time extension not to exceed 6 months.

23.7-244 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 days of the final decision.¹¹¹

23.7-245 to 23.7-250 Reserved

DIVISION 13 ADMINISTRATIVE APPEAL

Sections

23.7-251 Generally	23.7-254 Basis of decision
23.7-252 Initiation	23.7-255 Effect of appeal
23.7-253 Application and review procedure	23.7-256 Appeal

23.7-251 Generally

Recognizing that there may be situations where a property owner or another party believes that the zoning administrator made an error in administering a zoning code, the state legislature established a mechanism to allow a review of the alleged error by the board of adjustment. This division describes the requirements and procedures for reviewing an alleged administrative error.

23.7-252 Initiation

Any person aggrieved by a final decision of the zoning administrator may file an appeal with the Board of Adjustment consistent with this division.

23.7-253 Application and review procedure

The general steps outlined below shall be used in the review of an administrative appeal.

¹¹⁰ Commentary: See *Tateoka v City of Waukesha Bd. of Zoning Appeals*, 220 Wis.2d 656, 583 N.W. 2d 871 (Ct. App. 1998).

¹¹¹ Commentary: See s. 59.694(10), Wis. Stats.

- (1) **Submittal of appeal.** The applicant shall submit a written appeal to the county clerk within 30 days of the date of the administrative decision being appealed, except that an appeal of an interpretation issued under the authority of this chapter may be appealed at any time without limitation.
- (2) **Notification of appeal.** The county clerk shall provide a duplicate copy of the appeal to the Board of Adjustment and the zoning administrator.
- (3) **Compilation and submittal of record.** The administrator shall compile a complete and accurate record relating to the action being appealed and transmit it to the board in a timely manner, but no more than 60 days from the date a written appeal is submitted to the county clerk.
- (4) **Special notice.** The chairperson of the board shall give notice for the public hearing to the parties in interest, including the applicant and the administrator.¹¹²
- (5) **General notice.** The chairperson of the board shall provide a class 2 public notice and meeting agenda notice consistent with division 2 of article 6.
- (6) **Public hearing.** Allowing for proper notice, but no more than 45 days from the date of submittal of the record by zoning administrator, the board shall conduct a public hearing consistent with division 3 of article 6. Prior to the close of the public hearing, the applicant or the board may request a continuance consistent with division 3 of article 6.
- (7) **Decision.** After the public hearing has been closed, the board shall make a decision to affirm the administrator's decision, set aside the decision, or modify the decision. The board may render its decision at the same meeting the matter was initially considered or at a subsequent meeting, but no later than 40 days after the date of the initial meeting unless the applicant agrees to an extension of a specified duration.
- (8) **Notification of decision.** Within a reasonable time following the board's decision, the clerk shall mail the decision notice to the applicant by regular mail and provide a duplicate copy of the same to the administrator and the Planning and Zoning Committee.
- (9) **Public record copy.** A duplicate copy of the decision notice shall be retained as a public record.

23.7-254 Basis of decision

(a) **Generally.** The Board of Adjustment shall determine if the zoning administrator made an error in judgment as applied to the instance being appealed.

(b) **Historic property.** In an action involving a historic property, as defined in s. 44.31(3), Wis. Stats., the Board of Adjustment shall consider any suggested alternatives or recommendations submitted by the landmarks commission, if one has been established, or the Planning and Zoning Committee.¹¹³

23.7-255 Effect of appeal

An appeal shall stay all legal proceedings in furtherance of the action from which the appeal is made, unless the zoning administrator certifies in writing to the Board of Adjustment that a stay would, in his or her opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the board or by a court of record on application, with notice to the administrator from whom appeal is made.

23.7-256 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 days of the final decision.¹¹⁴

23.7-257 to 23.7-270 Reserved

¹¹² Commentary: See s. 59.694(6), Wis. Stats.

¹¹³ Commentary: See s. 59.694(6), Wis. Stats.

¹¹⁴ Commentary: See s. 59.694(10), Wis. Stats.

DIVISION 14

ZONING PERMIT

Sections

23.7-271 Permit required	23.7-275 Posting of permit
23.7-272 Initiation	23.7-276 Expiration of approval
23.7-273 Application and review procedure	23.7-277 Appeal
23.7-274 Basis of decision	23.7-278 Permit Revisions

23.7-271 Permit required

(a) **New development.** No structure associated with a land use listed in the land use matrix under s. 23.8-41 shall be established, expanded, located, erected, moved, reconstructed, enlarged, extended, converted, or structurally altered without a zoning permit, except those specifically exempted in that section.

(b) **Change in use.** No existing building or structure may be occupied by a use allowed in a different zoning district without a zoning permit, unless a conditional use has been granted approving the use of the building or structure.

23.7-272 Initiation

The owner of the subject property may submit an application for a zoning permit.

23.7-273 Application and review procedure

The general steps outlined below shall be used in the review of an application for a zoning permit.

- (1) **Submittal of application materials.** The applicant shall submit a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Board of County Supervisors.
- (2) **Staff review.** Within 30 days of submittal, the administrator shall either determine that the application is incomplete and notify the applicant, in writing, of any deficiencies or make a decision based on the decision criteria contained in this division to (1) approve the application, (2) approve the application with conditions, or (3) deny the application. The administrator shall take no further steps to process the application until the deficiencies are remedied. The incomplete application shall be retained as a public record.
- (3) **Applicant notification.** Within a reasonable time following his or her decision to approve or deny the application, the administrator shall mail the decision notice to the applicant by regular mail.
- (4) **Public record copy.** A duplicate copy of the decision notice shall be retained as a public record.

23.7-274 Basis of decision

In determining whether to issue a zoning permit or deny the permit, the zoning administrator shall determine whether the proposed use is consistent with this chapter and other parts of the general code of Winnebago County.

23.7-275 Posting of permit

If a zoning permit authorizes construction of any character, such permit shall be posted continuously at the construction site during the period of construction. The permit shall be posted in a conspicuous manner, unobstructed from public view, and not more than 10 feet above the grade.

23.7-276 Expiration of approval

(a) **New development.** For new development, a zoning permit shall automatically expire 12 months after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion. Upon petition and with cause, the zoning administrator may grant a one-time extension not to exceed 6 months provided (1) the permit holder requests the extension prior to the expiration of the permit, (2) the permit holder clearly demonstrates that circumstances beyond his or her control prevented the start of construction and the continuation of the same, and (3) the project complies with this chapter in effect at the time the extension is granted.

(b) **Change in use.** For a change in use, the zoning permit shall automatically expire 6 months after the date of issuance if the applicant does not move into the vacant space.

23.7-277 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an administrative appeal with the Board of Adjustment within 30 days of the final decision.

23.7-278 Permit Revisions

Zoning Permit may be revised up to six (6) months after the date of issuance at a reduced fee, as specified by the established fee schedule, for the purpose of adding a structure (i.e. deck, fence, accessory building). After the six month period the full permit fee shall be required. A new zoning permit application and site plan must be submitted for the revision.

23.7-279 to 23.7-290 Reserved

**DIVISION 15
TEMPORARY USE PERMIT**

Sections

23.7-291	Permit required	23.7-295	Posting of permit
23.7-292	Initiation	23.7-296	Duration of approval
23.7-293	Application and review procedure	23.7-297	Recurring temporary uses
23.7-294	Basis of decision	23.7-298	Location

23.7-291 Permit required

No temporary use as specified in the land use matrix under s. 23.8-41 shall be established without a temporary use permit.

23.7-292 Initiation

The owner of subject property may submit an application for a temporary use permit. An agent for the property owners or temporary use may submit an application for multiple properties provided written permission is granted by each property owner for such application.

23.7-293 Application and review procedure

The general steps outlined below shall be used in the review of an application for a temporary use permit.

- (1) **Submittal of application materials.** The applicant shall submit a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Board of County Supervisors.
- (2) **Staff review.** Within 30 days of submittal, the administrator shall either determine that the application is incomplete and notify the applicant, in writing, of any deficiencies or make a decision based on the decision criteria contained in this division to (1) approve the application, (2) approve the application with conditions, or (3) deny the application. The administrator shall take no further steps to process the application until the deficiencies are remedied. The incomplete application shall be retained as a public record.
- (3) **Applicant notification.** Within a reasonable time following his or her decision to approve or deny the application, the administrator shall mail the decision notice to the applicant by regular mail.
- (4) **Public record copy.** A duplicate copy of the decision notice shall be retained as a public record.

23.7-294 Basis of decision

In determining whether to issue a temporary use permit or deny the permit, the zoning administrator shall determine whether the proposed use is consistent with this chapter and other parts of the general code of Winnebago County.

23.7-295 Posting of permit

Such permit shall be posted continuously at the site for the duration of the use. The permit shall be posted in a conspicuous manner, unobstructed from the public view, and not more than 10 feet above the grade.

23.7-296 Duration of approval

The duration of the permit shall be that time frame as specified on the permit.

23.7-297 Recurring temporary uses

Temporary uses for recurring events shall be reapproved annually. If there are no changes to the proposed use or location the site plan and plan of operation from a previous event may be reused. The zoning administrator may amend the conditions of approval or deny the application to address concerns from previous event approvals.

23.7-298 Location

A temporary use application may be submitted for multiple parcels housing a temporary use. The application must include a signature from a property owner of each tax parcel included on the request. Setbacks, when required, shall be measured from the exterior boundary of the parcels included in the request.

23.7-299 to 23.7-310 Reserved

**DIVISION 16
SITE AND OPERATION PLAN**

Sections

23.7-311 Generally	23.7-318 Effect of approval
23.7-312 Initiation	23.7-319 Revocation or modification of an approval
23.7-313 Application and review procedure	23.7-320 Expiration of approval
23.7-314 Basis of decision	23.7-321 Amendment of an approved site and operation plan
23.7-315 Imposition of conditions	23.7-322 Appeal
23.7-316 Application form and content	
23.7-317 Content of decision notice	

23.7-311 Generally

Because certain land uses have the potential to negatively affect properties in the area they must be reviewed with regard to the layout of such use and operational characteristics of such use. This division describes the procedural requirements and applicable requirements.

23.7-312 Initiation

The owner of the subject property may submit a site and operation plan application.

23.7-313 Application and review procedure

(a) **Initial review.** The general steps outlined below shall be used in the review of a site and operation plan application.

- (1) **Pre-submittal meeting.** Before submitting an application, the applicant or the applicant's agent may meet with the zoning administrator to review applicable regulations and procedures and the proposal.
- (2) **Submittal of application materials.** The applicant shall submit a completed application and other required materials to the administrator along with the application fee as may be established by the Board of County Supervisors.
- (3) **Staff review.** Within 30 days of submittal, the administrator shall either determine that the application is incomplete and notify the applicant, in writing, of any deficiencies or make a decision based on the decision criteria contained in this division to (1) approve the application, (2) approve the application with conditions, or (3) deny the application. If the application is deemed incomplete, the applicant has 30 days after the date of such determination to resubmit the application or forfeit the application fee. The administrator shall take no further steps to process the application until the deficiencies are remedied. The incomplete application shall be retained as a public record.
- (4) **Preparation of decision notice.** The administrator shall within 15 days of such decision prepare a decision notice consistent with this division.

- (5) **Applicant notification.** Within a reasonable time following his or her decision to approve or deny the application, the administrator shall mail the decision notice to the applicant by regular mail.
- (6) **Public record copy.** A duplicate copy of the decision notice shall be retained as a public record.

(b) **Review by Planning and Zoning Committee upon appeal.** If a final decision of the zoning administrator is appealed as provided for in this division, the general steps outlined below shall be used in the review of a site and operation plan application.

- (1) **Submittal of application materials.** The zoning administrator shall forward the application and other required materials the applicant initially submitted to the Planning and Zoning Committee along with his or her decision notice.
- (2) **General notice.** Consistent with division 2 of article 6, the administrator shall place the matter on the meeting agenda of the committee.
- (3) **Meeting.** Allowing for proper notice, the committee shall consider the application at a regular or special meeting.
- (4) **Decision.** The committee shall (1) approve the application, (2) approve the application with conditions, or (3) deny the application. The committee may render its decision at the same meeting the matter was initially considered or at a subsequent meeting, but no later than 40 days after the date of the initial meeting unless the applicant agrees to an extension of a specified duration.
- (5) **Preparation of decision notice.** Based on the action of the committee, the administrator shall within 15 days of such decision prepare a decision notice consistent with this division.
- (6) **Applicant notification.** Within a reasonable time following the committee's decision, the administrator shall mail the decision notice to the applicant by regular mail.
- (7) **Public record copy.** A duplicate copy of the decision notice shall be retained as a public record.

23.7-314 Basis of decision

The zoning administrator in making his or her decision or the Planning and Zoning Committee on appeal shall consider the following factors:

- (1) effects of the project on traffic safety and efficiency and pedestrian circulation, both on-site and off-site;
- (2) effects of the project on the natural environment;
- (3) effects of the project on surrounding properties, including operational considerations relating to hours or operation and creation of potential nuisances;
- (4) compliance with other applicable requirements contained in this chapter; and
- (5) any other factor that relates to the purposes of this chapter as set forth in s. 23.1-5 and other sections as may apply.

23.7-315 Imposition of conditions

The zoning administrator may impose one or more conditions of approval as may be necessary to grant approval. Such conditions and restrictions may relate to the establishment, location, construction, maintenance, operation of the use, off-site impacts, and any other aspect of the use that impacts the public health, safety, morals, comfort, or general welfare.

23.7-316 Application form and content

The application submittal shall include a completed application form as used by the county and a site plan prepared at a scale of 1" = 20' or other appropriate scale depicting the information listed in appendix A.

23.7-317 Content of decision notice

(a) **Approval.** If an application for a site and operation plan is approved, the decision notice shall include the following:

- (1) a statement that the application is approved;
- (2) a description of the project, including acreage and proposed use characteristics;

- (3) findings based upon the decision criteria listed in this division;
 - (4) conditions of approval, if any;
 - (5) if one or more conditions of approval are imposed, a statement indicating that the property owner must sign the decision notice and return it to the zoning administrator within 45 days of such decision to acknowledge acceptance of the same;
 - (6) a statement that the approval will automatically expire 12 months after the date of approval unless substantial work as authorized by the approval has commenced and continues in good faith to completion and that the zoning administrator may with cause grant a one-time extension not to exceed 6 months;
 - (7) a statement that the applicant may appeal the decision to the Planning and Zoning Committee if issued by the zoning administrator and to a court of competent jurisdiction if issued by the Planning and Zoning Committee upon appeal;
 - (8) a statement that an aggrieved person, other than the applicant, may appeal the decision to the Planning and Zoning Committee if issued by the zoning administrator and to a court of competent jurisdiction if issued by the Planning and Zoning Committee upon appeal, and that any work done by the applicant as authorized by the approval is done at the applicant's risk;
 - (9) other information the administrator deems appropriate;
 - (10) the signature of the administrator; and
 - (11) the date of the decision.
- (b) **Denial.** If an application for a site and operation plan is denied, the decision notice shall include the following:
- (1) a statement that the application is denied;
 - (2) a description of the project, including acreage and proposed use characteristics;
 - (3) findings based upon the decision criteria listed in this division;
 - (4) a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration;
 - (5) a statement that the applicant may appeal the decision to the Planning and Zoning Committee if issued by the zoning administrator and to a court of competent jurisdiction if issued by the Planning and Zoning Committee upon appeal;
 - (6) other information the zoning administrator deems appropriate;
 - (7) the signature of the administrator; and
 - (8) the date of the decision.

23.7-318 Effect of approval

If the zoning administrator approves the site and operation plan, the approval shall run with the land and be binding on all subsequent property owners.

23.7-319 Revocation or modification of an approval

The zoning administrator may revoke or modify an approval if he or she determines that information in the application or otherwise provided by the applicant or the applicant's agent was incomplete, false, misleading, or inaccurate and such information would have altered his or her decision to approve the application or the conditions of approval which were or were not imposed.

23.7-320 Expiration of approval

The approval of a site and operation plan shall automatically expire 12 months after the date of issuance unless substantial work as authorized by the approval has commenced and continues in good faith to completion. Upon written petition and with cause, the zoning administrator may grant a one-time extension not to exceed 6 months.

23.7-321 Amendment of an approved site and operation plan

Following approval of a site and operation plan, the zoning administrator shall review all proposed changes to the approval. If in the opinion of the administrator, the proposed change constitutes a minor alteration, he or she may approve the requested change in writing without following the application and review procedure in this division. If the proposed change constitutes a major alteration, the application and review procedure shall be followed.

23.7-322 Appeal

An aggrieved person may appeal the final decision of the zoning administrator that is made pursuant to this division by filing an appeal with a Planning and Zoning Committee within 30 days of the final decision. Following the final decision of the committee, an aggrieved person may appeal such decision to a court of competent jurisdiction within 30 days of such decision.

23.7-323 to 23.7-330 Reserved**DIVISION 17****RURAL ACCESSORY BUILDING DETERMINATION****Sections**

23.7-331 Generally	23.7-337 Staff report content
23.7-332 Initiation	23.7-338 Content of decision notice
23.7-333 Application and review procedure	23.7-339 Effect of approval
23.7-334 Basis of decision	23.7-340 Revocation or modification of an approval
23.7-335 Imposition of conditions	23.7-341 Appeal
23.7-336 Application form and content	

23.7-331 Generally

As more fully described in this division, the Planning and Zoning Committee is authorized to designate certain qualifying accessory buildings as a “rural accessory building” in those zoning districts listed in Exhibit 8-1. If a building is so designated, it is not counted towards the allowable number of accessory buildings permitted on a lot or towards the allowable building square footage permitted on a lot. This division describes the procedures and requirements for a rural accessory building determination.

23.7-332 Initiation

The owner of the subject property may submit an application for a rural accessory building determination.

23.7-333 Application and review procedure

(a) **Initial application.** The general steps outlined below shall be used in the review of a rural accessory building determination application.

- (1) **Pre-submittal meeting.** Before submitting an application for formal consideration, the applicant or the applicant's agent may meet with the zoning administrator to review applicable regulations and procedures and the proposal.
- (2) **Submittal of application materials.** The applicant shall submit a completed application and other required materials to the administrator along with the application fee as may be established by the Board of County Supervisors.
- (3) **Staff review.** Within 30 days of submittal, the administrator shall either place the matter on the agenda for the meeting at which the matter will be considered or determine that the application is incomplete and notify the applicant, in writing, of any deficiencies. If the application is deemed incomplete, the applicant has 30 days after the date of such determination to resubmit the application or forfeit the application fee. The administrator shall take no further steps to process the application until the deficiencies are remedied. The incomplete application shall be retained as a public record.

- (4) **Staff report preparation and distribution.** The administrator shall prepare a written staff report as described in this division and provide a copy of it to each member of the Planning and Zoning Committee. The administrator shall also provide a copy to interested people upon request.
- (5) **Meeting.** Allowing for proper notice, the committee shall consider the application at a regular or special meeting.
- (6) **Decision.** The committee shall make a decision based on the decision criteria contained in this division to (1) approve the application, (2) approve the application with conditions, or (3) deny the application.
- (7) **Preparation of decision notice.** The administrator shall within 15 days of such decision prepare a decision notice consistent with this division.
- (8) **Applicant notification.** Within a reasonable time following the committee's decision, the administrator shall mail the decision notice to the applicant by regular mail.
- (9) **Acceptance by property owner required.** If an approval includes one or more condition of approval, the property owner shall sign the decision notice to acknowledge the imposition of such condition or conditions and return the same to the administrator. Failure to sign and return the decision notice within 45 days of the committee's decision shall void the approval. The decision notice shall become effective upon the property owner's signature.
- (10) **Public record copy.** A duplicate copy of the decision notice shall be retained as a public record.

(b) **Review by Board of Adjustment upon appeal.** If a final decision of the Planning and Zoning Committee is appealed as provided for in this division, the general steps outlined below shall be used in the review of a rural accessory building determination application.

- (1) **Submittal of application materials.** The zoning administrator shall forward the application the applicant initially submitted to the Board of Adjustment along with his or her decision notice.
- (2) **General notice.** Consistent with division 2 of article 6, the administrator shall place the matter on the meeting agenda of the board.
- (3) **Meeting.** Allowing for proper notice, the board shall consider the application at a regular or special meeting.
- (4) **Decision.** The board shall (1) approve the application, (2) approve the application with conditions, or (3) deny the application. The board may render its decision at the same meeting the matter was initially considered or at a subsequent meeting, but no later than 40 days after the date of the initial meeting unless the applicant agrees to an extension of a specified duration.
- (5) **Preparation of decision notice.** Based on the action of the board, the administrator shall within 15 days of such decision prepare a decision notice consistent with this division.
- (6) **Applicant notification.** Within a reasonable time following the board's decision, the administrator shall mail the decision notice to the applicant by regular mail.
- (7) **Acceptance by property owner required.** If an approval includes one or more condition of approval, the property owner shall sign the decision notice to acknowledge the imposition of such condition or conditions and return the same to the administrator. Failure to sign and return the decision notice within 45 days of the board's decision shall void the approval. The decision notice shall become effective upon the property owner's signature.
- (8) **Public record copy.** A duplicate copy of the decision notice shall be retained as a public record.

23.7-334 Basis of decision

In making their decision, the Planning and Zoning Committee, and the Board of Adjustment on appeal, shall initially determine whether the building meets at least one of the following criteria:

- (1) The building is set apart from other buildings as being distinct, due to its construction technique, construction materials, age, local historic significance, or design.
- (2) The building is characteristic of past agricultural practices or rural life, whether presently utilized or not for agricultural practice.
- (3) The building is associated with a person of historic significance or with important historical events.
- (4) The building represents a notable work of a master builder, designer, or architect who influenced their age.

If the committee (board) determines that the building meets one of the above criteria, the committee (the board) shall then consider, at a minimum, the following factors in making their final decision:

- (1) effects of the building on the natural environment,
- (2) effects of the building on surrounding properties,
- (3) the overall appearance of the building; and
- (4) any other factor that relates to the purposes of this chapter as set forth in s. 23.1-5 and other sections as may apply.

Any building designated a rural accessory building is assumed to be structurally sound to meet minimum safety requirements for the proposed use. Such determination shall not relieve the property owner of any responsibility or liability as to the building and shall not form a basis of liability against any governmental official or entity.

Exhibit 7-1 An example of a rural accessory building

**23.7-335 Imposition of conditions**

The committee (board) may impose one or more conditions of approval as may be necessary to grant approval.

23.7-336 Application form and content

The application submittal shall include an application form as may be used by the county and a site plan prepared at a scale of 1" = 20' or other appropriate scale depicting the information listed in appendix A.

23.7-337 Staff report content

The staff report shall contain the following:

- (1) a description of the requested rural accessory building determination;
- (2) preliminary findings based upon the decision criteria listed in this division;
- (3) a recommendation to approve the application, approve the application with conditions, or deny the application
- (4) a preliminary list of conditions regardless of whether the staff recommendation is for approval or denial; and
- (5) other information deemed necessary by the staff.

23.7-338 Content of decision notice

(a) **Approval.** If an application for a rural accessory building determination is approved, the decision notice shall include the following:

- (1) a statement that the application is approved;
- (2) a description of the building or buildings;
- (3) findings based upon the decision criteria listed in this division;
- (4) conditions of approval, if any;

- (5) if one or more conditions of approval are imposed, a statement indicating that the property owner must sign the decision notice and return it to the zoning administrator within 45 days of such decision to acknowledge acceptance of the same;
- (6) a statement that the applicant may appeal the decision to the Planning and Zoning Committee if issued by the zoning administrator and to a court of competent jurisdiction if issued by the Planning and Zoning Committee upon appeal;
- (7) a statement that an aggrieved person, other than the applicant, may appeal the decision to the Planning and Zoning Committee if issued by the zoning administrator and to a court of competent jurisdiction if issued by the Planning and Zoning Committee upon appeal, and that any work done by the applicant as authorized by the approval is done at the applicant's risk;
- (8) other information the zoning administrator deems appropriate;
- (9) the signature of the administrator; and
- (10) the date of the decision.

(b) **Denial.** If an application for a rural accessory building determination is denied, the decision notice shall include the following:

- (1) a statement that the application is denied,
- (2) a description of the building or buildings,
- (3) findings based upon the decision criteria listed in this division,
- (4) a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration,
- (5) a statement that the applicant may appeal the decision to the Planning and Zoning Committee if issued by the administrator and to a court of competent jurisdiction if issued by the committee upon appeal,
- (6) other information the zoning administrator deems appropriate,
- (7) the signature of the administrator; and
- (8) the date of the decision.

23.7-339 Effect of approval

If the zoning administrator designates a building as a rural accessory building, such designation shall run with the land.

23.7-340 Revocation or modification of an approval

The zoning administrator may revoke or modify an approval if he or she determines that information in the application or otherwise provided by the applicant or the applicant's agent was incomplete, false, misleading, or inaccurate and such information would have altered his or her decision to approve the application or the conditions of approval which were or were not imposed.

23.7-341 Appeal

An aggrieved person may appeal the decision of the Planning and Zoning Committee that is made pursuant to this division by filing an appeal with the Board of Adjustment within 30 days of the final decision. Following the final decision of the board, an aggrieved person may file an appeal with a court of competent jurisdiction within 30 days of such decision.

23.7-342 to 23.7-350 Reserved

DIVISION 18

REGISTRATION OF A NONCONFORMING USE

Sections

23.7-351	Generally	23.7-356	Content of decision notice
23.7-352	Initiation	23.7-357	Effect of decision
23.7-353	Application and review procedure	23.7-358	Revocation or modification of a prior approval
23.7-354	Basis of decision	23.7-359	Appeal
23.7-355	Application form and content		

23.7-351 Generally

There may be now or in the future certain uses of land that are not in compliance with this chapter, but which were legally established. These uses are referred to as “nonconforming uses,” and consistent with the provisions of article 13 are allowed to continue to operate. For this reason, it is necessary to document those uses that are considered nonconforming. Registration of a use as a nonconforming use provides documentary evidence establishing when the use was first established; that the use at the time of establishment was done so consistent with the rules and regulations in effect at the time, if any; that it has continued continuously, without cessation of more than 12 continuous months; and the nature of the use.

23.7-352 Initiation

Any of the following may submit an application to register a specific land use as a nonconforming use:

- (1) a person having a financial interest in the property or in the use occurring on the property;
- (2) the zoning administrator;
- (3) the corporation counsel for Winnebago County;
- (4) the town board of any town in which this chapter is in effect;
- (5) the Planning and Zoning Committee, or any member thereof; or
- (6) the Board of County Supervisors, or any member thereof.

23.7-353 Application and review procedure

(a) **Initial review.** The general steps outlined below shall be used in the review of an application for the registration of a nonconforming use.

- (1) **Submittal of application materials.** The applicant shall submit a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Board of County Supervisors.
- (2) **Initial general notice.** The administrator shall provide for class 1 public notice, town notice, and property owner notice consistent with division 2 of article 6 if he or she determines that a public hearing should be held based on information known at that time. If the administrator determines that a public hearing is not warranted, he or she shall only provide town notice and property owner notice consistent with division 2 of article 6.
- (3) **Option to reverse decision to conduct a public hearing.** If the administrator initially determines that a public hearing is not warranted, he or she may subsequently decide to conduct a public hearing after considering input received from the public and other interested parties. If the administrator decides to conduct a public hearing, he or she shall provide class 1 public notice, town notice, and property owner notice consistent with division 2 of article 6.
- (4) **Decision.** The administrator shall determine whether there is sufficient evidence to show that the use meets the decision criteria established in this division.

- (5) **Preparation of decision notice.** The administrator shall within 15 days of such decision prepare a decision notice consistent with this division.
- (6) **Applicant notification.** Within a reasonable time following his or her decision, the administrator shall mail the decision notice to the applicant by regular mail.
- (7) **Public record copy.** A duplicate copy of the decision notice shall be retained as a public record.
- (8) **Inclusion in registry.** If the application is approved, the administrator shall include the nonconforming use in the registry authorized in article 13.

(b) **Review by Planning and Zoning Committee upon appeal.** If a final decision of the zoning administrator is appealed as provided for in this division, the general steps outlined below shall be used in the review of an application for the registration of a nonconforming use.

- (1) **Submittal of application materials.** The zoning administrator shall forward the application and other required materials the applicant initially submitted to the Planning and Zoning Committee along with his or her decision notice.
- (2) **General notice.** Consistent with division 2 of article 6, the administrator shall place the matter on the meeting agenda of the committee.
- (3) **Meeting.** Allowing for proper notice, the committee shall consider the application at a regular or special meeting.
- (4) **Decision.** The committee shall (1) approve the application, (2) approve the application with conditions, or (3) deny the application. The committee may render its decision at the same meeting the matter was initially considered or at a subsequent meeting, but no later than 40 days after the date of the initial meeting unless the applicant agrees to an extension of a specified duration.
- (5) **Preparation of decision notice.** Based on the action of the committee, the administrator shall within 15 days of such decision prepare a decision notice consistent with this division.
- (6) **Applicant notification.** Within a reasonable time following the committee's decision, the administrator shall mail the decision notice to the applicant by regular mail.
- (7) **Public record copy.** A duplicate copy of the decision notice shall be retained as a public record.
- (8) **Inclusion in registry.** If the application is approved, the administrator shall include the nonconforming use in the registry authorized in article 13.

23.7-354 Basis of decision

In making his or her decision, the zoning administrator shall determine whether there is sufficient evidence to show that (1) the use in question was legally established; (2) such use does not now comply with one or more of the requirements of this chapter; and (3) such use has continued from the date, or approximate date, of establishment to the current date without an interruption of more than 12 continuous months.

23.7-355 Application form and content

The application submittal shall include an application form as may be used by the county and scaled drawing of the property and the location of the land use on the property. At a minimum, the application shall request the following information:

- (1) the date, or approximate date, the use was first established or believed to be first established;
- (2) evidence showing that the use at the time of establishment was legally established;
- (3) the date, or approximate date, when the use became nonconforming;
- (4) the section of the zoning regulation causing the use to be nonconforming;
- (5) evidence showing that the use has continued from the date, or approximate date, of establishment to the current date without an interruption of more than 12 continuous months; and
- (6) the nature of the use and location on the property.

Sources of such information may be derived from any of the following:

- (1) written document (e.g., business license, meeting minutes, reports, planning documents, or a permit or other authorization) maintained by a local, state, or federal governmental body;
- (2) a newspaper article;
- (3) a dated photograph;
- (4) an aerial photograph;
- (5) a sworn affidavit supplied by the applicant or any other person; and
- (6) any other authoritative source as approved by the zoning administrator.

23.7-356 Content of decision notice

(a) **Approval.** If an application for registering a nonconforming use is approved, the decision notice shall include the following:

- (1) a statement that the application is approved,
- (2) a description of the use,
- (3) findings based upon the decision criteria listed in this division,
- (4) a statement that the applicant may appeal the decision to the Planning and Zoning Committee if issued by the zoning administrator and to a court of competent jurisdiction if issued by the Planning and Zoning Committee upon appeal,
- (5) other information the zoning administrator deems appropriate,
- (6) the signature of the administrator; and
- (7) the date of the decision.

(b) **Denial.** If an application for registering a nonconforming use is denied, the decision notice shall include the following:

- (1) a statement that the application is denied,
- (2) a description of the use,
- (3) findings based upon the decision criteria listed in this division,
- (4) a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration,
- (5) a statement that the applicant may appeal the decision to the Planning and Zoning Committee if issued by the zoning administrator and the Board of Adjustment if issued by the Planning and Zoning Committee upon appeal,
- (6) other information the zoning administrator deems appropriate,
- (7) the signature of the administrator; and
- (8) the date of the decision.

23.7-357 Effect of decision

If the zoning administrator or the Planning and Zoning Committee upon appeal determines that a land use meets the criteria for a nonconforming use, such decision constitutes documentary evidence establishing the legitimacy of the use as a nonconforming use.

23.7-358 Revocation or modification of a prior approval

The Planning and Zoning Committee may revoke or modify an approval issued pursuant to this division if it is determined that (1) information in the application or otherwise provided by the applicant or the applicant's agent was incomplete, false, misleading, or inaccurate; (2) new or additional information shows the use does not meet the decision criteria established in this division; or (3) the section of the general code of Winnebago County creating the nonconforming use no longer exists.

23.7-359 Appeal

An aggrieved person may appeal a final decision of the zoning administrator that is made pursuant to this division by filing an appeal with the Planning and Zoning Committee. Following the final decision of the committee, an aggrieved person may file an administrative appeal with the Board of Adjustment within 30 days of such decision.

23.7-360 to 23.7-370 Reserved

**DIVISION 19
CODE INTERPRETATION**

Sections

23.7-371 Generally	23.7-377 Interpretation content
23.7-372 Initiation	23.7-378 Repeal or revision of an interpretation
23.7-373 Responsibility for interpretation	23.7-379 Effect of an interpretation
23.7-374 Limitations on interpretations	23.7-380 Compilation of interpretations
23.7-375 Application and review procedure	23.7-381 Appeal
23.7-376 Basis of decision	

23.7-371 Generally

From time to time, there may be instances where a person may have a question concerning a provision of this chapter or the application of a provision of this chapter. To ensure this chapter is consistently interpreted, a mechanism is needed to issue written interpretations. This division describes the procedures and requirements to issue such interpretations.

23.7-372 Initiation

Any person, including the zoning administrator, may submit a question for interpretation.

23.7-373 Responsibility for interpretation

The zoning administrator shall be responsible for rendering a written interpretation.

23.7-374 Limitations on interpretations

The responsibility for interpretation shall not be construed as overriding the responsibilities specifically given to any commission, board, or official named in other parts of this chapter.

23.7-375 Application and review procedure

The general steps outlined below shall be used to render an interpretation.

- (1) **Submittal of question.** The individual requesting the interpretation shall submit the question in writing to the zoning administrator and the application fee as may be established by the Board of County Supervisors.
- (2) **Decision.** In consultation with the county's corporation counsel, the administrator shall make a written decision within 30 business days of receiving the request.
- (3) **Notification of decision.** Within a reasonable time following completion of his or her interpretation, the administrator shall mail a duplicate copy of the interpretation by regular mail to the individual requesting the interpretation and provide a copy of the same to the Planning and Zoning Committee, the corporation counsel for Winnebago County, and those county employees involved in the administration of this chapter, as appropriate.
- (4) **Public record copy.** A duplicate copy of the interpretation shall be retained as a public record.

23.7-376 Basis of decision

In consultation with the county's corporation counsel and others as appropriate, the zoning administrator shall evaluate the section of this chapter in question and those which are related, consider the purposes of this chapter as set forth in s. 23.1-5 and other sections as may apply, consider applicable legislative findings enumerated in this chapter, and consider other

applicable interpretations that have previously been made and make a decision consistent with this division giving this chapter its most reasonable application. If the administrator cannot make a reasonable interpretation, he or she shall make such a determination.

23.7-377 Repeal or revision of an interpretation

The zoning administrator or the Planning and Zoning Committee may rescind or modify an interpretation if such interpretation is deemed to be incorrect in whole or in part.

23.7-378 Interpretation content

An interpretation shall be in writing and contain the following:

- (1) the name of the person posing the question,
- (2) the section number of this chapter in question,
- (3) the question or alleged ambiguity,
- (4) the factors that were considered in making the interpretation,
- (5) the interpretation,
- (6) other information the zoning administrator deems appropriate,
- (7) the signature of the administrator; and
- (8) the date of decision.

23.7-379 Effect of interpretation

An interpretation once rendered shall have full effect as if set forth in this chapter. Where appropriate, interpretations should be addressed through the amendment process. If the administrator determines that he or she is not able to make a reasonable interpretation, such decision shall not affect the validity of any section of this chapter.

23.7-380 Compilation of interpretations

The zoning administrator shall keep a written record of all interpretations in effect and make them available for public inspection.

23.7-381 Appeal

An aggrieved person may, without time constraint, appeal an interpretation made pursuant to this division by filing an administrative appeal with the Board of Adjustment as provided for in this article.

ARTICLE 8 LAND USE

Divisions

1. General provisions	8. Reserved
2. Zoning districts and zoning map	9. Special standards for principal land uses
3. Allowable land uses	10. Special standards for accessory land uses
4. Dimensional and related standards	11. Special standards for temporary land uses
5. General standards	12. Microwave radio path overlay district
6. Reserved	13. Surface water drainageway overlay district
7. Reserved	

DIVISION 1 GENERAL PROVISIONS

Sections

23.8-1	Legislative findings	
23.8-2	Purpose	

23.8-1 Legislative findings

The Board of County Supervisors makes the following legislative findings:

- (1) The use of land in the county has a direct bearing on the public health, safety, and welfare.
- (2) Standards are needed to ensure that new development is done in a coordinated manner.
- (3) The provisions contained in this article are adopted consistent with state statutes.
- (4) Each parcel of land in the county is intended to have a zoning designation.
- (5) In some instances, state and federal law limit the county's ability to regulate certain land uses.

23.8-2 Purpose

This article promotes the public health, safety, and welfare and is intended to:

- (1) promote a sound development pattern by separating the county into various districts where each has uniformly applicable development standards;
- (2) separate incompatible land uses to the greatest extent possible;
- (3) encourage the most appropriate use of land throughout the county;
- (4) regulate and restrict the erection, construction, reconstruction, alteration, repair, and use of buildings, structures, and land;
- (5) provide for a variety of housing options;
- (6) allow different, but compatible land uses (i.e., mixed uses) to occur in specified areas of the county;
- (7) avoid, or, as a less preferred alternate, minimize congestion; and
- (8) avoid, or, as a less preferred alternate, minimize environmental degradation; and
- (9) preserve prime agricultural lands and stabilize the economic base of farming in the County as well as to allow for needed urban expansion.

23.8-3 to 23.8-20 Reserved

DIVISION 2

ZONING DISTRICTS AND ZONING MAP

Sections

23.8-21	Generally	23.8-25	Continued effect of this chapter on annexed land
23.8-22	Establishment and purpose of zoning districts		
23.8-23	Necessity of zoning district designation	23.8-26	Zoning map
23.8-24	Effect of boundary line relocation on zoning designation		

23.8-21 Generally

The county is divided into a number of base zoning districts so that each parcel of land is located in at least one district. For each of these districts, appropriate types of land uses are identified along with development standards when applicable. In addition to these zoning districts, overlay districts are established to accomplish specific purposes not generally applicable to the entire base district. Where the requirements of a base district and overlay district conflict, the most restrictive applies. The zoning map depicts the location of the base districts used in this chapter along with some of the overlay districts as may be appropriate.

23.8-22 Establishment and purpose of zoning districts

(a) **Base zoning districts.** Recognizing that different areas of the county serve unique functions, the county is divided into a number of base zoning districts. Even though some of the districts may share similar characteristics, they possess one or more unique qualities that set them apart from the other districts. Although these districts may not now possess each of the attributes in these descriptions, it is intended that as land uses change over time they more closely reflect the intended uses. Uses are allowed in the various districts consistent with the development standards in this article and development limitations as described in s. 23.8-49. The base districts are as follows:

- (1) **Agribusiness (A-1) district.** This district is intended to accommodate large-scale agricultural uses and related support services. It includes those areas of the county where productive agricultural lands predominate and can be used for the production of forest products, crops, and livestock, including large livestock operations. Because the primary intent of this district is agricultural production, incompatible urban uses are not permitted. It is designed to meet the requirements of a certified farmland preservation zoning ordinance under ch. 91, Wis. Stats.
- (2) **General agriculture (A-2) district.** This district is intended to accommodate both large and small-scale farms and hobby farms. Although scattered residential lots are allowed, agriculture is the predominant land use. This district should be located in those areas suitable for agriculture, but not for large-scale agricultural operations, and adjacent to urbanizing areas.
- (3) **Rural residential (R-1) district.** This district is intended to accommodate single-family residences on scattered lots to foster and maintain the rural character and lifestyle of the surrounding area. Lots are generally served by on-site wastewater treatment systems.
- (4) **Suburban residential (R-2) district.** This district is intended to accommodate low- and medium-density residential lots in a duly recorded and legally maintained subdivision. This district provides a “suburban” arrangement of amenities, services, and facilities. Lots are connected to a public sanitary sewer system or have an on-site sewage disposal system.
- (5) **Two-family residential (R-3) district.** This district is intended to accommodate two-family dwellings, twin homes, and single-family dwellings. This district provides a “suburban” arrangement of amenities, services, and facilities. Since the two-family dwelling produces a divergent occupancy pattern from that of the traditional single-family dwelling, this district is generally adjacent to, but not within, a single-family neighborhood. Lots are connected to a public sanitary sewer system or have an on-site sewage disposal system.
- (6) **Multifamily residential (R-4) district.** This district is intended to accommodate multifamily buildings and townhouses at urban densities. This district provides a “suburban” arrangement of amenities, services, and facilities. Lots are connected to a public sanitary sewer.

- (7) **Manufactured/mobile home community (R-8) district.** This district is for the exclusive use and development of one or more manufactured/mobile home parks. Lots are connected to a public sanitary sewer system.
- (8) **Local service business (B-1) district.** This district is intended to accommodate a single retail or service establishment or a small grouping of such establishments that primarily serve the daily needs of residents in the surrounding area. Because this district characteristically is near or within residential areas, standards are designed to ensure the commercial uses are compatible in appearance and character with the surrounding residential uses. Lots are connected to a public sanitary sewer system or have an on-site sewage disposal system.
- (9) **Community business (B-2) district.** This district is intended to accommodate both large- and small-scale pedestrian- and auto-oriented commercial development that primarily serves the needs of the surrounding community, including professional offices, retail stores, service establishments, overnight lodging, entertainment facilities, and mixed-use housing. Lots are connected to a public sanitary sewer system or have an on-site sewage disposal system.
- (10) **General business (B-3) district.** This district is intended to accommodate primarily large-scale commercial projects of regional importance that require access to major road corridors. This district is intended to include one or more parcels of land that as a general rule includes 20 acres or more. Lots are connected to a public sanitary sewer system or have an on-site sewage disposal system.
- (11) **Mixed-use (M-1) district.** This district is intended to accommodate a wide range of compatible residential and nonresidential uses at densities and intensity typical of an urban area. Typically, this district is at least 10 acres in area and is only located in those areas where the existing and planned land uses in the surrounding districts are compatible with those uses permitted in this district. Lots are connected to a public sanitary sewer system or have an on-site sewage disposal system.
- (12) **Light industrial (I-1) district.** This district is intended to accommodate those businesses and activities typically associated with manufacturing of finished products, storage, and wholesale operations. Uses permitted in this district characteristically occur inside of a building or other structure. Outdoor storage when allowed is clearly incidental to the primary use. Lots are connected to a public sanitary sewer system or have an on-site sewage disposal system.
- (13) **Heavy industrial (I-2) district.** This district is intended to accommodate industrial uses that handle or process raw materials and other large-scale uses often considered offensive or unique by nature. Handling and processing of materials may occur within a building or other structure or out-of-doors. Lots are connected to a public sanitary sewer system or have an on-site sewage disposal system.
- (14) **Planned development (PDD) district.** Planned development districts are a special type of zoning district and are initially proposed by a property owner who desires a mix of uses or flexibility in a project's overall design. Each district is unique and therefore has its own set of development standards that are documented in the general development plan, and associated development agreement, if any. PDD districts are numbered sequentially (i.e., PDD-1, PDD-2, etc.).

(b) **Overlay zoning districts.** In addition to the base zoning districts enumerated above, the following overlay zoning districts are established to account for unique conditions or requirements:

- (1) **Microwave radio path overlay district.** This district is intended to limit the height of structures in order to protect the path between specified microwave antennas utilized by the Winnebago County Sheriff's Department for telecommunication purposes. The provisions relating to this overlay district are provided in this chapter.
- (2) **Wittman Regional Airport protection overlay districts.** These districts are intended to limit the height of structures to protect the approaches to the Wittman Regional Airport and control land uses so that they are compatible with noise generated by the airport operation. The provisions relating to these overlay districts are contained in chapter 24 of the general code of Winnebago County. They apply to land within the city of Oshkosh and the towns of Black Wolf and Nekimi.¹¹⁵

¹¹⁵Commentary: Section 114.136, Wis. Stats., gives a county, city, village, or town that owns an authorized airport the authority to adopt land use regulations to protect the aerial approaches from inappropriate development.

- (3) **Floodplain overlay districts.** The floodplain overlay districts include those lands within the 100-year and 500-year floodplain as mapped by the Federal Emergency Management Agency (FEMA). These overlay districts are further divided into the floodfringe and floodway. Each subdistrict has unique development standards based on flooding characteristics. The provisions relating to these overlay districts are contained in chapter 26 of the general code of Winnebago County. They are crafted to meet the minimum requirements as established by state law.
- (4) **Shoreland-wetland overlay district.** In general, the shoreland-wetland overlay district includes those wetlands of 5 acres or more and which are shown on the Wisconsin Wetland Inventory maps that have been prepared for Winnebago County. The provisions relating to this district are contained in chapter 27 of the general code of Winnebago County. They are crafted to meet the minimum requirements as established by state law.
- (5) **Shoreland zoning overlay district.** This district extends from the ordinary high-water mark of navigable streams inland for a distance of 300 feet or to the inland side of the 100-year floodplain, whichever is greater, and from the ordinary high-water mark of navigable lakes, ponds, or flowages inland for a distance of 1,000 feet. The provisions relating to this district are contained in chapter 27 of the general code of Winnebago County. They are crafted to meet the minimum requirements as established by state law.

23.8-23 Necessity of zoning district designation

It is the intent of this article that no land shall be without a zoning district designation, unless specifically noted on the zoning map. In the event a parcel of land is for any reason deemed to be without a designation, no land development shall occur until such time as the Board of County Supervisors has assigned the parcel an appropriate zoning classification.

23.8-24 Effect of a boundary line relocation on zoning designation

Pursuant to ch. 236 Wis. Stats., the property boundary line between adjoining parcels of land may be relocated in certain circumstances, potentially making one parcel larger and the other smaller. In those situations where the affected parcels are in different zoning districts, a boundary line relocation shall not alter the location of the zoning district boundary until such time as the zoning map has been amended to reflect the new property boundary line.

23.8-25 Continued effect of this chapter on annexed land

When an area which has been subject to this chapter is annexed by a city or village, the regulations imposed by this chapter shall continue in effect, without change, and shall be enforced by the city or village until the regulations have been changed by official action of the governing body of the city or village, except that in the event an annexation ordinance is contested in the courts, this chapter shall prevail and the county shall have jurisdiction over the zoning in the area affected until ultimate determination of the court action.¹¹⁶

23.8-26 Zoning map

- (a) **Title.** The map that depicts the location of the various zoning districts shall be titled "Town/County Zoning Map – Winnebago County, Wisconsin."
- (b) **Official zoning map.** The county clerk shall maintain one paper copy of the zoning map as the official map which shall be signed by the county executive and attested by the county clerk. If there is a discrepancy between this zoning map and other maps as may be made available, the map maintained by the county clerk shall control in all instances.
- (c) **Availability.** The zoning map maintained by the county clerk shall be available for public inspection upon request. Other county departments may publish and distribute copies of the zoning map and may include the location of the zoning districts on the county's online GIS system.
- (d) **Preparation of a new official map.** In the event the zoning map maintained by the county clerk is damaged, lost, or destroyed and after each amendment, the zoning administrator shall prepare a new zoning map and submit it to the county executive for certification and to the county clerk for attestation.
- (e) **History of amendment.** The zoning map maintained by the county clerk may contain a descriptive history of recent amendments that have been made, indicating the ordinance number and date of action.

¹¹⁶Commentary: See s. 59.69(7), Wis. Stats.

(f) **Archive of superseded maps.** The county clerk shall maintain a permanent archive of superseded zoning maps that are created after April 29, 2012.

(g) **Amendment.** The procedure and requirements to amend the zoning map are provided in article 7 of this chapter.

23.8-27 to 23.8-40 Reserved

DIVISION 3 ALLOWABLE LAND USES

Sections

23.8-41	Land uses generally allowable within zoning districts	23.8-47	Special provisions for community living arrangements
23.8-42	Similarity of land uses	23.8-48	Special provisions for specified foster homes and treatment foster homes
23.8-43	Land uses not listed	23.8-49	Site restrictions
23.8-44	Project classified in more than one land use category	23.8-50	Map of conditional uses
23.8-45	Establishment of an accessory land use prior to establishment of principal use	23.8-51	Special provisions for structures located on multiple parcels under the same ownership
23.8-46	Reserved	23.8-52	Residential accessory use limitations

23.8-41 Land uses generally allowed within zoning districts

(a) **General purpose zoning districts.** For the purposes of this chapter, land uses, as defined in article 3 of this chapter, are classified as principal, accessory, or temporary. Exhibit 8-1 lists principal land uses (Series 1 to 16), accessory uses (Series 17), and temporary uses (Series 18). Each of the land uses are designated as one of the following:

- (1) permitted in the zoning district by right provided that all other provisions of this chapter are met,
- (2) allowed in the zoning district as a conditional use provided that all other provisions of this chapter are met, or
- (3) not permitted in the zoning district.

Any commercial or industrial land use that is shown as permitted by right that emits air contaminants, fugitive dust, or potentially offensive odors outside of the building; incinerates any substance; or handles radioactive materials, hazardous substances, hazardous waste, or regulated substances is considered a conditional use.

(b) **Planned development districts.** Land uses that are permitted in a planned development district are enumerated in the general development plan for the district, along with development standards, if any.

Exhibit 8-1 Land use matrix

1	Agriculture	Review	Special Standards	Base Zoning District												
				A-1	A-2	R-1	R-2	R-3	R-4	R-8	B-1	B-2	B-3	M-1	I-1	I-2
1.01	Agriculture-related use	ZP,SP,PO	23.8-231	C	C	-	-	-	-	-	-	-	-	-	P	C
1.02	Agriculture, crop	-	23.8-232	P	P	P	P	P	P	P	P	P	P	P	P	P
1.03	Agriculture, general	ZP	23.8-233	P	P	-	-	-	-	-	-	-	-	-	-	-
1.03	Agriculture, general, 500 animal units or more	ZP	23.8-233	C	C	-	-	-	-	-	-	-	-	-	-	-
1.04	Greenhouse	ZP,SP,PO	23.8-234	P	P	-	-	-	-	-	-	C	C	-	C	C
2 Resource-Based Uses																
2.01	Dam	ZP,SP,PO	23.8-241	C	C	C	C	C	C	C	C	C	C	C	C	C
2.02	Forestry	-	23.8-242	P	P	P	P	P	P	P	P	P	P	P	P	P
2.03	Hunting preserve	ZP,SP,PO	23.8-243	-	C	-	-	-	-	-	-	-	-	-	C	C
2.04	Sewage sludge disposal	-	23.8-244	P	P	P	P	P	P	P	P	P	P	P	P	P
2.05	Wildlife park	ZP,SP,PO	23.8-245	-	C	-	-	-	-	-	-	-	-	-	C	C
3 Residential																
3.01	Mixed-use housing	ZP,SP	23.8-251	-	-	-	-	-	-	-	-	C	P	P	-	-
3.02	Manufactured/mobile home community	ZP,SP,PO	23.8-252	-	-	-	-	-	-	P	-	-	-	-	-	-
3.03	Multifamily building, 2 units	ZP	23.8-253	-	-	-	-	P	P	-	-	-	-	P	-	-
3.04	Multifamily building, 3–4 units	ZP	23.8-254	-	-	-	-	-	P	-	-	-	C	P	-	-
3.04	Multifamily building, 5–8 units	ZP	23.8-254	-	-	-	-	-	P	-	-	-	C	C	-	-
3.04	Multifamily building, 9 or more units	ZP	23.8-254	-	-	-	-	-	C	-	-	-	-	C	-	-
3.05	Nonfarm residence	ZP	23.8-255	C	-	-	-	-	-	-	-	-	-	-	-	-
3.06	Single-family dwelling [1]	ZP	23.8-256	-	P	P	P	P	-	-	-	-	-	-	-	-
3.07	Townhouse, 3–4 units	ZP,SP	23.8-257	-	-	-	-	-	P	-	-	-	C	P	-	-
3.07	Townhouse, 5–8 units	ZP,SP	23.8-257	-	-	-	-	-	P	-	-	-	C	C	-	-
3.07	Townhouse, 9 or more units	ZP,SP	23.8-257	-	-	-	-	-	C	-	-	-	-	C	-	-
3.08	Twin home	ZP	23.8-258	-	-	-	-	P	P	-	-	-	-	P	-	-
4 Special Care Facilities																
4.01	Adult family home	ZP	23.8-261	-	-	P	P	P	P	-	-	-	-	-	-	-
4.02	Community living arrangement, 8 or fewer residents [2]	ZP	23.8-262	-	-	P	P	P	P	-	-	-	-	-	-	-
4.02	Community living arrangement, 9–15 residents [2]	ZP	23.8-262	-	-	P	P	P	P	-	-	-	-	-	-	-
4.02	Community living arrangement, 16 or more residents [2]	ZP,SP, PO	23.8-262	-	-	P	P	P	P	-	-	-	-	-	-	-
4.03	Foster home and treatment foster home [3]	ZP	23.8-263	-	-	P	P	P	P	-	-	-	-	-	-	-
4.04	Group day care center [4]	ZP,SP	23.8-264	-	-	-	-	C	C	-	P	P	P	P	C	C
4.05	Hospice care center	ZP,SP	23.8-265	-	C	C	C	C	P	-	C	C	P	C	-	-
4.06	Nursing home	ZP,SP	23.8-266	-	-	C	C	C	P	-	-	C	P	C	-	-
4.07	Retirement home	ZP,SP	23.8-267	-	-	C	C	C	P	-	-	C	P	C	-	-
4.08	Temporary shelter [5]	ZP,SP, PO	23.8-268	-	-	-	-	-	-	-	C	C	C	-	-	-
5 Group Accommodations [6]																
5.01	Boardinghouse	ZP,SP, PO	23.8-271	-	-	-	-	-	C	-	-	C	P	C	-	-
5.02	Campground	ZP,SP,PO	23.8-272	-	C	-	-	-	-	-	-	-	C	-	-	-
5.03	Group recreation camp	ZP,SP,PO	23.8-273	-	C	-	-	-	-	-	-	-	C	-	-	-
5.04	Migrant labor camp	ZP,SP,PO	23.8-274	C	C	-	-	-	-	-	-	-	-	-	-	-
5.05	Overnight lodging	ZP,SP,PO	23.8-275	-	-	-	-	-	-	-	-	C	P	P	-	-
5.06	Resort	ZP,SP,PO	23.8-276	-	C	-	-	-	-	-	-	C	P	C	-	-
6 Food and Beverage Sales																
6.01	Brewpub	SP,PO	23.8-281	-	-	-	-	-	-	-	-	C	P	P	C	-
6.02	Restaurant	SP,PO	23.8-282	-	-	-	-	-	-	-	C	P	P	P	-	-
6.03	Tavern	SP,PO	23.8-283	-	-	-	-	-	-	-	C	P	P	C	-	-

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Exhibit 8-1 Land use matrix – continued

7	Vehicle Rental, Sales, and Service	Review	Special Standards	Base Zoning District												
				A-1	A-2	R-1	R-2	R-3	R-4	R-8	B-1	B-2	B-3	M-1	I-1	I-2
7.01	Heavy vehicle sales and rental	ZP,SP,PO	23.8-291	-	-	-	-	-	-	-	-	-	C	-	P	C
7.02	Truck stop	ZP,SP,PO	23.8-292	-	-	-	-	-	-	-	-	-	C	-	C	C
7.03	Vehicle fuel station	ZP,SP,PO	23.8-293	-	-	-	-	-	-	-	-	C	P	C	C	C
7.04	Vehicle repair shop	ZP,SP,PO	23.8-294	-	-	-	-	-	-	-	-	C	P	-	C	C
7.05	Vehicle sales and rental	ZP,SP,PO	23.8-295	-	-	-	-	-	-	-	-	C	P	-	C	-
7.06	Vehicle service shop	ZP,SP,PO	23.8-296	-	-	-	-	-	-	-	-	C	P	-	C	C
7.07	Vehicle storage yard	ZP,SP,PO	23.8-297	-	-	-	-	-	-	-	-	-	-	-	C	C
8	General Sales															
8.01	Convenience retail sales	ZP,SP,PO	23.8-301	-	-	-	-	-	-	-	P	P	P	P	-	-
8.02	General retail sales	ZP,SP,PO	23.8-302	-	-	-	-	-	-	-	C	P	P	C	-	-
8.03	General retail sales, large format	ZP,SP,PO	23.8-303	-	-	-	-	-	-	-	-	-	P	-	-	-
8.04	Outdoor sales	ZP,SP,PO	23.8-304	-	-	-	-	-	-	-	C	C	P	-	C	-
9	General Services															
9.01	Administrative services	ZP,SP,PO	23.8-311	-	-	-	-	-	-	-	C	P	P	P	-	-
9.02	Adult-oriented establishment	ZP,SP,PO	23.8-312	-	-	-	-	-	-	-	-	-	P	-	-	-
9.03	Body-piercing establishment	ZP,SP,PO	23.8-313	-	-	-	-	-	-	-	C	P	P	P	-	-
9.04	Commercial kennel	ZP,SP,PO	23.8-314	-	C	-	-	-	-	-	-	C	P	P	C	-
9.05	Commercial stable	ZP,SP,PO	23.8-315	-	C	-	-	-	-	-	-	-	-	-	C	-
9.06	Equipment rental, large	ZP,SP,PO	23.8-316	-	-	-	-	-	-	-	-	-	C	-	P	C
9.07	Equipment rental, small	ZP,SP,PO	23.8-317	-	-	-	-	-	-	-	-	C	P	-	-	-
9.08	Financial services	ZP,SP,PO	23.8-318	-	-	-	-	-	-	-	P	P	P	P	-	-
9.09	Funeral home	ZP,SP,PO	23.8-319	-	-	-	-	-	-	-	C	P	P	P	-	-
9.10	General repair	ZP,SP,PO	23.8-320	-	-	-	-	-	-	-	C	P	P	P	C	-
9.11	General services	ZP,SP,PO	23.8-321	-	-	-	-	-	-	-	C	P	P	P	-	-
9.12	Health care clinic	ZP,SP,PO	23.8-322	-	-	-	-	-	-	-	C	P	P	P	-	-
9.13	Health care center	ZP,SP,PO	23.8-323	-	-	-	-	-	-	-	-	C	P	P	-	-
9.14	Instructional services	ZP,SP,PO	23.8-324	-	-	-	-	-	-	-	C	P	P	P	C	-
9.15	Landscape business	ZP,SP,PO	23.8-325	-	C	-	-	-	-	-	-	-	C	-	P	-
9.16	Professional services	ZP,SP,PO	23.8-326	-	-	-	-	-	-	-	P	P	P	P	-	-
9.17	Tattoo establishment	ZP,SP,PO	23.8-327	-	-	-	-	-	-	-	C	P	P	P	-	-
9.18	Veterinary clinic, general	ZP,SP,PO	23.8-328	C	C	-	-	-	-	-	-	-	C	-	C	-
9.19	Veterinary clinic, small animal	ZP,SP,PO	23.8-329	-	-	-	-	-	-	-	C	P	P	P	C	-
10	Recreation and Entertainment															
10.01	Driving range	ZP,SP,PO	23.8-341	-	C	-	-	-	-	-	-	-	C	-	C	-
10.02	Golf course	ZP,SP,PO	23.8-342	-	C	C	C	C	C	-	-	-	-	-	C	-
10.03	Indoor entertainment	ZP,SP,PO	23.8-343	-	-	-	-	-	-	-	-	P	P	P	-	-
10.04	Indoor recreation	ZP,SP,PO	23.8-344	-	-	-	-	-	-	-	-	P	P	P	-	-
10.05	Outdoor entertainment	ZP,SP,PO	23.8-345	-	-	-	-	-	-	-	-	C	P	-	C	-
10.06	Outdoor recreation	ZP,SP,PO	23.8-346	-	-	-	-	-	-	-	-	C	C	-	C	-
10.07	Outdoor shooting range	ZP,SP,PO	23.8-347	-	C	-	-	-	-	-	-	-	-	-	C	C
11	Government and Community Services															
11.01	Administrative government center	ZP,SP,PO	23.8-351	-	C	C	C	C	C	-	P	P	P	C	C	-
11.02	Animal shelter	ZP,SP,PO	23.8-352	-	C	-	-	-	-	-	-	-	C	-	P	C
11.03	Cemetery	ZP,SP,PO	23.8-353	C	C	C	C	C	C	-	C	C	C	-	-	-
11.04	Civic use facility	ZP,SP,PO	23.8-354	-	-	-	-	-	-	-	-	-	P	-	C	-
11.05	Community center	ZP,SP,PO	23.8-355	-	C	C	C	C	C	-	C	P	P	C	-	-
11.06	Community cultural facility	ZP,SP,PO	23.8-356	-	-	-	-	-	-	-	C	P	P	P	-	-
11.07	Community garden	ZP,SP,PO	23.8-357	C	P	P	P	P	P	-	P	P	P	P	P	-

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Exhibit 8-1 Land use matrix – continued

11 Government and Community Services - cont.	Review	Special Standards	Base Zoning District												
			A-1	A-2	R-1	R-2	R-3	R-4	R-8	B-1	B-2	B-3	M-1	I-1	I-2
11.08 Correctional facility	ZP,SP,PO	23.8-358	-	C	-	-	-	-	-	-	-	-	-	P	C
11.09 Educational facility, pre-K through 12	ZP,SP,PO	23.8-359	-	C	C	C	C	C	-	C	P	P	P	-	-
11.10 Educational facility, post-secondary	ZP,SP,PO	23.8-360	-	-	-	-	-	-	-	C	P	P	P	C	-
11.11 Maintenance garage	ZP,SP,PO	23.8-361	-	C	C	-	-	-	-	-	-	C	-	P	C
11.12 Park	ZP,SP,PO	23.8-362	-	P	P	P	P	P	P	P	P	P	P	P	P
11.13 Public safety facility	ZP,SP,PO	23.8-363	-	C	C	C	C	C	-	P	P	P	P	P	C
11.14 Recreation trail	SP, PO	23.8-364	C	P	P	P	P	P	P	P	P	P	P	P	P
11.15 Unspecified public use	ZP,SP,PO	23.8-365	-	C	C	C	C	C	C	C	C	C	C	C	C
11.16 Worship facility	ZP,SP,PO	23.8-366	C	C	C	C	P	P	-	P	P	P	P	C	-
12 Telecommunications and Utilities [7]															
12.01 Solar energy system	ZP,SP,PO	23.8-371	C	C	C	C	C	C	C	C	C	C	C	C	C
12.02 Stormwater management facility	ZP,SP,PO	23.8-372	C	P	P	P	P	P	P	P	P	P	P	P	P
12.03 Telecommunication facility, concealed	ZP	23.8-373	P	P	P	P	P	P	P	P	P	P	P	P	P
12.04 Telecommunication facility, unconcealed	ZP	23.8-374	P	P	P	P	P	P	P	P	P	P	P	P	P
12.05 Utility installation, major	ZP,SP,PO	23.8-375	C	C	C	C	C	C	C	C	C	C	C	P	P
12.06 Utility installation, minor	ZP,SP,PO	23.8-376	P	P	P	P	P	P	P	P	P	P	P	P	P
12.07 Utility maintenance yard	ZP,SP,PO	23.8-377	C	C	-	-	-	-	-	-	-	-	-	P	P
12.08 Wind energy system, large	-	23.8-378	P	P	P	P	P	P	P	P	P	P	P	P	P
12.09 Wind energy system, small	ZP,SP,PO	23.8-379	P	P	P	P	P	P	P	P	P	P	P	P	P
13 Transportation															
13.01 Airport	ZP,SP,PO	23.8-381	-	C	C	C	-	-	-	-	-	-	-	P	P
13.02 Bus storage facility	ZP,SP,PO	23.8-382	-	C	-	-	-	-	-	-	C	C	C	P	P
13.03 Marina	ZP,SP,PO	23.8-383	-	C	C	C	C	C	C	C	C	C	C	C	C
13.04 Mass transit terminal	ZP,SP,PO	23.8-384	-	-	-	-	-	-	-	-	P	P	P	C	-
13.05 Off-site parking lot	ZP,SP,PO	23.8-385	-	-	-	-	-	-	-	C	P	P	P	C	-
13.06 Parking structure	ZP,SP	23.8-386	-	-	-	-	-	-	-	-	-	P	P	C	-
13.07 Park-and-ride lot	ZP,SP	23.8-387	-	C	C	C	C	C	-	C	P	P	C	C	C
13.08 Railroad line	ZP, BP, SP PO	23.8-388	C	P	P	P	P	P	P	P	P	P	P	P	P
13.09 Street	-	23.8-389	P	P	P	P	P	P	P	P	P	P	P	P	P
14 General Storage															
14.01 Bulk fuel storage	ZP,SP,PO	23.8-401	-	-	-	-	-	-	-	-	-	-	-	P	P
14.02 Personal storage facility	ZP,SP,PO	23.8-402	-	C	-	-	-	-	-	-	-	C	-	P	C
14.03 Truck terminal	ZP,SP,PO	23.8-403	-	-	-	-	-	-	-	-	-	-	-	P	P
14.04 Warehouse	ZP,SP,PO	23.8-404	-	-	-	-	-	-	-	-	-	-	-	P	P
15 Industrial Uses															
15.01 Artisan shop	ZP,SP,PO	23.8-411	-	C	-	-	-	-	-	C	C	P	P	P	C
15.02 Batching plant associated with a nonmetallic mine [21]	ZP,SP,PO	23.4-412	C	C	-	-	-	-	-	-	-	-	-	C	C
15.03 Biofuels production plant	ZP,SP,PO	23.8-413	C	C	-	-	-	-	-	-	-	-	-	-	C
15.04 Construction equipment repair	ZP,SP,PO	23.8-414	-	-	-	-	-	-	-	-	-	C	-	P	P
15.05 Construction equipment sales and service	ZP,SP,PO	23.4-415	-	-	-	-	-	-	-	-	-	C	-	P	P
15.06 Contractor yard	ZP,SP,PO	23.8-416	-	-	-	-	-	-	-	-	-	-	-	P	C
15.07 Industrial, heavy	ZP,SP,PO	23.8-417	-	-	-	-	-	-	-	-	-	-	-	-	P
15.08 Industrial, light	ZP,SP,PO	23.8-418	-	-	-	-	-	-	-	-	-	-	-	P	P
15.09 Nonmetallic mine	ZP,SP,PO	23.8-419	C	C	-	-	-	-	-	-	-	-	-	C	C
15.10 Salvage yard	ZP,SP,PO	23.8-420	-	-	-	-	-	-	-	-	-	-	-	-	C

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Exhibit 8-1 Land use matrix – continued

			Base Zoning District													
16	Solid Waste	Review	Special Standards	A-1	A-2	R-1	R-2	R-3	R-4	R-8	B-1	B-2	B-3	M-1	I-1	I-2
16.01	Composting facility	ZP,SP,PO	23.8-431	P	P	-	-	-	-	-	-	-	-	-	P	P
16.02	Recycling center	ZP,SP,PO	23.8-432	-	-	-	-	-	-	-	-	-	-	-	P	P
16.03	Solid waste landfill	ZP,SP,PO	23.8-433	-	C	-	-	-	-	-	-	-	-	-	C	C
16.04	Solid waste transfer station	ZP,SP,PO	23.8-434	-	C	-	-	-	-	-	-	-	-	-	P	P
17	Accessory Uses															
17.01	Adult family home [9]	ZP	23.8-441	P	P	P	P	P	P	P	P	P	P	P	-	-
17.02	Amateur radio antenna [8]	-	23.8-442	P	P	P	P	P	P	P	P	P	P	P	-	-
17.03	Automated teller machine	ZP	23.8-443	-	-	-	-	-	-	-	P	P	P	P	-	-
17.04	Backyard chickens	-	23.8-444	P	P	P	P	P	-	P	-	-	-	-	P	P
17.05	Bed and breakfast [8]	ZP,SP,PO	23.8-445	C	C	C	C	C	-	-	P	P	-	P	-	-
17.06	Boat dock	-	23.8-446	P	P	P	P	P	P	P	P	P	P	P	P	P
17.07	Boathouse [8][24]	ZP	23.8-447	P	P	P	P	P	P	-	-	-	-	-	-	-
17.08	Boathouse, off-site [24]	ZP	23.8-448	-	-	P	P	-	-	-	-	-	-	-	-	-
17.09	Commercial truck parking [8]	-	23.8-449	P	P	P	P	P	P	P	P	P	P	P	P	P
17.10	Deck [23]	ZP	23.8-450	P	P	P	P	P	P	P	P	P	P	P	P	P
17.11	Exterior communication device [8]	-	23.8-451	P	P	P	P	P	P	P	P	P	P	P	P	P
17.12	Family day care home [8]	ZP	23.8-452	P	P	P	P	P	P	P	P	P	P	P	-	-
17.12	Farm building storage	ZP	23.8-453	P	C	-	-	-	-	-	-	-	-	-	-	-
17.14	Farm residence [20]	ZP	23.8-454	P	P	-	-	-	-	-	-	-	-	-	-	-
17.15	Farmstead retail outlet	ZP,SP,PO	23.8-455	C	C	-	-	-	-	-	-	-	-	-	-	-
17.16	Fence	ZP	23.8-456	P	P	P	P	P	P	P	P	P	P	P	P	P
17.17	Foster home and treatment foster home [8]	ZP	23.8-457	P	P	P	P	P	P	P	P	P	P	P	-	-
17.18	Garage, nonresidential [10]	ZP	23.8-458	-	-	-	-	-	-	-	P	P	P	P	P	P
17.19	Garage, off-site residential	ZP	23.8-459	-	-	P	P	-	-	-	-	-	-	-	-	-
17.20	Garage, residential [8,22]	ZP	23.8-460	P	P	P	P	P	P	P	P	P	P	P	-	-
17.21	Garden	-	23.8-461	P	P	P	P	P	P	P	P	P	P	P	P	P
17.22	Gazebo [23]	ZP	23.8-462	P	P	P	P	P	P	P	P	P	P	P	P	-
17.23	Greenhouse [8,13]	ZP	23.8-463	P	P	P	P	P	P	P	-	-	-	-	-	-
17.24	Helipad [11, 12]	ZP,SP,PO	23.8-464	-	-	-	-	-	-	-	-	-	-	-	-	-
17.25	Home occupation, major [8]	ZP,SP,PO	23.8-465	-	C	C	C	C	C	-	C	C	C	C	-	-
17.26	Home occupation, minor [8]	ZP	23.8-466	P	P	P	P	P	P	P	P	P	P	P	-	-
17.27	Hot tub [8]	-	23.8-467	P	P	P	P	P	P	P	P	P	P	P	-	-
17.28	Household livestock, 2.5 acres or more but less than 5 acres [8]	ZP	23.8-468	P	C	C	-	-	-	-	-	-	-	-	-	-
17.29	Household livestock, 5 acres or more [8]	ZP	23.8-468	P	P	C	-	-	-	-	-	-	-	-	-	-
17.30	Indoor sales incidental to light industrial use	ZP	23.8-469	-	-	-	-	-	-	-	-	-	-	-	C	-
17.31	Kennel, hobby [8]	ZP,SP,PO	23.8-470	C	C	C	C	C	C	C	C	C	C	C	-	-
17.32	Kennel, private [8]	-	23.8-471	P	P	P	P	P	P	P	P	P	P	P	-	-
17.33	Lean-to	ZP	23.8-472	P	P	P	P	P	P	P	P	P	P	P	P	P
17.34	Light industrial use incidental to indoor sales	ZP,SP,PO	23.8-473	-	-	-	-	-	-	-	-	-	-	-	C	-
17.35	Mother-in-law suite [8, 23]	ZP	23.8-474	P	P	P	P	P	-	-	-	-	-	-	-	-
17.36	Outdoor display incidental to indoor sales	ZP,SP,PO	23.8-475	-	-	-	-	-	-	-	-	C	C	C	-	-
17.37	Outdoor food and beverage service	ZP,SP,PO	23.8-476	-	-	-	-	-	-	-	C	C	C	C	-	-
17.38	Outdoor furnace	ZP	23.8-477	P	P	P	P	P	P	P	P	P	P	P	P	P
17.39	Parking lot (on-site)	ZP	23.8-478	P	P	P	P	P	P	P	P	P	P	P	P	P
17.40	Patio	-	23.8-479	P	P	P	P	P	P	P	P	P	P	P	P	P
17.41	Pergola [23]	ZP	23.8-480	P	P	P	P	P	P	P	P	P	P	P	P	P
17.42	Play structure [8]	-	23.8-481	P	P	P	P	P	P	P	P	P	P	P	P	-
17.43	Pond	ZP,SP	23.8-482	P	P	C	C	C	C	C	P	P	P	P	P	P
17.44	Private reception venue	ZP	23.8-483	-	P	-	-	-	-	-	-	-	-	-	-	-
17.45	Rural accessory building [8]	ZP	23.8-484	P	P	P	P	P	P	P	-	-	-	-	-	-

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Exhibit 8-1 Land use matrix – continued

			Base Zoning District													
17	Accessory Uses – continued	Review	Special Standards	A-1	A-2	R-1	R-2	R-3	R-4	R-8	B-1	B-2	B-3	M-1	I-1	I-2
17.46	Service window, drive-up	ZP,SP	23.8-485	-	-	-	-	-	-	-	C	C	C	C	-	-
17.47	Service window, walk-up	ZP,SP	23.8-486	-	-	-	-	-	-	-	C	C	C	C	-	-
17.48	Solar energy system, building-mounted	-	23.8-487	P	P	P	P	P	P	P	P	P	P	P	P	P
17.49	Solar energy system, free-standing	ZP	23.8-488	P	P	P	P	P	P	P	P	P	P	P	P	P
17.50	Storage container, 1 or 2 units	ZP	23.8-489	-	-	-	-	-	-	-	P	P	P	-	P	P
17.51	Storage container, 3 or more units	ZP,SP	23.8-489	-	-	-	-	-	-	-	C	C	C	-	C	C
17.52	Swimming pool	ZP	23.8-490	P	P	P	P	P	P	P	P	P	P	P	-	-
17.53	Temporary shelter [10]	ZP,SP,PO	23.8-491	-	-	-	-	-	-	-	C	C	C	C	-	-
17.54	Utility cabinet	-	23.8-492	P	P	P	P	P	P	P	P	P	P	P	P	P
17.55	Yard shed [13][24]	-	23.8-493	P	P	P	P	P	P	P	P	P	P	P	P	P
18	Temporary Uses															
18.01	Agricultural product sales, off-site	-	23.8-501	-	P	P	-	-	-	-	P	P	P	P	P	P
18.02	Agricultural product sales, on-site	-	23.8-502	P	P	P	P	P	P	P	P	P	P	P	P	P
18.03	Earth materials stockpile, off-site [14]	ZP,SP,PO	23.8-503	-	C	-	-	-	-	-	-	-	-	-	C	C
18.03	Earth materials stockpile, on-site [15]	-	23.8-503	-	P	P	P	P	P	P	P	P	P	P	P	P
18.04	Farmers market [16]	TU,SP,PO	23.8-504	P	P	P	-	-	-	-	C	P	P	P	C	-
18.05	General outdoor sales	TU,SP,PO	23.8-505	-	-	-	-	-	-	-	-	C	P	-	C	-
18.06	Model home	ZP	23.8-506	-	-	P	P	P	P	-	-	-	-	-	-	-
18.07	Off-site construction yard	SP,PO	23.8-507	-	C	C	C	C	C	C	C	C	C	C	C	C
18.08	On-site construction office [17]	-	23.8-508	-	-	P	P	P	P	-	-	P	P	P	P	P
18.09	On-site construction yard [17]	-	23.8-509	-	-	P	P	P	P	-	-	P	P	P	P	P
18.10	Portable storage container	-	23.8-510	-	P	P	P	P	P	P	P	P	P	P	P	P
18.11	Re-locatable building [18]	ZP,SP,PO	23.8-511	-	-	-	-	-	-	-	C	C	C	C	-	-
18.12	Seasonal product sales	-	23.8-512	C	P	P	-	-	-	-	P	P	P	P	P	P
18.13	Snow disposal site	ZP,SP,PO	23.8-513	C	C	-	-	-	-	-	C	C	C	C	C	C
18.14	Special event	TU,SP,PO	23.8-514	-	P	P	P	-	-	-	P	P	P	P	P	-
18.15	Special event of regional significance	TU,SP,PO	23.8-515	-	C	C	C	-	-	-	C	C	C	C	C	-
18.16	Special event of regional significance - camping	TU	23.8-516	-	P	P	P	P	P	-	P	P	P	P	P	P
18.17	Special event of reg. significance - concessions	TU	23.8-517	-	P	P	P	P	P	-	P	P	P	P	P	P
18.18	Special event of regional significance - parking	TU	23.8-518	-	P	P	P	P	P	-	P	P	P	P	P	P
18.19	Wind test tower	-	23.8-519	P	P	P	P	P	P	P	P	P	P	P	P	P
18.20	Yard sale [19]	-	23.8-520	P	P	P	P	P	P	P	P	P	P	P	-	-

Zoning Districts:

A-1 Agribusiness; A-2 General agriculture; R-1 Rural residential; R-2 Suburban residential; R-3 Two-family residential; R-4 Multi-family residential; R-8 Manufactured/mobile home community; B-1 Local service; B-2 Community business; B-3 General business; M-1 Mixed use; I-1 Light industrial; I-2 Heavy industrial

Table Key:

A "P" indicates that the use is permitted in the zoning district by right, provided that all other provisions of this chapter are met. These uses generally do not undergo public review, but are reviewed at the administrative level to ensure compliance.

A "C" indicates that the use is permitted in the zoning district as a conditional use provided that all other provisions of this chapter are met.

A "-" indicates that the use is not permitted in the zoning district.

"ZP" indicates zoning permit; "SP" indicates site plan; "PO" indicates plan of operation; "TU" indicates temporary use permit

Notes:

1. In the A-1 zoning district, a single-family dwelling may be located on a parcel not constituting a farm or on a parcel of land created after April 29, 2012.
2. See s. 23.8-47 for special provisions that may apply.
3. See s. 23.8-48 for special provisions that may apply.
4. A family day care home (4-8 children) is an accessory use and is therefore listed in Series 17.
5. This use may be an accessory use when associated with a worship facility, community center, and the like.
6. A bed and breakfast is an accessory use and is therefore listed in Series 17.
7. An amateur radio station is an accessory use and is therefore listed in Series 17.
8. This use may only occur with a principal residential use.
9. This use may only occur with a principal residential use or with a group day care center.
10. In addition to the zoning districts listed, this use may occur with a governmental or institutional use as a conditional use. This use may also be a principal use; see series 1 through 16.
11. In addition to the zoning districts listed, this use may occur with a governmental or institutional use (e.g., school or church) as a permitted use.
12. This use may only occur with a health care center as a conditional use.
13. A zoning permit is not required for this use if less than 8 feet in height and occupies a horizontal area of not more than 100 square feet.
14. Earth materials are obtained in whole or in part from another location.
15. Earth materials are obtained on the parcel as part of the land development process.
16. In addition to the zoning districts listed, this use may occur with a public park as a permitted use or with a governmental or institutional use (e.g., church, library or school) as a conditional use.
17. When this use is in place for more than 365 days, it is considered a conditional use.
18. This use may only occur with a governmental or institutional use (e.g., church, library, or school) as a conditional use.
19. This use may only occur with a principal residential use or with a governmental or institutional use (e.g., church, library, or school).
20. In the A-1 zoning district, no more than one farm residence may be located on a base farm tract as designated by the Board of Supervisors by resolution.
21. A batching plant when not associated with an approved nonmetallic mine is classified as heavy industrial (See 15.07).
22. See s. 23.8-45(d).
23. This structure shall be considered an accessory structure even though principal building setbacks may apply.
24. These structures do not count towards the maximum number of detached accessory buildings or towards the maximum accessory area allowed in the zoning district.

23.8-42 Similarity of land uses

Because the list of land uses cannot include every conceivable type of activity, those land uses that are listed in Exhibit 8-1 shall be interpreted to include other land uses that are of a similar nature and have similar impacts to the listed use.

23.8-43 Land uses not listed

A land use that is not listed in Exhibit 8-1 and which cannot be interpreted to be similar to any listed land use as provided for above is prohibited.¹¹⁷

23.8-44 Project classified in more than one land use category

If a proposed project includes both an allowable land use and a prohibited land use, the prohibited portion of the project shall not occur in the zoning district.

23.8-45 Establishment of an accessory land use prior to establishment of a principal use

(a) **Generally.** Unless specifically permitted in this section or in other sections of this chapter, an accessory use as allowed in the zoning district shall only be established when a principal use is present or is being established on the same lot.

(b) **Exemption for a vacant lot adjoining another lot in same ownership.** Pursuant to the procedures and requirements in article 7 of this chapter, the Planning and Zoning Committee may approve a special exception to allow the establishment of an accessory use on a vacant lot provided the accessory use is allowed in the zoning district and such lot adjoins a lot in the same ownership that supports a principal use. A lot adjoins another when they share a common lot line. The total maximum accessory area for both lots shall be calculated by combining the lot size of both properties and utilizing the standards of the zoning district of the lot with the principal use. If the committee approves the special exception, the property owner shall record an agreement and deed restriction, as approved by the committee, with the register of deeds for Winnebago County that describes the authorized use and any conditions of approval. Such conditions of approval may relate to the use of the accessory use and the need to reestablish a principal use on the subject property within a specified time period.

(c) **Exemption for a utility cabinet.** For the purpose of this chapter, a utility cabinet may be established on a vacant lot prior to the establishment of a principal use.

(d) **Exemption for residential garage in A-2 district.** In an A-2 zoning district, a residential garage may be constructed prior to the establishment of a principal use provided the parcel is 5.0 acres or more. As a condition of approval, the property owner shall record an agreement and deed restriction, as approved by the zoning administrator, with the register of deeds for Winnebago County that describes the nature of the authorized use. This exemption shall allow only one residential garage on the subject property.

23.8-46 Reserved**23.8-47 Special provisions for community living arrangements**

(a) **Limitations.** Under state law, a town may not limit the number of community living arrangements so long as the total capacity of such facilities does not exceed 25 or one percent of the town's population, whichever is greater. When that threshold is exceeded, the town board may prohibit additional community living arrangements from being located in the town. Additionally, when the capacity of community living arrangements in a ward reaches 25 or one percent of the population, whichever is greater, the town board may prohibit additional community living arrangements from being located in the ward. A foster home or a foster treatment home that is the primary domicile of a foster parent or foster treatment parent and that is licensed under s. 48.62, Wis. Stats., and an adult family home certified under s. 50.032(lm)(b), Wis. Stats., are exempt from this provision.¹¹⁸

(b) **Periodic review of existing facilities.** Not less than 11 months but not more than 13 months after the first licensure of an adult family home under s. 50.033, Wis. Stats., or of a community living arrangement and every year thereafter, the town board may make a determination pursuant to s. 59.69(15)(j), Wis. Stats., as to the effect of such facility on the health, safety, or welfare of residents of the municipality. If the town board determines such facility poses a

¹¹⁷ Commentary: If a person would like to establish a land use that is not listed in the land use matrix (Exhibit 8-1), he or she may submit a petition to amend the text of this chapter pursuant to the procedures and requirements contained in division 1 of article 7 of this chapter. Such application will be reviewed using the decision criteria listed in that part.

¹¹⁸ Commentary: See ss. 59.69(15)(b)(1) and 59.69(15)(bm), Wis. Stats.

threat to the health, safety, or welfare of the residents of the municipality, the town board may order such facility to cease operation or obtain a conditional use permit to continue operation. Such facility shall cease operation within 90 days after date of the order, or the date of final judicial review of the order, or the date of the denial of a conditional use permit, whichever is later. The fact that an individual with acquired immunodeficiency syndrome or a positive test for the presences of HIV, as defined in s. 252.01(1M), Wis. Stats., antigen or non-antigenic products of HIV or an antibody to HIV resides in a community living arrangement with a capacity of 8 or fewer persons may not be used under this subsection to assert or prove that the existence of the community living arrangement in the community poses a threat to the health, safety, or welfare of the residents of the town.¹¹⁹

23.8-48 Special provisions for specified foster homes and treatment foster homes

Foster homes which are owned, operated, or contracted for by the state of Wisconsin or a county department, are not subject to this article.¹²⁰ All other foster homes and treatment foster homes shall comply with this article.

23.8-49 Site restrictions

If the zoning administrator determines that a parcel of land, whether vacant, partially developed, or fully developed, contains one or more development constraints that would preclude the normal use of the parcel for a use that is otherwise permitted in the zoning district in which it is located, he or she shall render a written determination that states the best available facts related to the development constraint and other reasoning as may be appropriate. Examples of development constraints include unfavorable topography, rock formations, shallow depth to bedrock, unstable or otherwise unsuitable soils, stormwater runoff, inadequate drainage, and high groundwater. Once such a determination has been made, the zoning administrator, building inspector, or other governmental official or body shall not issue a development order or other approval authorizing the development in the area subject to the development constraint. Because a determination rendered by the zoning administrator pursuant to this section is an administrative decision, the property owner shall have the right to appeal such determination consistent with the procedures and requirements in article 7 of this chapter. The zoning administrator may reconsider his or her determination at any time and render a new determination if new or additional facts become known or if the facts upon which the determination was made are not accurate.

23.8-50 Map of conditional uses

The zoning administrator is authorized to prepare a map showing those properties that have an active conditional use permit and to amend the same from time to time.

23.8-51 Special provisions for structures located on multiple parcels under the same ownership

If a structure is located on multiple parcels under the same ownership; setback requirements and non-conformity based on the crossing of parcel boundaries may be disregarded through the recoding of an agreement and deed restriction with the Winnebago County Register of Deeds. This document shall specify that the properties shall not be sold separately and must be maintained in perpetuity or until the structure is brought into compliance with the setback requirements of the underlying zoning district. Qualifying structures shall be determined by the zoning administrator utilizing the County's electronic mapping system or by a licensed registered land surveyor.

23.8-52 Residential accessory use limitations

Residential accessory uses shall not involve the conduct of business, trade, or industry, including without limitation such things as employee parking or the outdoor storage of equipment. For the purposes of this section, the term equipment shall include equipment not normally associated with a residential use such as a back-hoe, skid-steer, dump truck, equipment trailers, etc. Home occupations approved by permit and commercial vehicle parking, when allowed by this chapter, are exempt from this section.

23.8-53 to 23.8-60 Reserved

¹¹⁹Commentary: See ss. 59.69(15)(i), 59.69(15)(im), Wis. Stats.

¹²⁰Commentary: See 63 Atty. Gen. 34

DIVISION 4

DIMENSIONAL AND RELATED STANDARDS

Sections

23.8-61	Generally	23.8-66	Lot width
23.8-62	Lot area	23.8-67	Road frontage
23.8-63	Floor area	23.8-68	Separation requirements for on-site sewage systems and water wells
23.8-64	Building and structure height		
23.8-65	Yard setbacks		

23.8-61 Generally

Lots, buildings, and other structures not located within a planned development district shall conform to the dimensional standards specified in Exhibit 8-2, except as may be otherwise allowed in this division. The standards for lots, buildings, and other structures in a planned development district are enumerated in the general development plan for the zoning district.

23.8-62 Lot area

(a) **Generally.** Except as specified in this section, the size of lots shall comply with the standards specified in Exhibit 8-2.

(b) **Exemptions.** Parcels of land created by a land division under chapter 18 of the general code of Winnebago County to dedicate land to the public, for stormwater facilities and other types of development related infrastructure, and for common open space areas including internal walking or recreation trails, and other similar purposes are exempt from the specified lot size requirements.

(c) **Measurement of lot area.** Lot area is measured on the horizontal plane. Lot area shall not include any of the following features:

- (1) lakes, streams, manmade ponds, and similar water bodies up to the elevation of the ordinary high-water mark,
- (2) the area within the mapped right-of-way,
- (3) the area within an Officially Mapped Road so designated on the county's highway width map; or
- (4) if the road on which the lot fronts is not located within a public road right-of-way, the area of the easement designated for public road purposes.

For the purpose of this subsection, the location of the proposed right-of-way line is one half the width of the proposed right-of-way as measured from the center of the existing road.

(d) **Use of a lot not meeting specified dimensional standards.** The use of a nonconforming lot is governed by requirements found in article 13 of this chapter.

(e) **Change in lot.** The location of the property boundary lines of a lot and/or the area of a lot containing a conditional use shall not be modified in any manner without the express authorization of the Planning and Zoning Committee. If the committee determines that the proposed reconfiguration or change in lot area is substantive, the proposed change may only occur if the committee grants a new approval with the proposed lot consistent with the review procedures and requirements for a conditional use in effect at the time.

23.8-63 Floor area

(a) **Generally.** All buildings and building additions shall comply with the floor area requirements as may be stated in Exhibit 8-2.

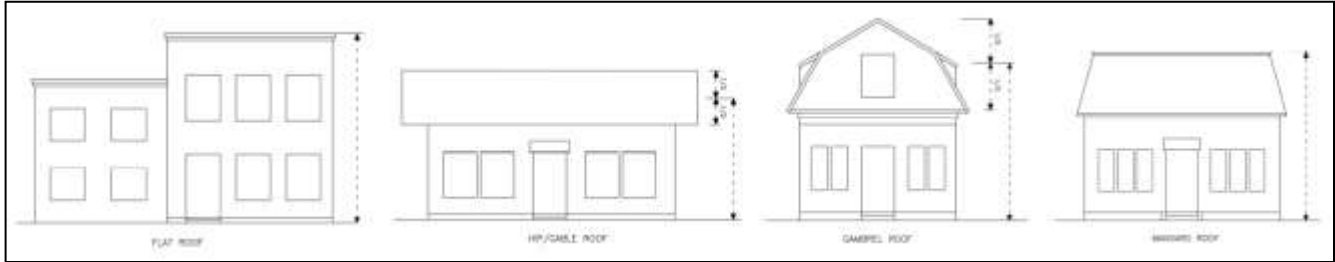
(b) **Measurement of floor area.** The floor area of a building is measured from exterior face to exterior face, excluding unenclosed porches, stoops, steps, and similar features. If a floor area requirement is specified on a per unit basis and is located in a building with other similar or different uses, the floor area is measured from the center of the wall separating such other uses. If a building does not have an exterior wall, the floor area is the area under the horizontal projection of the roof.

23.8-64 Building and structure height

(a) **Generally.** Except as specified in this section, the height of structures shall comply with the standards specified in Exhibit 8-2.

(b) **Measurement of building height.** The height of a building is measured from the mean elevation of the finished lot grade along the street yard face of the building to the (1) highest point of flat roofs, (2) the mean height level between the eaves and the highest point of a gable, gambrel, hip, and pitch roofs, or (3) the deck line of a mansard roof as generally depicted in Exhibit 8-3.

Exhibit 8-3 Measurement of building height by roof type



(c) **Modifications.** The height standards in Exhibit 8-2 are modified as follows:

- (1) Essential services, such as utilities, water towers, transmission towers and lines, are exempt from the height limitation for the zoning district in which they are located.
- (2) The height of telecommunication towers are governed by the standards established under division 9 of this article.
- (3) The height of buildings and other structures may be further regulated by (1) the microwave radio path overlay district regulations in this chapter, (2) the Wittman Regional Airport Overlay District regulations in chapter 24 of the general code of Winnebago County, and (3) regulations adopted by Outagamie County pursuant to s. 114.136, Wis. Stats., relating to the height of buildings in the vicinity of the Outagamie County Regional Airport. The location of these overlay districts may be shown on the face of the zoning map.
- (4) Consistent with the procedures and requirements in article 7 of this chapter, the Planning and Zoning Committee may approve a special exception for spires, steeples, copulas, and chimneys on institutional, commercial, and industrial buildings located in a non-residential zoning district.

23.8-65 Yard setbacks

(a) **Generally.** Except as modified herein, the placement of a structure on a lot shall comply with the setback standards specified in Exhibit 8-2.

(b) **Exceptions.** The following may be located in a front yard, side yard, and rear yard setback area, provided they do not extend into or are not located within a utility easement or a required fire lane and they meet all other requirements of this chapter:

- (1) landscaping;
- (2) retaining walls;
- (3) fences;
- (4) freestanding mailboxes and newspaper boxes;
- (5) yard furniture, but not when located on a patio or deck;
- (6) gardens;
- (7) compost bins;
- (8) clotheslines;
- (9) sidewalks

- (10) driveways
- (11) boat docks and boathouses when located in a shore yard, but not closer than 3 feet to a side yard property boundary line;
- (12) specified building projections as provided for in Exhibit 8-4;
- (13) components of a private on-site sewage system, including holding tanks (if allowed), absorption fields, and septic tanks provided separation requirements in chapter 16 of the general code of Winnebago County are met;
- (14) water wells not located in a building or other structure, provided separation requirements in state law are met;
- (15) those structures and uses where applicable development standards included in division 9, division 10, and division 11 of this article either exempt or establish alternate setbacks requirements;
- (16) other structures and land uses when exempted by the zoning administrator, provided such exemption is in keeping with the intent of this chapter; and
- (17) in-ground swimming pools, but not closer than 5 feet to a property boundary line.

Exhibit 8-4 Allowable building projections into a required yard setback

Feature	Maximum projection
Sills, belt courses, buttresses, cornices, ornamental features, and the like	8 inches into a street, side, or rear yard setback
Chimneys, eaves, and bay or bow windows	24 inches into a street, side, or rear yard setback
Open or lattice enclosed fire escapes, fireproof outside stairways and balconies opening upon fire towers	3 feet into a side or rear yard setback
Steps and uncovered porches	6 feet into any setback; uncovered porch not to exceed 36 sq. ft.
Façade-mounted solar energy systems	4 feet

(c) **Reduction.** No lot dimension shall be reduced so as to not meet any dimensional requirement contained in this chapter.

(d) **Setback averaging for street yard setbacks.** The street yard setback as specified in Exhibit 8-2 may be decreased in a residential, mixed-use, or commercial zoning districts to the average of the existing street yards of the abutting principal buildings on each side but in no case shall the setback be less than 15 feet in a residential zoning district or 10 feet in a commercial or mixed-use zoning district. For the purpose of this subsection, the following rules shall apply:

- (1) Building projections are not to be included.
- (2) Setback reductions allowed by a variance shall not be included.
- (3) If the setback of an existing structure is greater than the required setback, the required setback shall be used.

(e) **Measurement of street yard setback.** If the road on which the lot fronts is situated within a public right-of-way, the street yard setback is measured on a horizontal plane perpendicular to the front property boundary line along its entire length or perpendicular to the proposed right-of-way as may be depicted on the highway width map, whichever yields the greatest setback. If the road on which the lot fronts is located within an easement, the street yard setback is measured on a horizontal plane perpendicular to the easement line along its entire length or perpendicular to the proposed right-of-way as may be depicted on the highway width map, whichever yields the greatest setback. If the road on which the lot fronts is not situated in a public right-of-way or an easement, the street yard setback is measured from the edge of the road surface or perpendicular to the proposed right-of-way as may be depicted on the highway width map, whichever yields the greatest setback. For the purpose of this section, the location of the proposed right-of-way line is one half the width of the proposed right-of-way as measured from the center of the existing road.

- (1) The setback requirement from an officially mapped road may be waived upon written authorization from the authorized official of the municipality responsible for the official mapping.

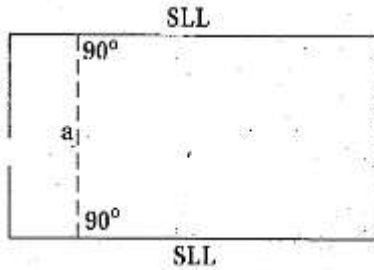
- (f) **Measurement of side yard setback.** The side yard setback is measured on a horizontal plane perpendicular to the side property boundary line along its entire length.
- (g) **Measurement of rear yard setback.** The rear yard setback is measured on a horizontal plane perpendicular to the rear property boundary line along its entire length.
- (h) **Measurement of shore yard setback.** The shoreland setback is measured on a horizontal plane perpendicular to the ordinary high-water mark along its entire length.
- (i) **Entrances for physically disabled persons.** Entrances for physically disabled persons shall be allowed to utilize a substandard setback where necessitated by unique circumstances of the lot, structure or individual. Every effort shall be made to conform to the required setbacks while meeting the minimum standards established in the Americans with Disabilities Act. Approval of the reduced setback shall be by administrative review/approval of the Zoning Administrator. Discontinuance of the use as an entryway shall necessitate the removal of the structure. No conversion to living space shall be allowed without the granting of a variance by the Board of Adjustment. An entranceway that meets the standards of this section does not require a zoning permit to be issued for its construction.

23.8-66 Lot width

- (a) **Generally.** A lot shall have a minimum width specified in Exhibit 8-2.
- (b) **Measurement.** Lot width is a linear distance measured or calculated as indicated in Exhibit 8-5.

Exhibit 8-5 Average lot width**A. Parallel lot lines**

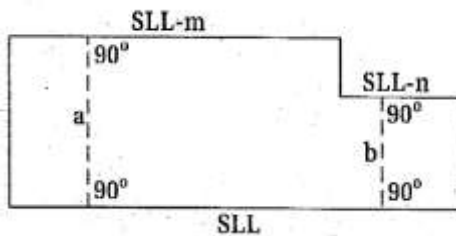
ALW = the distance of line a

**B. Parallel lot lines, alternate**

$$ALW = a \times \frac{m}{m+n} + b \times \frac{n}{m+n}$$

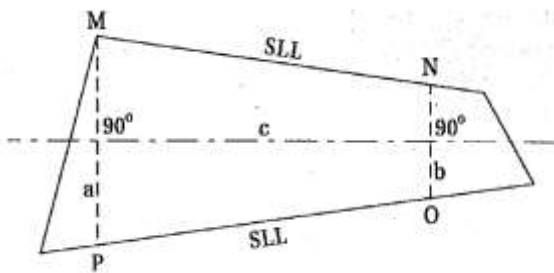
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e only that part of length n that, when added to area of m portion of lot, satisfies minimum lot area requirements.

**C. Nonparallel lot lines**

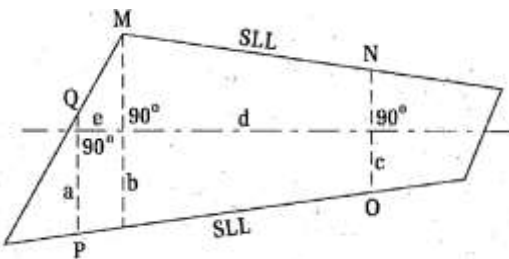
$$ALW = \frac{a+b}{2}$$

Where the area of MNOP equals minimum lot area and line c bisects angle formed by lines MN and OP extended

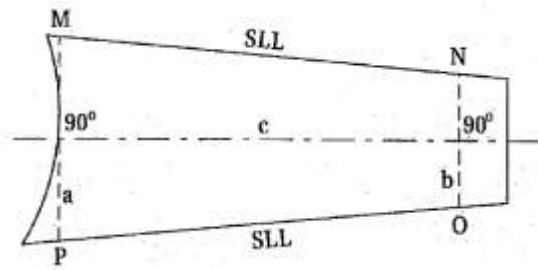
**D. Nonparallel lot lines, alternate 1**

$$ALW = \frac{a+b}{2} \times \frac{e}{e+d} \times \frac{b+c}{2} \times \frac{d}{e+d}$$

Where (1) the area of MNOPQ equals the minimum lot area, (2) and line d bisects angle formed by lines MN and OP extended, (3) line d is the perpendicular distance between lines b and c, and (4) line e is the perpendicular distance between lines a and b.

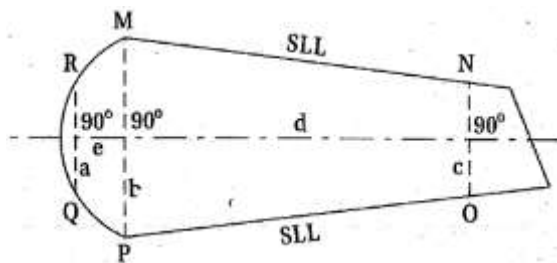


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Exhibit 8-5 Average lot width – continued**E. Nonparallel lot lines, alternate 2**

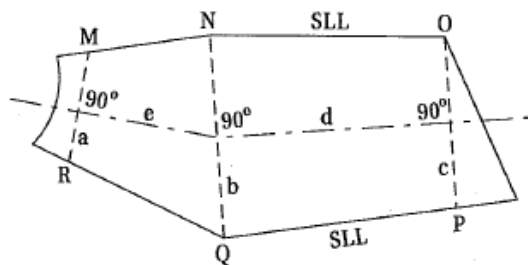
$$ALW = \frac{a+b}{2}$$

Where (1) the area of MNOP equals the minimum lot area, (2) line c bisects angle formed by lines MN and OP extended, and (3) line c is the perpendicular distance between lines a and b.

F. Nonparallel lot lines, alternate 3

$$ALW = \frac{a+b}{2} \times \frac{e}{e+d} \times \frac{b+c}{2} \times \frac{d}{e+d}$$

Where (1) the area of MNOPQR equals the minimum lot area, (2) line d bisects angle formed by lines MN and OP extended, (3) line d is the perpendicular distance between lines b and c, and (4) line e is the perpendicular distance between lines a and b.

G. Nonparallel lot lines, alternate 4

$$ALW = \frac{a+b}{2} \times \frac{e}{e+d} \times \frac{b+c}{2} \times \frac{d}{e+d}$$

Where (1) the area of MNOPQR equals the minimum lot area, (2) line e bisects angle formed by lines MN and QR extended, (3) line d bisects angle formed by lines NO and PQ extended, (4) line d is the perpendicular distance between lines b and c, and (5) line e is the perpendicular distance between lines a and b.

23.8-67 Road frontage

(a) **Generally.** A lot shall front on and have access to a public road for the minimum required distance specified in Exhibit 8-2.¹²¹

(b) **Measurement.** If the road on which the lot fronts is situated within a public right-of-way, the length of road frontage is measured on a horizontal plane along the front property boundary line or along the proposed right-of-way line as may be depicted on the highway width map, whichever yields the longest distance. If the road on which the lot fronts is not situated within a public right-of-way, the length of road frontage is measured on a horizontal plane along a line that is 33 feet perpendicular to the center of such road or along the proposed right-of-way as may be depicted on the highway

¹²¹Commentary: Frontage on a controlled access highway or a freeway, where ingress and egress is prohibited, does not meet the requirements of this section.

width map, whichever yields the longest distance. For the purpose of this subsection, the location of the proposed right-of-way line is one half the width of the proposed right-of-way as measured from the center of the existing road.

23.8-68 Separation requirements for on-site sewage systems and water wells

On-site sewage systems and water wells shall comply with all separation requirements as may be established by Winnebago County or the state of Wisconsin.

Exhibit 8-2 Dimensional standards by zoning district**A-1 Agribusiness district**

Lot density	The ratio of nonfarm residential acreage to farm acreage in the base farm tract after April 29, 2012 shall not exceed 1:20, with a maximum of 4 nonfarm dwellings for a base farm tract.		
	<u>Residential</u>	<u>Farm</u>	<u>Nonresidential /Nonfarm</u>
Lot size, minimum:	43,000 sq. ft.	5.0 acres	43,000 sq. ft.
Lot size, maximum:	none, although a lot created after April 29, 2012 may not contain more than 2.0 acres of land previously used to produce forage or a crop	none	none, although a lot created after April 29, 2012 shall not contain more than 2.0 acres of land previously used to produce forage or a crop
Lot width, minimum:	100 ft.	200 ft.	200 ft.
Road frontage, minimum:	60 ft.	200 ft.	200 ft.
Separation between detached buildings, minimum:	10 ft.	10 ft.	10 ft.
Yard setback: [4,5]			
Street yard, minimum:	30 ft.	75 ft.	30 ft.
Side yard, minimum: [3]	20 ft. on each side for a principal building; 15 ft. on each side for a detached accessory building	15 ft.	20 ft. on each side for a principal building; 15 ft. on each side for a detached accessory building
Rear yard minimum:	25 ft. for a principal building; 15 ft. for a detached accessory building	50 ft.	25 ft. for a principal building; 15 ft. for a detached accessory building
Building height:			
Principal building, maximum:	35 ft.	no limitation	35 ft.
Accessory building, maximum:	18 ft.	no limitation	18 ft.
Floor area ratio, maximum:	no limitation	no limitation	no limitation
Floor area:			
Principal building, minimum:	1,000 sq. ft. of living space	no limitation	no limitation
Accessory area, maximum:	1,500 sq. ft. plus 1 percent of the lot area in excess of 43,000 sq. ft. [1]; 1 percent of lot area for buildings related to household livestock	no limitation	1,500 sq. ft. plus 1 percent of the lot area in excess of 43,000 sq. ft. [1]
Number of detached accessory buildings, maximum:	no limitation	no limitation	2 [2]

Notes:

1. Pursuant to the procedures and requirements contained in article 7 of this chapter, the zoning administrator may allow more than the specified floor area when one or more of the accessory buildings on a lot are designated as a rural accessory building.
2. Pursuant to the procedures and requirements contained in article 7 of this chapter, the zoning administrator may allow more accessory buildings than what is specified when one or more of the accessory buildings on a lot are designated as a rural accessory building.
3. In the case of a lot of record that has a width less than what is required in the zoning district in which such lot is located, the side yard setback for principal buildings shall be reduced proportionately to the ratio between the actual width of the lot and the minimum required width, provided that no setback shall be less than 10 feet.
4. Some land uses that may be allowed in this district may have more restrictive yard setback requirements than what is listed. Refer to the development standards in division 9 of this article.
5. Lots abutting more restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting districts. The street yards on the less restrictive district shall be modified for a distance of not more than 75 feet from the district boundary line so as to equal the average of the street yards required in both districts.

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Exhibit 8-2 Dimensional standards by zoning district - continued**A-2 General agriculture district**

	<u>Residential</u>	<u>Farm</u>	<u>Nonresidential / Nonfarm</u>
Lot size, minimum:	5.0 acres [6]	5.0 acres [6]	5.0 acres [6]
Lot size, maximum:	none	none	none
Lot width, minimum:	200 ft.	200 ft.	200 ft.
Road frontage, minimum:	200 ft.	200 ft.	200 ft.
Separation between detached buildings, minimum:	10 ft.	10 ft.	10 ft.
Yard setback: [4,5]			
Street yard, minimum:	30 ft.	75 ft.	30 ft.
Side yard, minimum: [3]	7 ft. on one side and 10 ft. on the other for a principal building; 3 ft. on each side for a detached accessory building	15 ft.	7 ft. on one side and 10 ft. on the other for a principal building; 3 ft. on each side for a detached accessory building
Rear yard minimum:	25 ft. for a principal building; 3 ft. for a detached accessory building	50 ft.	25 ft. for a principal building; 3 ft. for a detached accessory building
Building height:			
Principal building, maximum:	35 ft.	no limitation	35 ft.
Accessory building, maximum:	18 ft.	no limitation	18 ft.
Floor area ratio, maximum:	no limitation	no limitation	no limitation
Floor area:			
Principal building, minimum:	1,000 sq. ft. of living space	no limitation	no limitation
Accessory area, maximum:	1,500 sq. ft. plus 1 percent of the lot area in excess of 43,000 sq. ft. [1]; 1 percent of lot area for buildings related to household livestock	no limitation	1,500 sq. ft. plus 1 percent of the lot area in excess of 43,000 sq. ft. [1]
Number of detached accessory buildings, maximum:	no limitation	no limitation	2 [2]

Notes:

1. Pursuant to the procedures and requirements contained in article 7 of this chapter, the zoning administrator may allow more than the specified floor area when one or more of the accessory buildings on a lot are designated as a rural accessory building.
2. Pursuant to the procedures and requirements contained in article 7 of this chapter, the zoning administrator may allow more accessory buildings than what is specified when one or more of the accessory buildings on a lot are designated as a rural accessory building.
3. In the case of a lot of record that has a width less than what is required in the zoning district in which such lot is located, the side yard setback for principal buildings shall be reduced proportionately to the ratio between the actual width of the lot and the minimum required width, provided that no setback shall be less than 10 feet.
4. Some land uses that may be allowed in this zoning district may have more restrictive yard setback requirements than what is listed. Refer to the development standards in division 9 of this article.
5. Lots abutting more restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting districts. The street yards on the less restrictive district shall be modified for a distance of not more than 75 feet from the district boundary line so as to equal the average of the street yards required in both districts.
6. R-1 Zoning District dimensional standards and allowable land uses as specified in Exhibit 8-1 shall apply to A-2 zoned lots with less than 5 acres.

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Exhibit 8-2 Dimensional standards by zoning district - continued**R-1 Rural residential district (nonsubdivided)**

	<u>Single-family</u>	<u>Garage Lot</u>	<u>Nonresidential</u>
Lot size, minimum [3]:	43,000 sq. ft. for an unsewered lot; 12,000 sq. ft. for a sewerer lot	3,192 sq. ft.	43,000 sq. ft.
Lot size, maximum:	no limitation	no limitation	no limitation
Lot width, minimum:	200 ft. for an unsewered lot; 85 ft. for a sewerer lot	56 ft.	200 ft.
Road frontage, minimum:	33 ft.	45 ft.	200 ft. for an unsewered lot; 33 ft. for a sewerer lot
Separation between detached buildings, minimum:	10 ft.	10 ft.	10 ft.
Yard setback: [6,7]			
Street yard, minimum:	30 ft.	30 ft.	30 ft.
Side yard, minimum: [5]	7 ft. on one side and 10 ft. on the other for a principal building; 3 ft. for a detached accessory building	3 ft.	7 ft. on one side and 10 ft. on the other for a principal building; 3 ft. for a detached accessory building
Rear yard, minimum:	25 ft. for a principal building; 3 ft. for a detached accessory building or 5 ft. to an alley	3 ft.	25 ft. for a principal building; 3 ft. for a detached accessory building or 5 ft. to an alley
Building height:			
Principal building, maximum:	35 ft.	n/a	35 ft. [4]
Accessory building, maximum:	18 ft.	18 ft.	18 ft.
Floor area ratio, maximum:	no limitation	no limitation	no limitation
Floor area:			
Principal building, minimum:	1,000 sq. ft. of living space	not applicable	no limitation
Accessory area, maximum:	1,500 sq. ft. plus 1 percent of the lot area in excess of the minimum lot size [1]; 1 percent of lot area for buildings related to household livestock	1,500 sq. ft.	1,500 sq. ft. plus 1 percent of the lot area in excess of the minimum lot size [1]
Number of detached accessory buildings, maximum:	no limitation	one	2 [2]

Notes:

1. Pursuant to the procedures and requirements contained in article 7 of this chapter, the zoning administrator may allow more than the specified floor area when one or more of the accessory buildings on a lot are designated as a rural accessory building.
2. Pursuant to the procedures and requirements contained in article 7 of this chapter, the zoning administrator may allow more accessory buildings than what is specified when one or more of the accessory buildings on a lot are designated as a rural accessory building.
3. The minimum size of the lot may actually be larger due to environmental constraints and land required for on-site infrastructure requirements such as stormwater management and on-site sewage disposal systems.
4. When an institutional building, such as a church, governmental office, or school, is permitted in a residential zoning district, such building may exceed the stated height limitation, up to a maximum height of 60 feet, provided such building is setback one foot from the required setback line for each foot the building exceeds the stated height limitation.
5. For lots that are less than 65 feet wide at the building setback line, the total side yard is 26 percent of the lot width, with no one side yard less than 5 feet.
6. Some land uses that may be allowed in this zoning district may have more restrictive yard setback requirements than what is listed. Refer to the development standards in division 9 of this article.
7. Lots abutting more restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting districts. The street yards on the less restrictive district shall be modified for a distance of not more than 75 feet from the district boundary line so as to equal the average of the street yards required in both districts.

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Exhibit 8-2 Dimensional standards by zoning district - continued**R-2 Suburban residential district (subdivided)**

	<u>Single-family</u>	<u>Garage Lot</u>	<u>Nonresidential</u>
Lot size, minimum [3]:	20,000 sq. ft. for an unsewered lot; 9,000 sq. ft. for a sewerd lot and nonshoreland; 10,000 sq. ft. for a sewerd lot and shoreland	2,480 sq. ft.	43,000 sq. ft.
Lot size, maximum:	none	no limitation	no limitation
Lot width, minimum:	100 ft. for an unsewered lot; 65 ft. for a sewerd lot	44 ft.	200 ft.
Road frontage, minimum:	33 ft.	35 ft.	200 ft. for an unsewered lot; 33 ft. for a sewerd lot
Separation between detached buildings, minimum:	10 ft.	10 ft.	10 ft.
Yard setback: [6,7]			
Street yard, minimum:	30 ft.	30 ft.	30 ft.
Side yard, minimum: [5]	7 ft. on one side and 10 ft. on the other for a principal building; 3 ft. for a detached accessory building	3 ft.	7 ft. on one side and 10 ft. on the other for a principal building; 3 ft. for a detached accessory building
Rear yard, minimum:	25 ft. for a principal building; 3 ft. for a detached accessory building or 5 ft. to an alley	3 ft.	25 ft. for a principal building; 3 ft. for a detached accessory building
Building height:			
Principal building, maximum:	35 ft.	not applicable	35 ft. [4]
Accessory building, maximum:	18 ft.	18 ft.	18 ft.
Floor area:			
Principal building, minimum:	1,000 sq. ft. of living space	not applicable	no limitation
Accessory area, maximum:	1,200 sq. ft. plus 1 percent of the lot area in excess of the minimum lot size [1]; 1 percent of lot area for buildings related to household livestock	1,200 sq. ft.	1,500 sq. ft. plus 1 percent of the lot area in excess of the minimum lot size [1]
Number of detached accessory buildings, maximum:	2 [2]	one	2 [2]

Notes:

1. Pursuant to the procedures and requirements contained in article 7 of this chapter, the zoning administrator may allow more than the specified floor area when one or more of the accessory buildings on a lot are designated as a rural accessory building.
2. Pursuant to the procedures and requirements contained in article 7 of this chapter, the zoning administrator may allow more accessory buildings than what is specified when one or more of the accessory buildings on a lot are designated as a rural accessory building.
3. The minimum size of the lot may actually be larger due to environmental constraints and land required for on-site infrastructure requirements such as stormwater management and on-site sewage disposal systems.
4. When an institutional building, such as a church, governmental office, or school, is permitted in a residential zoning district, such building may exceed the stated height limitation, up to a maximum height of 60 feet, provided such building is setback one foot from the required setback line for each foot the building exceeds the stated height limitation.
5. For lots that are less than 65 feet wide at the building setback line, the total side yard is 26 percent of the lot width, with no one side yard less than 5 feet.
6. Some land uses that may be allowed in this zoning district may have more restrictive yard setback requirements than what is listed. Refer to the development standards in division 9 of this article.
7. Lots abutting more restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting districts. The street yards on the less restrictive district shall be modified for a distance of not more than 75 feet from the district boundary line so as to equal the average of the street yards required in both districts.

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Exhibit 8-2 Dimensional standards by zoning district - continued**R-3 Duplex residential district**

	<u>Multi-family, 2 units</u>	<u>Twin home</u>	<u>Nonresidential</u>
Lot size, minimum [3]:	43,000 sq. ft. for an unsewered lot; 10,000 sq. ft. for a sewerer lot	21,500 sq. ft. per unit for an unsewered lot; 5,000 sq. ft. per unit for a sewerer lot	30,000 sq. ft. for an unsewered lot; 15,000 sq. ft. for a sewerer lot
Lot size, maximum:	no limitation	no limitation	no limitation
Lot width, minimum:	200 ft. for an unsewered lot; 85 ft. for a sewerer lot	100 ft. per lot for an unsewered lot; 43 ft. per lot for a sewerer lot	85 ft.
Road frontage, minimum:	33 ft.	17 ft. per lot with 34 contiguous ft. overall	100 ft.
Separation between detached buildings, minimum:	10 ft.	10 ft.	10 ft.
Yard setback: [6,7]			
Street yard, minimum:	30 ft.	30 ft.	30 ft.
Side yard, minimum: [5]	7 ft. on one side and 10 ft. on the other for a principal building; 3 ft. for a detached accessory building	9 ft. on one side with no setback along the shared property boundary line; 3 ft. for a detached accessory building	7 ft. on one side and 10 ft. on the other for a principal building; 3 ft. for a detached accessory building
Rear yard, minimum:	25 ft. for a principal building; 3 ft. for a detached accessory building or 5 ft. to an alley	25 ft. for a principal building; 3 ft. for a detached accessory building or 5 ft. to an alley	25 ft. for a principal building; 3 ft. for a detached accessory building or 5 ft. to an alley
Building height:			
Principal building, maximum:	35 ft.	35 ft.	35 ft. [4]
Accessory building, maximum:	18 ft.	18 ft.	18 ft.
Floor area ratio, maximum:	no limitation	no limitation	no limitation
Floor area:			
Principal building, minimum:	1,000 sq. ft. of living space	500 sq. ft. of living space per unit	no limitation
Accessory area, maximum:	1,200 sq. ft. per dwelling unit	1,200 sq. ft. per dwelling unit; 1 percent of lot area for buildings related to household livestock	1,200 sq. ft. plus 1 percent of the lot area in excess of the minimum lot size [1]
Number of detached accessory buildings, maximum:	2 [2]	2 [2]	2 [2]

Notes:

1. Pursuant to the procedures and requirements contained in article 7 of this chapter, the zoning administrator may allow more than the specified floor area when one or more of the accessory buildings on a lot are designated as a rural accessory building.
2. Pursuant to the procedures and requirements contained in article 7 of this chapter, the zoning administrator may allow more accessory buildings than what is specified when one or more of the accessory buildings on a lot are designated as a rural accessory building.
3. The minimum size of the lot may actually be larger due to environmental constraints and land required for on-site infrastructure requirements such as stormwater management and on-site sewage disposal systems.
4. When an institutional building, such as a church, governmental office, or school, is permitted in a residential zoning district, such building may exceed the stated height limitation, up to a maximum height of 60 feet, provided such building is setback one foot from the required setback line for each foot the building exceeds the stated height limitation.
5. In the case of a lot of record that has a width less than what is required in the zoning district in which such lot is located, the side yard setback for principal buildings shall be reduced proportionately to the ratio between the actual width of the lot and the minimum required width, provided that no setback shall be less than 10 feet.
6. Some land uses that may be allowed in this zoning district may have more restrictive yard setback requirements than what is listed. Refer to the development standards in division 9 of this article.
7. Lots abutting more restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting districts. The street yards on the less restrictive district shall be modified for a distance of not more than 75 feet from the district boundary line so as to equal the average of the street yards required in both districts.

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Exhibit 8-2 Dimensional standards by zoning district - continued**R-4 Multi-family residential district – (3 or more dwelling units)**

	<u>Multifamily</u>	<u>Nonresidential</u>
Lot size, minimum [3]:	15,000 sq. ft. for a sewered lot	24,000 sq. ft.
Lot size, maximum:	none	none
Lot width, minimum:	120 ft.	85 ft.
Road frontage, minimum:	33 ft.	100 ft.
Separation between detached buildings, minimum:	10 ft.	10 ft.
Yard setback: [6,7]		
Street yard, minimum:	40 ft.	40 ft.
Side yard, minimum: [5]	15 ft. on each side for a principal building; 3 ft. for a detached accessory building	15 ft. on each side for a principal building; 3 ft. for a detached accessory building
Rear yard minimum:	40 ft. for a principal building; 3 ft. for a detached accessory building	40 ft. for a principal building; 3 ft. for a detached accessory building
Building height:		
Principal building, maximum:	35 ft.	35 ft. [4]
Accessory building, maximum:	18 ft.	18 ft.
Floor area ratio, maximum:	50 percent	50 percent
Floor area:		
Principal building, minimum:	500 sq. ft. of living space per unit	no limitation
Accessory area, maximum:	500 sq. ft. per dwelling unit	1,200 sq. ft. plus 1 percent of the lot area in excess of 43,000 sq. ft. [1]
Number of detached accessory buildings, maximum:	no limitation	2 [2]

Notes:

1. Pursuant to the procedures and requirements contained in article 7 of this chapter, the zoning administrator may allow more than the specified floor area when one or more of the accessory buildings on a lot are designated as a rural accessory building.
2. Pursuant to the procedures and requirements contained in article 7 of this chapter, the zoning administrator may allow more accessory buildings than what is specified when one or more of the accessory buildings on a lot are designated as a rural accessory building.
3. The minimum size of the lot may actually be larger due to environmental constraints and land required for on-site infrastructure requirements such as stormwater management and on-site sewage disposal systems.
4. When an institutional building, such as a church, governmental office, or school, is permitted in a residential zoning district, such building may exceed the stated height limitation, up to a maximum height of 60 feet, provided such building is setback one foot from the required setback line for each foot the building exceeds the stated height limitation.
5. In the case of a lot of record that has a width less than what is required in the zoning district in which such lot is located, the side yard setback for principal buildings shall be reduced proportionately to the ratio between the actual width of the lot and the minimum required width, provided that no setback shall be less than 10 feet.
6. Some land uses that may be allowed in this zoning district may have more restrictive yard setback requirements than what is listed. Refer to the development standards in division 9 of this article.
7. Lots abutting more restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting districts. The street yards on the less restrictive district shall be modified for a distance of not more than 75 feet from the district boundary line so as to equal the average of the street yards required in both districts.

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Exhibit 8-2 Dimensional standards by zoning district - continued

R-8 Manufactured/mobile home community district

Lot size, minimum: 2.0 acres

Lot size, maximum: no limitation

Lot width, minimum: 220 ft.

Road frontage, minimum: 100 ft.

Separation between detached buildings, minimum: 10 ft.

Yard setback: [1]

 Street yard, minimum: 30 ft.

 Side yard, minimum: 25 ft. on each side

 Rear yard minimum: 25 ft.

Building height:

 Principal building, maximum: 35 ft.

 Accessory building, maximum: 18 ft.

Notes:

1. Lots abutting more restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting districts. The street yards on the less restrictive district shall be modified for a distance of not more than 75 feet from the district boundary line so as to equal the average of the street yards required in both districts.

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Exhibit 8-2 Dimensional standards by zoning district - continued

B-1 Neighborhood business district

Lot size, minimum: 15,000 sq. ft. for a sewered lot; 30,000 sq. ft. for an unsewered lot [1]

Lot size, maximum: no limitation

Lot width, minimum: 85 ft. for a sewered lot; 100 ft. for an unsewered lot

Road frontage, minimum: 75 ft. for a sewered lot; 100 ft. for an unsewered lot

Floor area ratio, maximum: no limitation

Separation between detached buildings, minimum: 10 ft.

Yard setback: [4,5]

 Street yard, minimum: 30 ft. [3]

 Side yard, minimum: 7 ft. on one side and 10 ft. on the other for a principal building; 3 ft. for a detached accessory building or 5 ft. from an alley

 Rear yard minimum: 25 ft. for a principal building; 3 feet for a detached accessory building or 5 ft. from an alley

Building height:

 Principal building, maximum: 35 ft. [2]

 Accessory building, maximum: 18 ft.

Floor area:

 Principal building, minimum: no limitation

 Accessory buildings, maximum: no limitation

Number of detached accessory buildings, maximum: no limitation

Notes:

1. The minimum size of the lot may actually be larger due to environmental constraints and land required for on-site infrastructure requirements such as stormwater management and on-site sewage disposal systems.
2. When an institutional building, such as a church, governmental office, or school, is permitted in a commercial zoning district, such building may exceed the stated height limitation, up to a maximum height of 60 feet, provided such building is setback one foot from the required setback line for each foot the building exceeds the stated height limitation.
3. In the case of a lot of record that has a width less than what is required in the zoning district in which such lot is located, the side yard setback for principal buildings shall be reduced proportionately to the ratio between the actual width of the lot and the minimum required width, provided that no setback shall be less than 10 feet.
4. Some land uses that may be allowed in this zoning district may have more restrictive yard setback requirements than what is listed. Refer to the development standards in division 9 of this article.
5. Lots abutting more restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting districts. The street yards on the less restrictive district shall be modified for a distance of not more than 75 feet from the district boundary line so as to equal the average of the street yards required in both districts.

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Exhibit 8-2 Dimensional standards by zoning district - continued

B-2 Community business district

Lot size, minimum: 15,000 sq. ft. for a sewered lot; 30,000 sq. ft. for an unsewered lot [1]

Lot size, maximum: no limitation

Lot width, minimum: 85 ft. for a sewered lot; 100 ft. for an unsewered lot

Road frontage, minimum: 75 ft. for a sewered lot; 100 ft. for an unsewered lot

Floor area ratio, maximum: no limitation

Separation between detached buildings, minimum: 10 ft.

Yard setback: [2,3]

 Street yard, minimum: 30 ft.

 Side yard, minimum: 7 ft. on one side and 10 ft. on the other for a principal building; 3 ft. for a detached accessory building or 5 ft. from an alley

 Rear yard minimum: 25 ft. for a principal building; 3 feet for a detached accessory building or 5 ft. from an alley

Building height:

 Principal building, maximum: 35 ft.

 Accessory building, maximum: 18 ft.

Floor area:

 Principal building, minimum: no limitation

 Accessory buildings, maximum: no limitation

Number of detached accessory buildings, maximum: no limitation

Notes:

1. The minimum size of the lot may actually be larger due to environmental constraints and land required for on-site infrastructure requirements such as stormwater management and on-site sewage disposal systems.
2. Some land uses that may be allowed in this zoning district may have more restrictive yard setback requirements than what is listed. Refer to the development standards in division 9 of this article.
3. Lots abutting more restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting districts. The street yards on the less restrictive district shall be modified for a distance of not more than 75 feet from the district boundary line so as to equal the average of the street yards required in both districts.

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Exhibit 8-2 Dimensional standards by zoning district - continued

B-3 Regional business district

Lot size, minimum: 30,000 sq. ft.[1]

Lot size, maximum: none

Lot width, minimum: 100 ft.

Road frontage, minimum: 100 ft.

Floor area ratio, maximum: no limitation

Separation between detached buildings, minimum: 10 ft.

Yard setback: [2,3]

 Street yard, minimum: 30 ft.

 Side yard, minimum: 7 ft. on one side and 10 ft. on the other for a principal building; 3 ft. for a detached accessory building or 5 ft. from an alley

 Rear yard minimum: 25 ft. for a principal building; 3 feet for a detached accessory building or 5 ft. from an alley

Building height:

 Principal building, maximum: 45 ft.

 Accessory building, maximum: 18 ft.

Floor area:

 Principal building, minimum: none

 Accessory buildings, maximum: no limitation

Number of detached accessory buildings, maximum: no limitation

Notes:

1. The minimum size of the lot may actually be larger due to environmental constraints and land required for on-site infrastructure requirements such as stormwater management and on-site sewage disposal systems.
2. Some land uses that may be allowed in this zoning district may have more restrictive yard setback requirements than what is listed. Refer to the development standards in division 9 of this article.
3. Lots abutting more restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting districts. The street yards on the less restrictive district shall be modified for a distance of not more than 75 feet from the district boundary line so as to equal the average of the street yards required in both districts.

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Exhibit 8-2 Dimensional standards by zoning district - continued

M-1 Mixed-use district

Lot size, minimum: 15,000 sq. ft. for a sewerer lot; 30,000 sq. ft. for an unsewered lot [1]

Lot size, maximum: no limitation

Lot width, minimum: 85 ft. for a sewerer lot; 100 ft. for an unsewered lot

Road frontage, minimum: 75 ft. for a sewerer lot; 100 ft. for an unsewered lot

Floor area ratio, maximum: no limitation

Separation between detached buildings, minimum: 10 ft.

Yard setback: [2,3]

 Street yard, minimum: 30 ft.

 Side yard, minimum: 7 ft. on one side and 10 ft. on the other for a principal building; 3 ft. for a detached accessory building or 5 ft. from an alley

 Rear yard minimum: 25 ft. for a principal building; 3 feet for a detached accessory building or 5 ft. from an alley

Building height:

 Principal building, maximum: 45 ft.

 Accessory building, maximum: 18 ft.

Floor area:

 Principal building, minimum: none

 Accessory buildings, maximum: no limitation

Number of detached accessory buildings, maximum: no limitation

Notes:

1. The minimum size of the lot may actually be larger due to environmental constraints and land required for on-site infrastructure requirements such as stormwater management and on-site sewage disposal systems.
2. Some land uses that may be allowed in this zoning district may have more restrictive yard setback requirements than what is listed. Refer to the development standards in division 9 of this article.
3. Lots abutting more restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting districts. The street yards on the less restrictive district shall be modified for a distance of not more than 75 feet from the district boundary line so as to equal the average of the street yards required in both districts.

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Exhibit 8-2 Dimensional standards by zoning district - continued

I-1 Light industrial district

Lot size, minimum: 10,000 sq. ft. for sewerer lot; 20,000 sq. ft. for an unsewered lot; [1]

Lot size, maximum: none

Lot width, minimum: 100 ft.

Road frontage, minimum: 33 ft.

Floor area ratio, maximum: no limitation

Separation between detached buildings, minimum: 10 ft.

Yard setback: [3,4]

Street yard, minimum: 30 ft.

Side yard, minimum: 7 ft. on one side and 10 ft. on the other

Rear yard minimum: 25 ft.

Building height:

Principal building, maximum: 45 ft. [2]

Accessory building, maximum: 30 ft. [2]

Floor area:

Principal building, minimum: no limitation

Accessory buildings, maximum: no limitation

Number of detached accessory buildings, maximum: no limitation

Notes:

1. The minimum size of the lot may actually be larger due to environmental constraints and land required for on-site infrastructure requirements such as stormwater management and on-site sewage disposal systems.
2. When a commercial, institutional, or industrial building is situated on a parcel that adjoins a side yard of a parcel in a residential zoning district, no portion of such building located within 50 feet of the property boundary line shall exceed 120 percent of the maximum building height established for the residential zoning district.
4. Some land uses that may be allowed in this zoning district may have more restrictive yard setback requirements than what is listed. Refer to the development standards in division 9 of this article.
5. Lots abutting more restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting districts. The street yards on the less restrictive district shall be modified for a distance of not more than 75 feet from the district boundary line so as to equal the average of the street yards required in both districts.

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Exhibit 8-2 Dimensional standards by zoning district - continued

I-2 Heavy industrial district

Lot size, minimum: 10,000 sq. ft. for sewered lot; 20,000 sq. ft. for an unsewered lot; [1]

Lot size, maximum: none

Lot width, minimum: 100 ft.

Road frontage, minimum: 33 ft.

Floor area ratio, maximum: no limitation

Separation between detached buildings, minimum: 10 ft.

Yard setback: [3,4]

 Street yard, minimum: 30 ft.

 Side yard, minimum: 7 ft. on one side and 10 ft. on the other

 Rear yard minimum: 25 ft.

Building height:

 Principal building, maximum: no limitation [2]

 Accessory building, maximum: no limitation [2]

Floor area:

 Principal building, minimum: no limitation

 Accessory buildings, maximum: no limitation

Number of detached accessory buildings, maximum: no limitation

Notes:

1. The minimum size of the lot may actually be larger due to environmental constraints and land required for on-site infrastructure requirements such as stormwater management and on-site sewage disposal systems.
 2. When a commercial, institutional, or industrial building is situated on a parcel that adjoins a side yard of a parcel in a residential zoning district, no portion of such building located within 50 feet of the property boundary line shall exceed 130 percent of the maximum building height established for the residential zoning district.
 3. Some land uses that may be allowed in this zoning district may have more restrictive yard setback requirements than what is listed. Refer to the development standards in division 9 of this article.
 4. Lots abutting more restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting districts. The street yards on the less restrictive district shall be modified for a distance of not more than 75 feet from the district boundary line so as to equal the average of the street yards required in both districts.
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23.8-69 to 23.8-80**Reserved**

DIVISION 5 GENERAL STANDARDS

Sections

23.8-81	Licensing with the county and town	23.8-85	Special provisions for residential land uses
23.8-82	Licensing with state agencies	23.8-86	Compliance with building codes
23.8-83	Number of principal buildings on a parcel of land		
23.8-84	Shopping cart returns		

23.8-81 Licensing with the county and town

In addition to meeting the requirements contained in this article, all land uses shall also meet any requirements for licensing with the county and the appropriate town, which may now exist or may be adopted.

23.8-82 Licensing with state agencies

If a land use or any related activity requires a license from the state, or its agent, to operate, such license shall be obtained prior to the establishment of such use and maintained for the life of the use or until the state, or its agent, no longer requires such license.

23.8-83 Number of principal buildings on a parcel of land

There shall be no more than one principal building on a parcel of land, except as may be specifically allowed in this chapter. When this chapter allows more than one principal building on a lot, the reviewing authority may (1) require a greater yard setback than what is normally required for the zoning district in which it is located, (2) require additional landscaping, (3) establish a minimum separation between principal buildings, and (4) impose any other condition necessary to address concerns related to public health, safety, and welfare.

23.8-84 Shopping cart returns

(a) **Applicability.** Each retail project that provides on-site parking with 100 or more vehicle parking spaces shall provide one or more shopping cart returns as provided in this section.

(b) **Number.** A least one cart return shall be provided for each 100 vehicle parking spaces.

(c) **Specifications.** The cart return shall be at least 170 square feet in area, which is roughly the area of a parking space, and shall be constructed of durable materials that are compatible with the building and outdoor light poles and fixtures located in or around the parking lot.

(d) **Placement.** The cart return shall be located within the parking lot area in a central location. The cart return shall not be located within 25 feet of the primary entrance of the principal building, unless there is no other practicable location.

23.8-85 Special provisions for residential land uses

(a) **Use of a recreational vehicle for occupancy.** A recreational vehicle shall not be used for occupancy while on a residential premises, except for guests not exceeding 5 days in a calendar month. No more than one recreational vehicle may be occupied as allowed under this section.

(b) **On-site storage of a recreational vehicle.** A recreational vehicle located on a residential property shall be licensed by the state of Wisconsin. No more than 2 recreational vehicles shall be stored on a residential property with a principal building. A recreational vehicle shall not be stored in a street yard or in the setback of a side yard, shore yard, or rear yard as established for the zoning district in which the parcel is located.

23.8-86 Compliance with building codes

A building shall comply with all applicable building codes for the intended use.

23.8-87 to 23.8-230 Reserved

**DIVISION 6
RESERVED**

**DIVISION 7
RESERVED**

**DIVISION 8
RESERVED**

DIVISION 9
SPECIAL STANDARDS FOR PRINCIPAL LAND USES
 (Series 1 to 16 in Land Use Matrix)

Sections

Series 1. Agricultural Uses 23.8-231 Agriculture-related uses 23.8-232 Agriculture, crop 23.8-233 Agriculture, general 23.8-234 Greenhouse Series 2. Resource-Based Uses 23.8-241 Dam 23.8-242 Forestry 23.8-243 Hunting preserve 23.8-244 Sewage sludge disposal 23.8-245 Wildlife park Series 3. Residential Uses 23.8-251 Mixed-use housing 23.8-252 Manufactured community 23.8-253 Multifamily building, 2 units 23.8-254 Multifamily building, 3 or more units 23.8-255 Nonfarm residence 23.8-256 Single-family dwelling 23.8-257 Townhouse 23.8-258 Twin home Series 4. Special Care Facilities 23.8-261 Adult family home 23.8-262 Community living arrangement 23.8-263 Foster home and treatment foster home 23.8-264 Group day care center 23.8-265 Hospice care center 23.8-266 Nursing home 23.8-267 Retirement home 23.8-268 Temporary shelter Series 5. Group Accommodations 23.8-271 Boardinghouse 23.8-272 Campground 23.8-273 Group recreation camp 23.8-274 Migrant labor camp 23.8-275 Overnight lodging 23.8-276 Resort Series 6. Food and Beverage Sales 23.8-281 Brewpub 23.8-282 Restaurant 23.8-283 Tavern	Series 7. Vehicle Rental, Sales and Services 23.8-291 Heavy vehicle sales and rental 23.8-292 Truck stop 23.8-293 Vehicle fuel station 23.8-294 Vehicle repair shop 23.8-295 Vehicle sales and rental 23.8-296 Vehicle service shop 23.8-297 Vehicle storage yard Series 8. General Sales 23.8-301 Convenience retail sales 23.8-302 General retail sales 23.8-303 General retail sales, large format 23.8-304 Outdoor sales Series 9. General Services 23.8-311 Administrative services 23.8-312 Adult-oriented establishment 23.8-313 Body-piercing establishment 23.8-314 Commercial kennel 23.8-315 Commercial stable 23.8-316 Equipment rental, large 23.8-317 Equipment rental, small 23.8-318 Financial services 23.8-319 Funeral home 23.8-320 General repair 23.8-321 General services 23.8-322 Health care clinic 23.8-323 Health care center 23.8-324 Instructional services 23.8-325 Landscape business 23.8-326 Professional services 23.8-327 Tattoo establishment 23.8-328 Veterinary clinic, general 23.8-329 Veterinary clinic, small animal Series 10. Recreation and Entertainment 23.8-341 Driving range 23.8-342 Golf course 23.8-343 Indoor entertainment 23.8-344 Indoor recreation 23.8-345 Outdoor entertainment 23.8-346 Outdoor recreation 23.8-347 Outdoor shooting range
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Series 1 Agricultural Uses**23.8-231 Agriculture-related use**

(a) **Generally.** An agriculture-related use shall not be located in, or adjacent to, an existing or platted residential subdivision. If such use is established prior to April 29, 2012, the adjoining lands may be platted for residential subdivisions after that date.

(b) **Long-term use.** This use shall be located in an area that is planned to remain commercially viable for agricultural land uses over the long term.

(c) **Setbacks.** All buildings, structures, and outdoor storage areas shall be located at least 100 feet from all side and rear property boundary lines.

23.8-232 Agriculture, crop

(a) **Setbacks.** The raising of crops may occur within the setback of a street yard, side yard, and rear yard.

(b) **Buildings.** Buildings related to the raising of crops are only allowed in an agricultural zoning district.

(c) **Agriculture, crop, located in the A-1 District.** Agricultural crop located in the A-1 District must be for the purpose of earning an income or livelihood.

23.8-233 Agriculture, general

(a) **Legislative findings.** The Board of County Supervisors makes the following legislative findings regarding this section:

- (1) The state legislature adopted s. 93.90, Wis. Stats., (Livestock Facility Siting Law) to govern livestock facilities, which is implemented by administrative rule under ch. ATP 51, Wis. Admin. Code.
- (2) The Livestock Facility Site Law allows local jurisdictions to review livestock facilities with 500 animal units or more as a conditional use.

(b) **Standards for general agriculture.** There are no special standards that apply to general agriculture uses or general agriculture with fewer than 500 animal units.

(c) **Standards for livestock facilities with 500 animal units or more.** A livestock facility with 500 animal units or more shall comply with the following requirements.

- (1) **Minimum lot area.** The facility shall only occur on a parcel of land that is 40 acres or larger. Once this use is established, the parcel shall not be made smaller through a property boundary line relocation or other means, except as may be approved by the Planning and Zoning Committee as a special exception consistent with the procedures and requirements in article 7 of this chapter.
- (2) **Road access requirements.** The primary access to the facility shall be off of a road classified as a collector or a higher classification as depicted on the zoning map or a supplemental map.
- (3) **Location of livestock structures.** A livestock structure approved after April 29, 2012, except for livestock waste storage structures, shall be located at least 150 feet from a public road right-of-way and 200 feet from a property boundary line, other than for a public road right-of-way.
- (4) **Location of livestock waste storage structures.** A livestock waste storage structure approved after April 29, 2012, shall be located at least 350 feet from a property boundary. If any portion of an existing structure that is closer than 350 feet from a property boundary line, such structure may be expanded, provided the expansion is not located any closer to the property boundary line than the existing structure. A single new livestock waste storage structure may be constructed closer than 350 feet if such structure (1) is located on the same tax parcel as a livestock waste storage structure in existence before May 1, 2006, (2) is not larger than the existing structure, (3) is no further than 50 feet from the existing structure, and (4) is no closer to the property boundary line than the existing structure. An existing structure that does not meet the setback standards in this subsection may be expanded provided such expansion is not located any closer to the property boundary line than the existing structure.
- (5) **Location of livestock structures, except livestock waste storage structures.** Livestock structures, except livestock waste storage structures, associated with an operation with fewer than 1,000 animal units shall be located at least 100 feet from the property boundary line. Livestock structures, except livestock waste storage structures, associated with an operation with 1,000 animal units or more shall be located at least 200 feet from the property boundary line.
- (6) **Wells.** All water wells located within a livestock facility shall comply with chs. NR 811 and 812, Wis. Admin. Code.¹²² New or substantially altered livestock structures shall be separated from existing wells by the distances required in chs. NR 811 and 812, Wis. Admin. Code, regardless of whether the livestock facility operator owns the land on which the wells are located. A livestock structure in existence on May 1, 2006 may be altered as long as the alteration does not reduce the distance between the livestock structure and an existing well.

(d) **Agriculture, general, located in the A-1 District.** General agriculture located in the A-1 District must be for the purpose of earning an income or livelihood.

23.8-234 Greenhouse

No special standards apply to greenhouses.

23.8-235 to 23.8-240 Reserved

¹²² Commentary: These administrative rules include standards for water well construction and placement.

Series 2 Resource-Based Uses

23.8-241 Dam

- (a) **State and federal compliance.** A dam constructed after April 29, 2012, shall comply with all state and federal rules and regulations.
- (b) **Removal.** A dam may be removed, provided the standards and requirements of ch. 31, Wis. Stats., are met.
- (c) **Safety.** The owner of the dam shall comply with the safety measures required in s. NR 33.07(3), Wis. Admin. Code.
- (d) **Unsafe conditions.** If the zoning administrator determines that a dam is unsafe or otherwise defective, the administrator shall follow the procedure outlined in article 7 of this chapter relating to unsafe conditions.
- (e) **Termination of use.** If the zoning administrator determines that a dam has not been operational for a continuous period of 12 months, the administrator shall follow the procedure outlined in article 7 of this chapter relating to the termination of an approval.
- (f) **Dam located in an A-1 District.** A dam located in an A-1 District must meet the requirements of s. 23.8-115(c).

23.8-242 Forestry

- (a) **Removal of trees and shrubs within a buffer yard.** Trees and shrubs within a required buffer yard shall not be removed, except as follows:
 - (1) A dead or dying tree or shrub may be removed when it poses a threat to public health and safety.
 - (2) An invasive tree or shrub may be removed.

If a tree or shrub is removed and the tree or shrub is counted towards meeting a landscaping requirement contained in this chapter, a new plant shall be planted in the buffer yard to compensate for the loss.

- (b) **Removal of a tree or shrub within a defined open space area.** Trees and shrubs within an area set aside as open space shall not be removed except as follows:
 - (1) A dead or dying tree or shrub may be removed when it poses a threat to public health and safety.
 - (2) The removal of trees and shrubs is done consistent with a landscape management plan as prepared by a registered landscape architect, an arborist, or a forester and as approved by the zoning administrator.

23.8-243 Hunting preserve

No special standards apply to hunting preserves.

23.8-244 Sewage sludge disposal

The land application of sewage sludge shall comply with s. 283.82, Wis. Stats.; ch. NR 204, Wis. Admin. Code; and other applicable rules and regulations administered by the Wisconsin Department of Natural Resources.¹²³

23.8-245 Wildlife park

No special standards apply to wildlife parks.

23.8-248 to 23.8-250 Reserved

Series 3 Residential Uses

23.8-251 Mixed-use housing

No special standards apply to mixed-use housing.

¹²³Commentary: Under s. 283.82, Wis. Stats., a city, village, town, or county may not prohibit the land application of sewage sludge if that application complies with state statute and administrative rules.

23.8-252 Manufactured/mobile home community

(a) **Minimum size.** The minimum size of a mobile home park established after April 29, 2012, shall be 2 acres.

(b) **Uses.** A recreational vehicle shall not be used for dwelling purposes. The following are permitted uses:

- (1) one mobile home or manufactured home per designated space;
- (2) one single-family dwelling for the park operator or caretaker;
- (3) one or more community safe rooms;
- (4) service buildings, such as administrative offices, laundromats, and recreational buildings, provided that such uses are subordinate to the residential character of the park and are intended for use primarily by park residents;
- (5) accessory structures, such as storage sheds, porches, garages, and carports as may be approved by the park operator, provided minimum setback requirements to the perimeter are maintained; and
- (6) one or more play areas for children.

(c) **Density.** The maximum density shall be 8 spaces per gross acre.

(d) **Park access.** The entrance to the mobile home park shall be designed to minimize congestion and hazards and allow free movement of traffic on adjacent roads. Each access to the development shall be off of a road classified as a minor arterial, major collector, or minor collector as depicted on the zoning map or a supplemental map.

(e) **Interior access.** Access to each mobile home space shall be off of a paved private street internal to the project.

(f) **Walkways.** Pedestrian walkways shall be provided in the area around service buildings, along major streets, and in other locations of anticipated heavy foot traffic. Walkways shall be at least 4 feet wide and hard-surfaced. In addition, each mobile home stand shall be provided with a walkway from the stand to the street or parking space.

(g) **Mobile home space.** An individual mobile home space shall contain at least 3,000 square feet and shall have a minimum width, at the narrowest point, of 45 feet. The limits of each mobile home space shall be clearly marked on the ground. Considering the orientation of principal windows in mobile homes, mobile home spaces shall be arranged diagonally to the street (30 degrees from perpendicular).

(h) **Identification of mobile home spaces.** Each mobile home shall be clearly identified in a uniform manner with a unique number or other approved designation for fire and police services. Such number or other approved designation shall be filed with the appropriate authorities by the licensee.

(i) **Mobile home pad.** Within each designated mobile home space, a mobile home pad with minimum dimensions of 17 feet by 70 feet shall be provided for the placement of the mobile home. The pad shall be hard surfaced with asphalt, concrete, or similar material and provide adequate drainage and support against settling and frost heave. It shall be equipped with tie downs and anchors to secure the mobile home against winds.

(j) **Required separation between mobile homes.** Mobile homes shall be separated from each other by at least 20 feet. An accessory structure such as an awning, cabana, storage cabinet, carport, windbreak, or porch attached to the mobile home shall, for purposes of separation requirements, be considered a part of the mobile home. The basic unit shall not occupy in excess of one fourth of the area of the lot and the complete unit including all accessory structures shall not occupy more than one-half of the area of the lot.

(k) **Setback and buffer strips.** Each mobile home shall be located at least 5 feet from any mobile home lot line. There shall be a minimum setback of the mobile home of 20 feet from the front, or main street side of the lot and of at least 10 feet from the rear of the lot. All mobile homes shall be located at least 25 feet from the perimeter of the site. Accessory buildings shall be located at least 10 feet from the perimeter of the site.

(l) **Drainage and landscaping.** The ground surface shall be graded and equipped to drain all surface water in a safe, efficient manner away from the mobile home pad. Except for the mobile home pad and other hard-surfaced areas, mobile home spaces shall be sodded or seeded or otherwise landscaped.

(m) **Skirting.** Each mobile home shall be skirted within 30 days of placement on the pad.

(n) **Mail delivery.** An off-street area for central mail delivery shall be provided.

- (o) **Solid waste collection.** If the solid waste service provider does not provide individual pickup, a dumpster enclosure of sufficient size shall be provided.
- (p) **Common storage area for residents.** An open, well-drained, dust-free storage area for the parking of boats, trailers, and outside vehicles owned by those living in the mobile home park shall be provided. The minimum size of such area shall be 100 square feet per mobile home space. The storage area shall be fenced to prevent access from outside the park.
- (q) **Recreation area.** A mobile home park shall contain a recreation area consisting of one-half acre for each 100 mobile home spaces. The minimum area in a park shall be 0.2 acres. Such area shall be located in a central area of the mobile home park.
- (r) **Utilities.** Utilities, including electrical, television, and telephone services, shall be placed underground.
- (s) **Lighting.** Street lights shall be provided in sufficient number and intensity to permit the safe movement of vehicles and pedestrians at night and shall be effectively related to buildings, trees, walks, steps, and ramps.
- (t) **Fire hydrants.** Fire hydrants shall be installed as required by the fire department serving the subject property.
- (u) **Sanitation.** All appropriate state, county, and county sanitation regulations shall be strictly observed. Mobile home parks established after April 29, 2012, shall be served by a public sanitary district. An expansion of a mobile home park existing prior to April 29, 2012, may be served by an on-site system.
- (v) **Continuing maintenance.** The owner of the mobile home park shall maintain the park in a clean and sanitary manner and may adopt and enforce community rules.
- (w) **Community safe room.** A new mobile home park that contains 20 or more mobile home spaces and existing mobile home parks that expand the number of spaces to 20 or more spaces shall provide and maintain an on-site community safe room for the use of park residents during wind-related storm events. The shelter shall meet applicable building codes and shall comply with the design and construction guidance as contained in *Design and Construction Guidance for Community Safe Rooms* (FEMA 361, second edition), or later edition, as published by the Federal Emergency Management Agency, U.S. Department of Homeland Security.
- (x) **Local license.** Prior to the establishment of a mobile home park, the operator shall obtain a license from the town and maintain such license for the life of the use or until the town no longer requires such license.
- (y) **Special standards for lots of record existing prior to April 29, 2012 not located in a designated mobile home park.** Replacement of existing mobile homes or development of a vacant property in the R-8 zoning district shall be exempt from the standards above. Setbacks and standards of the R-1 Zoning District shall apply, excluding minimum principal building floor area.

23.8-253 Multifamily building, 2 units

- (a) **Number of principal buildings per parcel.** More than one multifamily building with 2 dwelling units may be located on a parcel of land provided the overall density is maintained.
- (b) **Design and construction.** A multifamily building with 2 dwelling units shall meet the design and construction standards for a single-family dwelling under s. 23.8-256(c).

23.8-254 Multifamily building, 3 or more units

- (a) **Number of principal buildings per parcel.** More than one multifamily building with 3 or more dwelling units may be located on a parcel of land, provided the overall density is maintained.
- (b) **Design and construction.** A multifamily building with 3 or more dwelling units shall meet the design and construction standards for a single-family dwelling under s. 23.8-256(c).

23.8-255 Nonfarm residence

- (a) **Number of principal dwellings per parcel.** No more than one principal residential building shall occupy any single parcel of land.
- (b) **Occupancy.** A dwelling unit shall be occupied by no more than one family.
- (c) **Design and construction.** A nonfarm residence shall meet the following standards:

- (1) Suitable roof coverings include clay or ceramic tiles, wood shingles or shakes, metal, or fiberglass or asphalt shingles.
- (2) Exterior wall surfaces shall be covered with stucco, wood siding, cement-fiber siding, vinyl siding, metal horizontal lap siding, wood shingles, or a masonry veneer.
- (3) An overhang shall extend at least 12 inches beyond the face of the exterior wall.
- (4) The building shall be set on and anchored to a continuous permanent foundation that extends around its perimeter.
- (5) 1 Width at the narrowest part of the structure must be 20 feet or more.
- (6) A non-farm residence located in an A-1 District must meet s. 91.46(2) stats.

Consistent with the requirements in article 7 of this chapter, the Planning and Zoning Committee may approve a special exception authorizing the use of an exterior material not specifically allowed in this subsection.

23.8-256 Single-family dwelling

- (a) **Number of principal dwellings per parcel.** No more than one principal residential building shall occupy any single parcel of land.
- (b) **Occupancy.** A dwelling unit shall be occupied by no more than one family.
- (c) **Design and construction.** A single-family dwelling shall meet the following standards:
 - (1) Suitable roof coverings include clay or ceramic tiles, wood shingles or shakes, metal, or fiberglass or asphalt shingles.
 - (2) Exterior wall surfaces shall be covered with stucco, wood siding, cement-fiber siding, vinyl siding, metal horizontal lap siding, wood shingles, or a masonry veneer.
 - (3) An overhang shall extend at least 12 inches beyond the face of the exterior wall.
 - (4) The building shall be set on and anchored to a continuous permanent foundation that extends around its perimeter.
 - (5) Width at the narrowest part of the structure must be 20 feet or more.

Consistent with the requirements in article 7 of this chapter, the Planning and Zoning Committee may approve a special exception authorizing the use of an exterior material not specifically allowed in this subsection.

23.8-257 Townhouse

- (a) **Lot area.** No more than 70 percent of the lot area shall be occupied by a building.
- (b) **Utility service.** Each dwelling unit shall have independent service connections to all utilities, including water, sewer, and electricity.
- (c) **Subsequent divisions.** Individual townhouses shall not be further subdivided.
- (d) **Driveways.** When more than one garage is located in the front of a townhouse, a common driveway shall be used whenever possible.
- (e) **Vertical off-sets.** When a building includes 5 or more dwelling units, there shall be a vertical offset of at least 2 feet between each adjoining dwelling unit.
- (f) **Accessory buildings.** The floor area of accessory buildings, excluding garages and carports, shall not exceed 120 cumulative square feet.
- (g) **Front entrances.** The front entrance to each dwelling unit shall be clearly visible from the street on which it fronts and accentuated by a porch or other architectural feature.

23.8-258 Twin home

- (a) **Fire separation.** Each dwelling unit of a twin home shall be separated from the abutting unit by a minimum fire separation complying with s. Comm 21.08, Wis. Admin. Code.

- (b) **General layout.** The common wall between dwelling units in a twin home shall be approximately perpendicular to the front lot line.
- (c) **Water service.** Dwelling units in a twin home shall have a separate water service with separate curb stops, lines, and meters.
- (d) **Gas and electric service.** Dwelling units in a twin home shall have separate gas and electric meters.
- (e) **Sanitary sewer service.** Dwelling units in a twin home shall have separate sanitary sewer service laterals and lines, subject to including a provision in a joint access and maintenance agreement that addresses emergency access to, and the responsibility for, sanitary sewer building blockage.
- (f) **Written agreement required.** Dwelling units in a twin home shall be subject to a joint cross access and maintenance agreement as approved by the zoning administrator. Such agreement shall be recorded with each lot in the office of the register of deeds for Winnebago County.

23.8-259 to 23.8-260 **Reserved**

Series 4 **Special Care Facilities**

23.8-261 **Adult family home**

An adult family home described in s. 50.01(l)(b), Wis. Stats., shall not be established within 2,500 feet of another such facility or any community living arrangement. An agent of a proposed adult family home may apply for an exception to this requirement, and the town board at its discretion may grant the exception.¹²⁴ An adult family home certified under s. 50.032(1m)(b), Wis. Stats., is exempt from this provision.¹²⁵

23.8-262 **Community living arrangement**

A community living arrangement shall not be established within 2,500 feet of another such facility. An agent of a facility may apply for an exception to this requirement, and the town board at its discretion may grant the exception. Two community living arrangements may be adjacent if allowed by the town board and if both facilities comprise essential components of a single program.¹²⁶ A foster home and a foster treatment home that is the primary domicile of a foster parent or foster treatment parent and that is licensed under s. 48.62, Wis. Stats., are exempt from this provision.¹²⁷

23.8-263 **Foster home and treatment foster home (operated as a principal use)**

- (a) **Proximity to other such facility.** A foster home or treatment foster home that is operated by a corporation, a child welfare agency, a religious association, as defined in s. 157.061(15), Wis. Stats., an association, or a public agency, shall not be established within 2,500 feet of another such facility. An agent may apply for an exception to this requirement, and the town board at its discretion may grant the exception.¹²⁸
- (b) **State license.** Prior to the establishment of a foster home or treatment foster home, the operator shall obtain a license from the state as provided for in s. 48.75 Wis. Stats., and maintain such license for the life of the use or until the state no longer requires such license.

23.8-264 **Group day care center**

An outdoor activity area associated with a group day care center shall not be located within 20 feet of an adjoining property in a residential zoning district.

23.8-265 **Hospice care center**

Prior to the establishment of a hospice care center, the operator shall obtain a license from the state as provided for in s. 50.92 Wis. Stats., and maintain such license for the life of the use or until the state no longer requires such license.

¹²⁴Commentary: See s. 56.69(15)(br)(1), Wis. Stats.

¹²⁵Commentary: See s. 59.69(15)(br)(2), Wis. Stats.

¹²⁶Commentary: See s. 59.69(15)(a), Wis. Stats.

¹²⁷Commentary: See s. 59.69(15)(bm), Wis. Stats.

¹²⁸Commentary: See s. 59.69(15)(bm), Wis. Stats.

23.8-266 Nursing home

- (a) **Required green space.** A minimum of 30 percent of the gross site area shall be green space.
- (b) **Parking lot screening.** When an off-street parking lot is located within 20 feet of a property in a residential zoning district landscaping, fencing, a berm, or any combination thereof shall be used to effectively screen the parking area from the residential property.
- (c) **Setbacks.** Principal buildings shall be located at least 35 feet from a property in a residential zoning district.

23.8-267 Retirement home

- (a) **Required green space.** A minimum of 30 percent of the gross site area shall be green space.
- (b) **Parking lot screening.** When an off-street parking lot is located within 20 feet of a property in a residential zoning district, landscaping, fencing, a berm, or any combination thereof shall be used to effectively screen the parking area from the residential property.
- (c) **Setbacks.** Principal buildings shall be located at least 35 feet from a property in a residential zoning district.

23.8-268 Temporary shelter

No special standards apply to temporary shelters.

23.8-269 to 23.8-270 Reserved**Series 5 Group Accommodations****23.8-271 Boardinghouse**

The property owner or a property manager shall reside on the premises.

23.8-272 Campground

- (a) **Generally.** In addition to the other applicable design and improvement requirements contained in this chapter, a campground shall comply with the provisions of this section and applicable state law.
- (b) **Minimum lot area.** The minimum lot area for a campground is 5 acres.
- (c) **Continuing maintenance.** The owner of the campground shall maintain the campground in a clean and sanitary manner.
- (d) **Accessory facilities.** Accessory facilities (e.g., laundry and food sales) may be allowed as a service to the occupants of the campground but shall be designed, operated, and located to inhibit use by non-occupants.
- (e) **Density.** The density shall not exceed 25 campground spaces per acre (gross).
- (f) **Recreation area.** At least 8 percent of the gross site area or 2,500 square feet, whichever is greater, shall be dedicated for on-site recreational purposes and shall be easily accessible from all camping spaces.
- (g) **Access.** Campground spaces shall be arranged to permit the safe and practical placement and removal of vehicles from a private roadway internal to the development.
- (h) **Setbacks from property boundary line.** A campground space shall be no closer than 40 feet to the perimeter property boundary line of the site.
- (i) **Solid waste collection.** An off-street area for the collection of solid waste shall be provided within a campground.
- (j) **Limitation on addition of features.** Storage sheds, decks, patios, and similar structures, whether permanent or temporary, shall not be permitted within a camping space. Structural additions to a recreational vehicle, whether permanent or temporary, shall not be permitted.

(k) **State license.** Prior to the establishment of a campground, the operator shall obtain a license from the Wisconsin Department of Health and Family Services as required by state law and maintain such license for the life of the use or until the state no longer requires such license.¹²⁹

(l) **Local license.** Prior to the establishment of a campground, the operator shall obtain a license from the Winnebago County Health Department and maintain such license for the life of the use or until the department no longer requires such license.

23.8-273 Group recreation camp

(a) **Generally.** In addition to the other applicable design and improvement requirements contained in this chapter, a group recreation camp shall comply with the provisions of this section and applicable state law.

(b) **Minimum lot area.** The minimum lot area for a group recreation camp is 5 acres.

(c) **Continuing maintenance.** The owner of the group recreation camp shall maintain the group camp in a clean and sanitary manner.

(d) **Accessory facilities.** Accessory facilities (e.g., laundry and food sales) may be allowed as a service to the occupants of the group recreation camp but they shall be designed, operated, and located to inhibit use by nonoccupants.

(e) **Density.** If campground spaces are provided, the density shall not exceed 25 campground spaces per acre (gross).

(f) **Access.** If campground spaces are provided, they shall be arranged to permit the safe and practical placement and removal of vehicles from a private roadway internal to the development.

(g) **Setbacks from property boundary line.** If campground spaces are provided, they shall be no closer than 40 feet to the perimeter property boundary line of the site.

(h) **Solid waste collection.** An off-street area for the collection of solid waste shall be provided within a group recreation camp.

(i) **Limitation on addition of features.** Storage sheds, decks, patios, and similar structures, whether permanent or temporary, shall not be permitted within a camping space. Structural additions to a recreational vehicle, whether permanent or temporary, shall not be permitted.

(j) **State license.** Prior to the establishment of a group recreation camp, the operator shall obtain a license from the Wisconsin Department of Health and Family Services as required by state law and maintain such license for the life of the use or until the state no longer requires such license.¹³⁰

(k) **Local license.** Prior to the establishment of a group recreation camp, the operator shall obtain a license from the Winnebago County Health Department if so required and maintain such license for the life of the use or until the department no longer requires such license.

23.8-274 Migrant labor camp

(a) A migrant camp located in an A-1 District must be certified under s. 103.92 stats.

23.8-275 Overnight lodging

(a) **Local license.** Prior to the establishment of overnight lodging, the operator shall obtain a license from the Winnebago County Health Department and maintain such license for the life of the use or until the department no longer requires such license.

(b) **Location of customer entrance.** No customer entrance to the building shall be located within 100 feet of a property in a residential zoning district.

23.8-276 Resort

(a) **Location.** A resort in the B-2 zoning district must be located on a lake or on one of the following: Fox River, Rat River, or Wolf River.

(b) **Minimum lot area.** The minimum lot area for a resort is 5 acres.

¹²⁹Commentary: See ch. DHS 178, Wis. Admin. Code

¹³⁰Commentary: See ch. DHS 175, Wis. Admin. Code

23.8-277 to 23.8-280 Reserved**Series 6 Food and Beverage Sales****23.8-281 Brewpub**

- (a) **Local license.** Prior to the establishment of a brewpub, the operator shall obtain a license from the county, as may be required, and maintain such license for the life of the use or until the county no longer requires such license.
- (b) **State license.** Prior to the establishment of a brewpub, the operator shall obtain a license from the state, as may be required, and maintain such license for the life of the use or until the state no longer requires such license.
- (c) **Limitation on floor area devoted to production.** No more than 40 percent of the floor area shall be devoted to the production of fermented malt beverages, including storage of raw materials and finished products.
- (d) **Limitation on production.** Not more than 10,000 barrels (310,000 gallons) of fermented malt beverages may be manufactured in a calendar year.

23.8-282 Restaurant

Prior to the establishment of a restaurant, the operator shall obtain a license from the Winnebago County Health Department and maintain such license for the life of the use or until the department no longer requires such license.

23.8-283 Tavern

- (a) **Local license.** Prior to the establishment of a tavern, the operator shall obtain a license from the town in which the use is located and maintain such license for the life of the use or until the license is no longer required.
- (b) **Compliance with state requirements.** A tavern shall comply with requirements as may be adopted by the state of Wisconsin.

23.8-284 to 23.8-290 Reserved**Series 7. Vehicle Rental, Sales, and Service****23.8-291 Heavy vehicle sales and rental**

Outdoor display areas and other activity areas shall be located at least 50 feet from a property in a residential zoning district and 25 feet from a property in a commercial or mixed-use zoning district.

23.8-292 Truck stop

- (a) **Minimum lot area and location.** A truck stop established after April 29, 2012, shall be located on a parcel containing at least 10 acres that is located within 2,000 feet of a U.S. highway or a state highway.
- (b) **Access.** Each access to the parcel with a truck stop shall be off of a road classified as an arterial or a higher classification as depicted on the zoning map or a supplemental map.
- (c) **Restroom facilities.** If a truck stop provides restroom facilities, the door to each restroom shall be accessed from within the interior of the building in which they are located.
- (d) **Pump island canopies.** Pump island canopies shall not exceed 22 feet in height.
- (e) **Location of parking areas.** Areas designated or used for truck parking and other similar activity areas shall be designed and located so that noise levels at the property boundary line of a property in a residential zoning district do not exceed 60 decibels as measured on a dB(A) scale between the hours of 10:00 p.m. and 7:00 a.m.

23.8-293 Vehicle fuel station

- (a) **Restroom facilities.** If a vehicle fuel station provides restroom facilities, the door to each restroom shall be accessed from within the interior of the building in which they are located.
- (b) **Pump island canopies.** Pump island canopies shall not exceed 22 feet in height.

(c) **Special setbacks.** The following setbacks shall apply to a vehicle fuel station:

- (1) A fuel pump shall be located at least 50 feet from a property in a residential zoning district and at least 30 feet from a property in a nonresidential zoning district.
- (2) A pump island canopy shall be located at least 18 feet from all property boundary lines.

23.8-294 Vehicle repair shop

(a) **Work area.** Motor vehicles shall not be serviced or repaired outside of the principal structure intended for such use, except when located in an industrial zoning district.

(b) **Vehicle storage.** When a vehicle repair shop is located in a commercial zoning district, no more than 10 motor vehicles shall be stored out-of-doors overnight. When located in an industrial zoning district, there is no limitation on the number of motor vehicles that can be stored out-of-doors overnight. Storage of unlicensed vehicles is prohibited.

23.8-295 Vehicle sales and rental

(a) **Show room.** An indoor vehicle display area shall be provided that is at least 12 feet by 20 feet. If only motorcycles are sold, the indoor vehicle display area shall be large enough to display at least 3 motorcycles.¹³¹

(b) **State license.** Prior to the establishment of this use, the operator shall obtain a license from the state as required by state law and maintain such license for the life of the use or until the state no longer requires such license.

(c) **Setback for display area.** Display areas and other activity areas shall be located at least 30 feet from a property in a residential zoning district and 10 feet from a property in a commercial or mixed-use zoning district. Display areas may not be located within an area designated as a vision clearance triangle as defined in this chapter.

23.8-296 Vehicle service shop

No special standards apply to vehicle service shops.

23.8-297 Vehicle storage yard

(a) **Buffer yard.** In addition to the buffer yard requirements in article 9 of this chapter, the reviewing authority may, as part of the site plan review process, require additional buffer yard requirements deemed necessary to provide adequate screening between this use and adjoining properties.

(b) **Setback requirements.** Outdoor storage areas and other activity areas shall be located at least 40 feet from a property in a residential zoning district and 20 feet from a property in a commercial or mixed-use zoning district.

(c) **Fence.** A 6-foot solid fence, subject to approval by the reviewing authority, shall be located around the perimeter of the area used to store the motor vehicles.

(d) **Fence plan.** As part of the site plan review application, the applicant shall submit a fence plan which specifies construction materials and specifications.

23.8-298 to 23.8-300 Reserved

Series 8 General Sales

23.8-301 Convenience retail sales

No special standards apply to convenience retail sales.

23.8-302 General retail sales

No special standards apply to general retail sales.

23.8-303 General retail sales, large format

(a) **Legislative findings.** The Board of County Supervisors makes the following legislative finding relating to large-format retail sales: Abandoned buildings are a blighting influence on the community and large vacant stores are especially detrimental.

¹³¹Commentary: See s. TRANS 138.03(a), Wis. Admin. Code

(b) **Purpose.** The provisions of this section are intended to prevent urban blight due to large vacant stores.

(c) **Development agreement.** Prior to issuance of a zoning permit for a large-format retail store, the property owner shall enter into a development agreement with the county, to run with the land, that includes all of the following:

- (1) a provision that prevents the owner from prohibiting or otherwise limiting, through contract or other legal device, the reuse of the building for retail or other legitimate purpose;
- (2) a provision requiring long-term maintenance of the property including landscaping if the building is vacated;
- (3) a provision requiring the preparation of an adaptive reuse plan or a demolition plan by the property owner acceptable to the Planning and Zoning Committee within 12 months of vacation;
- (4) a provision stating that the property owner within 24 months of vacation shall either begin demolishing the building and restoring the site consistent with the approved demolition plan and continue in good faith to completion or begin implementing the approved adaptive reuse plan and continue in good faith to completion;
- (5) other provisions deemed necessary by the committee to address the particular circumstances related to the project.

(d) **Vacation of existing buildings.** When a large-format store is proposed as a replacement for another retail store already located in the county, the applicant shall not prohibit or otherwise limit, through contract or other legal device, the reuse of its former building.

23.8-304 Outdoor sales

Items offered for sale shall not be located within the setbacks established for the zoning district in which the use is located.

23.8-305 to 23.8-310 Reserved

Series 9 General Services

23.8-311 Administrative services

No special standards apply to administrative services.

23.8-312 Adult-oriented establishment

(a) **Legislative findings.** The Board of County Supervisors makes the following legislative findings regarding adult-oriented establishments:

- (1) Adult-oriented establishments are frequently used for unlawful sexual activities, including prostitution and sexual liaisons of a causal nature, which may have a deleterious effect on the existing and planned commercial and residential uses in the surrounding area and result in a downgrading of property values as well as causing an increase in criminal activity. The serving or presence of alcohol within an adult-oriented establishment is likely to heighten the potential occurrence of such deleterious effects on the surrounding area.
- (2) The establishment of adult-oriented establishments within 600 feet of each other can create especially deleterious effects on existing and planned commercial and residential uses in the surrounding area.
- (3) The establishment of an adult-oriented establishment within 600 feet of certain land uses, including schools, worship facilities, libraries, parks, and other places where the public and especially children congregate, can conflict with those uses.
- (4) Concern over sexually transmitted diseases is a legitimate health concern of Winnebago County, which demands reasonable regulation of adult entertainment businesses in order to protect the health and well-being of the citizens.
- (5) Winnebago County desires to minimize and control these adverse secondary effects and thereby protect the health, safety and welfare of the citizenry, protect the citizens from increased crime, preserve the

quality of life, preserve the property values and character of surrounding neighborhoods, and deter the spread blight.

- (6) It is not the intent of this section to suppress any speech activities protected by the First Amendment of the U.S. Constitution but to enact regulations that address the negative secondary effects of adult-oriented establishments.
- (7) It is not the intent of Winnebago County to condone or legitimize the distribution of obscene material.
- (8) It is in the best interests of Winnebago County to minimize and control any adverse secondary effects of adult-oriented establishments within Winnebago County while preserving the right of free speech and protecting First Amendment rights to all citizens and recognizing the rights of citizens to patronize and operate adult-oriented establishments.
- (9) Although the consumption of alcohol beverages in an adult-oriented establishment would exacerbate the negative secondary effects of such business in the community, a local municipality may, however, be in a position to evaluate the extent of the secondary effects given the unique characteristics of the municipality and the extent to which those effects can be controlled or eliminated in their municipality.
- (10) The Planning and Zoning Committee has read and utilized a study entitled *Everything You Always Wanted to Know About Regulating Sex Businesses*, by Eric Damian Kelly and Connie Cooper (Planning Advisory Service Report Number 495/496) in the development of this section.

(b) **Purpose.** This section is intended to regulate adult-oriented establishments in order to promote the health, safety, and general welfare of citizens of Winnebago County, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of adult-oriented establishments within the county. The provisions of this section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually-oriented materials. Similarly, it is neither the intent nor effect of this section to restrict or deny access by adults to sexually-oriented materials protected by the First Amendment of the U.S. Constitution, or to deny access by the distributors and exhibitors of adult-oriented entertainment to their intended market. Neither is it the intent nor effect of this section to condone or legitimize the distribution of obscene material.

(c) **Applicability.** Upon any of the following events, an adult-oriented establishment shall comply with the provisions of this section:

- (1) the opening or commencement of an adult-oriented establishment;
- (2) the conversion of an existing business, whether or not a adult-oriented establishment, to an adult-oriented establishment;
- (3) the addition of an adult-oriented establishment to an adult-oriented establishment;
- (4) the relocation of an adult-oriented establishment;
- (5) the sale, lease, or sublease of an adult-oriented establishment;
- (6) the transfer of securities which constitute a controlling interest in an adult-oriented establishment, whether by sale, exchange, or similar means; or
- (7) the establishment of a trust, gift, or other similar legal device that transfers the ownership or control of an adult-oriented establishment, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

(d) **Exclusions.** This section does not apply to theaters, performing arts centers, civic centers, and dinner theaters where (1) live dance, ballet, music, and dramatic performances of serious artistic merit are offered on a regular basis; (2) the predominant business or attraction is not the offering of entertainment which is intended for sexual interests or titillation of customers; and (3) the establishment is not distinguished by an emphasis on or the advertising or promotion of nude or semi-nude performances. While expressive live nudity may occur within these establishments, this section seeks only to minimize and prevent the secondary effects of adult entertainment businesses on the community. Negative secondary effects have not been associated with the aforementioned establishments listed in this part.

(e) **Proximity to another establishment of the same kind.** An adult-oriented establishment shall not be located within 600 feet of another adult-oriented establishment.

(f) **Proximity to specified zoning districts.** An adult-oriented establishment shall not be located within 600 feet of a parcel of land in a residential zoning district or a planned development district that allows residential uses.

(g) **Proximity to other specified land uses.** An adult-oriented establishment shall not be located within 600 feet of any of the following:

- (1) public library;
- (2) public playground or park, including nature trails, pedestrian/bicycle paths, wilderness areas, or other public lands open for recreational activities;
- (3) educational facility, including K-12 and post-secondary, but not including facilities used primarily for another purpose and only incidentally at a school;
- (4) state licensed family day care home, group day care home, or day care center;
- (5) worship facility;
- (6) any youth-oriented establishment;
- (7) tavern;
- (8) any commercial business, other than a tavern, holding a valid liquor license; or
- (9) farm dwelling.

If one of these specified uses locates within this area of separation after the adult-oriented establishment has been granted a zoning permit or occupancy permit, the adult-oriented establishment shall not be required to relocate.

(h) **Measurement of distances.** For the purpose of this section, specified distances are measured in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure containing the adult-oriented establishment, to the nearest property boundary line of the parcel with the specified use or to the specified zoning district. If an adult-oriented establishment is located in a multi-tenant building (e.g., shopping center), the measurement shall be taken from the outer boundary of such space (i.e. from the outer edge of the party wall or the outer wall). The presence of a city, village, county, or other political subdivision boundary shall be irrelevant for purposes of applying the separation requirements of this section.

(i) **Sale of alcohol.** An adult-oriented establishment shall not sell, distribute, or allow consumption of alcoholic beverages on the premises, unless the town in which it is located has passed a resolution allowing alcohol in such establishments and has sent a certified copy of the same to the zoning administrator.

(j) **Building standards.** All building openings, entries, and windows shall be located, covered, or screened in such manner so as to prevent the interior of such premise from being viewed from outside the establishment. An entry with a double set of doors may be used to meet this standard. Further, there shall be no display windows.

(k) **Special provisions for adult cabarets.** An adult cabaret shall close no later than the closing time as may be established for taverns by the town in which this use is located.

(l) **Special provisions for adult motion picture theaters.** An adult motion picture theater shall close no later than the closing time as may be established for taverns by the town in which this use is located. The viewing screen shall not be visible from a public park, road, street, highway, or residence. The premises shall be surrounded by a solid fence at least 8 feet in height. All theaters shall be in compliance with s. 134.46, Wis. Stats.

(m) **Prohibitions.** The property owner and the operator of an adult-oriented establishment shall ensure that minors, as defined by state law (s. 990.01(20), Wis. Stats.), are not permitted on the premises. Solicitation for purposes of prostitution shall be strictly prohibited on the premises.

(n) **Physical contact with an entertainer.** During a performance, an entertainer shall not have physical contact with another individual. To prevent such physical contact, performances shall occur on a stage or on a table that is elevated at least 18 inches above the immediate floor level and shall not be less than 3 feet from any areas occupied by any patron. Patrons shall not be closer than 5 feet to an entertainer during a performance, including, but not limited to, during the payment of a tip or gratuity. An adult-oriented establishment existing on April 29, 2012, shall not have to reconstruct existing stages and tables to meet this requirement, but shall adhere to the prohibition against physical contact.

(o) **Signage.** Signs advertising an adult-oriented establishment shall conform with article 12 of this chapter with the exception, however, that no tower or portable signs or billboards shall be permitted on the premises, and with the further exception that signs will not depict specified sexual activities, specified anatomical areas, or both and provided further that there shall be no flashing or traveling lights located outside of the building.

(p) **Special provisions related to review of application.** As part of the review of a conditional use application for an adult-oriented establishment, the zoning administrator shall conduct an inventory of the surrounding area and population along with a study of the proposed development and plans for the area so as to enable the Planning and Zoning Committee to make appropriate findings relating to the effect of the establishment of an adult-oriented establishment in that area.

23.8-313 Body-piercing establishment

(a) **Locational standards.** A body-piercing establishment shall not be located within 600 feet of another body-piercing establishment or a tattoo establishment. For the purpose of this section, such distance shall be measured in a straight line, without regard to intervening structures or objects, from the nearest portion of the exterior wall of the building containing the body-piercing establishment to the outer wall of the building containing the other specified land use. If one or both of the specified land uses are located in a multi-tenant building (e.g., shopping center), the measurement shall be taken from the outer boundary of such space (i.e. from the outer edge of the party wall or the exterior wall). The presence of a city, county, or other political subdivision boundary shall be irrelevant for purposes of applying the separation requirements of this section.

(b) **Sale of alcohol.** A body-piercing establishment shall not also sell, distribute, or allow consumption of alcoholic beverages on the premises.

(c) **Building standards.** A patron who is being pierced shall not be visible from the exterior of the building through a window or entrance to the building.

(d) **State license.** Prior to the establishment of a body-piercing establishment, the operator shall obtain a license from the state as required by state law and maintain such license for the life of the use or until the state no longer requires such license. In addition, each practitioner shall obtain a license from the state as required by state law and maintain such license while at the establishment or until the state no longer requires such license.

23.8-314 Commercial kennel

No special standards apply to a commercial kennel.

23.8-315 Commercial stable

(a) **Minimum lot area.** The minimum lot area for a commercial stable is 5 acres.

(b) **Review parameters.** As part of the review of the site plan and operation plan, the handling and disposal of animal waste generated by this use shall be addressed along with required setbacks from adjoining properties and the maximum number livestock that may be kept on the premise.

23.8-316 Equipment rental, large

Outdoor display and storage areas and other activity areas shall be located at least 50 feet from a property in a residential zoning district and 10 feet from a property in a commercial or mixed-use zoning district.

23.8-317 Equipment rental, small

No special standards apply to small equipment rental.

23.8-318 Financial services

A payday loan business or auto title loan business shall not be located within 1,500 feet of another payday loan business or auto title loan business or within 150 feet of a single-family or two-family residential zoning district. For the purpose of this section, such distance shall be measured in a straight line, without regard to intervening structures or objects, from the nearest portion of the exterior wall of the building containing the payday loan business or auto title loan business to the outer wall of the building containing the other specified land use or, as appropriate, to the nearest property boundary line of a parcel in the specified zoning district. The presence of a city, county, or other political subdivision boundary shall be irrelevant for purposes of applying the separation requirements of this section. If a payday loan business or auto title

loan business is operating on April 29, 2012, and does not comply with the locational standards in this section, such business may continue to operate at that location.¹³²

23.8-319 Funeral home

No special standards apply to funeral homes.

23.8-320 General repair

All activities related to this use shall occur within a building, except when the parcel of land is located in an industrial zoning district.

23.8-321 General services

No special standards apply to general services.

23.8-322 Health care clinic

No special standards apply to health care clinics.

23.8-323 Health care center

(a) **Access requirements.** The primary access to a health care center shall be off of a road classified as a collector or a higher classification as depicted on the zoning map or a supplemental map.

(b) **Transition when allowed as a conditional use.** When a health care center is allowed as a conditional use, an appropriate transition shall be required between this use and an adjoining use.

23.8-324 Instructional services

No special standards apply to instructional services.

23.8-325 Landscape business

Outdoor work areas, parking areas, and storage of equipment and materials related to a landscape business shall not be located within the setbacks established for the zoning district in which the use is located.

23.8-326 Professional services

No special standards apply to professional services.

23.8-327 Tattoo establishment

(a) **Locational standards.** A tattoo establishment shall not be located within 600 feet of another tattoo establishment or a body-piercing establishment. For the purpose of this section, such distance shall be measured in a straight line, without regard to intervening structures or objects, from the nearest portion of the exterior wall of the building containing the tattoo establishment to the outer wall of the building containing the other specified land use. If one or both of the specified land uses are located in a multi-tenant building (e.g., shopping center), the measurement shall be taken from the outer boundary of such space (i.e. from the outer edge of the party wall or the outer wall). The presence of a city, county, or other political subdivision boundary shall be irrelevant for purposes of applying the separation requirements of this section.

(b) **Sale of alcohol.** A tattoo establishment shall not also sell, distribute, or allow consumption of alcoholic beverages on the premises.

(c) **Building standards.** A patron who is being tattooed shall not be visible from the exterior of the building through any window or entrance to the building.

(d) **State license.** Prior to the establishment of a tattoo establishment, the operator shall obtain a license from the state as required by state law and maintain such license for the life of the use or until the state no longer requires such license. In addition, each practitioner shall obtain a license from the state as required by state law and maintain such license while at the establishment or until the state no longer requires such license.

¹³² Commentary: See s. 59.69(4h), Wis. Stats.

(e) **County license.** Prior to the establishment of a tattoo establishment, the operator shall obtain a license from the Winnebago County Health Department and any other county department as may be required and maintain such license for the life of the use or until the county no longer requires such license.

23.8-328 Veterinary clinic, general

(a) The standards applicable to animal shelters apply to general veterinary clinics.

(b) A veterinary facility located in an A-1 District must either service primarily livestock or meet s. 91.01(1) stats.

23.8-329 Veterinary clinic, small animal

The standards applicable to animal shelters apply to small animal veterinary clinics.

23.8-330 to 23.8-340 Reserved

Series 10 Recreation and Entertainment

23.8-341 Driving range

No special standards apply to driving ranges.

23.8-342 Golf course

Club houses and maintenance buildings shall be located at least 300 feet from a property in a residential zoning district.

23.8-343 Indoor entertainment

No special standards apply to indoor entertainment.

23.8-344 Indoor recreation

No special standards apply to indoor recreation.

23.8-345 Outdoor entertainment

(a) **Hours of operation.** The reviewing authority may establish hours of operation for this use when the operation may negatively affect surrounding properties.

(b) **Site design considerations.** The site shall be designed to minimize the effects of outdoor lighting and noise on surrounding properties.

23.8-346 Outdoor recreation

(a) **Hours of operation.** The reviewing authority may establish hours of operation for this use when the operation may negatively affect surrounding properties.

(b) **Site design considerations.** The site shall be designed to minimize the effects of outdoor lighting and noise on surrounding properties.

23.8-347 Outdoor shooting range

(a) **Hours of operation.** An existing or new outdoor shooting range shall not operate between the hours of 11:00 p.m. and 6:00 a.m., except that this use restriction shall not apply to (1) a law enforcement officer as defined in s. 165.85(2), Wis. Stats.; (2) a member of the U.S. armed forces; or (3) a private security person as defined in s. 440.26(1m), Wis. Stats., who meets all of the requirements under s. 167.31(4)(a)4, Wis. Stats.¹³³

(b) **Minimum size.** The minimum lot size of an outdoor shooting range shall be 5 acres.

(c) **Incidental sales.** An outdoor shooting range may offer items for sale or rental as listed in this subsection provided the totality of such sales and/or rental activity is clearly incidental to the overall operation of the shooting range. The following may be offered for retail sale:

(1) Targets;

¹³³Commentary: See s. 895.527(6), Wis. Stats.

- (2) Ammunition;
- (3) devices for hearing and eye protection;
- (4) other items directly related to the shooting of firearms on the premises; and
- (5) pre-packaged food and drink items.

The following may be offered for rental for use on the premises:

- (1) devices for hearing and eye protection;
- (2) guns; and
- (3) other items directly related to the shooting of firearms on the premises.

23.8-348 to 23.8-350 Reserved

Series 11 Government and Community Services

23.8-351 Administrative government center

No special standards apply to administrative government centers.

23.8-352 Animal shelter

(a) **Confinement of animals.** All animals shall be continuously confined within an enclosed building. In an industrial zoning district or in an agricultural zoning district, this use may also include a fenced exercise area provided:

- (1) it is at least 200 feet from a property in a residential zoning district or a mixed-use zoning district, and
- (2) no animal shall be allowed in the exercise area from sunset to sunrise.

(b) **Noise control.** The building shall be designed and operated so that noise from the animals at the facility cannot be heard beyond the property boundary line of the parcel of land on which it is located.

23.8-353 Cemetery

(a) **Minimum size.** A cemetery shall be at least 3 acres.

(b) **Location of burial plots.** Burial plots shall not be located within 50 feet of a public street right-of-way, in a designated floodplain, or in a wetland area, nor shall internment occur below the groundwater table.

(c) **Marker required.** A permanent marker stating the name of the deceased and the birth and death dates, if known, shall identify the location of each occupied burial plot, unless the zoning administrator allows an unmarked grave due to exceptional circumstances.

(d) **Casket required.** The deceased shall be enclosed in a casket or other durable container.

(e) **Name required.** The cemetery shall have a formal name, which shall be placed on a permanent sign located by the main entrance to the cemetery.

(f) **Financial guarantee.** Prior to the establishment of this use, the property owner shall submit a financial guarantee to the town in which the use is located, consistent with any requirement the town board may adopt. This financial guarantee shall relate to the long-term upkeep and maintenance of the cemetery.

(g) **Cemetery located in an A-1 District.** A cemetery located in an A-1 District must meet the requirements of s. 23.115(c).

23.8-354 Civic use facility

The primary access to a civic use facility with 600 seats or more shall be off of a road classified as a collector or a higher classification as depicted on the zoning map or a supplemental map.

23.8-355 Community center

The primary access to a community center with 600 seats or more shall be off of a road classified as a collector or a higher classification as depicted on the zoning map or a supplemental map.

23.8-356 Community cultural facility

The primary access to a community cultural facility with 600 seats or more shall be off of a road classified as a collector or a higher classification as depicted on the zoning map or a supplemental map.

23.8-357 Community garden

A community garden located in an A-1 District must meet the requirements of s. 23.115(c) and is a conditional use.

23.8-358 Correctional facility

No special standards apply to correctional facilities.

23.8-359 Educational facility, pre-K through 12

No special standards apply to pre-K through 12 educational facilities.

23.8-360 Educational facility, post-secondary

No special standards apply to post-secondary educational facilities. The primary access to a post-secondary educational facility shall be off of a road classified as a collector or a higher classification as depicted on the zoning map or a supplemental map.

23.8-361 Maintenance garage

Outdoor storage areas and other activity areas shall be located at least 50 feet from a property in a residential zoning district and 25 feet from a property in a commercial or mixed-use zoning district.

23.8-362 Park

No special standards apply to parks.

23.8-363 Public safety facility

No special standards apply to public safety facilities.

23.8-364 Recreation trail

A recreation trail located in an A-1 District must meet the requirements of s. 23.115(c) and is a conditional use.

23.8-365 Unspecified public use

No special standards apply to unspecified public uses.

23.8-366 Worship facility

(a) **Access.** The primary access to a worship facility with 600 seats or more shall be off of a road classified as a collector or a higher classification as depicted on the zoning map or a supplemental map.

(b) **Worship facility located in an A-1 District.** A worship facility located in an A-1 District must meet the requirements of s. 23.115(c).

23.8-367 to 23.8-370 Reserved**Series 12 Telecommunications and Utilities****23.8-371 Solar energy system**

(a) **Yard setbacks.** A solar energy system and support equipment and facilities shall not be located in the yard setback established for the zoning district in which the parcel is located.

(b) **Lighting.** A solar energy system shall not be artificially lighted, except for security purposes or when specifically required by a state or federal authority.

(c) **Security fencing.** A security fence may be located around the perimeter of a large-scale energy system.

(d) **Required signage.** A sign no larger than 18 inches by 24 inches shall be placed on each side of a large-scale solar energy system and at an interval of 100 feet between signs that includes (1) the name of the facility

owner/operator, (2) a telephone number to contact in case of an emergency, and (3) information relating to potential voltage hazards.

(e) **Approval by electric utility company.** If the solar energy system is designed to produce electricity, the owner/operator shall submit documentation acceptable to the zoning administrator indicating that the system meets all applicable regulations and requirements of the affected electric utility company.

(f) **Financial security for removal of equipment.** Prior to the issuance of a conditional use permit authorizing construction of a large-scale solar energy system, the property owner shall provide a financial guarantee in a form and in an amount acceptable to the zoning administrator. Such financial guarantee shall be maintained until the solar energy system is removed and the site restored or at such time that is mutually agreeable to the property owner and the zoning administrator. If the county exercises its right to sue the financial guarantee and the amount of the financial guarantee does not cover the cost of removing the solar energy system and restoring the site, the balance shall constitute a lien against the property as authorized by state law.

(g) **Unsafe conditions.** If the zoning administrator determines that a solar energy system is unsafe or otherwise defective, the administrator shall follow the procedure outlined in article 7 of this chapter relating to unsafe conditions.

(h) **Termination of approval.** If the zoning administrator determines that the solar energy system has not been operated for a continuous period of 12 months, the administrator shall follow the procedure outlined in article 7 of this chapter relating to termination of the approval.

(i) **Solar energy system located in an A-1 District.** A solar energy system located in an A-1 District must meet the requirements of s. 23.115(d) and is a conditional use unless it qualifies under s. 91.44(1)(f) stats.

23.8-372 Stormwater facility

A stormwater facility located in an A-1 District must meet the requirements of s. 23.115(d) and is a conditional use.

23.8-373 Telecommunication facility, concealed

(a) **Applicability.** The provisions of this section apply to all telecommunication facilities, except for the following:

- (1) supervisory control and data acquisition (SCADA) systems for water, flood alert, traffic control devices and signals, stormwater facilities, pump stations, and similar facilities with heights not exceeding 35 feet;
- (2) antennas or towers located on property owned, leased or otherwise controlled by the governing authority, provided a license or lease authorizing such antenna or tower has been approved by the governing authority;
- (3) amateur radio antennas and support structures that are less than 70 feet in height;¹³⁴
- (4) an antenna or tower that is installed on an existing structure (such as a tower, building, sign, light pole, water tower, electric transmission and distribution structure, or other free-standing nonresidential structure), and provided the antenna or tower adds no more than 20 feet to the height of the structure;
- (5) portable antennas that are used in broadcasting public information coverage of news events of a temporary nature (Exhibit 8-6); and
- (6) hand held devices such as cell phones, business-band mobile radios, walkie-talkies, cordless telephones, garage door openers, and similar devices.

(b) **Federal requirements.** A telecommunication facility shall comply with all applicable requirements of the Federal Communications Commission, the Federal Aviation Administration, and other federal agency with authority to regulate telecommunication facilities. In the event of a conflict between federal law and this section, federal law shall prevail.

(c) **Equipment buildings.** The exterior of equipment buildings, shelters, and cabinets exceeding 200 cubic feet shall be covered with building materials typically used on buildings found in the area.

¹³⁴Commentary: Amateur radio antennas that are less than 70 feet in height are regulated in s. 23.8-442.

23.8-374 Telecommunication facility, unconcealed

(a) **Purpose.** This section promotes the public health, safety, and welfare, while at the same time not unduly restricting the development of needed telecommunications facilities, and is intended to accomplish the following purposes, to the full extent permitted by law:

- (1) protect the visual character of the county from the potential adverse effects of telecommunication facilities;
- (2) ensure against the creation of visual blight within or along the county's scenic corridors and ridgelines;
- (3) retain local responsibility for and control over the use of public right-of-ways to protect citizens and enhance the quality of their lives;
- (4) ensure that a competitive and broad range of telecommunications services and high quality telecommunications infrastructure are provided; and
- (5) create and preserve telecommunication facilities that will serve as an important and effective part of the county's emergency response network.

(b) **Applicability.** The provisions of this section apply to all telecommunication facilities, except for the following:

- (1) supervisory control and data acquisition (SCADA) systems for water, flood alert, traffic control devices and signals, stormwater facilities, pump stations, and similar facilities with heights not exceeding 35 feet;
- (2) antennas or towers located on property owned, leased or otherwise controlled by the governing authority, provided a license or lease authorizing such antenna or tower has been approved by the governing authority;
- (3) amateur radio antennas and support structures that are less than 70 feet in height;¹³⁵
- (4) an antenna or tower that is installed on an existing structure (such as a tower, building, sign, light pole, water tower, electric transmission and distribution structure, or other free-standing nonresidential structure), and provided the antenna or tower adds no more than 20 feet to the height of the structure;
- (5) portable antennas that are used in broadcasting public information coverage of news events of a temporary nature (Exhibit 8-6);
- (6) hand held devices such as cell phones, business-band mobile radios, walkie-talkies, cordless telephones, garage door openers, and similar devices; and
- (7) temporary antennas that are specifically related to a special event of regional significance.

(c) **Required agreement.** If the tower operator does not also own the property on which the tower is to be located, the property owner shall submit a copy of a signed agreement between the tower operator and the property owner with the application. Such agreement shall be binding on future property owners and future operators and shall address the requirements for termination of approval as specified in this section.

(d) **Federal requirements.** A telecommunication facility shall comply with all applicable requirements of the Federal Communications Commission, the Federal Aviation Administration, and other federal agency with authority to regulate telecommunication facilities. In the event of a conflict between federal law and this section, federal law shall prevail.

(e) **Yard setbacks.** A tower or antenna and support facilities shall not be located in the yard setback established for the zoning district in which the parcel is located.

Exhibit 8-6 An example of a portable antenna



¹³⁵Commentary: Amateur radio antennas that are less than 70 feet in height are regulated in s. 23.8-442.

(f) **Security fencing.** A tower and all related structures, such as equipment buildings, shelters, and cabinets, shall be enclosed by a security fence.

(g) **Lighting.** A tower or antenna shall not be artificially lighted, except when specifically required by a state agency, the Federal Aviation Administration, or another federal authority. Such required lighting shall be the least obtrusive to the surrounding views.

(h) **Equipment buildings.** The exterior of equipment buildings, shelters, and cabinets exceeding 200 cubic feet shall be covered with building materials typically used on buildings found in the area.

(i) **Required signage on towers.** A sign no larger than 18 inches by 24 inches shall be placed in a visible location near the base of the tower that lists the following information:

- (1) the name of the tower owner,
- (2) the Federal Communications Commission identification number, and
- (3) a telephone number to contact in case of an emergency.

Exhibit 8-7 is an example of a sign that provides the necessary information.

Exhibit 8-7 An example of appropriate tower signage placed on the security fence



(j) **Availability of suitable existing towers or other structures.** No new unconcealed tower shall be permitted after April 29, 2012, unless the property owner demonstrates to the reasonable satisfaction of the reviewing authority that no existing or planned tower or structure can accommodate the applicant's proposed antenna. Such evidence may consist of any of the following:

- (1) No existing or planned towers or structures are located within the geographic area required to meet the applicant's engineering requirements.
- (2) Existing or planned towers or structures are not of sufficient height to meet applicant's engineering requirements and cannot be made taller.
- (3) Existing or planned towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment and cannot be modified to support the additional load.
- (4) The applicant's proposed antenna would cause electromagnetic interference with the antenna on an existing or planned tower or structure, or the antenna on an existing or planned tower or structure would cause interference with the applicant's proposed antenna.
- (5) The fees, costs, or contractual provisions required by the owner in order to share an existing or planned tower or structure or to adapt an existing or planned tower or structure for sharing are unreasonable. Costs that exceed the cost of establishing a new tower are presumed to be unreasonable.
- (6) The applicant demonstrates that there are other limiting factors that render existing and planned towers and structures unsuitable.

If such evidence is submitted, the zoning administrator may, at the applicant's expense, hire a qualified expert in the field to review the documentation to provide an independent analysis.

(k) **Financial security for removal of tower.** Prior to the issuance of a zoning permit authorizing construction of a tower, the property owner shall provide a financial guarantee in a form and in an amount acceptable to the zoning administrator. Such financial guarantee shall be maintained until the tower is removed and the site restored or at such time that is mutually agreeable to the property owner and the zoning administrator. If the county exercises its right to use the financial guarantee and the amount of the financial guarantee does not cover the cost of removing the tower and restoring the site, the balance shall constitute a lien against the property as authorized by state law.

(l) **Unsafe conditions.** If the zoning administrator determines that a tower is unsafe or otherwise defective, the administrator shall follow the procedure outlined in article 7 of this chapter relating to unsafe conditions.

(m) **Termination of approval.** If the zoning administrator determines that all of the antennas on a tower have not been operated for a continuous period of 12 months, the administrator shall follow the procedure outlined in article 7 of this chapter relating to termination of the approval.

(n) **Review requirements for antennas.** Antennas placed on a tower as a collocation and related ground facilities may occur with the review and approval of a site plan and plan of operation.

(o) **Antenna upgrades.** Antennas on an existing tower may be upgraded without special approval provided the new antennas do not exceed the number or size of the existing antennas and are generally placed where the existing antennas are located.

(p) **Nonconformity.** Towers that are constructed and antennas that are installed in accordance with the provisions of this section shall not be deemed to constitute an expansion of a nonconforming use or structure.

(q) **Unconcealed telecommunication facility located in an A-1 District.** An unconcealed telecommunication facility located in an A-1 District must meet the requirements of s. 23.115(d) and is a conditional use.

23.8-375 Utility installation, major

A major utility installation located in an A-1 District must meet the requirements of s. 23.115(d) and is a conditional use.

23.8-376 Utility installation, minor

A minor utility installation that also includes a security fence is considered a major utility installation.

23.8-377 Utility maintenance yard

(a) **Location.** Outdoor storage areas and other activity areas shall be located at least 100 feet from a property in a residential zoning district and 50 feet from a property in a commercial or mixed-use zoning district.

(b) **Utility maintenance yard located in an A-1 District.** Utility maintenance yard located in an A-1 District must meet the requirements of s. 23.115(d) and is a conditional use unless it qualifies under s. 91.44(1)(f) stats.

23.8-378 Wind Energy System, large

(a) Setback(s).

A large energy system shall be the lesser of 1,250 feet or 3.1 times maximum blade tip from the following:

- (1) Occupied community buildings
- (2) Non-participating residences

A large energy system must be 1.1 times the maximum blade tip height from the following:

- (1) Participating residences
- (2) Non-participating property lines
- (3) Public right-of-way
- (4) Overhead communication/electric transmission/distribution lines

(b) **Pre-application notice.** At least 90 days before an owner files an application with the County to construct a large energy wind system, the owner must provide written notice of the planned wind energy system to all of the following:

- (1) Landowners within one mile of a planned wind turbine host property.
- (2) The political subdivision(s) within which the wind energy system may be located (wind energy system refers to all wind energy facilities, e.g., turbines, collector lines, substation).
- (3) Emergency first responders and air ambulance service providers serving the political subdivision(s).
- (4) The Wisconsin Department of Transportation.
- (5) The Public Service Commission of Wisconsin.
- (6) The Department of Natural Resources, Office of Energy.
- (7) The Wisconsin Department of Agriculture, Trade, and Consumer Protection.
- (8) The office of the Deputy Undersecretary of the U.S. Department of Defense.

The notice must include the following:

- (1) A complete description of the proposed wind energy system including the number and size of the planned wind turbines.

- (2) A map showing the planned location of all wind energy system facilities.
 - (3) Owner contact information.
 - (4) A list of potential permits or approvals the owner anticipates may be necessary for construction of the wind energy system.
 - (5) Whether the owner will request a joint application review process under Wis. Admin. Code State Statute PSC 128.30(07) and each political subdivision that may participate in the joint review process.
- (c) **Decommissioning.** Requirements to decommission:
- (1) An owner of a large wind energy system shall decommission and remove the wind energy system when the system is at the end of its useful life.
 - (2) A wind energy system is presumed to be at the end of its useful life if the wind energy system generates no electricity for a continuous 540 day period.
- (d) **Financial security for removal of equipment.** Prior to the issuance of a conditional use permit authorizing the construction of a large wind energy system, the applicant shall provide a financial guarantee in a form and in an amount acceptable to the zoning administrator. Such financial guarantee shall be maintained until the large wind energy system is removed and the site restored or at such time that is mutually agreeable to the property owner and the zoning administrator. If the county exercises its right to use the financial guarantee and the amount of the financial guarantee does not cover the cost of removing the large wind energy system and restoring the site, the balance shall constitute a lien against the property as authorized by state law.
- (e) **Definitions specific to wind energy systems.**
- (1) “Decommissioning” means removal of all of the following:
 - (i) The above ground portion of a wind energy system, including wind turbines and related facilities, except for access roads if removal has been waived by the property owner
 - (ii) All below ground facilities, except underground collector circuit facilities and those portions of concrete structures 4 feet or more below grade.
 - (2) “Maximum blade tip height” the nominal hub height plus the nominal blade length of a wind turbine, as listed in the wind turbine specifications provided by the wind turbine manufacturer. If not listed in the wind turbine specifications, “maximum blade tip height” means the actual hub height plus the blade length.
 - (3) “Nameplate capacity” means the nominal generating capacity of a wind energy system, as listed in the wind turbine specifications provided by the wind turbine manufacturer.
 - (4) “Nonparticipating property” means real property that is not a participating property.
 - (5) “Nonparticipating residence” means a residence located on nonparticipating property.
 - (6) “Occupied community building” means a school, church or similar place of worship, daycare facility or public library.
 - (7) “Owner” (with regard to wind energy systems) means:
 - (i) A person with a direct ownership interest in a wind energy system, regardless of whether the person was involved in acquiring the necessary rights, permits and approvals or otherwise planning for the construction and operation of a wind energy system.
 - (ii) At the time a wind energy system is being developed, a person who is acting as a wind energy system developer by acquiring the necessary rights, permits and approvals for or by planning for the construction and operation of a wind energy system, regardless of whether the person will own or operate the wind energy system.
 - (8) “Participating property” means any of the following:
 - (i) A turbine host property.
 - (ii) Real property that is the subject of an agreement that does all of the following:
 - (1) Provides for the payment of monetary compensation to the landowner from an owner regardless of whether any part of a wind energy system is constructed on the property.

- (2) Specifies in writing any waiver of a requirement or right under this chapter and that the landowner's acceptance of payment establishes the landowner's property as a participating property.
- (9) "Participating residence" means a residence located on a participating property.
- (10) "Turbine host property" means real property on which at least one wind turbine is located.
- (11) "Wind access easement" means a written document that creates a legal interest in real property that restricts the use of the property to avoid interference with the wind resource on another property.
- (12) "Wind energy system" has the meaning given in s. 66.0403(1)(m), Stats., and is used to convert wind energy to electrical energy.

(f) **Wind energy system, large located in an A-1 District.** A large wind energy system located in an A-1 District must meet the requirements of s. 91.01(1), 91.44(1)(f) or s. 91.46(4), Wis. Stats.

23.8-379 Wind Energy System, small

(a) **Setbacks.** A small wind energy system must be at least 1.0 times the maximum blade tip height from the following:

- (1) Occupied community buildings
- (2) Non-participating residences
- (3) Non-participating lot lines
- (4) Overhead communication/electric transmission/distribution lines

(b) Definitions specific to wind energy systems

- (1) "Decommissioning" means removal of all of the following:
 - (i) The above ground portion of a wind energy system, including wind turbines and related facilities, except for access roads if removal has been waived by the property owner
 - (ii) All below ground facilities, except underground collector circuit facilities and those portions of concrete structures 4 feet or more below grade.
- (2) "Maximum blade tip height" the nominal hub height plus the nominal blade length of a wind turbine, as listed in the wind turbine specifications provided by the wind turbine manufacturer. If not listed in the wind turbine specifications, "maximum blade tip height" means the actual hub height plus the blade length.
- (3) "Nameplate capacity" means the nominal generating capacity of a wind energy system, as listed in the wind turbine specifications provided by the wind turbine manufacturer.
- (4) "Nonparticipating property" means real property that is not a participating property.
- (5) "Nonparticipating residence" means a residence located on nonparticipating property.
- (6) "Occupied community building" means a school, church or similar place of worship, daycare facility or public library.
- (7) "Owner" (with regard to wind energy systems) means:
 - (i) A person with a direct ownership interest in a wind energy system, regardless of whether the person was involved in acquiring the necessary rights, permits and approvals or otherwise planning for the construction and operation of a wind energy system.
 - (ii) At the time a wind energy system is being developed, a person who is acting as a wind energy system developer by acquiring the necessary rights, permits and approvals for or by planning for the construction and operation of a wind energy system, regardless of whether the person will own or operate the wind energy system.
- (8) "Participating property" means any of the following:
 - (i) A turbine host property.
 - (ii) Real property that is the subject of an agreement that does all of the following:

- (1) Provides for the payment of monetary compensation to the landowner from an owner regardless of whether any part of a wind energy system is constructed on the property.
- (2) Specifies in writing any waiver of a requirement or right under this chapter and that the landowner's acceptance of payment establishes the landowner's property as a participating property.
- (9) "Participating residence" means a residence located on a participating property.
- (10) "Turbine host property" means real property on which at least one wind turbine is located.
- (11) "Wind access easement" means a written document that creates a legal interest in real property that restricts the use of the property to avoid interference with the wind resource on another property.
- (12) "Wind energy system" has the meaning given in s. 66.0403(1)(m), Stats., and is used to convert wind energy to electrical energy.

(c) **Wind energy system, small located in an A-1 District.** A small wind energy system located in an A-1 District must meet the requirements of s. 91.01(1), 91.44(1)(f) or s. 91.46(4), Wis. Stats.

23.8-380 Reserved

Series 13 Transportation Facilities

23.8-381 Airport

All buildings, outdoor airplane or helicopter storage areas, and other activity areas shall be located at least 100 feet from the perimeter of the airport property.

23.8-382 Bus storage facility

Outdoor storage areas and other activity areas shall be located at least 50 feet from a property in a residential zoning district and 25 feet from a property in a commercial or mixed-use zoning district.

23.8-383 Marina

No special standards apply to marinas.

23.8-384 Mass transit terminal

The primary access to a mass transit terminal shall be off of a road classified as a collector or a higher classification as depicted on the zoning map or a supplemental map.

23.8-385 Off-site parking lot

(a) **Access requirements.** The primary access to an off-site parking lot shall be off of a road classified as a collector or a higher classification as depicted on the zoning map or a supplemental map.

(b) **Cut-through traffic.** Access and vehicular circulation shall be designed so as to discourage cut-through traffic.

23.8-386 Parking structure

Snow chutes shall be placed in a location causing the least amount of impact on surrounding properties.

23.8-387 Park-and-ride lot

The primary access to a park-and-ride lot shall be located in close proximity to a road classified as a collector or a higher classification as depicted on the zoning map or a supplemental map.

23.8-388 Railroad line

A railroad located in an A-1 District must meet the requirements of s. 23.115(d) and is a conditional use unless it qualifies under s. 91.44(1)(f) stats.

23.8-389 Street

A street located in an A-1 District must meet the requirements of s. 23.115(d) and is a conditional use unless it qualifies under s. 91.44(1)(f) stats.

23.8-390 to 23.8-400 Reserved**Series 14 General Storage****23.8-401 Bulk fuel storage**

No special standards apply to bulk fuel storage.

23.8-402 Personal storage facility

(a) **Minimum lot area.** The lot on which a personal storage facility is located shall be at least one acre in size.

(b) **Access.** The access to a cubicle shall not open directly onto a public road right-of-way.

(c) **Surfacing of travel-ways.** Driveways, interior aisles, and walkways shall be concrete or asphaltic concrete, except as may be allowed in this subsection. Consistent with the procedures and requirements of article 7 of this chapter, the Planning and Zoning Committee may allow gravel surfaces as a special exception and require, as a condition of approval, additional buffer yard and landscaping requirements deemed necessary to provide adequate screening between this use and adjoining properties.

(d) **Storage of prohibited substances.** No cubicle shall be used to store explosives, toxic substances, hazardous materials, or radioactive materials.

(e) **Uses.** Only uses that are accessory to storage shall occur. No portion of the building shall be used for fabrication, repair, or any similar use or for human habitation.

(f) **Design.** The personal storage facility shall be designed so as to minimize adverse visual impacts on nearby properties. The color, exterior materials, and orientation of proposed buildings and structures shall complement existing and anticipated development in the surrounding area.

(g) **Fencing of outdoor storage area.** An area used for outdoor storage of operational vehicles, watercraft, and the like shall be enclosed by a security fence.

(h) **Setback of outdoor storage area.** Outdoor storage areas shall comply with the building setback standards for the zoning district in which the use is located.

23.8-403 Truck terminal

(a) **Setback of outdoor storage area.** Outdoor storage areas and other activity areas shall be located at least 100 feet from a property in a residential zoning district.

(b) **Control of fugitive dust.** As part of the building, site, and operation plan review process, the control of fugitive dust generated by this use shall be addressed.

23.8-404 Warehouse

(a) **Setback of outdoor storage area.** Outdoor storage areas and other activity areas shall be located at least 100 feet from a property in a residential zoning district.

(b) **Control of fugitive dust.** As part of the building, site, and operation plan review process, the control of fugitive dust generated by this use, if any, shall be addressed.

23.8-405 to 23.8-410 Reserved**Series 15 Industrial Uses****23.8-411 Artisan shop**

When an artisan shop is located in a commercial or mixed-use zoning district, all materials and activities, except loading and unloading, shall be conducted entirely within the confines of a building.

23.8-412 Batching plant associated with a nonmetallic mine

(a) **Prerequisite use.** A batching plant in this instance shall only be allowed as an ancillary use to a nonmetallic mine that was previously approved under this chapter.

(b) **Setback requirements.** A batching plant shall be located at least 300 feet from a property in a residential zoning district and 200 feet from a property in a commercial or mixed-use zoning district.

(c) **Termination of approval.** If the zoning administrator determines that the nonmetallic mine with which the batching plant is associated is permanently closed, the administrator shall follow the procedure outlined in article 7 of this chapter relating to termination of the approval.

(d) **Restoration plan.** As part of the review process, the applicant shall prepare and submit a restoration plan and obtain the approval of the same. Such restoration plan shall identify those areas of the property that will be disturbed and how those areas will be restored following the cessation of the batching plant.

(e) **Financial guarantee.** Prior to the establishment of a batching plant, the property owner shall submit a financial guarantee in a form acceptable to the zoning administrator and in an amount equal to 110 percent of the estimated cost of site restoration identified in the restoration plan that is approved for the project. If the county exercises its right to use the financial guarantee to restore the property and the amount of the financial guarantee does not cover such costs, the difference between the amount of the guarantee and the actual cost shall constitute a lien against the property as authorized by state law.

(f) **Batching plant associated with a non-metallic mine located in an A-1 District.** A batching plant associated with a non-metallic mine located in an A-1 District must meet the requirements of s. 23.7.115(b).

23.8-413 Bio-fuels production plant

(a) **Access.** The primary point of access to the subject property with a bio-fuels production plant shall be off of a public road classified as an arterial or a higher classification.

(b) **Fugitive dust.** Primary internal roads, as determined by the reviewing authority, shall be paved. Secondary internal roads, as determined by the reviewing authority, shall be treated to minimize the amount of fugitive dust generated on site.

(c) **Fuel storage tanks.** All fuel storage tanks shall be located within an impermeable containment levee system as may be required by state or federal rule or regulation.

(d) **Biofuel production plant located in an A-1 District.** A biofuel production plant located in an A-1 District must meet the requirements of s. 23.115(c).

23.8-414 Construction equipment repair

Outdoor storage areas and other activity areas related to this use shall be located at least 30 feet from a property in a residential zoning district and 10 feet from a property in a commercial or mixed-use zoning district. When allowed in a commercial zoning district, all repair work shall occur within an enclosed building. When allowed in an industrial zoning district, repair work may be conducted out-of-doors.

23.8-415 Construction equipment sales and rental

Display areas and other activity areas related to this use shall be located at least 30 feet from a property in a residential zoning district and 10 feet from a property in a commercial or mixed-use zoning district.

23.8-416 Contractor yard

(a) **Lot area requirements.** There are no minimum lot area requirements for a contractor yard.

(b) **Limitations on equipment.** There are no limitations on the number of trucks, trailers, or other heavy equipment.

(c) **Storage of material.** When a contractor yard is located next to a property in a residential, mixed-use, or commercial zoning district, exterior storage of construction materials, wastes, and the like shall be screened with a solid, 6-foot high fence and such materials shall not be placed higher than the height of the fence.

23.8-417 Industrial, heavy

(a) **Distance to specified features.** Outdoor storage areas and other activity areas related to this use shall be located at least 50 feet from a property in a residential zoning district and 25 feet from a property in a commercial or mixed-use zoning district.

(b) **Material storage.** No materials shall be stacked or otherwise stored so as to be visible over buffer yard screening elements from a property in a residential zoning district.

23.8-418 Industrial, light

(a) **Location of materials and activities.** All materials and activities, except loading and unloading, shall be conducted entirely within the confines of a building.

(b) **Material storage.** No materials shall be stacked or otherwise stored so as to be visible over buffer yard screening elements from a property in a residential or mixed-use zoning district.

23.8-419 Nonmetallic mine

(a) **Exemptions.** The following activities shall not be considered a nonmetallic mine:

- (1) operations affecting less than 5 acres and for the exclusive on-site use of the property owner;
- (2) pre-mining activities, such as site surveying, coring, mapping and other functions necessary solely for proper preparation of the permit application;
- (3) excavation in conjunction with a utility installation, which is to be backfilled;
- (4) excavation within the limits of a public right-of-way in conjunction with road construction or reconstruction, when construction plans have been approved by the Wisconsin Department of Transportation or other governmental authority;
- (5) excavation which by nature is of limited duration, such as graves, septic tanks, and swimming pools;
- (6) agricultural drainage work incidental to agricultural operations and irrigation/stock watering ponds, if no material is removed from the property;
- (7) excavation for structures and parking areas;
- (8) stripping of up to 1.5 feet of topsoil for the development of subdivisions, following subdivision approval;
- (9) regrading of property for aesthetic purposes that does not affect existing drainage, if no material is removed from the property;
- (10) dredging operations under the jurisdiction of the U.S. Army Corps of Engineers or other governmental authority;
- (11) ponds developed for wildlife purposes in conjunction with the Natural Resources Conservation Service or the Winnebago County Land and Water Conservation Department;
- (12) excavation related to sod farming;
- (13) any mining operation, the reclamation of which is required in a permit obtained under ss. 144.80—144.94, Wis. Stats., pertaining to metallic mining;
- (14) activities conducted at a solid or hazardous waste disposal site required to prepare, operate, or close a solid waste disposal facility under ss. 144.435—144.445, Wis. Stats., or a hazardous waste disposal facility under ss. 144.60—144.74, Wis. Stats., for the exception of mineral extraction operations conducted for the purpose of lining, capping, or covering such disposal site; and
- (15) any other use determined to be exempt by the Planning and Zoning Committee.

(b) **Air quality.** The operator of a nonmetallic mine shall comply with ch. NR 415, Wis. Admin. Code, with regard to particulate emissions.

(c) **Blasting.** The operator of a nonmetallic mine shall comply with ch. Comm 7, Wis. Admin. Code, when explosives are used for blasting.

(d) **Reclamation.** The operator of a nonmetallic mine shall comply with chapter 20 of the general code of Winnebago County.

(e) **Minimization of noise, dust, and vibrations.** Roads, machinery, and equipment shall be located, constructed, and used in such a manner as to minimize noise, dust, and vibrations.

(f) **Hours of operation.** A nonmetallic mine shall not be operated on Sunday and may be operated Monday through Saturday during the standard hours of operation specified in Exhibit 8-8 based on the proximity of the site to a residence or commercial establishment open to the public. Upon written request, the Planning and Zoning Committee may authorize specific activities past the standard hours of operation but no later than the hour specified in Exhibit 8-76 for limited or temporary periods taking into account the proximity and nature of adjoining uses and the extent of noise, dust, and vibration associated with the activity. Such approval shall be in writing and shall specify the time period the extended hours of operation are in effect, the activities that are permitted, and conditions, if any, the committee may impose to address off-site effects.

Exhibit 8-8 Permissible hours of operation for a nonmetallic mine

Proximity of Site to Specified Uses	Day	Standard Hours of Operation	Extended Hours of Operation With Approval of Planning & Zoning Committee
Property boundary line of the site is located within 500 feet of a residence or commercial establishment open to the public	Monday through Friday	From 6:00 a.m. to 6:00 p.m.	From 6:00 p.m. to 10:00 p.m.
	Saturday	From 6:00 a.m. to 2:00 p.m.	From 2:00 p.m. to 7:00 p.m.
Property boundary line of the site is not located within 500 feet of a residence or commercial establishment open to the public	Monday through Friday	From 6:00 a.m. to 6:00 p.m.	From 6:00 a.m. to 10:00 p.m.
	Saturday	From 6:00 a.m. to 6:00 p.m.	From 6:00 a.m. to 10:00 p.m.

(g) **Setbacks.** The following setback requirements shall apply to a nonmetallic mine:

- (1) No operations or activities, including berm construction, shall be conducted within 200 feet of any right-of-way line or within 200 feet of any exterior boundary of the site where a residence is located within 500 feet of the perimeter of the site.
- (2) The Planning and Zoning Committee may authorize berm construction and related site preparation as a temporary activity, for a specific time period, to within 25 feet of the perimeter of the site for those operations lawfully existing before April 29, 2012. Exemptions may be authorized by the committee for berms located closer than 25 feet from the perimeter of the site for those operations lawfully existing before April 29, 2012.
- (3) The Planning and Zoning Committee may authorize continued vertical removal of materials to within 50 feet of the perimeter of the site for those operations lawfully existing before April 29, 2012.
- (4) In no event shall any operations or activities, except berm construction and related site preparation activities, be conducted within 50 feet of the perimeter of the site. In exercising their authority under this subsection, the Planning and Zoning Committee may impose reasonable conditions including more stringent hours of operation, landscaping, and fencing.
- (5) The Planning and Zoning Committee may authorize a reduction in the 200-foot or the 50-foot setback requirement where the extraction will not go below either the grade of the adjacent road, or the adjoining property boundary line, and where blasting is not used. In applying the provisions of this section, the committee may reduce the setbacks as deemed appropriate, and may impose other operational requirements necessary to offset any potential effect of the reduced setback.
- (6) When a nonmetallic mine adjoins another nonmetallic mine, a setback as provided in this part is not required along the common property boundary line when both operators agree in writing and such agreement is submitted to and approved by the zoning administrator as to form and content.

(h) **Plan of operation.** A nonmetallic mine, including those that existed before April 29, 2012, shall prepare a plan of operation for the site that includes the following:

- (1) A statement of ownership of the parcel and control of the operations.
- (2) A site plan, drawn to scale, showing the lateral extent of existing and proposed excavations; the location and width of all easements and right of way on or abutting the site; existing water bodies, water courses and drainageways and proposed modifications; estimated direction of flow or groundwater; the location of existing and proposed buildings, structures, machinery and equipment; and the location of all existing and proposed storage and stockpiling areas.

- (3) Cross sections of the site, drawn to scale, that show the vertical extent of existing and proposed excavations.
- (4) The estimated volume of materials to be removed from the site.
- (5) A description of the methods and equipment that will be used to extract, process, or otherwise handle earth materials.
- (6) The location and operation of proposed processing and storage areas.
- (7) The purpose and locations of any on-site ponds.
- (8) A phasing plan, if the mine operation and reclamation will be completed in phases.

(i) **Term of permit.** A permit shall be issued for a term of 6 years, renewable for terms of 6 years. Any activity conducted in compliance with a current permit which subsequently becomes noncompliant during the term of the permit by reason of surrounding development may continue for the remainder of the term of the current permit.

(j) **Transfer of permit.** When an operator succeeds to the interest of another in an uncompleted site, Winnebago County shall release the present operator of the responsibilities imposed by the permit only if:

- (1) both operators are in compliance with the requirements and standards of this section, and
- (2) the new operator assumes the responsibility of the former operator's permit requirements.

(k) **Special requirements for nonmetallic mines in “Arsenic Area.”** When a nonmetallic mine is entirely or partially located within the area denoted as “Arsenic Area” on the zoning map, or a supplemental map, and mining activities are planned to occur below the water table, the following requirements shall apply:

- (1) The mine operator shall submit a written report to the zoning administrator that describes the proposed pumping activities.
- (2) The mine operator shall submit a monitoring plan, as prepared by a state-certified hydrogeologist (consultant), to the zoning administrator for review and approval. Such plan shall be designed to establish baseline conditions related to the proposed pumping activities and to monitor the potential negative effects of the activities on groundwater and surface water once pumping commences. At least three monitoring wells shall be used to determine baseline and future conditions, including such parameters as groundwater elevation, direction of flow, levels of arsenic in the groundwater, and other related attributes.
- (3) The state-certified hydrogeologist, or another person approved by the zoning administrator, shall collect data from the approved well sites for at least 3 years prior to the proposed pumping activity and submit a written report (“baseline report”) containing such data to the zoning administrator.
- (4) The state-certified hydrogeologist, or another person approved by the zoning administrator, shall submit quarterly reports to the zoning administrator that are prepared consistent with the approved monitoring plan.

If the zoning administrator determines that data in the baseline report or other documentary evidence, or both indicates that the proposed pumping is likely to have an unacceptable negative effect on groundwater or surface water, the pumping shall not be allowed. If the zoning administrator authorizes the pumping, but later determines that data in one or more of the quarterly reports or other documentary evidence, shows that the pumping is having an unacceptable effect on groundwater or surface water, the zoning administrator shall have the authority to withdraw his or her prior approval and require cessation of the pumping or require the mine operator to make changes in the way the water is pumped, collect additional monitoring data related to the pumping, or both.

(l) **Potential impacts to certain water wells.** If a mine operation adversely impacts an off-site water supply well, the mine operator shall repair or replace the well to provide the same quantity and quality of groundwater obtained from the well prior to the mining operation. This requirement applies to all water wells located within 1,320 feet of the outer extent of the excavation area which were completed prior to the approval of the mine operation or any expansion thereof. If an eligible property owner believes that the operation of the mine is having an adverse impact on his or her water well (hereafter referred to as the “claimant”), the claimant shall provide written notice to the mine operator and

the zoning administrator explaining the nature and the extent of the alleged impact. Within 30 days of such notice, the mine operator shall send a written response to the claimant and the zoning administrator that either provides evidence rejecting the claimant's assertion of adverse impact resulting from the mine operation or an amount of financial compensation for repairing or replacing the well to provide the same quantity and quality of groundwater obtained from the well prior to the mining operation. The claimant shall have 7 days to accept or reject the mine operator's response including the amount of compensation, if an amount was offered. If the claimant rejects the mine operator's response, he or she may submit a written response to the mine operator and the zoning administrator that includes evidence supporting his or her assertion of adverse impact and the amount for repairing or replacing the well to provide the same quantity and quality of groundwater obtained from the well prior to the mining operation. If the claimant provides such response, the Planning and Zoning Committee shall review the materials submitted by both the mine operator and the claimant at a public meeting within 45 days of receiving the claimant's response, and render a decision within 30 days of such meeting. If the committee determines that the mine operations are having an adverse impact on the claimant's well, it shall establish a cost for repairing or replacing the well to provide the same quantity and quality of groundwater obtained from the well prior to the mining operation. If the mine operator does not provide the specified amount of compensation in a timely manner, the county may utilize the financial guarantee as required under this section for such purposes.

(m) **Financial guarantee.** Prior to the commencement of any on-site work, the mine operator shall provide a financial guarantee to the county in a form acceptable to the zoning administrator and in an amount equal to \$3,200 for each domestic well that is located within 1,320 feet of the area to be mined and the estimated replacement cost for each nondomestic water well that is located within 1,320 feet of the area to be mined. If the county exercises its right to use the financial guarantee for the work authorized in this section and the amount of the financial guarantee does not cover such costs, the difference between the amount of the guarantee and the actual cost shall constitute a lien against the property as authorized by state law.

(n) **Supplemental application materials.** In addition to the materials typically submitted for site plan review, the following shall be provided as part of the application:

- (1) A topographic map of the subject property and the surrounding area, having a contour interval of 4 feet or less.
- (2) A map depicting vegetation, soils, and existing conditions including on-site structures.
- (3) A map depicting property boundary lines within 1,600 feet of the area to be mined and water supply wells within 1,320 of the area to be mined including the type of well (e.g., domestic, industrial, or agricultural), well depth, static water level if known, and owner name.
- (4) One or more cross-sections showing the extent of the nonmetallic deposits to be mined, the proposed depth of removal, and the location of the water table.

(o) **Non-Metallic mine located in the A-1 District.** A non-metallic mine located in the A-1 District must meet the requirements of s. 23.7.115(b).

23.8-420 Salvage yard

(a) **Proximity to other specified property.** All buildings, structures, and outdoor storage areas and any other activity areas shall be located at least 600 feet from a property in a residential, mixed-use, or commercial zoning district.

(b) **Hazardous materials.** Hazardous materials shall not be stored or handled.

(c) **Buffer yard.** In addition to the buffer yard requirements in article 9 of this chapter, the reviewing authority may, as part of the site plan review process, require additional buffer yard requirements deemed necessary to provide adequate screening between this use and adjoining properties.

(d) **Fence.** A 6-foot solid fence, subject to approval by the reviewing authority, shall be located around the perimeter of the area used to store salvage materials.

(e) **Fence plan.** As part of the site plan review application, the applicant shall submit a fence plan which specifies construction materials and specifications.

(f) **Compliance with state law.** A salvage yard located within 1,000 feet of a right-of-way of an interstate or primary highway shall comply with the requirements of s. 84.31, Wis. Stats., and any administrative rule adopted pursuant to that section.

23.8-421 to 23.8-430 Reserved**Series 16 Solid Waste Facilities****23.8-431 Composting facility**

- (a) **Licensing.** A composting facility shall comply with all county, state, and federal regulations.
- (b) **Distance to specified features.** A composting facility shall not be located within 600 feet of a residential zoning district, a mixed-use zoning district, an educational facility, a worship facility, or any other place where the public congregates.
- (c) **Setbacks.** All buildings, structures, and activity areas shall be located at least 100 feet from the perimeter of the site.
- (d) **Composting facility located in an A-1 District.** A composting facility located in an A-1 District must meet the requirements of s. 23.7.11(c).

23.8-432 Recycling center

When located in an I-1 zoning district, all materials and activities, except loading and unloading, shall be conducted entirely within the confines of a building.

23.8-433 Solid waste landfill

- (a) **Road access requirements.** The primary access to a solid waste landfill shall be off of a road classified as a collector or a higher classification as depicted on the zoning map or a supplemental map.
- (b) **Compliance with other regulations.** A solid waste landfill shall comply with all applicable state and federal rules and regulations governing this use.

23.8-434 Solid waste transfer station

- (a) **Road access requirements.** The primary access to a solid waste transfer station shall be off of a road classified as a collector or a higher classification as depicted on the zoning map or a supplemental map.
- (b) **Location of materials and activities.** All materials and activities, except loading and unloading, shall be conducted entirely within the confines of a building.
- (c) **Distance to specified features.** A solid waste transfer station shall not be located within 600 feet of a residential zoning district, a mixed-use zoning district, an educational facility, a worship facility, or any other place where the public congregates.

23.8-435 to 23.8-440 Reserved

DIVISION 10
SPECIAL STANDARDS FOR ACCESSORY LAND USES
(Series 17 in Land Use Matrix)

Sections

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23.8-441 Adult family home

(a) **License.** Prior to the establishment of an adult family home, the operator shall obtain a license from the state as required by state law and maintain such license for the life of the use or until the state no longer requires such license.

(b) **Adult family home located in an A-1 District.** An adult family home located in an A-1 District must qualify under s. 91.01(1) stats.

23.8-442 Amateur radio antenna

(a) **Legislative findings.** The Board of County Supervisors makes the following legislative findings regarding amateur radio antennas:

- (1) The placement of amateur radio station antennas and support structure of unregulated height and type could have a negative impact on surrounding properties and especially on the smallest of lots allowed in the county.
- (2) Pursuant to s. 59.69(4f), Wis. Stats., the regulations in this section constitute the least restrictive measures needed to promote community aesthetics, public health, and safety while allowing amateur radio communications.

(b) **Number.** Antennas shall be placed on no more than one support structure, such as a tower or on top of a building.

(c) **Type of tower.** An antenna may be placed on a monopole or lattice tower.

- (d) **Anti-climbing measures required.** If a tower is used to support the antenna, the tower shall have anti-climbing measures to prevent unauthorized climbing.
- (e) **Setback.** An antenna shall not be located in a street yard.
- (f) **Setback requirements.** The center of the antenna shall be no closer than 110 percent of the total height of the antenna to a property boundary line and overhead electric lines.
- (g) **Amateur radio antenna located in an A-1 District.** An amateur radio antenna located in an A-1 District must qualify under s. 91.01(a) stats.

23.8-443 Automated teller machine

- (a) **Security.** An ATM shall be readily visible so as to maintain a proper level of safety for patrons.
- (b) **Lighting.** Proper lighting levels shall be maintained 24 hours a day for security purposes.
- (c) **Location.** An ATM shall not be located within a yard setback or buffer yard.

23.8-444 Backyard chickens

- (a) **Number.** No more than 4 chickens may be kept.
- (b) **Roosters.** The keeping of roosters is prohibited.
- (c) **Slaughter of chickens prohibited.** The slaughter of chickens on the premises is prohibited.
- (d) **Enclosure requirements.** Chickens shall be provided with a covered enclosure and must be kept in the covered enclosure or a fenced enclosure at all times.
- (e) **Setback requirements.** The enclosure housing chickens shall be located at least 25 feet from any residential structure on an adjacent lot.
- (f) **Registration required.** The owner, operator, or tenant shall register the premise where chickens are kept with the Wisconsin Department of Agriculture, Trade and Consumer Protection as required by state law and maintain such registration for so long as may be required.

23.8-445 Bed and breakfast

- (a) **Local license.** Prior to the establishment of a bed and breakfast, the operator shall obtain a license from the Winnebago County Health Department and maintain such license for the life of the use or until the department no longer requires such license.
- (b) **State license.** Prior to the establishment of a bed and breakfast, the operator shall obtain a license from the state as may be required by state law and maintain such license for the life of the use or until the state no longer requires such license.¹³⁶
- (c) **Type of dwelling.** A bed and breakfast shall only occur within a single-family dwelling.
- (d) **Number of allowable guest rooms.** No more than 6 guest rooms shall be offered.
- (e) **Residency requirement.** The operator of a bed and breakfast shall reside within the single-family dwelling during the time period when rooms are offered.
- (f) **Exterior character of the dwelling unit.** The exterior appearance of the building shall not be altered from its single-family appearance.
- (g) **Food preparation.** No food preparation or cooking shall be allowed in guest rooms.
- (h) **Meals.** Meals shall only be offered to overnight guests.
- (i) **Maximum stay.** The maximum stay for any occupants shall be 14 consecutive days.
- (j) **Record of guests.** The operator shall keep a listing showing the names of all guests. This list shall be kept on file for a period of one year. Such list shall be available for inspection by county officials at any time upon request.

¹³⁶Commentary: See subch. VII of ch. 254, Wis. Stats., and ch. HFS 197, Wis. Admin. Code

(k) **Bed and breakfast located in an A-1 District.** A bed and breakfast located in an A-1 District must qualify under s. 91.01(1) stats.

23.8-446 Boat dock

A boat dock shall comply with all rule and regulations established in state statutes and administrative rules established pursuant to those statutes.

23.8-447 Boathouse

(a) **Other permits.** The property owner shall obtain all necessary permits from the Wisconsin Department of Natural Resources, United States Army Corps of Engineers, and other regulatory agencies as may be required.

(b) **Allowable uses.** The use of a boathouse is limited to the storage of watercraft and related equipment. A boathouse shall not be used for human habitation.

(c) **Yard setbacks.** A boathouse shall be located within a shore yard setback, but shall be no closer than 5 feet to the ordinary high-water mark of the stream, lake, pond, or wetland on which it fronts. A boathouse shall not be closer than 3 feet to a side property boundary line.

(d) **Number.** No more than one boathouse shall be located on a parcel of land.

(e) **Maximum floor area/height.** The floor area of a boathouse shall not exceed 500 sq. feet or 15 feet in height.

(f) **Access door.** A boathouse shall have a garage-type door at least 7 feet wide for primary access on the side of the building facing the water. Where water frontage is all marsh and access to open water is not possible, the zoning administrator may waive this requirement at the time of permitting and approve an alternative location for the door.

(g) **Decks and similar features.** Decks and screened in areas are prohibited.

(h) **Use of flat roof.** If the boathouse has a flat roof, the rooftop area may not be used as an outdoor living area.

(i) **Construction standards.** A boathouse shall be placed on a continuous perimeter foundation that extends below the frost line or on a concrete slab.

(j) **Boathouse located in an A-1 District.** A boathouse located in an A-1 District must qualify under s. 91.01(1) stats.

23.8-448 Boathouse, off-site

An off-site boathouse shall meet all of the special standards specified in s. 23.8-447 “Boathouse” in addition to the following standards:

(a) **Minimum requirement for establishment of an off-site boathouse.** An off-site boathouse may be established only if the lot with the off-site boathouse is located on the road providing access to the lot housing the residential use and is generally located across from the lot housing the residential use.

(b) **Limitation on number of boathouses.** A lot housing a residential use shall not be associated with more than one boathouse, whether on-site or off-site.

(c) **Deed restriction required.** Prior to the issuance of a zoning permit authorizing the construction of an off-site boathouse, the property owner shall file an agreement and deed restriction with the register of deeds for Winnebago County, as approved by the zoning administrator, that prohibits the sale of the lot with the off-site boathouse separately from the lot housing a residential use to which it is associated (i.e., both lots must be sold together) and that such restriction remain in perpetuity.

(d) **Outdoor storage prohibited.** No items or material of any kind shall be stored out-of-doors on a lot with an off-site boathouse.

(e) **Accessory buildings prohibited.** No additional buildings may be located on a lot with an off-site boathouse.

23.8-449 Commercial vehicle parking

No more than one licensed commercial vehicle shall be stored out-of-doors on a residential lot. Examples of commercial vehicles include cars, vans, and trucks painted or embellished with a business logo or color scheme (often referred to as “company vehicles”), school buses, cargo trucks, and tractor-trailers (cab and trailer). Such vehicles shall be fully operative and in active commercial use.

23.8-450 Deck**(a) Setback requirements**

- (1) When attached or adjoining a principal building, the deck shall meet the required yard, height, and separation requirements of the principal building.
- (2) When attached or adjoining an accessory building (e.g. pool), the deck shall meet the required yard, height, and separation requirements of an accessory building.
- (3) Free standing decks shall meet the yard, height, and separation requirements of an accessory building.

(b) Accessory floor area. Decks are exempt from the maximum accessory floor area.

(c) Maximum number of detached accessory buildings. Where applicable, a detached or free-standing deck shall count towards the maximum number of detached accessory buildings allowed in a zoning district.

23.8-451 Exterior communication device (receive-only antenna)**(a) Number.** No more than 2 exterior communication devices shall be located on a parcel of land.

(b) Requirements for satellite dish. A satellite dish shall not be larger than 36 inches in diameter. If ground mounted, the satellite dish shall not be mounted higher than 6 feet above the ground surface. If a satellite dish is mounted on a building, it shall not extend more than 6 feet above the roof line.

(c) Requirements for radio/television antenna. A ground-mounted radio/television antenna shall not exceed a height of 25 feet as measured from the ground surface. A building-mounted radio/television antenna shall not extend more than 15 feet above the roofline.

(d) Exterior communication device (receive-only antenna) located in an A-1 District. An exterior communication device (receive-only antenna) located in an A-1 District must qualify under s. 91.01(1) stats.

23.8-452 Family day care home

Prior to the establishment of a family day care home, the operator shall obtain a license from the state as may be required by state law and maintain such license for the life of the use or until the state no longer requires such license.

23.8-453 Farm building storage**(a) Expansion.** The building housing this use may not be enlarged to increase the storage area.

(b) Alteration of building. The building may not be altered to accommodate this use, except as may be specifically permitted by the reviewing authority as part of the conditional use process.

(c) Exterior storage prohibited. All storage shall occur within the farm building (i.e., no outside storage).

(d) Farm building storage located in an A-1 District. Farm building storage located in an A-1 District must qualify under s. 91.01(1) stats.

23.8-454 Farm residence**(a) Standards.** A farm residence shall comply with the standards for single-family dwellings in s. 23.8-255.

(b) Farm residence located in an A-1 District. A farm residence located in an A-1 District must qualify under s. 91.01(1) stats.

23.8-455 Farmstead retail outlet

A farmstead retail outlet located in an A-1 District must qualify under s. 91.01(1) stats.

23.8-456 Fence

(a) Applicability. The requirements of this section apply to a fence more than 30 inches in height constructed or rebuilt after April 29, 2012, and which are located in a planned development district or on a parcel, wholly or partially, located in one of the following base zoning districts:

- (1) R-1, Rural residential
- (2) R-2, Suburban residential—low density
- (3) R-3, Suburban residential—medium density

- (4) R-4, Suburban residential—high density
- (5) R-8, Manufactured/mobile home community
- (6) B-1, Neighborhood business
- (7) B-2, Community business
- (8) B-3, Regional business
- (9) M-1, Mixed-use
- (10) I-1, Light industrial
- (11) I-2, Heavy industrial

A fence for a residential use within an agricultural district shall meet residential zoning district standards.

(b) **Measurement of fence height.** The height of a fence shall be measured from the adjoining ground surface to the top of the fence material (i.e., not the fence post, pole, or column).

(c) **General construction specifications. A fence shall meet the following construction specifications:**

- (1) **Width.** With the exception of vertical supports, the width of a fence shall not exceed 14 inches.

- (2) **Height.** The top of a fence shall not exceed the height listed in Exhibit 8-9, provided a fence used to enclose horses shall not exceed a height of 5 feet.

Where a fence is located on a slope and is stepped, each section shall not be wider than

10 feet and the height shall be measured in the middle of the stepped section (Exhibit 8-10). Pursuant to the procedures and requirements in article 7 of this chapter, the Planning and Zoning Committee may approve a special exception to allow a fence in a commercial zoning district that is higher than the height specified in Exhibit 8-9, but no more than 10 feet. The zoning administrator may allow a fence that does not meet the height requirements in this section when placed around a utility installation, telecommunication tower, or similar facility when required for security or related purposes.

- (3) **Orientation.** All non-decorative posts, horizontal supports, cross-members, and the like shall be oriented inward to the lot on which the fence is located.

- (4) **Materials.** A fence shall be constructed of building materials commonly used for fence construction in the region, except for

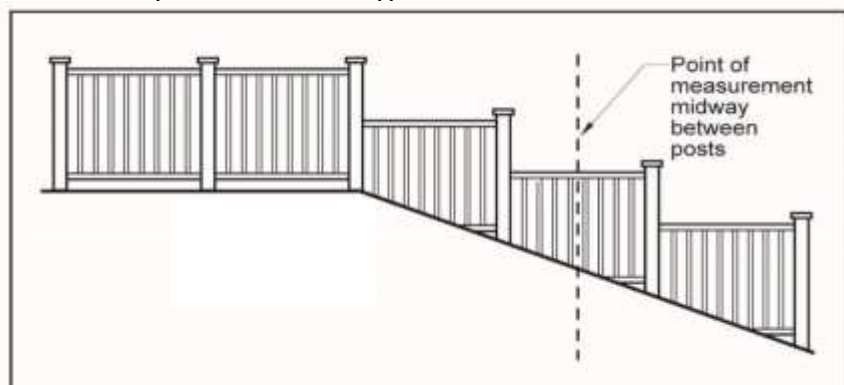
those specifically prohibited in this section. A fence located in a street yard setback shall have a maximum opacity of 50 percent. All other fences may be solid from the ground to the maximum height. Snow fences constructed of wood or plastic shall be permitted only as temporary fences.

Exhibit 8-9. Maximum fence height

Location	Residential Zoning Districts	Mixed-Use Zoning Districts	Commercial Zoning Districts	Industrial Zoning Districts
Street yard	4 feet [1]	4 feet [1]	10 feet	10 feet
Side yard	6 feet	6 feet	10 feet	10 feet
Rear yard	6 feet	6 feet	10 feet	10 feet

1. 30 feet from front property boundary line; side yard height thereafter

Exhibit 8-10. Special standards for a stepped fence



- (5) **Vertical supports.** A vertical support, such as a post or column, shall not exceed 24 inches in width or extend more than 24 inches above the top of the highest point of the adjoining fence. Any attachments such as lights, caps, or decorations must meet this height limitation.
 - (6) **Arbors.** An arbor may extend above a pedestrian walkway provided it is not taller than 9 feet, wider than 5 feet, or deeper than 3 feet.
 - (7) **Trellises.** A trellis may be incorporated into the overall design of a fence provided no part is taller than 8 feet and does not extend for more than 10 percent of the length of the side on which it is located.
- (d) **Location specifications.** A fence shall meet the following locational specifications:
- (1) A fence shall not be located in a shore yard setback.
 - (2) A fence may be placed up to a property boundary line, except that a residential fence shall not be closer than 2 feet to a public road right-of-way.
 - (3) A fence may be placed within a utility easement, unless prohibited by the easement holder, with the understanding that the utility authority may remove such fence at the property owner's expense, is not liable for any damage to the fence, and is not responsible for the reconstruction of the fence.
 - (4) A fence shall not be located within a drainage easement. Upon written petition, the zoning administrator may allow a fence in a drainage easement when it can be shown that the fence will not restrict the flow of stormwater and the easement holder does not object.
 - (5) Fences on the property line of a through lot in a residential district abutting an access restricted right-of-way shall be allowed at the rear yard height and opacity standards of the underlying zoning district.
 - (6) Fences on the property line of a through lot in a residential district abutting an access restricted highway shall be allowed at the rear yard opacity standards and shall be no more than six feet in height, provided that road right-of-way setbacks and vision clearance triangle standards are met.
 - (7) Where a residentially zoned property abuts a commercial or industrial zoned property, a solid fence may be allowed in the side or rear yard of the residential property at the maximum height of the abutting zoning district.
- (e) **Special standards for fencing around a swimming pool.** A fence may be located around a swimming pool provided it meets the standards in the most current edition of ANSI/IAF-8 as promulgated by the American National Standards Institute and Association of Pool and Spa Professionals that relate to barriers and fencing.
- (f) **Special standards for fences within a commercial or industrial zoning district.** Security fences are permitted on the property line. Fences are exempt from the street yard maximum opacity requirements provided that vision clearances at driveways and/or intersections are maintained.
- (g) **Special standards for fencing around a sport court.** A fence may be located around a sport court, provided it meets the following standards:
- (1) The fence shall not exceed 12 feet in height.
 - (2) The fence shall not be located within a setback line.
 - (3) Any portion of the fence above 6 feet in height shall be an open woven wire.
- (h) **Special standards for temporary fencing.** A temporary fence may be placed around a construction site for the duration of the construction project with a valid zoning permit.
- (i) **Modification of stormwater flow.** A fence shall not impede the natural flow of stormwater.
- (j) **Barbed wire fencing.** Barbed wire fencing is prohibited except as follows:
- (1) Three or fewer courses of barbed wire may be installed above the top line of a 6-foot high chain link fence when located in an industrial zoning district.
 - (2) Barbed wire may be used to contain livestock as may be allowed in the zoning district.
 - (3) The zoning administrator may allow a fence with barbed wire when placed around a utility installation, telecommunication tower, or similar facility when required for security or related purposes.

(k) **Electric fencing.** An electric fence is prohibited except when used to contain livestock as may be allowed in the zoning district.

(l) **Maintenance.** A fence shall be maintained in a structurally sound manner.

(m) **Zoning permit exemption.** Two sections of fencing no longer than eight feet per section or up to two stand-alone arbors which meet the standards of s.23.8-456(c)(6) shall be allowed in any residential district without a zoning permit, so long as each meets the height, setback, and opacity requirements of the underlying zoning district.

(n) **Exemption for agricultural fences.** Fences for the containment of livestock on agriculturally zoned properties or where a conditional use has been granted to allow livestock in an alternative zoning district, shall be exempt from the requirements of this section including the need for a zoning permit.

23.8-457 Foster home and treatment foster home (operated as an accessory use)

(a) **License.** Prior to the establishment of a foster home or treatment foster home, the operator shall obtain a license from the state as provided for in s. 48.75, Wis. Stats., and maintain such license for the life of the use or until the state no longer requires such license.

(b) **Foster home and treatment foster home located in an A-1 District.** A foster home and treatment foster home located in an A-1 District must qualify under s. 91.01(1) stats.

23.8-458 Garage, nonresidential

(a) **Size.** The footprint of the garage, whether attached or detached, shall not be larger than the gross floor area of the first floor of the building containing the primary use.

(b) **Type of construction.** A garage shall be of conventional wood-frame, metal-frame, or masonry construction. Soft-sided structures and canopies are specifically prohibited.

23.8-459 Garage, off-site residential

(a) **Legislative findings.** The Board of County Supervisors makes the following findings regarding off-site residential garages:

- (1) There are pre-existing residential lakefront lots in the county that are too small or too narrow to allow the construction of a two-car garage.
- (2) While not necessarily desirable, necessity dictates that special provisions should be made to allow the construction of an off-site garage so long as all of the standards in this section can be met.

(b) **Minimum requirement for establishment of an off-site residential garage.** An off-site residential garage may be established only if the lot with the off-site residential garage is located on the road providing access to the lakefront lot and is generally located across from the lakefront lot.

(c) **Limitation on number of off-site residential garages associated with a lakefront lot.** A lakefront lot shall not be associated with more than one off-site residential garage.

(d) **Reduction of permissible accessory buildings.** The floor area of the off-site residential garage shall not exceed the maximum accessory floor area for garage lots as specified in Exhibit 8-2. Furthermore, the number of accessory buildings on the lakefront lot and the off-site residential garage shall not exceed the total number of accessory buildings otherwise permitted on the lakefront lot.

(e) **Deed restriction required.** Prior to the issuance of a zoning permit authorizing the construction of an off-site residential garage, the property owner shall file an agreement and deed restriction with the register of deeds for Winnebago County, as approved by the zoning administrator, that prohibits the sale of the lot with the off-site residential garage separately from the lakefront lot to which it is associated (i.e., both lots must be sold together) and that such restriction remain in perpetuity.

(f) **Outdoor storage prohibited.** No items or material of any kind shall be stored out-of-doors on a lot with an off-site residential garage.

(g) **Accessory buildings prohibited.** No additional buildings may be located on a lot with an off-site residential garage.

23.8-460 Garage, residential

- (a) **Location.** A garage may be attached to the residence or detached.
- (b) **Type of construction.** A garage shall be of conventional wood-frame, metal-frame, or masonry construction. Soft-sided structures and canopies are specifically prohibited.

23.8-461 Garden

No special standards apply to gardens.

23.8-462 Gazebo

- (a) **Setback requirements.**
 - (1) When attached or adjoining a principal building, the gazebo shall meet the required yard, height, and separation requirements of the principal building.
 - (2) When attached or adjoining an accessory building (e.g. pool), the gazebo shall meet the required yard, height, and separation requirements of an accessory building.
 - (3) Free standing gazebos shall meet the yard, height, and separation requirements of an accessory building.
- (b) **Accessory floor area.** If attached or adjoining a principal building, the floor area of the gazebo shall not count towards the maximum allowed accessory floor area. If free-standing, the gazebo's floor area will contribute to the maximum allowed accessory floor area.
- (c) **Maximum number of accessory buildings.** Gazebos shall be counted towards the total maximum number of detached buildings as specified in the underlying zoning district

23.8-463 Greenhouse

A greenhouse may be established subject to limitations generally applicable to accessory buildings.

23.8-464 Helipad

No special standards apply to helipads.

23.8-465 Home occupation, major

- (a) **Validity of use.** The individual primarily responsible for operation of the major home occupation shall reside in a dwelling unit on the parcel.
- (b) **Location and space limitation.** The major home occupation may occur within the dwelling unit or within an accessory building located on the lot, or both. The space specifically designated for use of the major home occupation shall occupy no more than 25 percent of the total floor area of the dwelling unit. A major home occupation may also be located in a detached residential garage located on the lot, provided at least one bay is reserved for parking a full-size motor vehicle. The establishment of a major home occupation does not authorize the property owner to construct a garage or other accessory building that does not otherwise comply with this chapter.
- (c) **Exterior character of building.** The exterior character of the building housing the major home occupation shall not be altered to accommodate such use.
- (d) **Storage of materials.** Exterior storage of materials or equipment is allowed, but shall be screened from view from adjoining residentially-zoned properties.
- (e) **Limitation on number of on-site workers.** The number of individuals working on-site shall be limited to those individuals living in the dwelling unit and one individual not living in the dwelling unit.
- (f) **Retail sales.** Items produced on site may be sold at retail.
- (g) **Limitations on business vehicles.** The use shall not involve the use of more than one commercial vehicle in conjunction with the home occupation. Commercial vehicle parking, as allowed in this chapter, does not constitute a home occupation.
- (h) **Nuisance.** A major home occupation shall not create smoke, odor, glare, noise, dust, vibration, fire hazard, small electrical interference, or any other nuisance not normally associated with the typical residential use in the zoning district.

(i) **Prohibited uses.** The following uses do not qualify as a major home occupation: veterinary services, medical offices, animal boarding or grooming, barber or hair care with 3 or more chairs, restaurant, vehicle repair, motor vehicle body work, or other similar activities.

(j) **Special exception for an operator with a disability.** Consistent with the procedures and requirements of article 7 of this chapter, the Planning and Zoning Committee may approve a special exception to any of the requirements in this section when the operator has a temporary or permanent disability and the major home occupation is or would be his or her primary livelihood and such deviation is needed to facilitate the operation of the major home occupation in a reasonable manner.

(k) **Multiple home occupations.** Multiple home occupations may be permitted on a single lot provided all of the general requirements set forth in this section can be met based on an accumulation of activities.

(l) **Home occupation, minor, located in an A-1 District.** A minor home occupation located in an A-1 District must qualify under s. 91.01(1) stats.

23.8-466 Home occupation, minor

(a) **Validity of use.** The individual primarily responsible for operation of the minor home occupation shall reside in the dwelling unit on the parcel.

(b) **Location and space limitation.** The minor home occupation shall occur entirely within the dwelling unit. The space specifically designated for use of the minor home occupation shall occupy no more than 25 percent of the total floor area of the dwelling unit.

(c) **Exterior character of building.** The exterior character of the building housing the minor home occupation shall not be altered to accommodate such use.

(d) **Storage of materials.** Exterior storage of materials or equipment is prohibited.

(e) **Limitation on number of on-site workers.** The number of individuals working on-site shall be limited to those individuals living in the dwelling unit.

(f) **Retail sales.** On-site retail sale of merchandise is prohibited.

(g) **Limitations on business vehicles.** The use shall not involve the use of more than one commercial vehicle in conjunction with the home occupation. Commercial vehicle parking, as allowed in this chapter, does not constitute a home occupation.

(h) **Nuisance.** A minor home occupation shall not create smoke, odor, glare, noise, dust, vibration, fire hazard, small electrical interference, or any other nuisance not normally associated with the typical residential use in the zoning district.

(i) **Prohibited uses.** The following uses do not qualify as a minor home occupation: veterinary services, medical offices, animal boarding or grooming, barber or hair care with 3 or more chairs, restaurant, vehicle repair, motor vehicle body work, or other similar activities.

(j) **Special exception for an operator with a disability.** Consistent with the procedures and requirements of article 7 of this chapter, the Planning and Zoning Committee may approve a special exception to any of the requirements in this section when the operator has a temporary or permanent disability and the minor home occupation is or would be his or her primary livelihood and such deviation is needed to facilitate the operation of the minor home occupation in a reasonable manner.

(k) **Multiple home occupations.** Multiple home occupations may be permitted on a single lot provided all of the general requirements set forth in this section can be met based on an accumulation of activities.

23.8-467 Hot tub

(a) **Location.** A hot tub shall not be located in a street yard or in a setback of a side yard.

(b) **Decking.** Decking is considered an integral part of a hot tub and shall comply with all setback requirements.

(c) **Draining of water.** Water that is drained out of a hot tub shall not flow onto adjoining property, into a wetland, or into a sewer without the approval of the public works director or equivalent.

- (d) **Area.** The area occupied by a swimming pool and hot tub shall not exceed 30 percent of the area of the parcel of land.
- (e) **Design specifications.** A hot tub shall meet the most current standards published by the National Spa and Pool Institute (NSPI) and the American National Standards Institute (ANSI) including those for plumbing, electrical service, sanitation, fencing, security, and safety.

23.8-468 Household livestock

- (a) **Minimum lot area.** No livestock shall be kept on a lot less than 2.5 acres.
- (b) **Number of animals.** The maximum number of animals allowed on any given parcel shall be set by the Winnebago County Land and Water Conservation Department in compliance with chapter 13 of the general code of Winnebago County.
- (c) **Building setback requirements.** New barns, stables, and other similar buildings used to house or otherwise confine livestock shall observe the building setback standards established for the zoning district in which it is located plus an additional 10 feet.
- (d) **Enclosure required.** Livestock shall be confined within a fence or other suitable enclosure.

23.8-469 Indoor sales incidental to storage or light industrial use

- (a) **Maximum floor area.** The total floor area devoted to indoor sales shall not exceed 25 percent of the total floor area of the building.
- (b) **Required separation.** The area devoted to retail sales shall be physically separated from those areas used for industrial purposes by an interior wall.

23.8-470 Kennel, hobby

- (a) **Location.** A hobby kennel shall not be located in the setback of a street yard.
- (b) **Number of animals allowed.** There is no limitation on the number of dogs that may be kept in a hobby kennel.
- (c) **Kennel, hobby, located in an A-1 District.** A hobby kennel located in an A-1 District must meet the requirements of s. 91.01(1), Wis. Stats.

23.8-471 Kennel, private

- (a) **Location.** A private kennel shall not be located in the setback of a street yard.
- (b) **Number of animals allowed.** No more than 3 dogs over the age of 6 months shall be kept in a private kennel.
- (c) **Kennel, private, located in an A-1 District.** A private kennel located in an A-1 District must qualify under s. 91.01(1) stats.

23.8-472 Lean-to

- (a) **Setbacks**
 - (1) When attached or adjoining a principal building, the lean-to shall meet the required yard, height, and separation requirements of the principal building.
 - (2) When attached or adjoining an accessory building, the lean-to shall meet the yard, height, and separation requirements of an accessory building.
- (b) **Accessory floor area.** The area covered by a lean-to shall contribute to the maximum allowed accessory floor area allowed for a property

23.8-473 Light industrial use incidental to indoor sales/service

- (a) **Maximum floor area.** The total floor area devoted to the light industrial activity shall not exceed 15 percent of the total floor area of the building, or 5,000 square feet, whichever is less.

Exhibit 8-11. An example of indoor sales in conjunction with light manufacturing



(b) **Required separation.** The area devoted to the light industrial activity shall be physically separated by a wall or partition from other activity areas.

23.8-474 Mother-in-law suite

The residential quarters must be contained entirely within the principal structure and shall not be recognizable from the outside as a separate dwelling unit utilizing such characteristics as a separate address, separate utility meter, or a separate entrance which is the sole means of entry into the unit.

(a) **Accessory floor area.** A mother-in-law suite is exempt from counting towards the maximum allowed accessory floor area.

23.8-475 Outdoor display incidental to indoor sales

(a) **Maximum size of service area.** The size of the display area shall not be more than 25 percent of the gross floor area of the principal building.

(b) **Location of display area.** The display area shall be located on the same parcel of land as the indoor sales or on an adjoining parcel. The display service area shall not be located in a public right-of-way, a required landscape area, a buffer yard, or the setback of a street yard, side yard, shore yard, or rear yard.

23.8-476 Outdoor food and beverage service

(a) **Maximum size of service area.** The size of the outdoor service area shall not be more than 50 percent of the floor area of the restaurant or tavern.

(b) **Location of service area.** The outdoor service area shall be located on the same parcel of land as the restaurant or tavern or on an adjoining parcel. The outdoor service area shall not be located in a public right-of-way, a required landscape area, a buffer yard, or the setback of a street yard, side yard, shore yard, or rear yard.

(c) **Special restrictions when adjacent to a residentially-zoned parcel.** If the outdoor service area is in close proximity to a property in a residential zoning district, the following restrictions apply:

(1) **Alcoholic beverages.** Alcoholic beverages shall only be served with a meal.

(2) **Hours of use.** No person shall occupy the outdoor service area after 9:30 p.m.

(d) **Consistency with state liquor license.** No alcoholic beverages shall be served or consumed within the outdoor service area unless the liquor, beer, or wine license, whichever is applicable, as issued by the town, explicitly states that consumption is permitted within the outdoor service area.

(e) **Entrance to service area if alcoholic beverages are served.** If alcoholic beverages are served, the entrance or entrances to the outdoor service area shall be exclusively through the restaurant or tavern, and a barrier such as a rope or fence shall be erected to prevent entry to the outdoor service area by any other means.

(f) **Restroom requirements.** The restroom facilities in the restaurant or tavern shall be of sufficient capacity to serve both the indoor and outdoor patrons. Temporary toilet facilities are not permitted.

23.8-477 Outdoor furnace

(a) **Placement.** An outdoor furnace shall not be placed closer than 50 feet to the property boundary line of the parcel of land on which it is located or within a yard setback. Furthermore, an outdoor furnace shall not be located in the street yard.

(b) **Minimum standard.** An outdoor furnace installed after April 29, 2012, shall be rated as a Phase I appliance based on criteria established by the U.S. Environmental Protection Agency.

(c) **Subsequent change in zoning designation.** If a property owner submits an application to change the zoning designation of a parcel of land with an outdoor furnace to another designation that does not allow an outdoor furnace and the Board of County Supervisors approves the requested change, the outdoor furnace shall cease to operate upon enactment of the ordinance changing the designation.

(d) **Town standards.** In addition to meeting the requirements of this section, an outdoor furnace shall comply with requirements as may be adopted by the town in which it is located.

(e) **Outdoor furnace located in an A-1 District.** An outdoor furnace located in an A-1 District must comply with s. 91.01(1) stats.

23.8-478 Parking lot (on-site)

A parking lot shall comply with all requirements established in article 11 of this chapter.

23.8-479 Patio**(a) Setback requirements.**

- (1) Patios shall not be closer than 5 feet to any property line.
- (2) Patios are exempt from separation requirements between detached buildings.

(b) Accessory building area. Patios are exempt from the maximum accessory floor area.**23.8-480 Pergola****(a) Setback requirements.**

- (1) When attached or adjoining a principal building, the pergola shall meet the required yard, height, and separation requirements of the principal building.
- (2) When attached or adjoining an accessory building (e.g. pool), the pergola shall meet the required yard, height, and separation requirements of an accessory building.
- (3) Free standing pergolas shall meet the yard, height, and separation requirements of an accessory building.

(b) Accessory floor area. Pergolas are exempt from the maximum accessory floor area.**23.8-481 Play structure****(a)** A play structure shall not be located in any yard setback as established for the district.**(b) Play structure located in an A-1 District.** A play structure located in an A-1 District must qualify under s. 91.01(1) stats.**23.8-482 Pond**

A pond located in an A-1 District must qualify under s. 91.01(1) stats.

23.8-483 Private reception venue**(a) Zoning district allowance.** This use may only take place on a property within the A-2 General Agriculture district with at least 5 acres.**(b) Building codes.** Any structure or building to be used must meet all applicable local and state building code regulations for such use.**(c) Local license.** If applicable, the operator shall obtain a liquor license from the town in which the use is located and maintain such license for the life of the use or until the license is no longer required.**(d) Additional County approvals.** Where applicable, licenses or approvals must be obtained from other County departments, including but not limited to the Health and Sheriff's Departments.**(e) Sanitation.** Proper sanitary facilities must be provided and approved by the applicable authority.**(f) Parking.** Off-street parking must be provided.**23.8-484 Rural accessory structure**

The property owner shall comply with those requirements in division 17 of article 7 of this chapter and each of the conditions of approval as may be imposed.

(a) Rural accessory structure located in an A-1 District. A rural accessory structure located in an A-1 District must meet the requirements of s. 91.01(1), Wis. Stats.**23.8-485 Service window, drive-up****(a) Crosswalks.** A pedestrian crosswalk shall be marked on the pavement when the lane for a drive-up service window is situated between on-site parking and a building entrance.**(b) Length of queue lane.** The lane leading up to a drive-up service window shall be of sufficient length so that at the anticipated customer peak, all motor vehicles waiting in queue will be entirely on the premises.

(c) **Curbing.** Menu boards, canopy supports, and the like shall be separated from the vehicle use area by a raised curb.

(d) **Location.** A drive-up service window shall only be located to the side or rear of the building in which it is located and at least 60 feet from a property in a residential zoning district.

23.8-486 Service window, walk-up

A walk-up service window shall not be located within 8 feet of a setback of a street yard, side yard, shore yard, or rear yard.

23.8-487 Solar energy system, building-mounted

(a) **Maximum surface area.** No portion of a panel used to collect solar energy may extend beyond the roof surface or the wall surface to which it is attached.

(b) **Maximum height.** A building-mounted solar energy system shall comply with the maximum height requirements of the zoning district in which the building is located (i.e. accessory and/or principal)

(c) **Placement on a flat roof.** The panels of a solar energy system that are mounted on a flat roof may be either fixed or movable and may be placed at an angle to optimize efficiency of the system.

(d) **Placement on a pitched roof.** The panels of a solar energy system that are mounted on a pitched roof may be either fixed or movable and may be placed at an angle to optimize efficiency of the system.

(e) **Placement on a façade.** A solar energy system may be mounted on the façade of a commercial building so long as the installation does not project more than 4 feet from the face of the wall.

(f) **Certification.** A solar panel shall be certified by one of the following: Underwriters Laboratories, Inc.; National Renewable Energy Laboratory; Solar Rating and Certification Corporation; or other recognized body as approved by the zoning administrator.

(g) **Termination of use.** If the zoning administrator determines that more than 50 percent of the panels (measured by total area) have not been operational for a continuous period of 12 months, the administrator shall follow the procedure outlined in article 7 of this chapter relating to the termination of an approval.

(h) **Solar energy system, building-mounted located in an A-1 District.** A building-mounted solar energy system located in an A-1 District must meet the requirements of s. 91.01(1), 91.44(1)(f) or s. 91.46(4), Wis. Stats.

23.8-488 Solar energy system, free-standing

(a) **Surface area.** The surface area of a free-standing solar energy system shall not exceed 150 square feet when located in one of the following zoning districts: R-1, R-2, R-3, R-4, & R-8. There is no maximum surface area of a free-standing solar energy system in all other districts. The surface area for a free-standing solar energy system shall not be included when determining the total accessory structure area allowed.

(b) **Number.** There shall be no more than one free-standing solar energy system when located in the following districts: R-1, R-2, R-3, R-4, & R-8. There is no maximum number of free-standing solar energy systems in all other districts.

(c) **Maximum height.** A free-standing solar energy system shall meet the maximum height restriction for an accessory structure for the zoning district which the system is located.

(d) **Setback.** A free-standing solar energy system shall meet all setback requirements for an accessory structure for the zoning district which the system is located or a buffer yard as may be required by this chapter. Pursuant to the procedures and requirements in article 7 of this chapter, the Planning & Zoning Committee may approve a special exception to allow a free-standing solar energy system to extend into a yard setback or a buffer yard when no other location on the parcel is acceptable and the encroachment is the least necessary to allow the system to operate.

(e) **Certification.** A free-standing solar energy system shall be certified by one of the following: Underwriters Laboratories, Inc.; National Renewable Energy Laboratory; Solar Rating and Certification Corporation; or other recognized body as approved by the zoning administrator.

(f) **Termination of Use.** If the zoning administrator determines that a free-standing solar energy system has not been operational for a continuous period of 12 months, the administrator shall follow the procedure outlined in article 7 of this chapter relating to the termination of an approval.

(g) **Solar energy system, free-standing located in an A-1 District.** A free-standing solar energy system located in an A-1 District must meet the requirements of s. 91.01(1), 91.44(1)(f) or s. 91.46(4), Wis. Stats.

23.8-489 Storage container

- (a) **Location.** A storage container on a commercially-zoned parcel of land shall:
 - (1) not be located in a parking area required by this chapter,
 - (2) only be located between the back of the building and rear property boundary line,
 - (3) observe the setback requirements for the zoning district in which it is located, and
 - (4) not be located in a buffer yard as may be required by this chapter.
- (b) **Stacking prohibited.** Storage containers shall not be stacked one on top of another.
- (c) **Character.** A storage container shall be structurally sound and in good repair.
- (d) **Signage.** A storage container shall not be used for signage.

23.8-490 Swimming pool

- (a) **Location.** A swimming pool shall not be located in a street yard or in the side yard, rear yard, or shore yard setback.
- (b) **Decking.** Decking is considered an integral part of a swimming pool and shall comply with all setback requirements.
- (c) **Draining of water.** Water that is drained out of a swimming pool shall not flow onto adjoining property, into a wetland, or into a sewer without the approval of the public works director or equivalent.
- (d) **Area.** The area occupied by a swimming pool and hot tub shall not exceed 30 percent of the area of the parcel of land.
- (e) **Design specifications.** A swimming pool shall meet the most current standards published by the National Spa and Pool Institute (NSPI) and the American National Standards Institute (ANSI) including those for plumbing, electrical service, sanitation, fencing, security, and safety.

23.8-491 Temporary shelter

A temporary shelter located in an A-1 District must qualify under s. 91.01(1) stats.

23.8-492 Utility cabinet

- (a) **Number limited.** No more than 4 utility cabinets shall be located on a parcel of land. Five or more utility cabinets on a parcel of land shall be considered a minor utility installation. A utility cabinet is considered an accessory use in all situations and may be placed on private property and public property, such as a public right-of-way.
- (b) **Setbacks.** A utility cabinet is exempt from yard setback standards as may be established for the zoning district in which this use is located.
- (c) **Placement on public property.** Prior to establishing a utility cabinet on public property under the jurisdiction of a town, Winnebago County, or the state of Wisconsin, the operator shall obtain all approvals as may be required by the governmental entity having jurisdiction.
- (d) **Placement on private property.** Prior to establishing a utility cabinet on private property, the operator and property owner shall establish a proper lease or easement governing the use of the property for this purpose and submit the same to the zoning administrator for his or her approval.
- (e) **Placement in a stormwater easement.** Prior to establishing a utility cabinet within a stormwater management easement under the jurisdiction of a town, the county, or the state, the operator shall obtain all approvals as may be required by the governmental entity having jurisdiction.

23.8-493 Yard shed

- (a) **Maximum size.** Yard sheds shall not exceed 100 square feet or exceed 8 feet in height.
- (b) **Setbacks.** Yard sheds shall meet all setback requirements of the underlying zoning district.

(c) **Number permitted.** Yard sheds shall not count toward the allowed accessory structure area. No more than one yard shed shall be placed on a parcel of land. Yard sheds do not count towards the maximum number of detached accessory buildings allowed in a zoning district.

23.8-494 to 23.8-500 Reserved

**DIVISION 11
SPECIAL STANDARDS FOR TEMPORARY LAND USES
(Series 18 in Land Use Matrix)**

Sections

23.8-501	Agricultural product sales, off-site	23.8-511	Relocatable building
23.8-502	Agricultural product sales, on-site	23.8-512	Seasonal product sales
23.8-503	Earth materials stockpile	23.8-513	Snow disposal site
23.8-504	Farmers market	23.8-514	Special event
23.8-505	General outdoor sales	23.8-515	Special event of regional significance
23.8-506	Model home	23.8-516	Special event camping
23.8-507	Off-site construction yard	23.8-517	Special event concessions
23.8-508	On-site construction office	23.8-518	Special event parking
23.8-509	On-site construction yard	23.8-519	Wind test tower
23.8-510	Portable storage container	23.8-520	Yard sale

23.8-501 Agricultural product sales, off-site

- (a) **Hours of operation.** The sale of items shall not occur before 9:00 a.m. or after 30 minutes past sunset.
- (b) **Number.** No more than one stand is allowed on any one premises.
- (c) **Use of structure.** A structure may be used to store or display products and for sales, provided the following conditions are met:
 - (1) **Term of use.** The structure is only used from April 1 through November 30 and is removed no later than December 10.
 - (2) **Floor area.** The floor area of the structure shall not exceed 100 square feet.
 - (3) **Structure height.** The height of the structure shall not exceed 8 feet.
 - (4) **Location.** The structure shall be located at least 100 feet from a residential structure on an adjacent lot. The structure may be located within the front yard setback area, but no closer than 15 feet to the front property boundary line.

23.8-502 Agricultural product sales retail, on-site

- (a) **Limitation on sales.** Products offered for sale shall be produced on the premises.
- (b) **Use of structure.** A structure may be used to store or display products and for sales, provided the following conditions are met:
 - (1) **Term of use.** The structure is only used from April 1 through November 30 and is removed no later than December 10.
 - (2) **Floor area.** The floor area of the structure shall not exceed 500 square feet.
 - (3) **Structure height.** The height of the structure shall not exceed 12 feet.
 - (4) **Location.** The structure shall be located at least 100 feet from a residential structure on an adjacent lot. The structure may be located within the front yard setback area, but no closer than 15 feet to the front property boundary line.

23.8-503 Earth materials stockpile

- (a) **Hours of operation.** When the earth materials stockpile is located in a residential zoning district, equipment used to load, move, or process materials shall only be used between the hours of 7:00 a.m. and 7:00 p.m.

(b) **Term of use.** As part of the site and operation plan review, the reviewing authority may establish the maximum length of time this use may operate.

23.8-504 Farmers market

(a) **Hours of operation.** The display of products and sales shall only occur between the hours of 8:00 a.m. and 30 minutes past sunset.

(b) **Removal and clean up.** Within 24 hours following the close of the farmers market, all features solely associated with the farmers market shall be removed and all trash and debris shall be removed.

23.8-505 General outdoor sales

(a) **Duration of use.** A parcel of land shall be used for general itinerant outdoor sales for no more than 12 days in a calendar year.

(b) **Hours of operation.** The display of products and sales shall only occur between the hours of 9:00 a.m. and 30 minutes past sunset.

(c) **Removal and clean up.** Within 24 hours following the termination of the sale, all features associated with the sale shall be removed and all trash and debris shall be removed.

23.8-506 Model home

(a) **Generally.** A model home may be established when the residential project is developed by a single developer and the project will have more than 25 dwelling units available for sale in the first two phases.

(b) **Appearance.** The building used as a model home shall be of the same type and character as the dwelling units being offered for sale within the development.

(c) **Duration of use.** The model home shall be closed when 80 percent of the dwelling units of the entire development have been sold.

(d) **Limitation on use.** The model home is intended to facilitate the sale of residential housing units in the development in which it occurs and off-site sales activity shall be clearly incidental. The sales staff shall be limited to 2 licensed real estate agents and one support staff. The model home may be furnished but shall not be occupied as a residence.

23.8-507 Off-site construction yard

(a) **Site restoration.** As part of the review process, the applicant shall prepare and submit a restoration plan and obtain the approval of the same. Such restoration plan shall identify those areas of the property that will be disturbed and how those areas will be restored following the cessation of this temporary use.

(b) **Setback requirements.** Outdoor storage areas and other activity areas shall be located at least 40 feet from a property in a residential zoning district and 20 feet from a property in a commercial or mixed-use zoning district.

(c) **Financial guarantee.** Prior to the establishment of an off-site construction yard, the property owner shall submit a financial guarantee in a form acceptable to the zoning administrator and in an amount equal to 110 percent of the estimated cost of site restoration identified in the restoration plan that is approved for the project. If the county exercises its right to use the financial guarantee to restore the property and the amount of the financial guarantee does not cover such costs, the difference between the amount of the guarantee and the actual cost shall constitute a lien against the property as authorized by state law.

23.8-508 On-site construction office

(a) **Generally.** An on-site construction office may be established for commercial and industrial construction projects and for a multifamily building of 8 or more dwelling units.

(b) **Duration of use.** An on-site construction office shall be removed within 10 days after the date of issuance of the last occupancy permit for the building under construction.

(c) **Location.** An on-site construction office shall be placed in a location with the least impact to adjoining property owners.

(d) **Limitation on use.** The use of an on-site construction office shall be limited to construction management activities associated with the construction activities occurring on the parcel of land on which it is located.

23.8-509 On-site construction yard

(a) **Generally.** An on-site construction yard may be established for commercial and industrial construction projects and for a multifamily building of 8 or more dwelling units.

(b) **Duration of use.** On-site project material storage shall be removed within 10 days after the date of issuance of the last occupancy permit for the building under construction.

(c) **Location.** On-site project material storage shall be placed in a location with the least impact to adjoining property owners.

(d) **Size limitations.** The area dedicated for on-site project material storage shall not exceed 10 percent of the gross area of the parcel.

23.8-510 Portable storage container

(a) **Duration.** A portable storage container shall not be located on a parcel of land for more than 90 days during any 9-month period.

(b) **Location.** A portable storage container shall not be located in the front or side yard setback established for the zoning district in which this use occurs, except when placed in a driveway.

(c) **Maximum floor area.** The cumulative floor area of one or more portable storage containers shall not exceed 250 square feet.¹³⁷

(d) **Limitation on use.** When located in a residential zoning district, a portable storage container shall only be used to store household goods during an on-site construction/remodeling project or when used to move household goods to another location.

23.8-511 Re-locatable building

(a) **Location.** A re-locatable building shall conform to all setback requirements.

(b) **Building code.** A re-locatable building shall conform to all applicable building code requirements.

23.8-512 Seasonal product sales

(a) **Duration of use.** Merchandise shall not be sold any sooner than 30 days prior to the date of the seasonal event. Cleanup and removal of all related items shall be completed within 2 days following the date of the seasonal event.

(b) **Removal and clean up.** Within 24 hours following the termination of the sale, all features associated with the sale and trash and debris of all kinds shall be removed from the site.

(c) **Hours of operation.** The sale of items shall not occur before 9:00 a.m. or after 9:00 p.m.

(d) **Number.** No more than one stand is allowed on any one premises.

(e) **Use of structure.** A structure may be used to store or display products and for sales, provided the following conditions are met:

(1) **Floor area.** The floor area of the structure shall not exceed 100 square feet.

(2) **Structure height.** The height of the structure shall not exceed 8 feet.

(3) **Location.** The structure shall be located at least 100 feet from a residential structure on an adjacent lot. The structure may be located within the front yard setback area, but no closer than 15 feet to the front property boundary line.

(f) **Seasonal product sales located in an A-1 District.** Seasonal product sales located in an A-1 District must meet the requirements of s. 91.01(1), Wis. Stats.

23.8-513 Snow disposal site

Snow shall not be stored within 100 feet of a navigable waterbody or within 75 feet of a wetland that is mapped on the county's online mapping system.

¹³⁷ Commentary: Although portable storage containers come in different sizes, units are generally 10 feet by 10 feet and 10 feet by 15 feet.

23.8-514 Special event

(a) **Sanitation.** The operator shall comply with sanitation requirements as may be established by the Winnebago County Health Department.

(b) **Setbacks.** No portion of the property within the setbacks established for the zoning district shall be used for a special event.

(c) **Duration of use.** The duration of the use shall be that time frame as specified by zoning administrator on the permit.

(d) **Removal and clean up.** Within 24 hours following the termination of this use, all features associated with this use and trash and debris of all kinds shall be removed from the site.

23.8-515 Special event of regional significance

(a) **Sanitation.** The operator shall comply with sanitation requirements as may be established by the Winnebago County Health Department.

(b) **Setbacks.** No portion of the property within the setbacks established for the zoning district shall be used for a special event.

(c) **Removal and clean up.** Within 7 days following the termination of this use, all features associated with this use and trash and debris of all kinds shall be removed from the site.

(d) **Traffic.** The operator shall comply with traffic requirements as may be established by the Winnebago County Sheriff's Department or the Town.

23.8-516 Special event camping

(a) **Applicability.** Special event camping shall only occur with a special event of regional significance as recognized by the Planning and Zoning Committee.

(b) **Duration of use.** Special event camping shall be permitted no more than 5 days prior to the official start of the special event of regional significance and no later than 5 days after the official close of the event.

(c) **Sanitation.** The operator shall comply with sanitation requirements as may be established by the Winnebago County Health Department.

(d) **Setbacks.** Camping must occur within the bounds of the property or properties approved for such use provided that vision clearance is maintained at the intersection of roadways.

(e) **Removal and clean up.** Within 24 hours following the termination of this use, all features associated with this use and trash and debris of all kinds shall be removed from the site.

23.8-517 Special event concessions

(a) **Applicability.** Special event concessions shall only occur with a special event of regional significance as recognized by the Planning and Zoning Committee.

(b) **Duration of use.** Special event concessions shall be operated no more than 8 hours prior to the official start of the special event of regional significance and no later than 8 hours after the official close of the event.

(c) **Sanitation.** The operator shall comply with sanitation requirements as may be established by the Winnebago County Health Department.

(d) **Setbacks.** Special event concessions, including food preparation or service, seating areas, and sanitation, shall occur within the bounds of the property or properties approved for such use provided that vision clearance is maintained at the intersection of roadways.

(e) **Removal and clean up.** Within 24 hours following the termination of this use, all features associated with this use and trash and debris of all kinds shall be removed from the site.

23.8-518 Special event parking

(a) **Applicability.** Special event parking shall only occur with a special event of regional significance as recognized by the Planning and Zoning Committee.

(b) **Duration of use.** Special event parking shall be permitted no more than one day prior to the official start of the special event of regional significance and no later than one day after the official close of the event.

(c) **Setbacks.** Parking must occur within the bounds of the property or properties approved for such use provided that vision clearance is maintained at the intersection of roadways.

(d) **Removal and clean up.** Within 24 hours following the termination of this use, all features associated with this use and trash and debris of all kinds shall be removed from the site.

23.8-519 Wind test tower

Pursuant to s. 66.0401(3), Wis. Stats., there are no standards or requirements for the establishment of a wind test tower or similar testing facility. If the Planning and Zoning Committee, County Board of Supervisors, or the town in which the wind test tower is located determines that the anticipated or actual testing is detrimental to the public health, safety, or welfare, such bodies may, individually or jointly, submit a written petition to the Public Service Commission requesting the imposition of reasonable restrictions on such use.

23.8-520 Yard sale

A yard sale shall not be operated for more than 3 consecutive days. There shall be at least 60 days between the last day of a yard sale and the first day of a subsequent yard sale.

23.8-521 to 23.8-540 Reserved

DIVISION 12 MICROWAVE RADIO PATH OVERLAY DISTRICT

Sections

23.8-541 Legislative findings	23.8-545 Depiction of district boundaries on suitable map
23.8-542 Purpose	23.8-546 Height limitation within districts
23.8-543 Technical basis for establishment of regulations	23.8-547 Nonconforming structures
23.8-544 Establishment of districts	

23.8-541 Legislative findings

The Board of County Supervisors makes the following legislative findings regarding the microwave radio wave overlay district:

- (1) The Winnebago County Sheriff's Department maintains a microwave antenna off of Sand Pit Road in the town of Omro ("Omro tower"); at the Winnebago County Courthouse in the city of Oshkosh, at the Parkview Health Center in the city of Oshkosh; and at the Menasha Safety Building in the city of Menasha.
- (2) The pathway between the Omro antenna and the other three antennas must be maintained free of obstructions to provide clear communications.
- (3) Clear communications are necessary to maintain public safety.

23.8-542 Purpose

This division promotes the public health, safety, and welfare by providing for an unobstructed flow of microwave radio communications for the Winnebago County Sheriff's Department.

23.8-543 Technical basis for establishment of regulations

Boundaries and standards as established in this division are based on the report entitled *Engineering Study for Winnebago County Sheriff's Department; Omro-Winnebago County Courthouse, Omro-Parkview Health Center, Omro-Menasha Safety*

Microwave Tower in Oshkosh



Building; MRC Project #92012, April 2, 1992. This report is on file at the Winnebago County Sheriff's Department and the Winnebago County Planning Department.

23.8-544 Establishment of districts

The following overlay districts as described are established in those towns subject to this chapter:

- (1) District 1 extends from the center of the Omro tower in the town of Omro to the center of the tower at the Winnebago County Courthouse in the city of Oshkosh for a width of 200 feet.
- (2) District 2 extends from the center of the Omro tower in the town of Omro to the center of the tower at the Parkview Health Center in the city of Oshkosh for a width of 200 feet.
- (3) District 3 extends from the center of the Omro tower in the town of Omro to the center of the tower at the Menasha Safety Building in the city of Menasha for a width of 200 feet.

23.8-545 Depiction of overlay districts on suitable map

The overlay districts established in this division shall be shown on the zoning map or on a separate map. If provided as a separate map, the following provisions apply:

- (1) **Title.** The map shall be titled "Microwave Radio Path Overlay Districts – Winnebago County, Wisconsin."
- (2) **Official map.** The county clerk shall maintain one paper copy of the map depicting the overlay districts established in this division which shall be signed by the county executive and attested by the county clerk. If there is a discrepancy between the map maintained by the county clerk and other maps as may be made available, the map maintained by the county clerk shall control in all instances.
- (3) **Availability.** The map depicting the overlay districts established in this division maintained by the county clerk shall be available for public inspection upon request. Other county departments may publish and distribute copies of the map and may include the location of the districts on the county's online GIS system.
- (4) **Preparation of a new map.** In the event the map depicting the overlay districts established in this division maintained by the county clerk is damaged, lost, or destroyed and after each amendment, the zoning administrator shall prepare a new map and submit it to the county executive for certification and to the county clerk for attestation.
- (5) **History of amendment.** The map depicting the overlay districts established in this division maintained by the county clerk may contain a descriptive history of amendments that have been made, indicating the ordinance number and date of action.
- (6) **Archive of superseded maps.** The county clerk shall maintain a permanent archive of superseded maps depicting the overlay districts established in this division that are created after April 29, 2012.
- (7) **Amendment.** The procedures and other requirements to amend the map depicting the overlay districts established in this division are provided in article 7 of this chapter.

23.8-546 Height limitation within districts

No structure shall be constructed, placed, or erected in an overlay district established in this division that exceeds 60 feet in height above the grade that existed on April 29, 2012, except that a structure may exceed this height if it does not meet or exceed the elevations, which are described as follows:

- (1) District 1: An elevation of 930 feet above mean sea level at the Omro Tower location then decreasing at an even rate (12.57 feet per mile) and ending at 860 feet above mean sea level at the antenna located at the Winnebago County Courthouse as generally depicted in appendix B.
- (2) District 2: An elevation of 920 above mean sea level at the Omro Tower location then decreasing at an even rate (8.58 feet per mile) and ending at 859 feet above mean sea level at the antenna located at the Parkview Health Center as generally depicted in appendix B.
- (3) District 3: An elevation of 1,060 above mean sea level at the Omro Tower location then decreasing at an even rate (11.01 feet per mile) and ending at 882 feet above mean sea level at the antenna located at the Menasha Safety Building as generally depicted in appendix B.

23.8-547 Nonconforming structures

A nonconforming structure is allowed to continue and exist provided it meets the requirements in article 13 of this chapter.

**DIVISION 13
SURFACE WATER DRAINAGEWAY OVERLAY DISTRICT**

Sections

23.8-548	Generally	23.8-550	Basic district standards
23.8-549	Principal uses	23.8-551	Conditional uses

23.8-548 Generally

The intent of this District is to preserve and protect surface water drainage-ways from any encroachment which would affect the hydraulic (water) carrying capacity of surface water drainage-ways.

Since it is not the intent of this District to take lands out of productive use, the Surface Water Drainage-way Overlay District has been established as an Overlay District to work in conjunction with a basic underlying district.

The District boundaries are determined according to the specific watershed area and hydraulic carrying capacity required.

23.8-549 Principal uses

Principal uses shall be according to the underlying zoning district.

23.8-550 Basic district standards

- (1) Structures – none allowed.
- (2) Lot, building, and yard – according to the underlying zoning district

23.8-551 Conditional uses (according to s. 23.7-113)

- (1) According to underlying zoning districts.
- (2) Dams, hydropower plants, flowages, and ponds.
- (3) Any dredging, clearing, cleaning, relocating, etc. of an existing surface water drainage-way, not requiring a permit from a state or federal agency.
- (4) Any dredging, clearing, cleaning, relocating, etc. of an existing surface water drainage-way requiring a permit from a state or federal agency, may be administratively approved per s. 23.7-313 based upon plans/permits authorized by said agency of jurisdiction.

ARTICLE 9 BUFFER YARDS AND LANDSCAPING

Sections

23.9-1	Legislative findings	23.9-6	Credit for preserving trees
23.9-2	Purpose	23.9-7	Maintenance
23.9-3	General applicability	23.9-8	Street frontage landscaping
23.9-4	Landscape plan	23.9-9	Buffer yards
23.9-5	Specifications for landscaping materials		

23.9-1 Legislative findings

The Board of County Supervisors makes the following legislative findings:

- (1) A healthy environment is an indication of a healthy community.
- (2) Landscaping helps to maintain and increase property values, which helps to protect public and private investment in a community.
- (3) Landscaping provides lasting social, economic, environmental, and aesthetic benefits to the community.
- (4) Landscaping helps to reduce the “heat-island” effect by shading parking lots, streets, and other hard-surfaced areas.
- (5) Flexible standards allow alternative design options that may better fit the needs of the landowner and that may be needed to address unique site characteristics.
- (6) Landscaped buffers are needed between parcels of incompatible land uses, and as the degree of incompatibility increases, the amount of buffering (width and landscaping) should increase.
- (7) Xeriscape planting techniques help promote water and energy conservation.
- (8) A variety of landscape plants is needed to ensure that the effect of a single disease (e.g., Dutch elm disease) or pest (e.g., emerald ash borer) on landscape plants is minimized.

23.9-2 Purpose

This article is established to promote the public health, safety, and welfare and is intended to accomplish the following purposes:

- (1) make the developed areas of the county more attractive and aesthetically pleasing;
- (2) provide flexible standards where possible, rather than overly prescriptive requirements;
- (3) promote and improve public health and safety through the abatement of noise, the glare of lights, dust, and air pollution;
- (4) Improve the aesthetic appearance of the built environment;
- (5) ensure that land uses of different intensity have sufficient buffering between them to minimize negative effects;
- (6) create aesthetically pleasing tree-lined streetscapes;
- (7) promote economic development by providing a high quality of life;
- (8) enhance ambient environmental conditions by providing shade, air purification, oxygen regeneration, groundwater recharge, storm water runoff retardation, and noise, glare, and heat abatement; and
- (9) encourage the preservation, expansion, protection, and proper maintenance of the community forest.

23.9-3 General applicability

The provisions of this article apply to the following:

- (1) construction of a principal building, except for single-family and two-family residences and agricultural buildings;
- (2) accumulative expansion of a principal building, that is subject to this article, by 50 percent or more of the original square footage of the building;
- (3) construction of a principal structure such as fueling stations and telecommunication towers, when the principal structure is the only structure or use on the lot; and
- (4) as a condition of a conditional use permit approved by the Planning and Zoning Committee.

23.9-4 Landscape plan

A landscape plan shall consist of a completed worksheet as may be used by the zoning administrator and a plan view drawing that shows where the required plants will generally be planted. Such drawing shall be drawn at the same scale as the site plan drawing.

23.9-5 Specifications for landscaping materials

- (a) **Generally.** Deciduous and non-deciduous trees may be used provided that they meet all other standards of this article. Plant material shall be healthy, vigorous, and free of disease and insects.
- (b) **Minimum planting size.** Required trees shall be at least four feet in height at the time of planting.
- (c) **Mature heights required.** Required trees shall be capable of attaining mature heights of at least 15 feet.
- (d) **Vision clearance triangle.** Landscaping within a vision clearance triangle shall be consistent with the standards in the county code of Winnebago County.

23.9-6 Credit for preserving trees

Existing trees, which meet the requirements of this article, may be used to meet the landscape buffer or street frontage landscaping requirements.

23.9-7 Maintenance

All landscaping shall be maintained in good condition. Plant materials which were planted as required by this article or existing plant materials that were incorporated into a required landscape plan and which die or are irreparably damaged shall be removed and replaced with living plant materials consistent with the approved landscape plan or as required by this article.

23.9-8 Street frontage landscaping

- (a) **Applicability.** Street frontage landscaping shall be required along any road, road right-of-way, or ingress/egress easement frontage when the proposed development meets the applicability standards in s. 23.9-3.
- (b) **Street frontage landscaping requirements.** Street frontage landscaping shall meet the following standards:
 - (1) A minimum of three trees shall be provided for every 100 linear feet of frontage, rounding up to the nearest whole tree.
 - (2) Trees required by this section shall be located within the street yard setback area of the lot.

23.9-9 Buffer yards

- (a) **Generally.** A buffer yard consists of a strip of undeveloped land with landscaping or other visual screening and is intended to provide a physical and visual separation between two incompatible land uses.
- (b) **Applicability.** A buffer yard shall be required when the proposed development meets the applicability standards in s. 23.9-3 and when the lot abuts another lot in a different zoning district, per Exhibit 9-1.
- (c) **Determination of required buffer yard.** The required buffer yard standard is determined using Exhibit 9-1. First determine which of the two zoning districts allows the most intense development. Next, find that zoning designation at the top of the table and then move down the column to the cell where the zoning designation of the other district intersects. If a buffer yard is required, the letter "R" will be shown in that cell. If the parcel being developed adjoins land in a city or village, that municipality's zoning classification that most closely corresponds to the county's zoning classification shall be used to determine buffer yard requirements.

(d) **Buffer yard requirements.** A buffer yard shall meet the following standards:

- (1) There shall be at least 10 non-deciduous trees per 100 linear feet of landscape buffer, or 15 deciduous trees per 100 linear feet of landscape buffer, or a combination of 70 percent non-deciduous and 30 percent deciduous accounting for at least 15 trees per 100 linear feet of landscape buffer.
- (2) The trees may be staggered provided that the centers of the trees are not greater than 15 feet apart, and provided there is at least one tree within each 15-foot horizontal segment of the landscape buffer,
- (3) The trees shall be located within 25 feet of the subject lot line that divides the incompatible land uses,
- (4) Alternative planting locations or other deviations from this section may be administratively approved due to unique limitations of the property, such as the locations of stormwater facilities, private onsite wastewater system (POWTS), or easements,

Exhibit 9-1 Standards for a buffer yard between different zoning districts											
Other Zoning District	Zoning District Allowing the Greatest Intensity or Density										
	R-1	R-2	R-3	R-4	R-8	B-1	B-2	B-3	M-1	I-1	I-2
R-1		-	-	-	-	-	-	R	-	R	R
R-2	-		-	-	-	-	-	R	-	R	R
R-3	-	-		-	-	-	-	R	-	R	R
R-4	-	-	-		-	-	-	R	-	R	R
R-8	-	-	-	-		-	-	R	-	R	R
B-1	-	-	-	-	-		-	-	-	R	R
B-2	-	-	-	-	-	-		-	-	R	R
B-3	-	-	-	-	-	-	-		-	-	R
M-1	-	-	-	-	-	-	-	-		R	R
I-1	-	-	-	-	-	-	-	-	-		-
I-2	-	-	-	-	-	-	-	-	-	-	

Notes:

1. A dash “-” means that a buffer yard is not required.
2. A “R” means that a buffer yard is required.

ARTICLE 10

RESERVED

ARTICLE 11 PARKING

Sections

23.11-1	Legislative findings	23.11-6	Construction and maintenance requirements
23.11-2	Purpose	23.11-7	Design requirements
23.11-3	Applicability	23.11-8	Shared parking
23.11-4	General requirements	23.11-9	Accessible parking and passenger loading
23.11-5	Minimum off-street parking requirements		

23.11-1 Legislative findings

The Board of County of Supervisors makes the following legislative findings:

- (1) The design of parking areas is critically important to the economic viability of commercial areas, pedestrian and driver safety, the efficient and safe operation of adjoining streets, and community image and livability.
- (2) Standards are needed to establish the minimum and maximum number of parking spaces that are needed to serve various land uses.
- (3) Excessively large parking lots reduce density, increase the cost of development, create an unhealthy built environment, contribute to the heat island effect associated with urban areas, and decrease the infiltration of storm water into the ground.
- (4) Special standards are needed to accommodate the needs of the disabled.
- (5) Shared parking can reduce parking facility costs (including aesthetic and environmental impacts), allows greater flexibility in facility location and site design, and encourages more efficient land use.
- (6) Parking lots and their access represent a vital connection between the local transportation network and land development.
- (7) Incorrectly designed parking lots and site access can have negative impacts on the site itself, the adjacent and nearby public roadways, and the image of the business community.

23.11-2 Purpose

This article promotes the public health, safety, and general welfare and is intended to:

- (1) increase the safety and capacity of public streets by requiring off-street parking or off-street loading facilities;
- (2) minimize adverse effects of off-street parking and off-street loading facilities on adjacent properties and surrounding neighborhoods through the requirement of design and maintenance standards;
- (3) lessen congestion and prevent the overtaking of public streets by regulating the location and capacity of accessory off-street parking and off-street loading facilities;
- (4) maintain and enhance a safe and efficient transportation system;
- (5) provide adequate and safe facilities for the storage of bicycles; and
- (6) minimize impervious surfaces.

23.11-3 Applicability

- (a) **New construction/uses.** For all buildings and structures erected and all land uses established after April 29, 2012, facilities required in this article shall be provided as specified.
- (b) **Same use with an increase in intensity of use.** When a building, structure, or premises is increased through the addition of dwelling units, gross floor area, seating capacity, or other unit of measurement specified in this article, facilities required in this article shall be provided for the amount being added.

- (c) **Change in use.** When an existing land use is changed to a new use, facilities required in this article shall be provided as required for such new use. However, if the building or structure housing the new use was erected prior to the effective date of this chapter, facilities required in this article shall be provided to account for the difference between the new and old use.
- (d) **Restriping.** When a parking area is restriped, accessible parking spaces shall be provided and designated consistent with this article.

23.11-4 General requirements

- (a) **Location of parking.** All parking spaces provided pursuant to this article shall be on the same lot or an adjoining lot with the building, except that the zoning administrator may permit the parking spaces to be on a lot within 400 feet of the lot served by the parking lot if he determines that it is impractical to provide parking on the same or adjoining lot.
 - (1) Parking shall not be located within an area designated as a vision clearance triangle as defined in this chapter.
- (b) **Off-site parking agreements.** If required parking is to be provided off-site, the use of such site shall be secured with a long-term agreement acceptable to the county's corporation counsel and recorded in the office of the Winnebago County register of deeds. The county shall be named in that agreement as a party having the right of enforcement.
- (c) **Change in use.** An area once designated as required parking shall not be changed to any other use unless equal facilities are provided elsewhere consistent with this article.
- (d) **Accessibility.** Parking spaces shall be accessible at all times from a street, alley, or driveway intended to serve such parking.
- (e) **Use of parking spaces.** The required off-street parking shall be for occupants, employees, visitors, and patrons. The storage of merchandise, supplies, motor vehicles for sale, or the repair of vehicles on such parking area is prohibited. In addition, the use of a parking lot for overnight camping, including recreational vehicle camping, is prohibited.
- (f) **Landscaping.** Landscaping for parking area shall be provided consistent with article 9 of this chapter.

23.11-5 Minimum off-street parking requirements

- (a) **Minimum number of spaces.** Off-street parking spaces shall be provided in the number specified in Exhibit 11-1.
- (b) **Maximum number of spaces.** For land uses located in a commercial, mixed-use, or industrial zoning district, the number of parking spaces provided in a ground surface parking lot shall not exceed the minimum number of parking spaces by more than 15 percent, except that the Planning and Zoning Committee may allow more parking spaces above that threshold as a special exception provided the committee determines that additional spaces are needed for that particular use or location. There shall be no limitation on the number of parking spaces when located in a parking garage or similar structure.
- (c) **Mixed-use requirements.** For mixed uses, the total requirements for off-street parking spaces shall be the sum of the requirements for the various land uses. Off-street parking facilities for one use shall not be considered as providing parking facilities for any other use except when considered shared parking as allowed in this article.
- (d) **Compact cars.** Up to 10 percent of the required number of parking spaces may be sized for compact cars.

Exhibit 11-1 Parking standards

1.0 Agriculture			Minimum Vehicle Spaces
1.01	Agriculture-related use		1 space for each employee on the largest work shift
1.02	Agriculture, crop		1 space for each employee on the largest work shift
1.03	Agriculture, general		1 space for each employee on the largest work shift
1.04	Greenhouse		1 space for each employee on the largest work shift
2.0 Resource-Based Uses			
2.01	Dam		1 space for each employee on the largest work shift
2.02	Forestry		On-site parking not required
2.03	Hunting preserve		Determined on a case-by-case basis
2.04	Sewage sludge disposal		On-site parking not required
2.05	Wildlife park		1 space for each employee on the largest work shift
3.0 Residential			
3.01	Mixed-use housing		2 spaces for each dwelling unit
3.02	Mobile home park		2 spaces for each designated mobile home/manufactured home space; plus 1 space for visitor parking for each 8 dwelling units
3.03	Multifamily building, 2 units		2 spaces for each dwelling unit
3.04	Multifamily building, 3–4 units		2 spaces for each dwelling unit
3.04	Multifamily building, 5–8 units		2 spaces for each dwelling unit; plus 1 space for visitor parking if the building fronts a street with no on-street parking
3.04	Multifamily building, 9 or more units		2 spaces for each dwelling unit; plus 1 space for visitor parking for each 6 dwelling units if the building fronts a street with no on-street parking
3.05	Single-family residential		2 spaces
3.06	Townhouse, 3–4 units		2 spaces for each dwelling unit
3.06	Townhouse, 5–8 units		2 spaces for each dwelling unit; plus 1 space for visitor parking if the building fronts a street with no on-street parking
3.06	Townhouse, 9 or more units		2 spaces for each dwelling unit; plus 1 space for visitor parking for each 6 dwelling units if the building fronts a street with no on-street parking
3.07	Twin home		2 spaces for each dwelling unit
4.0 Special Care Facilities			
4.01	Adult family home		1 space for each 2 adults the facility is licensed by the state to accommodate; plus 1 space for each employee on the largest work shift
4.02	Community living arrangement, 8 or fewer residents		3 spaces for each building
4.02	Community living arrangement, 9–15 residents		4 spaces for each building
4.02	Community living arrangement, 16 or more residents		5 spaces for each building
4.03	Foster home and treatment foster home		1 space for each employee on the largest work shift
4.04	Group day care center		1 space for each 2 children the facility is licensed by the state to accommodate; plus 1 space for each employee on the largest work shift
4.05	Hospice care center		1 space for each 2 residents at capacity; plus 1 space for each employee on the largest work shift
4.06	Nursing home		1 space for each 3 beds; plus 1 space for each employee on the largest work shift
4.07	Retirement home		1 space for each unit; plus 1 space for each employee on the largest work shift
4.08	Temporary shelter		1 space for each 500 square feet of gross floor area devoted to patron services; plus 1 space for each employee on the largest work shift
5.0 Group Accommodations			
5.01	Boardinghouse		1 space for each 400 square feet in each sleeping room
5.02	Campground		1 space at each camping space; plus 1 space at the office, if one is provided, for each 15 camping spaces
5.03	Group recreation camp		1 space at each camping space; plus 1 space at the office, if one is provided, for each 15 camping spaces
5.04	Migrant labor camp		Determined on a case-by-case basis
5.05	Overnight lodging		1.5 space for each guest room; plus 1 space for each employee on the largest work shift
5.06	Resort		1 space for each guest room; plus 1 space for each employee on the largest work shift

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Exhibit 11-1 Parking standards – continued

6.0	Food and Beverage Sales	Minimum Vehicle Spaces
6.01	Brewpub	1 space for each 3 patron seats or 1 space for each 300 square feet of gross floor area devoted to patron service, whichever is greater; plus 1 for each employee on the largest work shift
6.02	Restaurant	1 space for each 3 patron seats or 1 space for each 300 square feet of gross floor area devoted to patron service, whichever is greater; plus 1 for each employee on the largest work shift
6.03	Tavern	1 space for each 3 patron seats or 1 space for each 300 square feet of gross floor area devoted to patron service, whichever is greater; plus 1 for each employee on the largest work shift
7.0	Vehicle Rental, Sales, and Service	
7.01	Heavy vehicle sales and rental	1 space for each 300 square feet of gross floor area
7.02	Truck stop	1 space for each 300 square feet of gross floor area
7.03	Vehicle fuel station	1 space for each 300 square feet of gross floor area
7.04	Vehicle repair shop	1 space for each service bay; plus 1 for each employee on the largest work shift
7.05	Vehicle sales and rental	1 space for each 300 square feet of gross floor area
7.06	Vehicle service shop	1 space for each service bay; plus 1 for each employee on the largest work shift
7.07	Vehicle storage yard	1 space for each employee on the largest work shift
8.0	General Sales	
8.01	Convenience retail sales	1 space for each 300 square feet of gross floor area
8.02	General retail sales	1 space for each 300 square feet of gross floor area
8.03	General retail sales, large format	1 space for each 300 square feet of gross floor area
8.04	Outdoor sales	1 space for each 5,000 square feet of outdoor display area; plus 1 space for each employee on the largest work shift
9.0	General Services	
9.01	Administrative services	1 space for each 300 square feet of gross floor area
9.02	Adult-oriented establishment	1 space for each 300 square feet of gross floor area
9.03	Body-piercing establishment	1 space for each 300 square feet of gross floor area
9.04	Commercial kennel	1 space for each 300 square feet of gross floor area
9.05	Commercial stable	1 space for each 4 stable stalls
9.06	Equipment rental, large	1 space for each 8,000 square feet of outdoor display area; plus 1 space for each employee on the largest work shift
9.07	Equipment rental, small	1 space for each 600 square feet of gross floor area
9.08	Financial services	1 space for each 300 square feet of gross floor area
9.09	Funeral home	1 space for each 3 patron seats at the maximum capacity; plus 1 space for each employee on the largest work shift
9.10	General repair	1 space for each 450 square feet of gross floor area
9.11	General services	1 space for each 300 square feet of gross floor area
9.12	Health care clinic	1 space for each examination room or equivalent; plus 1 space for each 300 square feet of gross floor area not devoted to examinations
9.13	Health care center	1 space for each 1.5 patient beds; plus 1 space for each employee on the largest work shift; plus 1 space for each doctor on the largest work shift
9.14	Instructional services	1 space for each student during the largest period of attendance; plus 1 space for each employee on the largest work shift
9.15	Landscape business	1 space for each employee on the largest work shift; plus 1 space for each fleet vehicle parked on site
9.16	Professional services	1 space for each 300 square feet of gross floor area
9.17	Tattoo establishment	1 space for each 300 square feet of gross floor area
9.18	Veterinary clinic, general	1 space for each 300 square feet of gross floor area
9.19	Veterinary clinic, small animal	1 space for each 300 square feet of gross floor area
10.0	Recreation and Entertainment	
10.01	Driving range	1 space for each driving station
10.02	Golf course	36 spaces for each 9 holes of golf; plus 1 space for each employee on the largest work shift. If a tavern or restaurant is also part of the golf course facility, the parking requirements of such use shall be 50 percent of the requirement
10.03	Indoor entertainment	1 space for each 3 patron seats; plus 1 for each employee on the largest work shift
10.04	Indoor recreation	1 space for each 3 patron seats; plus 1 for each employee on the largest work shift
10.05	Outdoor entertainment	1 space for each 3 patron seats at maximum capacity; plus 1 for each employee on the largest work shift
10.06	Outdoor recreation	1 space for each 3 patrons at design capacity; plus 1 for each employee on the largest work shift
10.07	Outdoor shooting range	Determined on a case-by-case basis

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Exhibit 11-1 Parking standards – continued

11.0	Government and Community Services	Minimum Vehicle Spaces
11.01	Administrative government center	1 space for each 300 square feet of gross floor area
11.02	Animal shelter	1 space for each 600 square feet of gross floor area; plus 1 space for each employee on the largest work shift
11.03	Cemetery	1 space for each 250 square feet of gross floor area or 1 space for each 4 seats at maximum capacity, whichever is greater; plus 1 space for each employee on the largest work shift
11.04	Civic use facility	1 space for each 250 square feet of gross floor area or 1 space for each 4 patrons at maximum capacity, whichever is greater; plus 1 space for each employee on the largest work shift
11.05	Community center	1 space for each 250 square feet of gross floor area or 1 space for each 4 patrons at maximum capacity, whichever is greater; plus 1 space for each employee on the largest work shift
11.06	Community cultural facility	1 space for each 250 square feet of gross floor area or 1 space for each 4 patrons at maximum capacity, whichever is greater; plus 1 space for each employee on the largest work shift
11.07	Community garden	1 space for each 10,000 square feet of land available for production
11.08	Correctional facility	1 space for each 10 residents for visitation; plus 1 space for each employee on the largest work shift
11.09	Educational facility, pre-K through 12	0.5 spaces for each (K-8) classroom; 1 space for each 8 students (grades 9-12) at design capacity; plus 1 space for each employee on the largest work shift
11.10	Educational facility, post-secondary	0.5 spaces for each student during the largest class attendance period; plus 1 space for each employee on the largest work shift
11.11	Maintenance garage	1 space for each employee on the largest work shift
11.12	Park	1 space for each 3 patrons at the peak use period
11.13	Public safety facility	1 space for each 500 gross square feet of office area; 1 space for each employee on the largest work shift; plus 1 space for each vehicle normally parked on the premises
11.14	Recreation trail	On-site parking not required
11.15	Unspecified public use	Determined on a case-by-case basis
11.16	Worship facility	1 space for each 4 patrons at maximum capacity; plus 1 space for each employee on the largest work shift
12.0	Telecommunications and Utilities [6]	
12.01	Solar energy system	1 space for each employee on the largest work shift
12.02	Stormwater management facility	On-site parking not required
12.03	Telecommunication facility, concealed	1 space
12.04	Telecommunication facility, unconcealed	1 space
12.05	Utility installation, major	1 space for each on-site employee on the largest work shift
12.06	Utility installation, minor	1 space, although the zoning administrator may grant a waiver
12.07	Utility maintenance yard	1 space for each employee on the largest work shift
13.0	Transportation	
13.01	Airport	Determined on a case-by-case basis
13.02	Bus storage facility	1 space for each employee on the largest work shift
13.03	Marina	1 space for each 2 boat slips
13.04	Mass transit terminal	1 space for each 100 square feet of gross floor area devoted to a passenger waiting area; plus 1 space for each 300 square feet of gross floor area devoted to offices
13.05	Off-site parking lot	On-site parking not required
13.06	Parking structure	On-site parking not required
13.07	Park-and-ride lot	On-site parking not required
13.08	Railroad line	On-site parking not required
13.09	Street	On-site parking not required
14.0	General Storage	
14.01	Bulk fuel storage	1 space for each employee on the largest work shift
14.02	Personal storage facility	1 space for each 50 rental units when an office is provided; plus 1 space for each employee on the largest work shift
14.03	Truck terminal	1 space for each employee on the largest work shift; plus 1 space for each fleet vehicle parked on site
14.04	Warehouse	1 space for each employee on the largest work shift; plus 1 space for each fleet vehicle parked on site

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Exhibit 11-1 Parking standards – continued

15.0	Industrial	Minimum Vehicle Spaces
15.01	Artisan shop	1 space for each 300 square feet of display area; plus 1 space for each employee on the largest work shift
15.02	Batching plant associated with a nonmetallic mine	1 space for each employee on the largest work shift
15.03	Biofuels production plant	1 space for each employee on the largest work shift
15.04	Construction equipment repair	1 space for each employee on the largest work shift; plus 1 space for each fleet vehicle parked on site
15.05	Construction equipment sales and service	1 space for each employee on the largest work shift; plus 1 space for each fleet vehicle parked on site
15.06	Contractor yard	1 space for each employee working on site; plus 1 space for each fleet vehicle parked on site
15.07	Industrial uses, heavy	1 space for each employee on the largest work shift; plus 1 space for each fleet vehicle parked on site
15.08	Industrial uses, light	1 space for each employee on the largest work shift; plus 1 space for each fleet vehicle parked on site
15.09	Nonmetallic mine	1 space for each employee on the largest work shift
15.10	Salvage yard	1 space for each employee on the largest work shift; plus 1 space for each fleet vehicle parked on site
16.0	Solid Waste	
16.01	Composting facility	1 space for each employee on the largest work shift
16.02	Recycling center	1 space for each employee on the largest work shift
16.03	Solid waste landfill	1 space for each employee on the largest work shift
16.04	Solid waste transfer station	1 space for each employee on the largest work shift
17.0	Accessory Uses	
17.01	Adult family home	On-site parking not required
17.02	Amateur radio antenna	On-site parking not required
17.03	Automated teller machine	On-site parking not required
17.04	Backyard chickens	On-site parking not required
17.05	Bed and breakfast	1 space for each guest room
17.06	Boat dock	On-site parking not required
17.07	Boathouse	On-site parking not required
17.08	Exterior communication device	On-site parking not required
17.09	Family day care home	On-site parking not required
17.10	Farm building storage	On-site parking not required
17.11	Farm residence	2 spaces
17.12	Farmstead retail outlet	1 space for each 300 square feet of floor area
17.13	Fence	On-site parking not required
17.14	Foster home and treatment foster home	On-site parking not required
17.15	Garage, nonresidential	On-site parking not required
17.16	Garage, off-site residential	On-site parking not required
17.17	Garage, residential	On-site parking not required
17.18	Garden	On-site parking not required
17.19	Greenhouse	On-site parking not required
17.20	Helipad	4 space for each landing pad
17.21	Home occupation, major	1 space for a company vehicle, if any; plus 1 for each on-site employee as may be allowed
17.22	Home occupation, minor	1 space for a company vehicle, if any
17.23	Hot tub	On-site parking not required
17.24	Household livestock	On-site parking not required
17.25	Indoor sales incidental to light industrial use	On-site parking not required
17.26	Kennel, hobby	On-site parking not required
17.27	Kennel, private	On-site parking not required
17.28	Light industrial use incidental to indoor sales	On-site parking not required
17.29	Outdoor display incidental to indoor sales	On-site parking not required
17.30	Outdoor food and beverage service	1 space for each 3 patron seats or 1 space for each 300 square feet of area devoted to patron service, whichever is greater

continued on next page

Exhibit 11-1 Parking standards – continued

17.0	Accessory Uses - continued	Minimum Vehicle Spaces
17.31	Outdoor furnace	On-site parking not required
17.32	Parking lot (on-site)	On-site parking not required
17.33	Play structure	On-site parking not required
17.34	Pond	On-site parking not required
17.35	Private reception venue	Determined on a case-by-case basis, as approved by the conditional use permit
17.36	Rural accessory structure	On-site parking not required
17.37	Service window, drive-up	On-site parking not required
17.38	Service window, walk-up	On-site parking not required
17.39	Solar energy system, building-mounted	On-site parking not required
17.40	Solar energy system, free-standing	On-site parking not required
17.41	Storage container, 1 or 2 units	On-site parking not required
17.41	Storage container, 3 or more units	On-site parking not required
17.42	Swimming pool	On-site parking not required
17.43	Temporary shelter	1 space for each 500 square feet of gross floor area devoted to patron services; plus 1 space for each employee on the largest work shift
17.44	Utility cabinet	Determined on a case-by-case basis
17.45	Yard shed	On-site parking not required
18.0	Temporary uses	
18.01	Agricultural product sales, off-site	Determined on a case-by-case basis, but not less than 2 when on street parking is not available
18.02	Agricultural product sales, on-site	Determined on a case-by-case basis, but not less than 2 when on street parking is not available
18.03	Earth materials stockpile	On-site parking not required
18.04	Farmers market	1.5 space for each vendor space when sufficient on street parking is not available
18.05	General outdoor sales	Determined on a case-by-case basis, but not less than 2 when on street parking is not available
18.06	Model home	Determined on a case-by-case basis
18.07	Off-site construction yard	1 space for each employee on the largest work shift; plus 1 space for each fleet vehicle parked on site
18.08	On-site construction office	On-site parking not required
18.09	On-site construction yard	On-site parking not required
18.10	Portable storage container	On-site parking not required
18.11	Relocatable building	Based on the standard for the principal use
18.12	Seasonal product sales	Determined on a case-by-case basis, but not less than 2 when on street parking is not available
18.13	Snow disposal site	On-site parking not required
18.14	Special event	Determined on a case-by-case basis
18.15	Special event camping	1 space at each camping space
18.16	Special event concessions	Determined on a case-by-case basis, but not less than 2
18.17	Special event parking	On-site parking not required
18.18	Wind test tower	On-site parking not required
18.19	Yard sale	On-site parking not required

23.11-6 Construction and maintenance requirements

- (a) **Surfacing.** All off-street parking areas shall be surfaced and maintained with concrete, including pervious concrete, asphaltic concrete, or similar product. Parking areas for those land uses listed as agriculture or resource-based in Exhibit 11-1 may be surfaced with gravel.
- (b) **Border barricades.** A parking area located adjacent to a property line shall be provided with a suitable curb (asphalt or concrete) so as to protect the adjacent property. Unless otherwise provided in this chapter, such curb shall be placed at least 2 feet from the property line to prevent extension of vehicles beyond the property line.

23.11-7 Design requirements

- (a) **Parking space dimensions.** Standard and compact parking spaces shall conform to the dimensions in Exhibit 11-4.
- (b) **Drainage.** Parking areas shall be properly graded for drainage.
- (c) **Service drive, when required.** Groups of 3 or more parking spaces, except those in conjunction with a single-family or two-family dwelling on a single lot, shall be served by a service drive so that motor vehicles can enter and exit the parking area without backing onto a public right-of-way.
- (d) **Service drive standards.** Service drives shall be designated and constructed to facilitate the flow of traffic, provide maximum safety in traffic ingress and egress and maximum safety of pedestrian and vehicular traffic on the site, and meet the dimensional standards in Exhibit 11-4.
- (e) **Identification of compact parking spaces.** A compact vehicle parking space shall be so designated by a sign.

Exhibit 11-4 Dimensional standards for standard and compact parking spaces

Angle	Parking Type	Stall Width	Curb Length	1-Way Aisle Width	2-Way Aisle Width	Stall Depth
0°	Standard	9 ft.	22 ft. 6 in.	12 ft.	24 ft.	8 ft.
	Compact	8 ft.	19 ft. 6 in.	12 ft.	24 ft.	7 ft. 6 in.
30°	Standard	9 ft.	18 ft.	12 ft.	19 ft.	17 ft.
	Compact	8 ft.	15 ft.	12 ft.	18 ft.	14 ft.
45°	Standard	9 ft.	12 ft. 6 in.	12 ft.	19 ft.	19 ft.
	Compact	8 ft.	10 ft. 6 in.	12 ft.	18 ft.	16 ft.
60°	Standard	9 ft.	10 ft. 6 in.	16 ft.	20 ft.	20 ft.
	Compact	8 ft.	8 ft. 6 in.	15 ft.	19 ft.	16 ft. 6 in.
90°	Standard	9 ft.	9 ft.	24 ft.	24 ft.	18 ft.
	Compact	8 ft.	8 ft.	22 ft.	24 ft.	16 ft.

23.11-8 Shared parking

(a) **Generally.** There may be instances where two or more land uses could share the same parking facilities as shown in Exhibit 11-5. The zoning administrator may, upon written petition, authorize the joint use of parking facilities required by such uses, provided:

- (1) the applicant shows that there is no substantial conflict or overlap in the principal operating hours of the building or use for which the joint use of parking facilities is proposed;
- (2) the parking facility for which joint use is proposed shall be located within 400 feet of the building or use required to provide parking;
- (3) directional signage is provided where appropriate;
- (4) pedestrian links are direct, clear, and safe; and
- (5) parking lots are located within the same zoning district as the use they serve

(b) **Written agreement required.** The parties involved in the joint use of off-street parking facilities shall evidence their agreement for such joint use by a legal instrument approved by the county attorney as to form and content. Such instrument, when approved as conforming to the provisions of this part, shall be recorded in the office of the Winnebago County register of deeds and a copy filed with the zoning administrator.

Exhibit 11-5 Examples of uses that could potentially share a parking area

Land uses with typical weekday peaks	Land uses with typical evening peaks	Land uses with typical weekend peaks
Banks	Auditoriums	Religious institutions
Schools	Bars and dance halls	Parks
Distribution facilities	Meeting halls	Malls (some types, but not all)
Factories	Restaurants (some types, but not all)	
Medical clinics	Movie theaters	
Offices		
Professional services		

23.11-9 Accessible parking and passenger loading

(a) **Generally.** Accessible parking spaces shall be provided subject to this part; the Americans with Disability Act (ADA), as may be amended; and the *ADA Standards for Accessible Design* 28 CFR 36, revised as of July 1, 1994 as may be amended.

(b) **Number required.** If parking spaces are required, then accessible spaces shall be provided in addition to the required number of regular spaces in the quantity as shown in Exhibit 11-6. One of 8 accessible parking spaces, but always at least one, must be van-accessible.

(c) **Location.** Accessible spaces serving a particular building shall be located on the shortest accessible route of travel between the parking and the accessible entrance. When there are multiple entrances to a building of similar prominence (e.g., shopping mall) with near-by parking, accessible spaces shall be dispersed and provided at each location. In parking facilities that do not serve a particular building, accessible parking shall be located on the shortest accessible route of travel to an accessible pedestrian entrance of the parking facility.

(d) **Dimensions.** Accessible parking spaces shall be at least 96 inches wide.

(e) **Vertical clearance.** For van-accessible parking spaces, a 98-inch high clearance shall be maintained above the space, access aisle, and on the route to and from the van-accessible space.

(f) **Maximum slope.** Accessible spaces and adjoining access aisles shall have a maximum slope of 1:50 in all directions. When accessible spaces are provided in an existing parking lot, the spaces shall be located on the most level surface close to the accessible building entrance.

(g) **Signage.** Each accessible space shall be so designated with a sign identified by the international symbol of accessibility mounted on a vertical pole. In addition, van-accessible spaces shall be so designated with a sign indicating "Van Accessible." Such signs shall be located so they cannot be obscured by a vehicle parked in the space (at least 6 feet in height).

(h) **Pavement striping and markings.** The boundary of the access aisle must be marked and the end of which may be squared or a semicircle. Additional pavement markings denoting the space are optional.

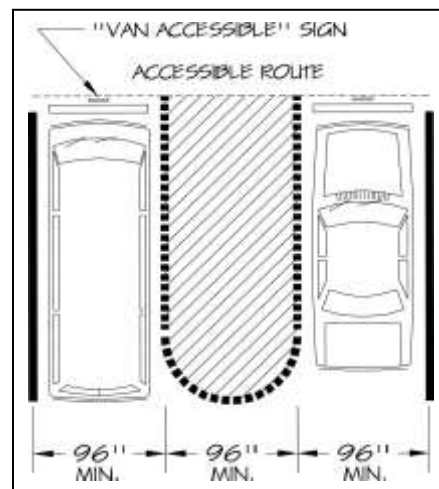
(i) **Accessible route.** An accessible route must be provided from the accessible parking space to the accessible entrance of the building. It shall be at least 36 inches wide, without steps or curbs. It shall be paved and not contain any feature that would restrict, inhibit, or unreasonably impeded the movement of a physically disabled individual (Exhibit 11-7).

Exhibit 11-6 Minimum number of required accessible parking spaces

Total number of required parking spaces	Minimum number of additional accessible spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2 percent of total
1,001 and over	20; plus 1 for each 100 over 1,000

(j) **Access aisle.** An access aisle for an accessible space shall be the same length as the adjacent parking space it serves and be at least 60 inches wide for car access and 96 inches wide for van-accessibility. Two adjoining accessible parking spaces may share a common access aisle (Exhibit 11-7). An access aisle for a passenger loading zone shall be 60 inches wide and 20 feet long and adjacent and parallel to the space.

Exhibit 11-7 Layout of standard and van accessible parking spaces



ARTICLE 12 SIGNS

Sections

23.12-1	Legislative findings	23.12-12	Off-premise directional sign
23.12-2	Purpose	23.12-13	General sign standards by type of sign
23.12-3	Applicability	23.12-14	Signage for nonconforming commercial, industrial, or institutional uses
23.12-4	Measurement of sign area and sign height	23.12-15	Maintenance
23.12-5	General standards	23.12-16	Removal of signs for a terminated business
23.12-6	General limitations on illumination	23.12-17	Nonconforming signs
23.12-7	Electronic message displays	23.12-18	Removal of certain illegal signs placed on public property
23.12-8	Prohibited signs	23.12-19	Removal of certain signs related to political elections
23.12-9	Signs allowed without a permit		
23.12-10	Signs allowed in a residential or agricultural zoning district by permit		
23.12-11	Signs allowed in a commercial, mixed-use, or industrial zoning district by permit		

23.12-1 Legislative findings

The Board of County of Supervisors makes the following legislative findings:

- (1) In addition to signage allowed by this article, numerous means exist in the county to communicate various types of speech, including print media, broadcast media, direct mailings to households, and dissemination of information on the Internet.
- (2) Sign regulations in this article (1) promote the public welfare, health, and safety of people using the public roads and other public travelways; (2) advance the aesthetic goals of the county throughout the community, and to ensure the effectiveness and flexibility in the design of, and the creativity of, the use of such devices without creating detriment to the general public; and (3) reduce the visual clutter caused by advertising signage which is a significant cause of unsafe traffic and visibility conditions.
- (3) Sign regulations in this article are not intended to control the content of a message except as allowed by law or to unduly restrict the appearance of a sign.
- (4) The limitations placed on signs by this article are deemed to be the minimum necessary to accomplish the purposes of this article.

23.12-2 Purpose

This article promotes the public health, safety, and general welfare and is intended to:

- (1) promote well maintained and attractive signage within the county;
- (2) provide for adequate business identification, advertising, and communication;
- (3) protect the safety and efficiency of the transportation network in the county by reducing confusion or distractions to motorists and enhancing motorists' ability to see and recognize pedestrians, obstacles, other vehicles and official traffic signs, signals, or devices by minimizing a proliferation of visual messages; and
- (4) protect the safety of the public by requiring proper maintenance of signs and establishing minimum design and construction standards.

23.12-3 Applicability

No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without a zoning permit except those signs enumerated in this section and in s. 23.12-9. To the extent allowed by state and federal law, signs shall comply with the requirements of this article. The following signs are exempt from this article:

- (1) A traffic control sign and other similar signage when located on public property along a roadway or other travelway when placed by or authorized by the federal government, the state of Wisconsin, Winnebago County, or a municipal government.

- (2) A sign inside of a building that does not meet the definition of a window sign.
- (3) A work of art (e.g., mural) that does not identify or represent a product or service.
- (4) A legal notice posted on private property as may be required or authorized by municipal, state, or federal law.

23.12-4 Measurement of sign area and sign height

The area of a sign includes that area enclosing the outer limits of any emblem, representation, wording, or any figure of similar character, together with any area forming an integral part of the display, or which is used to differentiate the sign from the background, such as a wall, to which it may be affixed. Sign supports not otherwise included in the aforementioned description are not included in determining the sign area.

The height of a sign is measured from the ground surface at the sign to the top of the sign or sign structure, whichever is taller.

23.12-5 General standards

A sign allowed by this article shall comply with the following general requirements:

- (1) A sign shall not resemble, imitate, or approximate the shape, size, form, or color of a railroad or traffic sign, signal, or device.
- (2) A sign shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals, or devices.
- (3) A sign shall not be erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window, driveway, or fire escape.
- (4) A sign shall not be attached to a standpipe or fire escape.
- (5) A sign shall not be placed within the clear vision triangle except as allowed.
- (6) A sign shall not oscillate or rotate, or move in any other manner.
- (7) A sign shall not emit an audible sound, odor, or any visible matter.
- (8) A sign shall not be placed on a telecommunication tower, except as required or permitted under article 8.
- (9) A sign shall be constructed and mounted so as to comply with state and local building codes as applicable.
- (10) A sign containing electrical wiring shall be constructed, installed, and operated so as to comply with state and local electrical codes as applicable.
- (11) A sign shall not be painted on or similarly affixed to a natural object, such as a tree or rock.
- (12) When a sign is authorized to contain electrical power or when a sign is illuminated by one or more external light fixtures, the electric wire providing the electric power to the sign or the light fixture shall be placed underground from the service disconnect.

23.12-6 General limitations on illumination

Illumination of a sign when allowed by this article shall comply with the following requirements:

- (1) Internal or external illumination shall not flash or change color.
- (2) Lighting for an externally illuminated sign shall be shaded, shielded, and directed away from surrounding properties and vehicular traffic.
- (3) Neon lighting or lighting having the same appearance of neon lighting may be used.
- (4) For a sign with internal illumination, the background of the sign face shall be made of an opaque material to allow internal light to project only through the lettering and/or logos.
- (5) Lighting shall not oscillate or move or give the appearance of movement.

23.12-7 Electronic message displays

When allowed by this article, an electronic message display shall comply with the following specific standards:

- (1) Except for time and temperature displays, the message shall remain static at least 2 minutes before the next message appears.
- (2) No part of the message shall give the appearance of movement.
- (3) There shall be no transition between messages (i.e., no traveling, scrolling, dissolving, or fading).
- (4) Lighting levels at the sign face shall not exceed 5,000 NITs from dawn to dusk (i.e., daytime hours) and 500 NITs from dusk to dawn (i.e., nighttime hours).

23.12-8 Prohibited signs

(a) **Vehicle signage.** Vehicles, including automobiles, trucks, trailers, semi-trailers, campers, and buses that contain a sign for which the apparent purpose is to advertise a product or direct people to a business or an activity shall not be parked on a public right-of-way or on private property so as to be seen from a public right-of-way, except that such a vehicle is used in the daily operation of a business for service calls, deliveries, and the like.

(b) **Inflatable signage.** Inflatable signage is prohibited.

(c) **Roof signage.** Signage affixed to a roof of a building in any manner, whether directly or indirectly, is prohibited.

23.12-9 Signs allowed without a permit

A sign enumerated in Table 12-1 is allowed for the specified purpose without a permit provided all requirements are satisfied.

Banner, wall, or window signs, within a commercial, mixed-use, or industrial district, do not require a permit.

A copy change (also known as a face change) to an existing sign shall not require a zoning permit provided that the change occurs within the limits of the existing sign area. A copy change may include an electronic message display; however, it must meet all electronic message display standards of this division and s. 23.13-8(b) for nonconforming off-premise signs, if applicable.

An example of a vehicle sign



An example of an inflatable sign



Sign Type	Description	Placement / Type	Time Limitation	Number Permitted	Maximum Sign Area	Type of Illumination Permitted	Type of Display Permitted
Address sign	A permanent sign containing information related to the physical address or location of the property on which it is located	No limitation	None	One per premise	2 sq. ft.	External or internal	Static display
Adult family home	A permanent sign that identifies a building as an adult family home as may be authorized by this chapter	Either a wall or window sign or a free-standing sign located at the vehicular entrance of the property when the wall or window sign would not be readily visible from the roadway providing primary access to the parcel	None	One per premise	Wall or window sign 6 sq. ft.; free-standing 6 sq. ft. when single sided; 6 sq. ft. per side when double sided	External	
Bed and breakfast sign	A permanent on-premise sign that advertises a permitted bed and breakfast as may be authorized by this chapter	Either a wall or window sign or a free-standing sign located at the vehicular entrance of the property when the wall or window sign would not be readily visible from the roadway providing primary access to the parcel	None	One per premise	Wall or window sign 6 sq. ft.; free-standing 6 sq. ft. when single sided; 6 sq. ft. per side when double sided	External	Static display
Building marker sign	A permanent sign with the name of the building or date of construction or both	Must be cut into any a masonry surface or made of metal and affixed flat against the wall of the building	None	No limitation except by total sign area	6 sq. ft. cumulative	None	Static display
Business event sign	A temporary on-premise sign used to announce a commercial sales event, including grand openings, seasonal sales, liquidations, going-out-of-business sales, fire sales, and special promotions	Banner, pendant, sandwich boards; consistent with s. 23.12-8, inflatable signs are not permitted	No more than 4 times in any 12 month period of time for no more than 21 days of each occurrence	One per premise	32 sq. ft.	None	Static display
Community information sign	A municipally-owned sign that displays information of interest to the general community regarding public places, events, functions, or activities	No limitation	None	One per parcel	12 sq. ft. cumulative	None in a residential district; external in a non-residential district	Static display in a residential zoning district; Static display and/or electronic message display in a non-residential district
Construction sign for a commercial, institutional, or industrial project or a residential project with 8 or more dwelling units	A temporary sign that identifies the architects, engineers, contractors and other individuals or firms involved with construction taking place on the premises	No limitation	No later than 21 days after the end of construction	One per premise	64 sq. ft. when single sided; 64 sq. ft. per side when double sided	None	Static display
Construction sign for a residential project with 7 or fewer dwelling units	A temporary sign that identifies the architects, engineers, contractors and other individuals or firms involved with construction taking place on the premises	No limitation	No later than 21 days after the end of construction	No limitation except by total sign area	32 sq. ft. cumulative	None	Static display
Crop sign	A temporary sign that identifies the name or brand of seeds, fertilizer, herbicide, or pesticide used at that specific location	Within 50 feet of the crop	Permitted while the crop is growing and for no more than 30 days after harvest	One for every 8 lineal feet	3 sq. ft. per sign	None	Static display
Farm building storage sign	A permanent on-premise sign that identifies a farm building storage facility as may be authorized by this chapter	Within 25 feet of the building or a the primary vehicular entrance to the property	None	One per premise	16 sq. ft. when single sided; 16 sq. ft. per side when double sided	None	Static display
Farm sign	A permanent on-premise sign identifying a farm by its name or by the operator’s name	No limitation	None	One per farm	32 sq. ft. when single sided; 32 sq. ft. per side when double sided	External	Static display
Farmers market	A temporary sign that identifies a site as a farmers market as may be authorized in this chapter	No limitation	No more than 21 days before the first event of the season and no more than 7 days following the last event of the season	One at each vehicular access point to the site but no closer than 300 feet on the same road frontage	32 sq. ft. when single sided; 32 sq. ft. per side when double sided	None	Static display
Future project sign	A temporary sign that announces a future development project on the parcel it is located or an active construction or demolition project	No limitation	No later than 21 days following occupancy of the building	One per premise	32 sq. ft. when single sided; 32 sq. ft. per side when double sided	External	Static display

Sign Type	Description	Placement / Type	Time Limitation	Number Permitted	Maximum Sign Area	Type of Illumination Permitted	Type of Display Permitted
Historic marker	A permanent on-premise sign marking an historic building, site, landmark, or similar designation by the federal government, the state of Wisconsin, Winnebago County, a local government, or a non-profit organization recognized by one of the forgoing entities as an entity having a legitimate interest in promoting historic preservation	No limitation	None	One per premise	8 sq. ft.	None in a residential district; external in a non-residential district	Static display
Home occupation sign (Major only)	A permanent on-premise sign that advertises a major home occupation as may be authorized by this chapter	Either a wall or window sign or free-standing sign located at the vehicular entrance of the property when the wall or window sign would not be readily visible from the roadway providing primary access to the parcel	None	One per premise	Wall or window sign 6 sq. ft.; free-standing 6 sq. ft. when single sided; 6 sq. ft. per side when double sided	External	Static display
Menu board	A permanent on-premise sign located along the side of a drive-thru lane that displays the menu of a restaurant or similar establishment along with prices and other related information	Within 10 feet of the lane for the drive thru	None	One per drive thru lane but not exceeding 2	32 sq. ft. per sign	External or internal	Static display and/or electronic message display
Model home sign	A temporary sign that identifies a particular dwelling unit as a model home as may be authorized by this chapter	Free-standing sign	No more than 7 days before the first authorized day of such use and no more than 7 days following the last authorize day of such use	One per premise	16 sq. ft. when single sided; 16 sq. ft. per side when double sided	None	Static display
Off-site construction yard	A temporary sign that identifies a site as a off-site construction yard as may be authorized by this chapter	A ground-mounted sign such as a pole sign or a monument sign	No more than 7 days before the first authorized day of such use and no more than 7 days following the last authorize day of such use	One at each vehicular access point to the site but no closer than 300 feet on the same road frontage	12 sq. ft. when single sided; 12 sq. ft. per side when double sided	None	Static display
Parking lot sign	A permanent sign that facilitates the use of the parking area, such as directional information and designation of parking spaces for special uses (e.g., handicap parking and visitor parking), commercial logos and other similar content is not allowed	No limitation	None	No limitation	No limitation	“Exit” and “Enter” signs may be internally illuminated; for all other signage illumination is not permitted	Static display
Personal greeting and congratulatory sign	A temporary sign that contains a message related to a homecoming of a person or group of people or a personal event or accomplishment	No limitation	Not more than 14 days	One per premise	16 sq. ft.	None	Static display in a residential zoning district; Static display and/or electronic message display in a non-residential district
Political sign	A sign that contains a message relating to a political party, a candidate for public office, or a political issue	No limitation	None	No limitation except by total sign area limitation	32 sq. ft. cumulative in a non-residential zoning district; 12 sq. ft. cumulative in a residential district	None in a residential zoning district; internal or external in a non-residential district	Static display in a residential zoning district; Static display and/or electronic message display in a non-residential district
Private property protection sign	A temporary or permanent sign containing wording indicating an intent to deny entry to the general public (e.g., “no trespassing”, “no hunting”, “no entry”, “private property”)	At least 200 feet between signs on the same side of a road	Temporary or permanent	No limitation except by separation requirements	2 sq. ft.	None	Static display
Private reception venue sign	A permanent on-premise sign that advertises a private reception venue as may be authorized by this chapter	A free-standing sign located at the vehicular entrance of the property	None	One per premise	6 sq. ft. when single sided; 6 sq. ft. per side when double sided	External	Static display
Real estate sign	A temporary on-premise sign that provides identification of a particular property that is for lease, rent, or sale	No limitation	No later than 14 days following occupancy of the building or portion thereof	One on each road frontage	Residential district: 16 sq. ft. when single sided; 16 sq. ft. per side when double sided Non-residential district: 20 sq. ft. when single sided; 20 sq. ft. per side when double sided	None	Static display

Sign Type	Description	Placement / Type	Time Limitation	Number Permitted	Maximum Sign Area	Type of Illumination Permitted	Type of Display Permitted
Roadside stand sign	A temporary on-premise sign that identifies a roadside stand as may be authorized by this chapter	The sign must be located within 150 feet of the location of the roadside stand	No more than 7 days following the last day this use is authorized to operate	One per premise	12 sq. ft.	None	Static display
Seasonal product sales	A temporary on-premise sign that identifies a site for seasonal product sales as may be authorized by this chapter	A ground-mounted sign such as a pole sign or a monument sign	No more than 3 days before the first day this use is authorized to operate and no more than 7 days following the last day this use is authorized to operate	One per premise	16 sq. ft.	External illumination is allowed but not before dusk or 30 minutes following the close of the business	Static display
Quasi-public event sign	A temporary sign used to announce a noncommercial event or celebration in the community that is sponsored by a civic, educational, patriotic, religious, or nonprofit organization	No limitation except as may be otherwise prohibited (e.g., s.23.12-8 prohibits inflatable signs)	No more than 4 times in any 12 month period of time for no more than 21 days of each occurrence	One per premise	On-premise: 32 sq. ft. Off-premise: 8 sq. ft.	None	Static display
Yard sale sign	A temporary on-premise sign that announces a yard sale as may be authorized by this chapter	None	No more than 2 days prior to the event and no more than one day after the last day of the event	One per premise	8 sq. ft.	None	Static display

23.12-10 Signs allowed in a residential or agricultural zoning district by permit

(a) **Generally.** Signage for the specified uses as may be allowed in a residential or agricultural district is allowed consistent with the requirements contained in Table 12-2. Signage within a residential or agricultural district may also be allowed as part of a conditional use permit. Signs allowed as part of a conditional use permit shall meet the standards of identification signs for an institutional use as specified in Table 12-2, unless otherwise specified in the conditional use permit.

(b) **Landscaping requirement for monument signs.** When a monument sign is allowed in a residential zoning district, landscaping shall be provided around the base of the sign for a minimum distance of 6 feet. Such landscaping may consist of turf, shrubs, or ground cover.

Table 12-2 On-premise signage in a residential district

Land Use / Sign Type		Number of Signs	Maximum Sign Area	Maximum Sign Height	Illumination	Type of Display Permitted
Identification sign for a residential complex	A. Wall sign	1 per frontage	32 sq. ft. or 10 percent of the wall area, whichever is less	8 ft.	External	Static display
	B. Free-standing sign – monument sign only	1 per frontage	32 sq. ft. when single sided; 32 sq. ft. per side when double-sided	6 ft.	External	Static display
Identification sign for a mobile home park	Free-standing sign – monument sign only	1 per frontage	32 sq. ft. when single sided; 32 sq. ft. per side when double-sided	6 ft.	External	Static display
Identification sign for a subdivision	Free-standing sign – monument sign only	1 per vehicular access point	32 sq. ft. when single sided; 32 sq. ft. per side when double-sided	6 ft.	External	Static display
Identification sign for an institutional use (e.g., park, school, church, and nursing home)	A. Wall sign	1 per frontage	32 sq. ft. or 10 percent of the wall area, whichever is less	10 ft.	External or internal	Static display
	B. Free-standing sign-monument only	1 per frontage	32 sq. ft. when single sided; 32 sq. ft. per side when double-sided	6 ft.	External	Static display
	C. Parking lot entrance sign	One at each vehicular access point to the site but no closer than 300 feet on the same road frontage or closer than 100 feet to another free-standing sign	12 sq. ft. when single sided; 12 sq. ft. per side when double-sided	5 ft.	External	Static display

23.12-11 Signs allowed in a commercial, mixed-use, or industrial zoning district by permit

(a) **Generally.** Signs meeting the requirements of this section are allowed in a commercial, mixed-use, or industrial zoning district with a zoning permit.

(b) **Sign standards.** Signs shall comply with the requirements in table 12-3 through 12-5 as applicable.

Table 12-3 On-premise signage in the B-1 Local Service Business District and B-2 Community Business District

Sign Type	Number of Signs	Max. Sign Area by Type of Sign	Maximum Sign Height	Illumination	Type of Display Permitted
Free-standing sign – pole or monument	1 per frontage	50 sq. ft. when single sided; 50 sq. ft. per side when double-sided	Monument: 6 ft. Pole: 8 ft.	External or internal	Static display
Projecting sign in lieu of a wall sign or a free-standing sign on the same frontage	1 per frontage	18 sq. ft. per side	-	External or internal	Static display

Table 12-4 On-premise signage in the B-3 General Business District and M-1 Mixed Use District

Sign Type	Number of Signs	Max. Sign Area by Type of Sign	Maximum Sign Height	Illumination	Type of Display Permitted
Free-standing sign – pole or monument	1 per frontage	100 sq. ft. when single sided; 100 sq. ft. per side when double-sided	Monument: 8 ft. Pole: 25 ft. [1]	External or internal	Static display or electronic display
Projecting sign in lieu of a wall sign or a free-standing sign on the same frontage	1 per frontage	32 sq. ft. per side	-	External or internal	Static display or electronic display
Parking lot entrance sign – monument only	One at each vehicular access point to the site but no closer than 300 feet on the same road frontage or closer than 100 feet to another free-standing sign	12 sq. ft. when single sided; 12 sq. ft. per side when double-sided	5 ft.	External or internal	Static display

Notes:

1. If the sign is located on a parcel that adjoins a road classified as an arterial and the top of the sign is not 15 feet above the elevation of such road, the Planning and Zoning Committee may allow a greater height as a special exception consistent with the procedures and requirements of article 7 of this chapter. If a premises is allowed to have two pole signs, the sign closest to such road may only qualify for the special exception.

Table 12-5 On-premise signage in the I-1 Light Industrial District and I-2 Heavy Industrial District

Sign Type	Number of Signs	Max. Sign Area by Type of Sign	Maximum Sign Height	Illumination	Type of Display Permitted
Free-standing sign – pole or monument	1 per frontage	50 sq. ft. when single sided; 50 sq. ft. per side when double-sided	Monument: 8 ft. Pole: 25 ft. [1]	External or internal	Static display or electronic display
Projecting sign in lieu of a wall sign or a free-standing sign on the same frontage	1 per frontage	2 sq. ft. per side	-	External or internal	Static display or electronic display
Parking lot entrance sign – pole or monument	One at each vehicular access point to the site but no closer than 300 feet on the same road frontage or closer than 100 feet to another free-standing sign	12 sq. ft. when single sided; 12 sq. ft. per side when double-sided	5 ft.	External or internal	Static display

Notes:

1. If the sign is located on a parcel that adjoins a road classified as an arterial and the top of the sign is not 15 feet above the elevation of such road, the Planning and Zoning Committee may allow a greater height as a special exception consistent with the procedures and requirements of article 7 of this chapter. If a premises is allowed to have two pole signs, the sign closest to such road may only qualify for the special exception.

23.12-12 Off-premise directional signs

An off-premise directional sign is permitted in all zoning districts provided the property of the business or organization being identified only has access off of a town road as designated on the official zoning map and complies with each of the following requirements:

- (1) Placement: The sign is located on a parcel fronting on a road not classified as a town road and the sign is no more than 2,500 feet from the town road on which the business or organization is located
- (2) Type of sign: monument or pole
- (3) Maximum number: 4 for any single business or organization, but no more than 2 on any single road or street
- (4) Maximum sign area: 32 sq. ft. when single sided; 32 sq. ft. per side when double-sided
- (5) Maximum height: 25 feet above existing grade of existing structure at the time of permit approval
- (6) Minimum setback from front property boundary line: 3 feet
- (7) Minimum setback from side property boundary line: 3 feet
- (8) A directional sign shall not face a residential zoning district when located within 50 feet of such district boundary.

23.12-13 General sign standards by type of sign

(a) **Projecting sign.** A projecting sign shall comply with each of the following:

- (1) The sign shall complement the scale, proportion, and architectural style of the building on which it is to be attached.
- (2) The sign shall not extend more than 10 feet from the building on which it is attached.
- (3) When located above a walkway, the bottom edge of the sign shall be at least 10 feet above the surface of such walkway beneath the sign.
- (4) The sign when located above a driveway or an alley shall not be less than 15 feet above the surface of such driveway or alley.
- (5) The top of the sign shall not be higher than the building on which it is located.

(b) **Free-standing sign.** A free-standing sign shall comply with each of the following:

- (1) A sign when located above a walkway shall not be less than 10 feet above the surface of such walkway.
- (2) A sign when located above a driveway or an alley shall not be less than 15 feet above the surface of such driveway or alley.
- (3) No part of a sign may be closer than 10 feet to the front property boundary line or within the side yard or rear yard setback established for the zoning district in which the sign is located.

(c) **Hanging sign.** A hanging sign shall comply with each of the following:

- (1) The sign shall be constructed of rigid material.
- (2) The sign may be externally illuminated; internal lighting is strictly prohibited.
- (3) The bottom edge of the sign shall be at least 8 feet above the sidewalk beneath the sign.
- (4) The sign shall not have more than two faces.

(d) **Wall sign.** A wall sign shall comply with each of the following:

- (1) A sign shall not project from the wall on which it is attached by more than 12 inches. Sign copy may be placed on an awning, but only on the vertical flap.

23.12-14 Signage for nonconforming commercial, industrial, or institutional uses

If a nonconforming commercial, industrial, or institutional use does not have a sign, such establishment may have a wall or window sign stating the name of the establishment without display or elaboration not to exceed 2 feet in height and 10 feet in length.

23.12-15 Maintenance

The person owning the property on which a sign is located shall maintain such sign in a safe, presentable, and good structural condition at all times, including replacement of defective parts, painting, repainting, cleaning, and other acts required for proper maintenance. A dangerous sign shall be made to conform or removed within 5 days of receipt of a written notice from the zoning administrator, unless a shorter compliance period as specified in the notice is required to protect public safety.

23.12-16 Removal of signs for a terminated business

If a business terminates operation at a particular location, the owner of the property where the business was located shall remove any nonconforming signs for the business within 12 months from the date of termination.

23.12-17 Nonconforming signs

A sign that existed at the time of adoption of the ordinance from which this article is derived that does not conform shall be subject to the provisions of article 13 of this chapter relating to nonconformities. Two or more signs located closer than the distance standards indicated in this ordinance shall become nonconforming for the purposes of this section, regardless of which sign was erected first and regardless of whether the nearest sign measured from is located within or outside of county zoning jurisdiction.

23.12-18 Removal of certain illegal signs placed on public property

Government personnel may remove a sign placed illegally on public property (e.g., within a street right-of-way or a public park) without notice to the person who installed or authorized the installation of the sign. The official removing such sign may dispose of the sign at his or her discretion.

23.12-19 Removal of certain signs related to political elections

A municipal clerk, election inspector, building inspector, or law enforcement officer having jurisdiction may remove a sign placed in violation of the laws governing elections.

ARTICLE 13 NONCONFORMITIES

Sections

23.13-1	Legislative findings	23.13-8	Special provisions for nonconforming signs
23.13-2	Official registry of nonconforming lots, structures, signs, and uses	23.13-9	Special provisions for nonconforming outdoor shooting ranges
23.13-3	Nonconforming lots	23.13-10	Special provisions for nonconforming mobile homes and manufactured homes
23.13-4	Nonconforming structures	23.13-11	Special provisions for non-conforming residential uses
23.13-5	Nonconforming uses		
23.13-6	Nonconforming conditional uses		
23.13-7	Special provisions for nonconforming boathouses		

23.13-1 Legislative findings

The Board of County Supervisors makes the following legislative findings:

- (1) There may exist lots, structures, and uses in the unincorporated area of the county that were lawfully established but that do not now comply with one or more provisions of the district in which they are located.
- (2) It is reasonable to generally allow, but not encourage, nonconforming uses to continue until such time as they are removed or discontinued.
- (3) A nonconformity that is removed, discontinued, changed, extended, or enlarged shall be made to conform with the regulations that apply to the district in which it is located.
- (4) State law permits the reconstruction of nonconforming structures under certain circumstances.
- (5) There is a substantial public benefit of reducing the number of existing off-premise billboards that exceed the size limitations established in this chapter.

23.13-2 Official registry of nonconforming lots, structures, signs, and uses

- (a) **Content of registry.** The zoning administrator is authorized to develop and maintain a registry of:

- (1) lots known by him or her to be considered nonconforming,
- (2) structures known by him or her to be considered nonconforming,
- (3) signs known by him or her to be considered nonconforming; and
- (4) land uses registered as a nonconforming use consistent with the requirements in article 7 of this chapter.

(b) **Form of registry.** At the discretion of the zoning administrator, the registry may consist of either a written list or digital records that may be tied to property records maintained by Winnebago County.

23.13-3 Nonconforming lots

(a) **Generally.** A nonconforming lot may be used for an allowable use, provided such use complies with all other development standards of the zoning district in which the lot is located.

(b) **Alteration of property boundary lines.** The location of a property boundary line of a nonconforming lot shall not be moved, except when the adjoining lot being made smaller and development on such lot comply with all dimensional requirements of the district in which it is located and the new property boundary line location will make the nonconforming lot to be conforming or lessen the nonconformity.

23.13-4 Nonconforming structures

(a) **Reconstruction.** A nonconforming structure containing a conforming use may be rebuilt, in whole or in part, if the reconstructed structure is not located on more than one parcel and is identical in all respects to its size, shape, wall height, and footprint at the time of reconstruction. Partial reconstructions include foundation replacements and roof pitch alterations that do not add finished living space. Prior to the issuance of a zoning permit, the applicant shall provide a survey, conducted by a licensed land surveyor, verifying all setbacks of the existing non-conforming structure, as well as

the structure's footprint and square footage. Reconstruction as allowed in this section must commence within one year of the removal of the existing non-conforming structure.

(b) **Enlargement.** The structure may be enlarged provided the portion of the structure being added complies with all applicable dimensional standards, including setback and building height standards.

(c) **Reconstruction following damage.** A nonconforming structure that is damaged by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation on or after March 2, 2006, may be restored to its condition (size, location, and use) prior to the damage, except the structure may be larger when necessary to comply with state or federal requirements.¹³⁸

(d) **Unsafe conditions, ordinary maintenance, and remodeling.** Nothing in this article shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof, ordinary repair and maintenance, or remodeling provided that the work conforms to the provisions in this chapter.

23.13-5 Nonconforming uses

(a) **Generally.** A nonconforming use may continue to exist so long as it remains otherwise lawful, subject to the provisions in this section.

(b) **Cessation of use.** If a nonconforming use ceases for any reason, whether intentional or otherwise, for more than 12 continuous months, such use shall not be reestablished.¹³⁹ A business of a seasonal nature shall not be deemed discontinued during periods which it is normally inactive (i.e., marinas, ski hills, campgrounds). If the zoning administrator determines that a nonconforming use has ceased to operate for more than the aforementioned time period, he or she shall initiate the process established under division 7 of article 7. However, if a temporary structure houses a nonconforming use, such use shall terminate upon cessation of such use.¹⁴⁰

(c) **Change in extent.** Except as may be provided in this article or in state law, a nonconforming use existing on the effective date of this chapter or any amendment thereto, shall not increase in volume, intensity, or frequency if the increase of such results in a change in use.

(d) **Limitation on structural alterations.** Structural alterations or additions to a structure housing a nonconforming use shall not be permitted in excess of 50 percent of the structure's equalized assessed value; however, ordinary maintenance and repair shall be allowed. Except as may be provided in this article, no additional detached principal or accessory buildings may be added to the nonconforming use unless such use is brought into compliance or a conditional use for the nonconforming use is approved per s. 23.13-6.

(e) **Damage to structure housing nonconforming use.** If a structure housing a nonconforming use is damaged beyond 50 percent of its present equalized assessed value, such use shall not be reestablished.

(f) **Change of location.** A nonconforming use shall not be moved in whole or in part to any other portion of the lot or to another structure than what was occupied on the effective date of this chapter or any amendment thereto that created the nonconforming use.

(g) **Casual, occasional, accessory, or incidental use.** Casual, occasional, accessory, or incidental use after the primary nonconforming use has terminated, shall not be deemed to perpetuate a nonconforming use.¹⁴¹

(h) **Change of production.** A change in the method or quantity of production and the incorporation of new technology into a nonconforming use is permitted provided the original character of the use remains the same.¹⁴²

(i) **Nonconforming use as a public nuisance.** A nonconforming use, regardless of its duration, may be prohibited or restricted if it constitutes a public nuisance or is harmful to the public health, safety, or welfare.¹⁴³

(j) **Unsafe conditions.** Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof, provided that such work conforms to the provisions in this chapter.

¹³⁸ Commentary: See s. 59.69(10m), Wis. Stats.

¹³⁹ Commentary: See s. 59.69(10)(a), Wis. Stats.

¹⁴⁰ Commentary: See s. 59.69(10)(a), Wis. Stats.

¹⁴¹ Commentary: See *Village of Menominee Falls v. Veirstahler*, 183 Wis. 2d 96, 515 N.W.2d 290 (Ct. App. 1994)

¹⁴² Commentary: See *Racine County v. Cape*, 2002 WI App 19, 250 Wis. 2d 44, 639 N.W.2d 782, 01-0740

¹⁴³ Commentary: See *Town of Delafield v. Sharpley*, 212 Wis. 2d 332, 568 N.W.2d 779 (Ct. App. 1997, 96-2458)

(k) **Licensing.** The operator of a nonconforming use shall obtain such licenses as may be required by the state of Wisconsin, or its designated agent; Winnebago County; or the town in which the use is located, and maintain such licenses for the life of the use or until the entity no longer requires such license.

23.13-6 Nonconforming conditional uses

(a) **Generally.** Subject to the requirements in division 6 of article 7, except as modified in this section, a nonconforming use may be determined to be a conditional use.

(b) **Special review criteria.** In addition to the review criteria in division 5 of article 7, the town board and town plan commission of the town in which the nonconforming use is located in making their recommendation and the Planning and Zoning Committee in making its decision shall make the following determinations:

- (1) The nonconforming use will not be adverse to the public health, safety, or welfare.
- (2) The nonconforming use is in keeping with the spirit and intent of this chapter.
- (3) The nonconforming use would not be otherwise detrimental to the area and in particular the surrounding properties.

(c) **Expansion and change in a nonconforming conditional use.** If a nonconforming use is approved as a conditional use, it is not subject to the restrictions contained in this article. Any proposed expansion or change in a nonconforming conditional use shall be reviewed as an amendment to the initial approval.

23.13-7 Special provisions for nonconforming boathouses

The ordinary maintenance and repair of a nonconforming boathouse which extends beyond the ordinary high-water mark shall comply with s. 30.121, Wis. Stats.

23.13-8 Special provisions for nonconforming signs

(a) **Changes to copy.** The copy of a nonconforming sign may be changed.

(b) **Off-premise sign.** A nonconforming off-premise sign that exceeds the maximum sign area allowed in this chapter and that has a static message display shall not be converted, in whole or in part, to an electronic message display, unless the sign owner agrees to remove 5 existing nonconforming off-premise signs that exceed the maximum sign area provided (1) the sign area of the sign to be removed is at least 80 percent of the area of the sign to be converted, (2) the sign to be removed is located within 3 miles of the sign to be converted, (3) the sign to be removed is completely removed before work commences on the sign to be converted, and (4) the site of the removed sign is restored to the satisfaction of the zoning administrator.

23.13-9 Special provisions for nonconforming outdoor shooting ranges

An outdoor shooting range that is a nonconforming use in the zoning district in which it is located may be expanded only if the Board of County Supervisors determines that such expansion would not impact public health or safety.¹⁴⁴

23.13-10 Special provisions for nonconforming mobile homes and manufactured homes

Any mobile home on a lot of record that is not located in the R-8 zoning district may be replaced with a manufactured home. Any manufactured home on a lot of record that is not located in the R-8 zoning district may be replaced with a manufactured home.

23.13-11 Special provisions for non-conforming residential uses

Any non-conforming residential use in any district shall not exceed the R-1 standards when determining the allowable accessory structure area.

¹⁴⁴Commentary: See s. 66.0409(4)(c), Wis. Stats.

ARTICLE 14 ENFORCEMENT

Sections

23.14-1	Legislative findings	23.14-5	Enforcement procedure
23.14-2	Authority for enforcement	23.14-6	Notice of violation
23.14-3	Actions constituting violation	23.14-7	Stop work order
23.14-4	Enforcement of conditions of approval imposed by a town	23.14-8	Other remedies
		23.14-9	Penalties

23.14-1 Legislative findings

The Board of County Supervisors makes the following legislative findings:

- (1) State law gives the county the authority to ensure compliance with this chapter.
- (2) The county reserves all rights and remedies provided by state and federal law to ensure compliance.

23.14-2 Authority for enforcement

Pursuant to s. 59.69(5), Wis. Stats., the county has the authority to enforce the provisions of this chapter.

23.14-3 Actions constituting a violation

Each separate action that is not in full compliance with this chapter or with a condition or requirement of a permit or an order issued pursuant to this chapter shall constitute a separate and distinct violation.

23.14-4 Enforcement of conditions of approval imposed by a town

The county shall not be responsible for the enforcement of any condition of approval that is included in a development order that is imposed by a town. The town imposing such condition of approval may pursue enforcement as may be allowed by town rule or state law.

23.14-5 Enforcement procedure

(a) **Investigation.** After observing or receiving a complaint of an alleged violation, the zoning administrator shall investigate to determine if in fact a violation does exist. If the property owner does not allow the zoning administrator or any authorized agent of the county the right to enter the subject property for the purpose of determining whether a violation exists or not, he or she may proceed to obtain a special inspection warrant from the court pursuant to s. 66.0119, Wis. Stats.

(b) **Notification of compliance.** If the administrator determines that a violation does not exist, he or she shall notify the complainant explaining his or her finding.

(c) **Notification of violation.** If the administrator determines that a violation does exist, he or she, in consultation with the county's corporation counsel, shall send a written notice as described herein to the property owner.

(d) **Issuance of stop work order.** If the violation involves construction or any land development activity the zoning administrator shall:

- (1) send a stop work order, as described in this part, by certified mail to the property owner or deliver it in person to the property owner, contractor, builder, or any other person engaged in work covered by the order; and
- (2) post a stop work order in a prominent location on the site.

(e) **Lifting of stop work order.** Upon substantial evidence that the violation has been removed or otherwise corrected, the administrator shall lift the stop work order.

(f) **Initiation of court action.** If work does not immediately cease on the premises, except to ensure compliance, or if the violation is not remedied within 30 days of the written notice, the administrator shall work with the county's corporation counsel to initiate court action as provided by in this part and as allowed by state law.

23.14-6 Notice of violation

- (a) **Content.** The notice of violation shall include the following:
- (1) a description of the violation;
 - (2) the section(s) of this chapter being violated;
 - (3) a statement describing the measures that would remedy the violation;
 - (4) the date by which the violation must be remedied and when a stop work order shall be issued if the violation is not remedied; and
 - (5) information concerning penalties for continued non-compliance.
- (b) **Effect of violation notice.** Once a violation notice has been issued pursuant to this article:
- (1) all construction or any land development activity directly related to the violation, except that which is done to ensure compliance, shall cease. All other work that is in compliance may continue; and
 - (2) the county shall not issue any other permits or approvals for any development on the premises that is directly related to the violation.

23.14-7 Stop work order

(a) **Content.** A stop work order shall state the section of the county code being violated, the name of an individual who should be contacted along with his or her work telephone number, a statement that all work on the premises must cease immediately until the zoning administrator rescinds the stop work order, and that removal of the stop work order constitutes a violation of this chapter.

(b) **Effect of stop work order.** Once a stop work order has been issued pursuant to this division:

- (1) all work on the premises shall cease until such time as it is lifted; and
- (2) the county shall not issue any other permits or approvals for any development on the premises until such time as the order has been lifted.

(c) **Unauthorized removal of stop work order.** No person, other than a county official or employee who is authorized to do so, shall remove a stop work order from the location it was posted. The removal of a stop work order by a person without authority to do so constitutes a violation of this chapter.

23.14-8 Other remedies

The county or any aggrieved person may apply to a court of competent jurisdiction for temporary or permanent injunctive relief to enjoin and restrain any person violating a provision of this chapter and exercise all other rights and remedies provided by law or in equity.

23.14-9 Penalties

Any person who violates this chapter shall be subject to a forfeiture as provided for in this section per violation along with the costs of prosecution. Any such person in default of payment of such forfeiture shall be imprisoned in the county jail for not more than 6 months. Payment of a forfeiture does not relieve the person from complying with this chapter. Each and every day the violation continues shall constitute a separate offense. In addition, Winnebago County adopts the citation system of enforcement of this chapter pursuant to s. 66.0113, Wis. Stats.

Cost pursuant to issued citation

Failure to obtain a permit or other approval as required – \$200.00 plus court costs as may be allowed

All other violations of this chapter – \$300 plus court costs as may be allowed

Cost pursuant to non-citation initiated civil complaint – not less than \$200.00 or more than \$1,000.00 plus court costs and cost of prosecution as may be allowed

ARTICLE 15**TOWN/COUNTY ZONING ORDINANCE 23.15****23.15 WINNEBAGO COUNTY CONSTRUCTION SITE EROSION CONTROL AND STORMWATER MANAGEMENT ORDINANCE**

AN ORDINANCE TO CREATE CHAPTER 23.15, SECTION A, OF THE GENERAL CODE OF THE COUNTY OF WINNEBAGO RELATING TO THE CONTROL OF CONSTRUCTION SITE EROSION AND SECTION B OF THE GENERAL CODE OF THE COUNTY OF WINNEBAGO RELATING TO THE CONTROL OF STORM WATER RUNOFF FROM LAND DEVELOPMENT AND LAND REDEVELOPMENT

The Winnebago County Board does hereby ordain that Chapter 23.15, Section A and Section B are created to read as follows:

Sections

S.ii GENERAL SECTION PROVISIONS	S.04 FEE SCHEDULE
S.01 AUTHORITY	S.05 ENFORCEMENT
S.02 FINDINGS AND PURPOSE	S.06 APPEALS
S.03 APPLICABILITY OF ORDINANCE	S.07 DEFINITIONS

S.ii GENERAL SECTION PROVISIONS

- (1) Although Section 23.15 may be printed, and/or used as a separate ordinance, it is part of the Winnebago County Town/County Zoning Ordinance and provisions of other sections not in conflict with this section remain applicable.
- (2) This Ordinance shall be in force and effect upon the date following its date of publication.
- (3) Where a permit may be required under either Section A, or Section B, or both, the administering authority shall determine whether a separate or combined permit shall be required.
- (4) Any permit required by this section shall be issued prior to the issuance of any other zoning permit, building permit, or sanitary permit.
- (5) Intergovernmental agreements pursuant to State Statutes regarding the administration of this ordinance may be approved by the Winnebago County Board of Supervisors provided (a) that the prospective administering body has an ordinance at least as restrictive as this ordinance as determined by Winnebago County, and/or (b) that the prospective administering body provides satisfactory evidence, as determined by Winnebago County, to Winnebago County of an ability to administer this ordinance, or an equally restrictive ordinance. Evidence of “an ability to administer” may include contractual arrangements, and shall also provide that a contractual or employment arrangement prohibits a contractor or employee from reviewing their own work.

S. 01 AUTHORITY

This ordinance is adopted by the Winnebago County Board under the authority granted by S. 59.693, S 101.65(1)(a) and S. 101.651(3m), and S. 101.653, Wisconsin Statutes. This ordinance supersedes all conflicting and contradictory storm water management regulations previously enacted under S. 59.69 and S. 236 Wisconsin Statutes. Except as specifically provided for in S. 59.693, Wisconsin Statutes, S. 59.69 and 59.99, Wisconsin Statutes applies to this ordinance and to any amendments to this ordinance.

- (1) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the Winnebago County Board of Supervisors.
- (2) The Winnebago County Board hereby designates the Planning & Zoning Committee to administer and enforce the provisions of this ordinance.
- (3) The requirements of this ordinance do not pre-empt more stringent storm water management requirements that may be imposed by any of the following:

- (a) Department of Natural Resources administrative rules, permits or approvals including, but not limited to those authorized under S. 283.33 Wisconsin Statutes.
- (b) Targeted non-agricultural performance standards promulgated in rules by the Department of Natural Resources under Chapter NR 151, Wisconsin Admin. Code.
- (c) Technical standards for implementing non-agricultural performance standards developed by the Department of Natural Resources under Chapter NR 151, Wisconsin Admin. Code.

S. 02 FINDINGS, PURPOSE and INTENT

FINDINGS

The Winnebago County Board of Supervisors finds that runoff from land-disturbing construction activity carries a significant amount of sediment and other pollutants to the waters of the State and Winnebago County; and,

Further finds that uncontrolled storm water runoff from land development and land redevelopment activity has a significant impact upon water resources and the health, safety and general welfare of the community, and diminishes the public enjoyment and use of natural resources. Specifically, uncontrolled storm water runoff can:

- (1) Degrade physical stream habitat by increasing stream bank erosion, increasing streambed scour, diminishing groundwater recharge, diminishing stream base flows and increasing stream temperature;
- (2) Diminish the capacity of lakes and streams to support fish, aquatic life, recreational and water supply uses by increasing loadings of sediment, suspended solids, nutrients, heavy metals, bacteria, pathogens and other urban pollutants;
- (3) Alter wetland communities by changing wetland hydrology and by increasing pollutant loads;
- (4) Reduce the quality of groundwater by increasing pollutant loading;
- (5) Threaten public health, safety, property, and general welfare by overtaxing storm sewers, watercourses, and other minor drainage facilities;
- (6) Threaten public health, safety, property, and general welfare by increasing major flood peaks and volumes; and,
- (7) Undermine floodplain management efforts by increasing the incidence and levels of flooding.

PURPOSE

(1) It is the purpose of Section A of the ordinance to preserve natural resources; to protect the quality of the waters of the State and the County; and to protect and promote the health, safety and welfare of the people, to the extent practical, by minimizing the amount of sediment and other pollutants carried by runoff or discharge from land disturbing construction activity to lakes, streams and wetlands; and,

(2) It is the purpose of section B of the ordinance is to set forth long-term, post-construction storm water requirements and criteria which will diminish the threats to public health, safety, welfare, and the aquatic environment due to runoff of storm water from land development and land redevelopment activity. The specific purposes of this section of the ordinance are to:

- (a) Further the maintenance of safe and healthful conditions of the land and water resources of the County;
- (b) Prevent and control the adverse effects of storm water, prevent and control soil erosion, prevent and control water pollution, and protect spawning grounds, fish, and aquatic life;
- (c) Control exceedance of the safe capacity of existing drainage facilities and receiving water bodies; prevent undue channel erosion; control increases in the scouring and transportation of particulate matter; prevent conditions that endanger downstream property;
- (d) Control building sites, placement of structures, and land uses, and promote sound economic growth.

INTENT

It is the intent of the Winnebago County Board of Supervisors that this ordinance manages the long-term, post-construction storm water discharges from land development and land redevelopment activities.

S. 03 APPLICABILITY OF ORDINANCE

This ordinance applies to land-disturbing construction activity, new land development, and all land redevelopment activity located within the boundaries and jurisdiction of the unincorporated portion of Winnebago County. The provisions of Section B do not apply to agricultural activity as defined herein. Any area affected by the provisions of this ordinance shall not be exempt from applicability by reason of annexation or incorporation unless the annexing or incorporating municipality maintains and enforces an ordinance that is equally restrictive as this ordinance in accordance with the provisions of S. 59.693(10), Wisconsin Statutes.

MAPS. Where any map is referred to in this ordinance and said map is a digital compilation within the Winnebago County Geographic Information System (WINGS), said digital map shall be the regulatory map for purposes of enforcement of this ordinance.

S. 04 FEE SCHEDULE / FINANCIAL GUARANTEE

- (a) The fees referred to in other sections of this ordinance shall be established by Winnebago County Board of Supervisors and may from time to time be modified by resolution. All “after the fact” fees shall be doubled.
- (b) Where more than one permit is required, the permittee shall be required to pay the amount required for each permit.
- (c) The financial guarantees referred to in other sections of the ordinance are in addition to permit fees and required escrow amounts and shall be as determined within the applicable section. If a financial guarantee is required in more than one section, the administering authority shall determine the total amount of the required guarantee, whether as a single or combined amount.

S. 05 ENFORCEMENT

- (1) Any land-disturbing construction activity, land development, or land redevelopment activity, hereinafter activity, initiated after the effective date of this ordinance by any person, firm, association, or corporation subject to the ordinance provisions shall be deemed a violation unless conducted in accordance with the requirements of this ordinance. The term violation includes without limitation due to enumeration such things as failure to obtain a permit where required, failure to implement approved plans in a good faith manner, failure to comply with conditions of a permit issued, or failure to cease activity as required in a stop-work order posted under this ordinance.
- (2) The administering authority shall notify the responsible owner or operator by certified mail of any non-complying activity. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, and additional enforcement action that may be taken.
- (3) Upon receipt of written notification from the administering authority under subsection (2), the permit holder, or landowner, shall obtain a permit where required, and/or correct work which does not comply with an approved plan or other provisions of a permit. The permit holder, or landowner, shall make corrections as necessary to meet the specifications and schedules set forth by the administering authority in the notice.
- (4)
 - (a) The administering authority is authorized to post a stop work order on all activity in violation of this ordinance. When such a stop work order has been posted, it shall have the effect of causing the original permit to be revoked and in all cases, it shall be unlawful for any further work to proceed until the permit is either issued or reinstated. . It shall further be unlawful to remove such stop work order without the direct authorization of the administering authority.
 - (b) After posting a stop-work order, the administering authority may issue a notice of intent to the permittee or landowner or land user of its intent to perform work necessary to comply with this ordinance. The administering authority may then go on the land and commence the work. The costs of the work performed by the administering authority, plus interest at the rate authorized by administering authority shall be billed to the permittee or the landowner. Where the violation of the ordinance is likely to result in damage to properties, public facilities, or waters of the state, and after issuing the notice of intent, the administering authority may enter the land and take emergency actions necessary to prevent such damage, and bill such work in the manner previously described.

- (c) In the event a permittee or landowner fails to pay the amount due, the clerk shall enter the amount due on the tax rolls and collect the amount plus any interest thereupon as a special charge against the property pursuant to Section 66.60(16), Wisconsin Statutes.
- (5) The administering authority may revoke a permit issued under this ordinance for noncompliance with ordinance provisions.
- (6) Any permit revocation, stop work order, or cease and desist order shall remain in effect unless retracted by the administering authority or by a court with jurisdiction.
- (7) If the landowner or land user where no permit has been issued does not cease the activity after being notified by the administering authority or if a landowner violates a stop-work order posed under sub. (1), the administering authority is authorized to refer any violation of this ordinance, or of a stop work order or cease and desist order issued pursuant to this ordinance to the Corporation Counsel to obtain a cease and desist order or to commence further legal proceedings in any court with jurisdiction.
- (8) Any person, firm, association, or corporation who does not comply with the provisions of this ordinance, or fails to cease activity as required in a stop-work order posted under this section, or fails to comply with any approved plan or permit, shall be subject to a forfeiture of not less than [500] dollars nor more than [1,000] dollars per offense, together with the costs of prosecution. Every violation of this ordinance is a public nuisance and each day that the violation exists shall constitute a separate offense.
- (9) Compliance with this ordinance may be enforced by injunctive order by Winnebago County pursuant to S. 59.69(11), Wisconsin Statutes. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings.

S.06 APPEALS

An appeal to the provisions of Section 23.15 shall be done in accordance with the provisions of Section 23, Winnebago County Town/County Zoning Ordinance.

S. 07 DEFINITIONS

- (1) **“Administering authority”** means the governmental employees or their designees empowered under S. 59.693, Wisconsin Statutes to administer this ordinance. For the purpose of this ordinance the administering authority is the Planning and Zoning Department under guidance from the Planning and Zoning Committee.
- (2) **“Agricultural activity”** means planting, growing, cultivating and harvesting of crops for human or livestock consumption, the pasturing or yarding of livestock, sod farms and tree nurseries. For the purposes of Section A, Erosion Control, the term also includes tiling, and construction or expansion of facilities related to normal activities performed as part of a farming operation, i.e., only those facilities for which erosion control is addressed by Chapter 13, County Code.
- (3) **“Best management practice” or “BMP”** means a practice, technique or measure which is determined to be an effective means by the Planning & Zoning Department of preventing or reducing runoff pollutants to waters of the state, to a level compatible with the performance standards in S. 15 and the pollution control requirements in S. 10(2) of this ordinance.
- (4) **“Business day”** means a day the office of the Planning & Zoning Department is routinely and customarily open for business.
- (5) **“Cease and desist order”** means a court-issued order to halt land development and land redevelopment activity that is being conducted without the required permit.
- (6) **“Common plan of development or sale”** means an area where multiple separate and distinct land developing activities may be taking place at different times on different schedules but under one plan.
- (7) **“Construction site”** means an area upon which one or more land-disturbing construction activities are occurring, including areas that are part of a larger common plan of development or sale where multiple separate and distinct land-disturbing construction activities may be taking place at different times on different schedules but under one plan.
- (8) **“Design storm”** means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency and total rainfall depth.

- (9) **"Detention Pond"** means a depression in the land surface designed to temporarily detain or hold back storm water and release the water at a specified flow rate or rates. A detention pond may also be designed to reduce nonpoint source pollution.
- (10) **"De-watering"** means any process, including pumping or ditching, by which excess water is removed from a site as part of the construction process.
- (11) **"Discharge volume"** means the quantity of runoff discharged from the land surface as the result of a rainfall event.
- (12) **"DSPS"** means the Department of Safety and Professional Services.
- (13) **"Erosion"** means the detachment and movement of soil, sediment or rock fragments by water, wind, ice, or gravity.
- (14) **"Erosion and sediment control plan"** means a comprehensive plan developed to address pollution caused by soil erosion and sedimentation during construction.
- (15) **"Extent practical"** means a level of implementing best management practices in order to achieve a performance standard, which takes into account the best available technology, cost effectiveness and the degree, or extent to which best management practices can be implemented. Extent practical allows flexibility in the means to meet the performance standards and will vary based upon the performance standard and site conditions.
- (16) **"Extra-territorial"** means the unincorporated area within 3 miles of the corporate limits of a first, second, or third class city, or within 1½ miles of a fourth class city or village.
- (17) **"Final stabilization"** means the completion of all land disturbing construction activities at a construction site and that a perennial vegetative cover has been established throughout the construction site with a density of 70% of the cover for the unpaved areas and areas not covered by permanent structures. If a perennial vegetative cover has not been used, an equivalent permanent stabilization measure must have been approved for use by the administering authority and installed as required.
- (18) **"Financial guarantee"** means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted by the permit holder to the administering authority, in an amount and format approved by the administering authority, to assure that requirements of the ordinance are carried out in compliance with the storm water management plan.
- (19) **"Impervious surface"** means a land cover that releases as runoff all or a large portion of the precipitation that falls on it. Rooftops, sidewalks, driveways, parking lots, gravel, and streets are examples of surfaces that typically are impervious.
- (20) **"Infiltration"** means the process by which rainfall or surface runoff passes into or through the underlying soil.
- (21) **"Land development activity"** means the act or process of changing land through the construction of buildings, parking lots, roads, landscaping, etc. which causes a change in the amount, rate, or quality of storm water runoff from the land.
- (22) **"Land disturbing construction activity"** means any man-made disturbance of the land surface resulting in a change in the topography, existing vegetative and non-vegetative soil cover or the existing soil topography which may result in storm water runoff and lead to increased soil erosion and movement of sediment into waters of the state. Land-disturbing construction activity includes, but is not limited to clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities, but does not include agricultural or silviculture activities. Specific applicability is noted at S.10(1).
- (23) **"Landowner"** means any person holding title to land.
- (24) **"Land user"** means any person operating, leasing, renting, or having made other arrangements with the landowner by which the landowner authorizes use of his or her land.
- (25) **"Maintenance agreement"** means a legal document that is filed with the County Register of Deeds as a property deed restriction, and which provides for long-term maintenance of storm water management practices.
- (26) **"Municipal storm sewerage facility"** means catch basins, storm sewer pipes, pumps, and lift stations.

- (27) **“Municipality”** means a town, county, village, or city.
- (28) **“Non-domestic agricultural structure”** means a building or impervious surface designed to store machinery and/or harvested crops in any form, including machine sheds, grain bins, and silage pads. This definition does not include vertical silos, dairy barns, or any other building categorized as an “animal lot” as defined in the Livestock Waste Management Ordinance, Chapter 13, Winnebago County General Code.
- (29) **“Non-storm discharge”** means a discharge to the storm sewer system created by some process other than storm water runoff.
- (30) **“Non-structural measure”** means a practice, technique, or measure to reduce the volume, peak flow rate, or pollutants in storm water that does not require the design or installation of fixed storm water management facilities.
- (31) **“Off-site”** means located outside the property boundary described in the permit application for land development or land redevelopment activity.
- (32) **“Other than residential development”** means development that is not one or two family residential. This includes the following land uses: multi-family residential (more than 2 dwelling units on a single property) commercial, industrial, government and institutional, recreation, transportation, communication, and utilities, and the construction or expansion of facilities related to normal activities performed as part of a farming operation including but not limited to buildings, paved areas, etc.
- (33) **“On-site”** means located within the property boundary described in the permit application for the land development or land redevelopment activity including the entire area of the tax parcel wherein the activity will occur.
- (34) **“P8” (Program for Predicting Polluting Particle Passage through Pits, Puddles & Ponds)** means a model for predicting the generation and transport of stormwater runoff pollutants in urban watersheds.
- (35) **“Peak flow discharge rate”** means the maximum unit volume of storm water discharged during a specified unit of time. Atlas 14 rainfall intensities with appropriate MSE3 or MSE4 rainfall distribution shall be used for peak flow calculations.
- (36) **“Performance standard”** means a measurable number or measurable narrative for a pollution source specifying the acceptable outcome for a facility or practice.
- (37) **“Permit”** means a written authorization made by the administering authority to the applicant to conduct land development or land redevelopment activities.
- (38) **“Permit administration fee”** means a sum of money paid to the administering authority by the permit applicant for the purpose of recouping the expenses incurred by the authority in administering the permit, including but not limited to application review, issuance where appropriate, and inspections.
- (39) **“Pervious surface”** means a surface that infiltrates rainfall. Lawns, fields and woodlands are examples of pervious surfaces.
- (40) **Post-construction storm water discharge”** means any storm water discharged from a site following the completion of land disturbing construction activity and final site stabilization.
- (41) **“Post-development condition”** means the extent and distribution of land cover types anticipated to occur under conditions of full development, which will influence storm water runoff and infiltration.
- (42) **“Pre-development condition”** means the extent and distribution of land cover types present before the initiation of land development or land redevelopment activity.
- (43) **“Redevelopment”** means new development that is replacing older development. Redevelopment in this ordinance only applies when the activity will increase the impervious area or projects requiring an NOI that was filed on or after January 1, 2011.
- (44) **“Right-of-way”** means the area of a road within which the ditch, shoulder, and paved area are located. The right-of-way distance may be as defined or dedicated on a plat, certified survey map, or other recorded instrument.

- (45) **“Road”** means a public or private right-of-way of a street, road, highway land, access easement, etc., which provides access to more than one parcel or principal structure.
- (46) **“Road Construction”** includes all construction-type activities occurring within the road right-of-way, including without limitation such things as shouldering, ditching, etc..
- (47) **“Runoff”** means the rainfall, snowmelt, or irrigation water flowing over the ground surface.
- (48) **“Single lot activity”**: a stormwater plan for a land development activity on a single lot where a lesser degree of detail may be required for review. The plan will normally not require engineering data. Also known commonly as a single lot drainage plan.
- (49) **“Site”** means the entire area included in the legal description of the land upon which the land- disturbing construction activity is proposed in the permit application and further includes the entire tax parcel and deed area affected.
- (50) **“Site restriction”** means any physical characteristic, which limits the use of a storm water best management practice or management measure.
- (51) **“SLAMM”** means Source Loading and Management Model, a stormwater evaluation technique, developed for the Environmental Protection Agency (EPA), and used to evaluate the effectiveness of stormwater control.
- (52) **“Stop work order”** means an order issued by the administering authority that requires that all construction activity on the site be stopped.
- (53) **“Storm water management plan”** means a document that identifies what actions must be taken to reduce storm water quantity and pollutant loads from land development and land redevelopment activity to levels that meet the purpose and intent of this ordinance.
- (54) **“Storm water management system plan”** is a comprehensive plan developed to address storm water drainage and nonpoint source pollution control problems on a watershed or sub-watershed basis, and which meets the purpose and intent of this ordinance.
- (55) **“Storm water runoff”** means that portion of the precipitation falling during a rainfall event, or that portion of snowmelt, that runs off the surface of the land and into the natural or artificial conveyance or drainage network.
- (56) **“Structure”**, as used in the context of construction or building, means any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground which includes but is not limited to such objects as roofed and/or walled buildings, non-domestic agricultural structures, storage tanks, bridges, culverts, etc. and may include such things as fences or signs. The term also includes fill or filling which is the act by which earth, sand, gravel, rock or any other material is deposited, placed, replaced, pushed, dumped, pulled, transported or moved by man to a new location and shall include the conditions resulting there from.
- (57) **“Structural measure”** means any physical practice or conveyance measures and end-of-pipe treatment that are designed to control storm water runoff pollutant loads, discharge volumes, and/or peak flow discharge rates.
- (58) **“Storm sewer system”** means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains which is designed for collecting water or conveying storm water.
- (59) **“TR-55”** means the United States Department of Agriculture Natural Resources Conservation Service(formerly Soil Conservation Service), Urban Hydrology for Small Watersheds, Second Edition, Technical Release 55, June 1986, which is incorporated by reference for this chapter.
- (60) **“Waters of the State”** means those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within Wisconsin or its jurisdiction.
- (61) **“Watercourse”** means a natural or artificial channel through which water flows and is identified on the official Winnebago County watercourse map, dated January 1, 2002 or subsequent revisions thereto and new channels that are created as part of a development that may not be on the existing map. The term watercourse includes

waters of the state as herein defined. Additions or deletions to the map must be field verified by the administering authority. Additionally, when a watercourse is moved, any requirements related to the watercourse move with the water. The watercourse map is on file and maintained by Winnebago County Geographic Information System (WINGS).

- (62) **“Watershed”** means an area bounded by a divide in which water drains to a specific point on the land.
- (63) **“Wetland functional value”** means the type, quality, and significance of the ecological and cultural benefits provided by wetland resources, such as: flood storage, water quality protection, groundwater recharge and discharge, shoreline protection, fish and wildlife habitat, floral diversity, aesthetics, recreation, and education.
- (64) **“Wetlands”** means an area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions. These wetlands include but are not limited to natural, mitigated, and restored wetlands. Some wetlands are graphically shown on the DNR Wetland Inventory Maps dated July 5, 1986 or subsequent revisions.
- (65) **“WPDES Storm Water Permit”** means a permit issued by the Wisconsin Department of Natural Resources under S. 283.33 Wisconsin Statutes that authorizes the point source discharge of storm water to waters of the state.

S. 08 DESIGN CRITERIA, STANDARDS AND SPECIFICATIONS FOR BEST MANAGEMENT PRACTICES (BMPs).**Section A**

S.08	DESIGN CRITERIA, STANDARDS AND SPECIFICATIONS FOR BEST MANAGEMENT PRACTICES (BMPs)
S.09	MAINTENANCE OF BMPs
S.10	CONTROL OF EROSION AND POLLUTANTS DURING LAND DISTURBING CONSTRUCTION
S.11	PERMIT – APPLICATION, EROSION AND SEDIMENT CONTROL PLAN, AND PERMIT ISSUANCE
S.12	INSPECTION

All BMPs required to comply with this ordinance shall meet the design criteria, standards and specifications for the BMPs based on accepted design criteria, standards and specifications identified in the following documents, or the most recently adopted version thereof, provided that where a provision of this ordinance requires a greater standard or degree of compliance, the provisions of this ordinance shall control:

- (1) Wisconsin Storm Water Construction technical standards;
- (2) Section IV of the Field Office Technical Guide, published by the USDA-Natural Resources Conservation Service as adopted and maintained by the Winnebago County Land Conservation Committee and Land & Water Conservation Department;
- (3) Technical standards developed and disseminated by the Department of Natural Resources under subchapter V of Chapter NR 151, Wisconsin Admin. Code; and
- (4) Other technical standards published or adopted by the above noted agencies, the Wisconsin Standards Oversight Council or the Winnebago County Land Conservation Committee and Land & Water Conservation Department.

S. 09 MAINTENANCE OF BMPs

All BMP measures necessary to meet the requirements of this ordinance shall be maintained by the applicant for a permit issued under S. 11 or subsequent landowner throughout the duration of the construction activities until the site has undergone final stabilization.

S. 10 CONTROL OF EROSION AND POLLUTANTS DURING LAND DISTURBING CONSTRUCTION ACTIVITY

- (a) **GENERAL APPLICABILITY.** These general applicability provisions apply to the following land-disturbing construction activities, excluding that otherwise regulated by the DSPS under Wisconsin Admin. Code SPS 321.125.
- (b) Those involving grading, removal of protective ground cover or vegetation, excavation, land filling or other activity affecting a surface area of 4,000 square feet or more;
- (c) Those involving excavation or filling or a combination of excavation and filling affecting 400 cubic yards or more of soil, sand, or other excavation or fill material;
- (d) Those involving public or private access drives, street, highway, road, or bridge construction, enlargement, relocation or reconstruction longer than 125 feet;
- (e) Those involving the laying, repairing, replacing or enlarging of an underground pipe or facility for a continuous distance of 100 feet or more. The term pipe or facility includes, but is not limited to, utilities such as telephone, electric, gas, sanitary, storm water, etc.; NOTE: see S.11(5);
Those involving the construction or reconstruction of a continuous distance of 100 lineal feet of road ditch, non-agricultural grass waterway, or other non-agricultural land area where drainage occurs in an open channel;
NOTE: see S.11(5)
- (f) Other land development activities, including access drives, that the administering authority determines have a significant impact.
- (g) Construction of any structure greater than 1000 square feet

- (h) Construction of any addition to a structure greater than 1000 square feet
- (i) Construction of multiple additions and/or structures where the total area combined is greater than 1000 square feet

(2) **EROSION AND OTHER POLLUTANT CONTROL REQUIREMENTS.** An erosion control plan shall ensure, to the extent practical, that soil erosion, siltation, sedimentation, and other offsite impacts from land-disturbing activities are minimized through installation of BMPs pursuant to S.05 of this ordinance. The erosion control plan for permitted sites must incorporate maintenance of existing vegetation, especially adjacent to surface waters whenever possible, minimization of soil compaction and preservation of topsoil, minimization of land disturbing construction activity on slopes of 20% or more and development of spill prevention and response procedures. The BMPs may be located on or off the construction site. In addition, the erosion control plan shall:

- (a) BMPs that, by design, achieve to the maximum extent practicable, a maximum discharge of 5 tons per acre per year of sediment. No person shall be required to exceed a 5 tons per acre per year discharge to meet the requirements of this paragraph. Erosion and sediment control BMPs may be used alone or in combination to meet the requirements of this paragraph. Credit toward meeting the sediment reduction shall be given for limiting the duration or area, or both, of land disturbing construction activity, or other appropriate mechanism.

Note to Users: Soil loss prediction tools that estimate the sediment load leaving the construction site under varying land and management conditions, or methodology identified in subch. V. of ch. NR 151, Wis. Adm. Code, may be used to calculate sediment reduction.

- (b) Notwithstanding par. (a), if BMPs cannot be designed and implemented to reduce the maximum sediment discharge to 5 tons per acre per year, the plan shall include a written and site-specific explanation as to why the maximum sediment discharge of 5 tons per acre per year is not attainable and the sediment load shall be reduced to the maximum extent practicable
- (c) Minimize tracking of sediment from the site onto roads and other paved surfaces. Each site shall have graveled roads, access drives, and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private road shall be removed by cleaning the street, by means other than by flushing, before the end of each workday. Sediment tracked by construction equipment from a site onto a public or private paved road or sidewalk shall be minimized by providing a non-tracking access roadway. The access roadway shall be installed as approved on the plan. The sediment cleanup provisions of (d) below are unaffected by the presence or absence of an access roadway.
- (d) Assure proper use, storage and disposal of chemicals, cement, and other compounds used on construction sites. All building material waste shall be properly managed and disposed of to prevent pollutants and debris from being carried off site by runoff.
- (e) Minimize the discharge of sediment as part of site de-watering. Discharge of sediment as a result of dewatering shall be treated using BMPs.
- (f) Provide for the cleanup of sediments deposited on roadways. By the end of the next working day following the occurrence, clean up off-site sediment deposition occurring as a result of a storm event shall be completed. All other off-site sediment deposition occurring as a result of construction activities shall be cleaned up at the end of the workday.
- (g) Provide storm sewer inlet protection from sedimentation. All downslope storm sewer inlets shall be protected from the intake of sedimentation by filter fabric, hay-type bales, or other suitable measures as may be approved.
- (h) Erosion Control practices shall remain in place until final site stabilization has occurred, the administering authority has approved the stabilization and authorized the removal of the erosion control practices.

S. 11 PERMIT - APPLICATION, EROSION AND SEDIMENT CONTROL PLAN, AND PERMIT ISSUANCE

No landowner or land user may commence a land-disturbing construction activity subject to this ordinance without receiving prior approval of an erosion and sediment control plan for the site and a permit from the administering authority. At least one landowner or land user controlling or using the site and desiring to undertake a land-disturbing construction activity subject to this ordinance shall submit an application for a permit and an erosion and sediment control plan and pay an application fee. By submitting an application, the applicant is authorizing the administering

authority to enter the site to obtain information required for the review of the erosion and sediment control plan, to inspect the property for permit compliance, and to authorize permanent on-site inspection authority for the duration of the permitted activity.

(1) CONTENT OF THE EROSION AND SEDIMENT CONTROL PLAN FOR LAND DISTURBING CONSTRUCTION ACTIVITIES COVERING ONE OR MORE ACRES.

(a) The erosion and sediment control plan shall be prepared in accordance with good engineering practices and the design criteria, standards and specifications outlined in the Wisconsin DNR's Stormwater Construction technical standards.

(b) The erosion and sediment control plan shall address pollution caused by soil erosion and sedimentation during construction and up to final stabilization of the site. The erosion and sediment control plan shall include, at a minimum, the following items. Other information may be required as needed by the permitting authority:

- (1) Description of the site and the nature of the construction activity, including representation of the limits of land disturbance on a Winnebago County G.I.S. Map.
- (2) Description of the intended sequence of major activities that disturb soils for major portions of the site, such as grubbing, excavation or grading.
- (3) Estimates of the total area of the site and the total area of the site that is expected to be disturbed by construction activities.
- (4) Existing data describing the surface soil as well as subsoils.
- (5) Depth to groundwater, as indicated by natural resources conservation service soil information where available.

(c) The erosion and sediment control plan shall include a site map. The site map shall include the following items and shall be at a scale not greater than 100 feet per inch and at a contour interval not to exceed two feet:

- (1) Existing topography, vegetative cover, natural and engineered drainage systems, roads and surface waters. Lakes, streams, wetlands, channels, ditches and other watercourses on and immediately adjacent to the site shall be shown. Any identified 100-year flood plains, flood fringes and flood ways shall also be shown.
- (2) Boundaries of the construction site.
- (3) Drainage patterns and approximate slopes anticipated after major grading activities.
- (4) Areas of soil disturbance.
- (5) Location of structural and non-structural BMPs identified in the plan.
- (6) Location of areas where stabilization practices will be employed.
- (7) Areas that will be vegetated following construction.
- (8) Area extent of wetland acreage on the site and locations where storm water is discharged to a surface water or wetland.
- (9) Locations of all surface waters and mapped wetlands within one mile of the construction site.
- (10) Any other features required by the administering authority for a proper evaluation of the site.

(d) Each erosion and sediment control plan shall include a plan view sheet and a description of appropriate controls and measures that will be performed at the site to prevent pollutants from reaching waters of the state. The plan shall be at the same scale as the existing site map and shall clearly show the site changes. The plan shall clearly describe the appropriate control measures for each major activity and the timing during the construction process when the measures will be implemented. The description of erosion controls shall include, when appropriate, the following minimum requirements:

- (1) Description of interim and permanent stabilization practices, including a practice implementation schedule. Site plans shall ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized.

- (2) Description of structural practices to divert flow away from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from the site.
- (3) Management of overland flow at all sites, unless otherwise controlled by outfall controls.
- (4) Trapping of sediment in channelized flow.
- (5) Staging construction to limit bare areas subject to erosion.
- (6) Protection of down slope drainage inlets where they occur.
- (7) Minimization of tracking at all sites.
- (8) Clean up of off-site sediment deposits.
- (9) Proper disposal of building and waste materials at all sites.
- (10) Stabilization of drainage ways.
- (11) Control of erosion from soil stockpiles.
- (12) Installation of permanent stabilization practices as soon as possible after final grading.
- (13) Minimization of dust to the extent practical.

(e) Velocity dissipation devices shall be placed at discharge locations and along the length of any outfall channel as necessary to provide a non-erosive flow from the structure to a watercourse so that the natural physical and biological characteristics and functions are maintained and protected.

Note: The plan requirements of this subsection will meet the plan requirements of Chapter NR 216.46, Wisconsin Admin. Code, when prepared in accordance with good engineering practices and the design criteria, standards and specifications outlined in the most recent Wisconsin DNR publication. This is important for municipalities seeking to develop a "Qualifying Local Program" under phase 2 of the federal storm water permit program. Qualifying local programs will also be required to impose, either through this ordinance or a storm water management ordinance, storm water management plan requirements consistent with Chapter NR 216.47, Wisconsin Admin. Code.

(2) **CONTENT OF THE EROSION AND SEDIMENT CONTROL PLAN STATEMENT FOR LAND DISTURBING CONSTRUCTION ACTIVITIES COVERING LESS THAN ONE ACRE.** A control plan statement (with simple map) that briefly describes the site and best management practices (including the site development schedule) that will be used to meet the requirements of the ordinance shall be submitted to the administering authority.

(3) **REVIEW OF ALL EROSION AND SEDIMENT CONTROL PLAN.** The administering authority shall review any permit application that is submitted with an erosion and sediment control plan or control plan statement, and the required fee. The following approval procedure shall be used:

- (a) Within 30 days of receipt of the application, erosion and sediment control plan or control plan statement, and fee, the administering authority shall review the application and control plan and inform the applicant whether the application is approved, conditionally approved, or disapproved.
- (b) If the requirements of this ordinance are met, the administering authority shall issue the permit.
- (c) If the conditions are not met, the administering authority shall inform the applicant in writing and may either require additional information or disapprove the plan.
- (d) The administering authority may request additional information from the applicant. If additional information is submitted, the administering authority shall have 10 working days from the date the additional information is received to inform the applicant that the application is approved, conditionally approved, or disapproved.
- (e) Failure by the administering authority to inform the permit applicant of a decision within the specified number of business days of a required submittal shall be deemed to mean approval of the submittal, and the applicant may proceed as if a permit had been issued. In this instance the applicant shall comply with the plan as submitted.

(4) **PERMITS.**

- (a) **DURATION.** Permits issued under this section shall be valid for a period of 1 year from the date of issuance. The administering authority may extend the permit one time for up to an additional 180 days. The

administering authority may require additional BMPs as a condition of the extension if they are necessary to meet the requirements of this ordinance.

- (b) **FINANCIAL GUARANTEE.** As a condition of approval and issuance of the permit, the administering authority may require the applicant to submit a financial guarantee, the form, and type of which shall be acceptable to the administering authority. The financial guarantee shall be in an amount determined by the administering authority to be the estimated cost of implementing the approved erosion control plan and any permit conditions for the duration of the construction activity and until final site stabilization.
- (c) **RELEASE OF FINANCIAL GUARANTEE.** The administering authority shall release the portion of the financial guarantee established under this section, less any cost incurred by the administering authority to implement erosion control measures, following the final site stabilization and verification of said stabilization by the administering authority.
- (d) **Permit conditions.** All permits shall require the permittee to:
 - (1) Notify the administering authority within 3 days of commencing any land disturbing construction activity.
 - (2) Notify the administering authority of completion of any BMPs within 3 days after their installation.
 - (3) Obtain permission in writing from the administering authority prior to modifying the erosion and sediment control plan
 - (4) Install all BMPs as identified in the approved erosion and sediment control plan;
 - (5) Maintain all road drainage systems, stormwater drainage systems, BMPs and other facilities identified in the erosion and sediment control plan.
 - (6) Repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land disturbing construction activities and document repairs in a site erosion control log.
 - (7) Inspect the BMPs after each rain of 0.5 inches or more and at least once each week, make needed repairs and document the findings of the inspections in a site erosion control log with the date of inspection and the name of the person conducting the inspection.
 - (8) Allow the administering authority to enter the site for the purpose of inspecting compliance with the erosion and sediment control plan or for performing any work necessary to bring the site into compliance with the control plan;
 - (9) Keep a copy of the erosion and sediment control plan at the construction site; and
 - (10) Notify the administering authority upon completion of construction phase of a project and that the final site stabilization is in place.

(5) GENERAL PERMITS FOR MUNICIPAL MAINTENANCE OF PUBLIC ROAD DITCHES AND PRIVATE UTILITY WORK PROJECTS

General permits may be issued by the [administering authority] to a municipality for road ditch maintenance along public roads and to private utilities for utility maintenance and siting. The following conditions apply to the issuing of general permits for these purposes:

- (a) General permits may only be issued for a one year period. Road ditch maintenance and utility work shall only take place during the period between April 1 and September 1. After September 1, work must be approved on a case by case basis by the [administering authority]. Permit fees for utility work may differ from those charged per S.08 of this ordinance as determined by the administering authority. No permit fees shall be charged for road ditch maintenance.
- (b) A list of planned road ditch maintenance and utility work must be provided to the administering authority no less than 10 business days prior to work.
- (c) Listed sites must be accompanied with an erosion control plan. The erosion control plan may include generic erosion control practices that are applicable to the proposal.

- (d) The erosion control plan must incorporate erosion control measures for road ditch maintenance and utility work, and be designed using criteria defined in the current edition of Wisconsin Department of Transportation *Facilities Development Manual*.

S. 12 INSPECTION

(1) The administering authority shall inspect any construction site that holds a permit under S. 11 at least once a month during the period starting March 1 and ending October 31 and at least twice during the period starting November 1 and ending February 28 to ensure compliance with the approved sediment and erosion control plan.

(2) If land-disturbing construction activities are being carried out without a permit required by this ordinance, the administering authority may enter the land pursuant to the provisions of ss. 66.0119, Wisconsin Statutes.

23.15, Section B, STORM WATER MANAGEMENT**S.13 TECHNICAL STANDARDS****S.14 STORM WATER PERFORMANCE STANDARDS****S.15 PERMITTING REQUIREMENTS, PROCEDURES AND FEES****S.16 STORM WATER MANAGEMENT PLAN****S.17 MAINTENANCE AGREEMENT****S.18 FINANCIAL GUARANTEE****Section B – Stormwater Management****S. 13 TECHNICAL STANDARDS**

The following methods shall be used in designing the water quantity, water quality, and peak flow shaving and infiltration components of storm water practices needed to meet the water quality standards of this ordinance, provided that where a provision of this ordinance requires a greater standard or degree of compliance, the provisions of this ordinance shall control:

(1) Technical standards developed and disseminated by the Department of Natural Resources under subchapter V of Chapter NR 151, Wisconsin Admin. Code.

(2) Section IV of the Field Office Technical Guide, published by the United States Dept. of Agriculture (USDA)-Natural Resources Conservation Service, as adopted and maintained by the Winnebago County Land Conservation Committee and Land & Water Conservation Department.

(3) Where technical standards have not been developed and disseminated by the Wisconsin Department of Natural Resources, other technical standards may be used provided that the methods have been approved by the administering authority.

(4) Where the administering authority determines that more stringent standards are required than those listed in (1) of this section in order to meet the provisions of this ordinance, the more stringent standards may be required to be used.

S. 14 STORM WATER PERFORMANCE STANDARDS

(1) **STORM WATER DISCHARGE QUANTITY.** Unless otherwise provided for in this ordinance, all new land development and land redevelopment activities subject to this ordinance shall establish on-site best management practices (BMP) to control the peak flow rates of storm water discharged from the site and to preserve base flow in streams. The BMPs shall be designed, installed or applied, and maintained to the maximum extent practicable in accordance with a storm water management plan submitted in accordance with Section S.08 of this ordinance. All of the following standards shall apply to the storm water management plan.

- (a) By design, maintain or lower peak runoff discharge rates as compared to pre-settlement (meadow) conditions for the 1-, 2-, 10- and 100-year, 24-hour design storms applicable to the site, using the Runoff Curve Numbers designated on Table 1 for the appropriate site soil hydrologic group. If TR-55 methodology is not used for the hydrologic calculations, the local administering authority must approve an equivalent methodology.

Table 1 – Maximum Pre-Settlement (Meadow) Runoff Curve Numbers				
Hydrologic Soil Group	A	B	C	D
Runoff Curve Number	30	58	71	78

NOTE: Source of Table 1 is: “Urban Hydrology for Small Watersheds” USDA Technical Release 55; June, 1986

- (b) Discharge velocities must be non-erosive to discharge locations, outfall channels, and receiving streams.
- (c) Infiltration shall be required in accordance with NR151.24(5)
- (d) Where infiltration is employed on a site, groundwater quality shall be protected from pollutants in the storm water. Storm water runoff from industrial manufacturing and fueling and vehicle maintenance areas shall not be directed to infiltration structures.

(2) **STORM WATER DISCHARGE QUALITY.** Unless otherwise provided for in this ordinance, all land development and land redevelopment activities subject to this ordinance shall establish on-site management practices to control the discharge of storm water pollutants. The BMPs shall be designed, installed or applied and maintained, in accordance with a storm water management plan for the long-term control of post-construction storm water discharges, to control total suspended solids and other pollutants carried in runoff. All of the following apply:

- (a) **Sediment Control:** By design, reduce the annual average total suspended solids load in runoff by 80% for new development and 40% for redevelopment as compared to no controls for the site. The sediment reduction shall be accomplished in one of the following ways:
 - (1) For new development, a wet detention basin/pond may be installed to receive storm water runoff from the entire site. The area shall be designed to meet standards contained in the Wisconsin DNR Wet Detention Standard Code 1001 (06/99) or a subsequently adopted version.
 - (2) By any other alternative method acceptable to the approving authority. If a discrepancy exists between the developer and approving authority regarding ability to reach the required sediment reduction using alternative methods, the developer shall use Source Loading and Management Model (SLAMM), P8, or an equivalent methodology to determine percentage of sediment removal. If the administrative authority finds that SLAMM shows that the required reduction will be met with the proposed design then the developer will have reached the sediment control requirements of this ordinance.

If 80% of the total suspended solids load for new development, or 40% of the total suspended solids load for redevelopment will not be controlled from the site by design, then the storm water management plan shall include a reasonable justification for not controlling 80% of the total suspended solids load for new development, or 40% of the total suspended solids load for redevelopment, from the site as compared to no sediment controls.

- (b) **Petroleum and Hydrocarbon Control:** Fueling and vehicle maintenance areas shall have BMP's designed, installed or applied, and maintained to reduce petroleum within runoff, in order that the runoff that enters the waters of the state contains no visible petroleum sheen after the point of treatment. Storm water management devices do not substitute for emergency action spill control plans if required under different regulations.
- (c) **Setback Areas:**
 - (1) A setback shall be provided along all watercourses. Permanent vegetative cover will provide for bank stability, maintenance of fish habitat, and filtering of pollutants from up slope overland flow areas (cover can be mowed lawn). The setback will keep the watercourse open to convey runoff and to provide some flood storage. No structures will be allowed in the buffer/setback area except road and utility crossings, boathouses where adjacent to navigable water, structures which are part of the storm water management plan, and structures allowed by S. 59.692(1v), i.e., the "Gazebo Rule", when adjacent to navigable water.
 - (2) Fill will not be allowed except where approved by the administering authority based on an engineering study of the watercourse that has assessed the impact of the fill on flood storage and flow conveyance. The above-mentioned study must show that the flow from a 100-year rain event is contained within the watercourse setback area.
 - (3) The buffer area shall be provided on each side of the watercourse and the minimum width on each side of the watercourse is as follows. Zoning provisions and Wis. Admin Code Chapter NR 151 (if adopted) may require a greater setback from navigable water.
 - (a) For watercourses within watersheds less than 80 acres, 25 feet from the watercourse centerline.
 - (b) For watercourses within watersheds over 80 acres, 50 foot setback from the Ordinary High Water Mark of navigable waters, or the centerline of the non-navigable watercourse.
 - (c) Lakes –a 50 foot setback from top of the bank shall be provided along all lakes
 - (d) Outstanding Resources Waters and Exceptional Resource Waters -75 ft setback from top of channel.

- (4) Setbacks from Wetlands
 - (a) For 1 and 2 family residential developments within a subdivision or plat that is subject to this ordinance effective June 17, 2003, a 50 foot buffer from wetlands, except in cases when the administering authority deems a larger buffer is necessary. For high quality wetlands such as sedge meadows, open and coniferous bogs, low prairies, calcareous fens, coniferous swamps, lowland hardwood swamps, and ephemeral ponds, a setback of 75 feet.
 - (b) For other than residential development, 50 feet from wetlands except in cases when the administering authority deems a larger buffer is necessary.
 - (c) A larger buffer may be required if deemed necessary by the administering authority based on site characteristics (wetlands in areas of special natural resource interest as specified in NR 103.04, 75 feet)
- (d) Existing wetlands shall not be used to meet any of the requirements of this ordinance unless permitted by the WDNR and/or Army Corp of Engineers.
- (e) Storm water shall not be injected underground through excavations or openings in a manner that would violate Chapter NR 812.05 Wisconsin Admin. Code.
- (f) Storm water ponds and infiltration devices shall not be located closer to water supply wells than as indicated below without first notifying and obtaining approval from the administering authority:
 - (1) 100 feet from a well serving a private water system or a transient, non-community public water system;
 - (2) 1,200 feet from a well serving a municipal public water system, an other-than municipal public water system, or a non-transient non-community public water system,
 - (3) within the boundary of a recharge area to a wellhead identified in a wellhead area protection plan.
- (3) **ALTERNATE REQUIREMENTS.** The administering authority may establish storm water management requirements either more stringent or less stringent than those set forth in subs. (1) and (2) above provided that at least one of the following conditions applies.
 - (a) The administering authority determines that an added level of protection is needed to protect sensitive resources.
 - (b) The administering authority determines that the land development and land redevelopment activity is covered by an approved storm water management system plan or existing conditions allow for management consistent with the purpose and intent of this ordinance.
 - (c) Provisions are made to manage storm water by an off-site facility, provided that all of the following conditions for the off-site facility are met:
 - (1) The facility is in place
 - (2) The facility is designed and adequately sized to provide a level of storm water control equal to or greater than that which would be afforded by on-site practices meeting the performance standards of this ordinance, and
 - (3) The facility has a legally obligated entity responsible for its long-term operation and maintenance.
 - (d) The administering authority finds that meeting the minimum on-site management requirements of this ordinance is not feasible due to space or site restrictions, or other unique conditions, provided that where this section is deemed applicable the maximum possible requirements shall be met.
 - (e) The application is for a non-domestic agricultural structure, or, a structure classified as an animal lot as defined in the Livestock Waste Management Ordinance, Chapter 13, Winnebago County General Code.
 - (f) The permit application is for land development activity on a single lot and the administering authority determines that less stringent requirements are needed for review and approval.

S. 15 PERMITTING REQUIREMENTS, PROCEDURES AND FEES

(1) **PERMIT REQUIRED.** No land owner or land operator may undertake a land development or land redevelopment activity subject to this ordinance without receiving a permit from the administering authority prior to commencing the proposed activity. A permit shall be required for land development or redevelopment which increases impervious surfaces greater than 3000 square feet. The total area of impervious surfaces shall be considered within the area of the parcel(s). Land development activities generally fall into the following categories: commercial, industrial, platted subdivisions, or single lot activities. Stormwater plans for commercial, industrial, subdivisions, will require more detailed information generally provided by an engineer whereas, single lot activities normally will require non-engineered plans. Minor land development activities such as the construction of a fence, minor landscaping, or construction of minor structures (10 x 10 or smaller) may be considered exempt from permit requirements if the administering authority determines that no, or very minimal, adverse impacts will result. The determination of impact shall be based, without limitation, upon criteria such as ponding of water, backing up of water, or a threat to neighboring properties.

(2) **PERMIT APPLICATION AND FEE.** Unless specifically excluded by this ordinance, any land owner or operator desiring a permit shall submit to the administering authority a permit application made on a form provided by the administering authority for that purpose.

- (a) Unless otherwise exempted by this ordinance, a permit application must be accompanied by the following in order that the permit application may be considered for approval by the administering authority: a storm water management plan, a maintenance agreement, and a non-refundable permit administration fee established in S. 04 of this ordinance.
- (b) The storm water management plan shall be prepared to meet the requirements of S. 14 and 16 of this ordinance; the maintenance agreement shall be prepared to meet the requirements of S. 17 of this ordinance; the financial guarantee shall meet the requirements of S. 18 of this ordinance; and fees shall be those established by the Winnebago County Board of Supervisors as set forth in S. 04 of this ordinance.

(3) **REVIEW AND APPROVAL OF PERMIT APPLICATION.** The administering authority shall review any permit application that is submitted with a storm water management plan, maintenance agreement, and the required fee. The following approval procedure shall be used:

- (a) Within 30 days of the receipt of a complete permit application, including all items as required by S. 15(2)(a), the administering authority shall inform the applicant whether the application, plan and maintenance agreement are approved, approved conditionally, or disapproved. The administering authority shall base the decision on requirements set forth in S. 14, S. 15, and S. 17 of this ordinance.
- (b) If the storm water permit application, plan and maintenance agreement are approved, the administering authority shall issue the permit.
- (c) If the storm water permit application, plan or maintenance agreement are disapproved, the administering authority shall detail in writing of the reasons for disapproval.
- (d) The administering authority may request additional information from the applicant. If additional information is submitted, the administering authority shall have 10 business days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved, approved conditionally, or disapproved.
- (e) Failure by the administering authority to inform the permit applicant of a decision within the specified number of business days of a required submittal shall be deemed to constitute an approval of the submittal, and the applicant may proceed as if a permit had been issued. In this instance the applicant shall comply with the plan as submitted.

(4) **PERMIT CONDITIONS.** All permits issued under this ordinance shall be subject to the following conditions, and holders of permits issued under this ordinance shall be deemed to have accepted these conditions. The administering authority may suspend or revoke a permit for violation of a permit condition, following written notification to the permittee:

- (a) Compliance with the permit does not relieve the permit holder of the responsibility to comply with other applicable federal, state, and local laws and regulations.
- (b) The permit holder shall design and install all structural and non-structural storm water management measures in accordance with the approved storm water management plan and the permit.

- (c) The permit holder shall notify the administering authority at least three (3) business days before commencing any work in conjunction with the storm water management plan, and within three (3) business days upon completion of the storm water management practices. If required as a special condition under par. (d), the permit holder shall make additional notification according to a schedule set forth by the administering authority so that practice installations can be inspected during construction.
- (d) Permits issued under this subsection may include any special conditions needed to meet the performance standards in S. 14 or a financial guarantee as provided for in S. 18 of this ordinance. Permits issued as a result of a violation notice may contain conditions necessary to correct the violation, including specifying a timeframe within which certain actions need to be taken.
- (e) Storm water management practices that are constructed as part of this ordinance shall be certified, “as built” by a professional engineer licensed in Wisconsin. Completed storm water management practices must pass a final inspection by the administering authority or its designee to determine if they are in accordance with the approved storm water management plan and ordinance. The administering authority or its designee shall notify the permit holder in writing of any changes required in such practices to bring them into compliance with the conditions of the permit.
- (f) The permit holder shall notify the administering authority of any modifications it intends to make to an approved storm water management plan. The administering authority may require that the proposed modifications be submitted for approval prior to incorporation into the storm water management plan and execution.
- (g) The permit holder shall maintain all storm water management practices in accordance with the storm water management plan until the practices either become the responsibility of a municipality, or are transferred to subsequent private owners as specified in the approved maintenance agreement.
- (h) If so directed by the administering authority the permit holder shall repair at the permit holder’s own expense all damage to adjoining municipal facilities and watercourses caused by storm water runoff, where such damage is caused by activities that are not in compliance with the approved storm water management plan.
- (i) The permit holder shall permit property access to the administering authority or its designee for the purpose of inspecting the property for compliance with the approved storm water management plan and this permit. Permission so granted shall remain in place as specified in the recorded maintenance agreement.
- (j) Where site development or redevelopment involves changes in direction, increases in peak rate and/or total volume of runoff from a site, the administering authority shall require the permittee to make appropriate legal arrangements with affected property owners concerning the prevention of endangerment to property or public safety.
- (k) The permit holder is subject to the enforceable actions detailed in S. 05 of the storm water management ordinance if the permit holder fails to comply with the terms of this permit.

(5) **PERMIT DURATION.** Permits issued under this section shall be valid for one (1) year from the date of issuance. The administering authority may extend the period one time for up to an additional 180 days. Additional conditions may be imposed as a result of the extension as are necessary to achieve compliance with the originally approved plan.

S. 16 STORM WATER MANAGEMENT PLAN

(1) **PLAN REQUIREMENTS.** The storm water management plan required under S. 15(2)(a) of this ordinance shall contain any information the administering authority requires to evaluate the environmental characteristics of the area affected by land development and land redevelopment activity, the potential impacts of the proposed development upon the quality and quantity of storm water discharges, the potential for infiltration of stormwater, the potential impacts upon water resources and drainage utilities, and the effectiveness and acceptability of proposed storm water management measures in meeting the performance standards set forth in this ordinance. Unless specified otherwise by this ordinance, storm water management plans shall contain at a minimum the following information:

- (a) Name, address, and telephone number for the following or their designees: landowner; developer; project engineer for practice design and certification; person(s) responsible for installation of storm water

management practices; person(s) responsible for maintenance of storm water management practices prior to the transfer, if any, of maintenance responsibility to another party.

- (b) A proper legal description of the property proposed to be developed referenced to the U.S. Public Land Survey system or to block and lot numbers within a recorded land subdivision plat as well as the correct tax parcel number, and where applicable, the correct address.
- (c) Pre-development site conditions, including:
 - (1) One or more site maps at a scale of not less than 1 inch equals 100 feet unless otherwise required by the approving authority. The site maps shall show the following: site location and legal property description; predominant soil types and hydrologic soil groups; existing cover type and condition; existing 2 foot contours; proposed elevations; benchmark(s) as required by the approving authority; topography and drainage network including enough of the contiguous properties to show runoff patterns onto, through and from the site; watercourses that may affect or be affected by runoff from the site; flow path and direction for all storm water conveyance sections, including time of travel and time of concentration applicable to each; watershed boundaries used in determinations of peak flow discharge rates and discharge volumes from the site; lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site; limits of the 100 year floodplain; location of wells located within 1,250 feet of storm water detention ponds, infiltration basins, or infiltration trenches; wellhead protection areas covering the project area and delineated pursuant to Chapter NR 811.16 Wisconsin Admin. Code.
 - (2) Computations of peak flow discharge rates and volumes for the 1-year, 2-year, 10-year, and 100-year/24 hour storm events. All major assumptions used in developing input parameters shall be clearly stated. The computations shall be made for each discharge point in the development, and the geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).
 - (3) A site evaluation of the project site for stormwater infiltration in accordance with WDNR Technical Standards 1002.
- (d) Post-development site conditions, including:
 - (1) Explanation of the provisions to preserve and use natural topography and land cover features to minimize changes in peak flow runoff rates and volumes to surface waters and wetlands.
 - (2) Explanation of any restrictions on storm water management measures in the development area imposed by wellhead protection plans and ordinances.
 - (3) The location of the outlet or discharge as well as the water body that is recipient of the discharge.
 - (4) One or more site maps at a scale of not less than 1 inch equals 100 feet, or as otherwise required by the approving authority, showing the following: post-construction pervious land use including vegetative cover type and condition; impervious land use including all buildings, structures, and pavement; post-construction elevations; post-construction drainage network including enough of the contiguous properties to show runoff patterns onto, through and from the site; locations and dimensions of drainage easements; locations of maintenance easements specified in the maintenance agreement; flow path and direction for all storm water conveyance sections, including time of travel and time of concentration applicable to each; location and type of all storm water management conveyance and treatment practices, including the on-site and off-site tributary drainage area; location and type of conveyance system that will carry runoff from the drainage and treatment practices to the nearest adequate outlet such as a curbed street, storm drain, or natural drainage way; watershed boundaries used in determinations of peak flow discharge rates and discharge volumes; any changes to lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site. The location of the outlet or discharge as well as the water body that is recipient of the discharge.

- (5) Computation of the inches of initial runoff that will be infiltrated across the site if infiltration practices are employed.
 - (6) Computations of peak flow discharge rates for the 1-year, 2-year, 10-year, and 100-year/24 hour storm events. All major assumptions used in developing input parameters shall be clearly stated. The computations of peak flow discharge rates shall be made for each discharge point in the development, and the geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).
 - (7) Results of investigations of soils and groundwater required for the placement and design of storm water management measures.
 - (8) Results of impact assessments on wetland functional values
 - (9) Design computations and all applicable assumptions for the storm sewer system.
 - (10) Design computations and all applicable assumptions for storm water quality practices as needed to show that practices are appropriately sized to meet the performance standards of this ordinance.
 - (11) Detailed drawings including cross-sections and profiles of all permanent storm water conveyance and treatment practices.
- (e) A description and installation schedule for the storm water management practices needed to meet the performance standards in S. 14.
 - (f) A maintenance plan developed for the life of each storm water management practice including the required maintenance activities and maintenance activity schedule.
 - (g) Cost estimates for the construction, operation, and maintenance of each storm water management practice.
 - (h) Other information requested in writing by the administering authority to determine compliance of the proposed storm water management measures with the provisions of this ordinance.
 - (i) All site investigations, plans, designs, computations, and drawings shall be certified by a Registered Professional Engineer, licensed to practice in the State of Wisconsin, to the effect that they have been prepared in accordance with accepted engineering practice and requirements of this ordinance.

(2) **ALTERNATE REQUIREMENTS.** The administering authority may prescribe alternative submittal requirements for applicants seeking an exemption to on-site storm water management performance standards under S. 14(3) of this ordinance.

S. 17 MAINTENANCE AGREEMENT

- (1) **MAINTENANCE AGREEMENT REQUIRED.** The maintenance agreement required for storm water management practices under S. 15(2) of this ordinance shall be an agreement between the administering authority and the permittee to provide for on-site inspection of construction allowed by the permit both during and after construction, and to inspect and enforce maintenance of storm water practices beyond the duration period of this permit. The agreement or recordable document shall be recorded with the County Register of Deeds so that it is binding upon all subsequent owners of land served by the storm water management practices.
- (2) **AGREEMENT PROVISIONS.** The maintenance agreement shall contain the following information and provisions:
- (a) Identification of the storm water facilities and designation of the drainage area served by the facilities.
 - (b) A schedule for regular maintenance of each aspect of the storm water management system consistent with the storm water management plan required under S. 15(2). An annual or more frequent schedule for maintenance and inspection shall be contained in the agreement.
 - (c) Identification of the landowner(s), organization or municipality responsible for long term maintenance of the storm water management practices identified in the storm water plan required under S. 15(2).
 - (d) Requirement that the landowner(s), organization, or municipality shall maintain storm water management practices in accordance with the schedule included in par. (b).

- (e) Authorization for the administering authority to access the property to conduct inspections of storm water practices as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement.
- (f) Agreement that the administering authority notify the party designated under the maintenance agreement of maintenance problems that require correction and time frame for correction as determined by the administering authority.

S. 18 FINANCIAL GUARANTEE

- (1) **ESTABLISHMENT OF THE GUARANTEE.** The administering authority may require the submittal of a financial guarantee, the form and type of which shall be acceptable to the administering authority. The financial guarantee shall be in an amount determined by the administering authority to be the estimated cost of construction and the estimated cost of maintenance of the storm water management practices during the period which the designated party in the maintenance agreement has maintenance responsibility. The financial guarantee shall give the administering authority the authorization to use the funds to complete the storm water management practices if the landowner defaults or does not properly implement the approved storm water management plan, upon written notice to the landowner by the administering authority that the requirements of this ordinance have not been met.
- (2) **CONDITIONS FOR RELEASE.** Conditions for the release of the financial guarantee are as follows:
 - (a) The administering authority shall release the portion of the financial guarantee established under this section, less any costs incurred by the administering authority to complete installation of practices, upon submission of “as built plans” by a licensed professional engineer licensed to practice in the State of Wisconsin. The administering authority may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.

Appendix A Map Requirements

The following information should be provided for each type of application to the extent applicable to the project.

Type of Information	Site Plan	Master Development Plan	Project Maps		
			Conditional Use	Zoning	Special
				Map Amendment	Exception & Variance
Background Project Information					
Project name	X	X	X	X	X
Applicant name	X	X	X	X	X
Preparation date	X	X	X	X	X
Name of preparer	-	X	-	-	-
Survey Information					
North arrow and graphic scale	X	X	X	X	X
Address of subject property or legal description	X	X	X	X	X
Property boundaries	X	X	X	X	X
Acreage of subject property	X	X	X	X	X
Project Development Information					
Land use summary table by density/intensity and acreage	-	X	-	-	-
Easements/rights-of-ways (location, width, purpose, ownership)	X	X	X	-	X
Common areas/conservancy areas (location, purpose, ownership)	X	X	X	-	-
Land to be dedicated to the public (boundaries, area, purpose)	-	X	-	-	-
Setting					
Property boundaries within ___ feet of the subject property	X (50')	X (150')	X (150')	X (150')	X (50')
Land uses within ___ feet of the subject property	X (50')	X (150')	X (150')	X (150')	X (50')
Zoning district boundaries within ___ feet of the subject property	X (50')	X (150')	X (150')	X (150')	X (50')
Municipal boundaries within ___ feet of the subject property	X (50')	X (150')	X (150')	X (150')	X (50')
Site Features (existing and proposed)					
Ground contours when any slope exceeds 10 percent	X	X	X	-	X
Wetlands	X	X	X	-	X
Woodlands	X	X	X	-	X
Wildlife habitat, including critical wildlife habitat	X	X	X	-	X
Environmentally sensitive features	X	X	X	-	X
Water resources (rivers, ponds, etc.)	X	X	X	-	X
Floodplain boundaries	X	X	X	-	X
Environmental and manmade development constraints and hazards including brownfields, contaminated sites, unstable soils, high groundwater, bedrock, and high-pressure natural gas lines	X	X	X	-	X
Buildings and Outdoor Storage/Activity Areas					
Existing and proposed	X	X	X	X	X
Existing within ___ feet of subject property	X (50')	X (150')	X (150')	X (150')	X (50')
Required Setbacks					
Yard setbacks (front, side, rear and shore)	X	-	X	-	X
On-site septic systems	X	-	X	-	X
On-site wells and off-site wells within 10 feet of the perimeter of the subject property	X	-	X	-	X

Continued on next page

Type of Information	Site Plan	Master Development Plan	Project Maps		
			Conditional Use	Zoning	Special
				Map Amendment	Exception & Variance
Landscaping Features (existing and proposed)					
Fences, buffers, and berms	X	-	X	-	-
Pervious and impervious surfaces by type	X	-	-	-	-
Site amenities (benches, fountains, etc.)	X	-	-	-	-
Existing trees and other prominent vegetation	X	-	-	-	-
Trees / shrubs to be planted, including a plant list and specs.	X	-	-	-	-
Trees / shrubs to be retained	X	-	-	-	-
Outdoor Lighting (existing and proposed)					
Location	X	X	-	-	-
Fixture specifications	X	X	-	-	-
Stormwater Facilities (existing and proposed)					
Location	X	X	-	-	-
Specifications for each facility	X	X	-	-	-
Utilities (existing and proposed)					
Location	X	X	-	-	X
Type (sewer, telephone, etc) (buried or overhead, if applicable)	X	X	-	-	X
Size/capacity, if applicable	-	X	-	-	-
Transportation Facilities (existing and proposed)					
Streets	X	X	X	-	X
Driveways and road access onto public and private roads	X	X	X	-	X
Parking areas and access aisles	X	-	-	-	X
Sidewalks and trails	X	X	X	-	X
Fire lanes (i.e., fire apparatus access)	X	-	-	-	X
Clear visibility triangles (location and dimensions)	X	X	-	-	X
On-Site Parking (existing and proposed)					
Drive isles and parking stalls by size	X	-	-	-	-
Location of accessible parking stalls	X	-	-	-	-
Location and specifications/dimensions for accessibility ramps	X	-	-	-	-
Type and location of on-site parking signs and traffic control signs	X	-	-	-	-
Surface materials for parking lot (e.g., concrete, bituminous concrete, pavers)	X	-	-	-	-
Snow storage areas	X	-	-	-	-
Areas designated for queuing of vehicles for drive-through facilities (e.g., car washes, drive-up service windows, etc.)	X	-	-	-	-
Pedestrian walks between the parking lot and the building	X	-	-	-	-
Designated areas of a parking area for pedestrian walks	X	-	-	-	-
Loading lanes and loading docks	X	-	-	-	-
Stormwater drainage	X	-	-	-	-
Distance between parking areas and adjoining properties if less than 20 feet	X	-	-	-	-
Areas designated for bicycle parking	X	-	-	-	-
Signs (existing and proposed)					
Location	X	optional	-	-	-
Specifications for each sign including type, height, dimensions, lighting, and other factors considered during the review process	X	optional	-	-	-

Path 1 – Omro Tower to Winnebago County Courthouse

MICROWAVE RADIO PATH 1



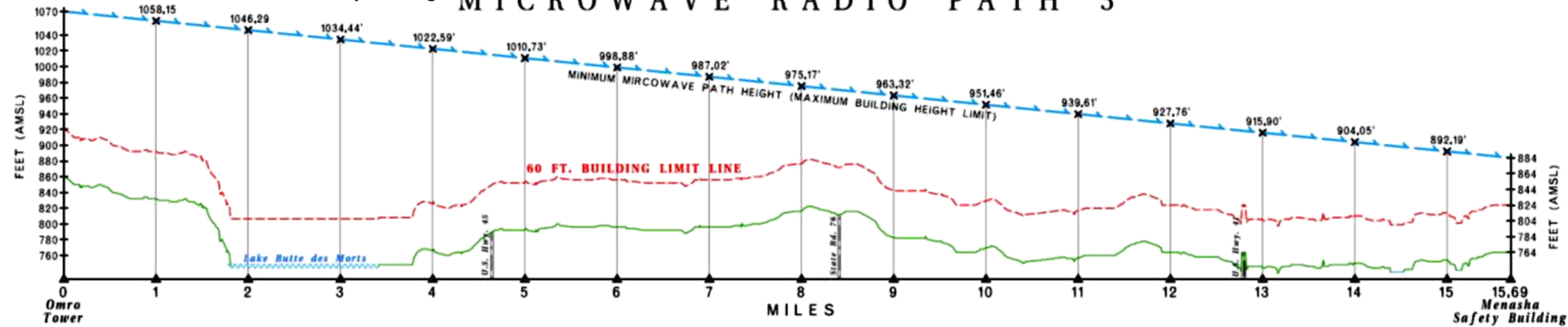
MICROWAVE RADIO PATH 2

Path 2 – Omro Tower to Parkview



Path 3 – Omro Tower to Menasha Safety Building

MICROWAVE RADIO PATH 3



Appendix B
Microwave Radio Path Height Elevations

Path 1
Distance between towers: 5.55 miles
Elevation change: 14.40 ft/mi

Path 2
Distance between towers: 7.05 miles
Elevation change: 8.66 ft/mi

Path 3
Distance between towers: 15.69 miles
Elevation change: 11.85 ft/mi

Cross-sections prepared by Winnebago County GIS
Department on October 28, 2011

Chapter 23**History Index**

23.15	Erosion Control and Stormwater Ordinance adopted to renumber chapter 17.23	April 29, 2013
23.1 – 23.15	Ordinance adopted and Chapter 23 created	August 20, 2013
23.1	General Provisions	August 20, 2013
23.2	Interpretation and Construction	August 20, 2013
23.3	Definitions	August 20, 2013
23.4	Administrative Bodies	August 20, 2013
23.5	Reserved	August 20, 2013
23.6	General Review Requirements	August 20, 2013
23.7	Specific Review Procedures and Requirements	August 20, 2013
23.8	Land Use	August 20, 2013
23.9	Buffer Yards and Landscaping	August 20, 2013
23.10	Reserved	August 20, 2013
23.11	Parking	August 20, 2013
23.12	Signs	August 20, 2013
23.13	Nonconformities	August 20, 2013
23.14	Enforcement	August 20, 2013
23.15	Reserved	August 20, 2013
	Appendix A Mapping Requirements	August 20, 2013
	Appendix B Microwave Radio Path Height Elevations	August 20, 2013
23.15	Chapter 23 revised to include Article 15	September 19, 2013
23.1 – 23.15	DATCP Mandatory Updates	April 28, 2015
23.8-65 (e)(1)	Regulation of Officially Mapped Roads	August 20, 2015
23.8-378 – 23.8-512	DATCP Mandatory Updates	August 20, 2015
23.1 – 23.15	Various Amendments	May 17, 2016
23.15	DNR compliance with NR151	February 13, 2018

CHAPTER 14

ILLICIT DISCHARGE AND ILLICIT CONNECTION ORDINANCE

14.01	Authority
14.02	Purpose and Intent
14.03	Applicability
14.04	Responsibility for Administration
14.05	Compatibility With Other Regulations
14.06	Severability
14.07	Ultimate Responsibility
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14.13	Suspension of MS4 Access
14.14	Violations, Enforcement, and Penalties
14.15	Cost of Abatement of the Violation
14.16	Violations Deemed a Public Nuisance
14.17	Remedies Not Exclusive
14.18	Ordinance Effective Date
14.19	Administrative Review Procedure

09/19/2017

CHAPTER 14

ILLICIT DISCHARGE AND ILLICIT CONNECTION ORDINANCE

Chapter 14 of the General Code for Winnebago County, entitled “Illicit Discharge and Illicit Connection Ordinance,” relating to illicit discharge and connection and response procedure, is hereby created to provide control over illicit discharges, connections, and associated pollutants reaching waters of the State of Wisconsin. Use of this Ordinance by Winnebago County will foster the consistent statewide application of illicit discharge and connection standards in NR 151, Wis Admin Code.

14.01 AUTHORITY

(1) This Ordinance is adopted under the authority granted by § 59.693, Wis Stats. This Ordinance supersedes all provisions of an ordinance previously enacted under § 59.69, Wis Stats, that relate to construction site erosion control and/or stormwater management. Except as otherwise specified in § 59.693, Wis Stats, § 59.69 Wis Stats, applies to this Ordinance and to any amendments to this Ordinance.

(2) The provisions of this Ordinance are deemed not to limit any other lawful regulatory powers of the County.

(3) Winnebago County hereby designates the Winnebago County Highway Commissioner or designee of that office to administer and enforce the provisions of this Ordinance.

(4) The requirements of this Ordinance do not pre-empt more stringent illicit discharge and connection requirements that may be imposed by any of the following:

(a) Wisconsin Department of Natural Resources administrative rules, permits or approvals.

(b) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources.

14.02 PURPOSE AND INTENT

(1) PURPOSE: The purpose of this Ordinance is to provide for the health, safety, and general welfare of the citizens of Winnebago County through the regulation of non-stormwater discharges to the Winnebago County-owned municipal separate storm sewer system (MS4) to the maximum extent practicable as required by federal and state law.

(2) INTENT: This Ordinance establishes methods for controlling the introduction of pollutants into the Winnebago County-owned MS4 in order to comply with requirements of the Wisconsin Pollutant Discharge Elimination System (WPDES) permit process. The objectives of this Ordinance are:

(a) To regulate the contribution of pollutants to the MS4 by stormwater discharges by any user.

(b) To prohibit illicit connections and illicit discharges to the MS4.

(c) To establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this ordinance.

14.03 APPLICABILITY

(1) This Ordinance applies to all water and/or discharges entering the Winnebago County-owned MS4 located within the boundaries and jurisdiction of the Urbanized Area (UA) unless explicitly exempted by Winnebago County. (The UA boundaries shall apply until amended and then shall apply as amended.)

14.04 RESPONSIBILITY FOR ADMINISTRATION

(1) The Winnebago County Highway Commissioner shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted or duties imposed upon the Winnebago County Highway Commissioner may be delegated in writing by the Commissioner to persons, agents, and/or entities acting in the beneficial interest of or in the employ of Winnebago County.

14.05 COMPATIBILITY WITH OTHER REGULATIONS

(1) This Ordinance is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this Ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this Ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

14.06 SEVERABILITY

(1) The provisions of this Ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

14.07 ULTIMATE RESPONSIBILITY

(1) The standards set forth herein and promulgated pursuant to this Ordinance are minimum standards; therefore, this Ordinance does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

14.08 DEFINITIONS

For the purposes of this ordinance, the following shall mean:

(1) ADMINISTERING AUTHORITY: The governmental employees or their designees empowered under § 59.693, Wis Stats, to administer this Ordinance. For the purpose of this Ordinance, the administering authority is the Winnebago County Highway Commissioner's Office or designees, under guidance from the Winnebago County Highway Committee.

(2) BEST MANAGEMENT PRACTICES (OR BMPs): Structural or non-structural measures, practices, techniques, or devices employed to avoid or minimize soil, sediment, or pollutants carried in runoff to waters of the State or Wisconsin or the MS4.

(3) CONTAMINATED STORMWATER: Stormwater that comes into contact with any pollutant, material handling equipment or activities, raw materials, intermediate products, final products, waste materials, byproducts, or industrial machinery in the source areas listed in NR 216, Wis Admin Code.

(4) DEPARTMENT (OR "WDNR"): The Wisconsin Department of Natural Resources.

(5) DISCHARGE: When used without qualification includes a discharge of any pollutant.

(6) DISCHARGE OF POLLUTANT/POLLUTANTS: Any addition of any pollutant to the waters of the State of Wisconsin or MS4 from any point source.

(7) ILLICIT CONNECTIONS: Any drain or conveyance, whether on or above the surface or in the subsurface, that allows an illicit discharge to enter the MS4. For the purpose of this Ordinance, illicit connections include channels, subsurface conduits,

seepages, or preferential flow paths resulting from damaged or leaking drains, pipes, or other conveyances and/or properties that allow an illicit discharge to the MS4.

(8) ILLICIT DISCHARGE: Any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater; except discharges authorized by a WPDES permit and those discharges allowed in Section 14.09(1)(c) of this Ordinance.

(9) INDUSTRIAL ACTIVITY: Activities subject to WPDES Industrial Permits per NR 216, Wis Admin Code, and Chapter 283, Wis Stats.

(10) MUNICIPALITY: Any city, town, village, county, county utility district, town sanitary district, town utility district, school district or metropolitan sewage district, or any other public entity created pursuant to law.

(11) MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4): As defined in NR 216, Wis Admin Code, MS4 is a conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, constructed channels, or storm drains, which meets all the following criteria:

- (a) Owned or operated by a municipality;
- (b) Designed or used for collecting or conveying stormwater;
- (c) Not a combined sewer conveying both sanitary and stormwater; and
- (d) Not part of a publicly owned wastewater treatment works that provides secondary or more stringent treatment.

(12) NON-STORMWATER DISCHARGE: Any discharge that is not composed entirely of stormwater.

(13) NOTICE OF VIOLATION: A written order issued by the administering authority that informs the recipient of a violation(s) to the ordinance, and furthermore states requirements and schedule to achieve compliance with the ordinance.

(14) OPERATOR: Any person operating, leasing, renting, or performing work on behalf of the owner, or having made arrangements with the landowner by which the landowner authorizes use of his or her land. For the purpose of this Ordinance, the term operator includes contractors performing activities on behalf of the landowner.

(15) OWNER OR LANDOWNER: Any person holding fee title, an easement or other interest in property.

(16) PERSON: An individual, owner, operator, corporation, organization, firm, partnership, association, municipality, interstate agency, state agency or federal agency or other entity recognized by law and acting as either the owner or as the owner's agent.

(17) **POLLUTANT:** Any constituent, chemical, substance, contaminant, or material that causes or contributes to pollution. Pollutants may include, but not be limited to: dredged spoil, solid waste, incinerator residue, sewage, garbage, refuse, oil and other automotive fluids, paints, varnishes, solvents, sewage sludge, munitions, chemical wastes, pesticides, herbicides, fertilizers, biological materials, radioactive substance, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, animal, and agricultural waste.

(18) **POLLUTION:** as defined in Chapter 283, Wis Stats, a man-made or man-induced alteration of the chemical, physical, biological, or radiological integrity of water.

(19) **POLLUTION PREVENTION:** Taking measures to eliminate or reduce pollution.

(20) **PREMISES:** Any building, lot, residence, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

(21) **RUNOFF:** That portion of precipitation (rain, snow, or ice melt) or other material/liquid that moves or has flowed on the surface of the land.

(22) **STORMWATER:** The water which results from, and which occurs during and immediately following, a rainfall, snow, or ice melt event.

(23) **STORMWATER MANAGEMENT PLAN / STORMWATER POLLUTION PREVENTION PLAN (SWPPP):** A document which describes the best management practices and activities to be implemented by an individual or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

(24) **URBANIZED AREA:** A place and the adjacent densely settled surrounding territory that together have a minimum population of 50,000 people, as determined by the US Census Bureau on the latest decennial federal census. For the purpose of this Ordinance, the urbanized area is the area located within Winnebago County which is regulated under a WDNR permit issued pursuant to NR 216, sub 1, Wis Admin Code.

(25) **WASTE WATER:** Any water or other liquid, other than uncontaminated stormwater, discharged from a facility or manufacturing process.

(26) **WATERS OF THE STATE:** As defined in Chapter 283, Wis Stats (November 1, 2005), those portions of Lake Michigan and Lake Superior within the boundaries of the State of Wisconsin, all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, water courses, drainage systems and other surface water or groundwater, natural or artificial, public or private within the State of Wisconsin

or under its jurisdiction, except those waters which are entirely confined and retained completely upon the property of a person.

(27) WISCONSIN POLLUTANT DISCHARGE ELIMINATION SYSTEM (WPDES) STORM WATER DISCHARGE PERMIT: A Wisconsin pollutant discharge elimination system permit issued pursuant to Chapter 283, Wis Stats.

14.09 DISCHARGE PROHIBITIONS

(1) ILLICIT DISCHARGES: Any direct or indirect non-stormwater discharges to the MS4 are prohibited unless exempted below in Section c.

(a) Direct Discharges: No person, municipality, or entity shall discharge (throw, dump, spill, drain, leak, or otherwise discharge) or cause to be discharged or allow others under its control to discharge to the MS4 any substances or materials including, but not limited to, pollutants, wastewater, or waters containing any pollutants other than stormwater.

(b) Indirect Discharges: Runoff from any activity, operation, premises, or facility which causes or contributes to pollution or contamination to the MS4 is prohibited.

(c) Exemptions: The following discharges/activities are exempt from the provisions of this Section unless found to have an adverse impact on the MS4 and/or stormwater:

1. Stormwater that contains no pollutants.
2. Discharges authorized by a WPDES permit issued by WDNR.
3. Discharges resulting from fire fighting activities.
4. Discharges from uncontaminated groundwater, potable water sources, roof drains, foundation drain and sump pump, air conditioning condensation, springs, lawn watering, individual residential car washing, and dechlorinated swimming pool discharges.
5. Discharges associated with dye testing, however this activity requires verbal notification to the administering authority and WDNR a minimum of one day prior to the time of the test.

(2) ILLICIT CONNECTIONS:

(a) The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited.

(b) This prohibition expressly includes, without limitation, illicit connections made prior to the adoption of this Ordinance, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(c) A person is considered to be in violation of this Ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

(d) Improper connections in violation of this Ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the Winnebago County and/or its authorized agents.

(e) Any drain or conveyance that has not been documented in plans, maps, or equivalents, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from Winnebago County and/or its authorized agents requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer, or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system, or other discharge point be identified. Results of these investigations are to be documented and provided to Winnebago County and/or its authorized agents.

14.10 REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES

(1) The owner or operator of any activity, operation, premises, or facility which may cause or contribute to pollution or contamination of stormwater, the MS4, or waters of the state shall provide, at their own expense, reasonable protection from discharge of prohibited materials or other wastes into the municipal MS4 or waters within the State of Wisconsin through the use of structural and nonstructural BMPs. Further, any person responsible for a property or premise that is, or may be, the source of an illicit discharge may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid WPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this Section. Additionally, the holder of the WPDES permit shall comply with all provisions of such permit. If applicable, the BMPs shall be part of a Stormwater Management Plan (SWMP)/Stormwater Pollution Prevention Plan (SWPPP) as necessary for compliance.

14.11 COMPLIANCE MONITORING

(1) RIGHT OF ENTRY—INSPECTING AND SAMPLING:

(a) The administering authority shall be permitted to enter and inspect facilities/premises subject to Section 14.14 of this Ordinance as often as may be necessary to determine compliance with this Ordinance.

1. The discharger shall make all necessary arrangements to allow the administering authority and/or its representatives access to all parts of the premises for the purposes of inspection, monitoring (including the right to set up at any facility/premises such devices as are necessary in the opinion of the administering authority to conduct monitoring and/or sampling [of the facility's discharge]), sampling, examination and copying of records.

2. The administering authority has the right to require the discharger to install monitoring equipment or provide analytical results of the discharge(s) as necessary. The facility's or premises sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

3. Any temporary or permanent obstruction to safe and easy access to the facility/premises to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the administering authority and shall not be replaced. The costs of clearing such access shall be borne by the operator.

4. Unreasonable delays in allowing the administering authority access to a facility/premises is a violation. An owner or operator of a facility commits an offense if the person denies the administering authority reasonable access to the facility or at the premises for the purpose of conducting any activity authorized or required by this Ordinance.

(2) SPECIAL INSPECTION WARRANT:

(a) If the administering authority has been refused access to any part of the premises from which a discharge(s) has occurred, and he/she is able to demonstrate probable cause to believe that there may be a violation of this Ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this Ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the administering authority may seek issuance of a special inspection warrant pursuant to § 66.0119, Wis Stats.

14.12 NOTIFICATION OF SPILLS

(1) Notwithstanding other requirements of law, as soon as any person responsible for a facility, premises, or activity, or responsible for emergency response for a facility, premises, or operation has information of any known or suspected release of materials which are resulting or may result in illicit discharges or pollutants discharging into stormwater, the MS4, or waters of the State of Wisconsin, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of release of non-hazardous materials, said person shall notify the administering authority in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the administering authority within 3 business days of the phone notice. If the discharge of materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least seven (7) years.

(2) Failure to provide notification of a release as provided above is a violation of this Ordinance.

14.13 SUSPENSION OF MS4 ACCESS

(1) In the event the violation is a result of an emergency situation, Winnebago County and/or its authorized agents may, without prior notice, suspend MS4 discharge access to a person(s) when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the State of Wisconsin. If a person(s) fails to comply with a suspension order issued in an emergency, the administering authority and/or its agents may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the state, or to minimize danger to persons.

(a) The County may issue an order to the violator directing an immediate cease and desist of all such violations and directing the violator to:

1. Immediately comply with all ordinance requirements; and
2. Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.

(2) In the event the violation is detected as a result of an illicit discharge/connection, when [in the event] the source of a violation is unknown, the

administering authority may suspend MS4 discharge access to a person(s) until the source of the violation is determined and/or the discharge has been corrected.

(3) Any person notified of an emergency order directed to it under this subSection shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, Winnebago County and/or its authorized agents may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the United States, and/or endangerment to persons or to the environment, including immediate termination of a facility's water supply, sewer connection, or other municipal utility services. Winnebago County and/or its authorized agents may allow the person to recommence its discharge when it has demonstrated to the satisfaction of Winnebago County and/or its authorized agents that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this Ordinance. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful discharge and the measures taken to prevent any future occurrence to Winnebago County and/or its authorized agents within 10 days of receipt of the prerequisite for taking any other action against the violator.

a. Suspension due to Illicit Discharges in Emergency Situations

1. Winnebago County and/or its authorized agents may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the State of Wisconsin. If the violator fails to comply with a suspension order issued in an emergency, Winnebago County and/or its authorized agents may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the State of Wisconsin, or to minimize danger to persons

(4) Any person discharging to the MS4 in violation of this Ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. Winnebago County and/or its authorized agents will notify a violator of the proposed termination of its MS4 access. The violator may petition Winnebago County and/or its authorized agents for a reconsideration and hearing.

(5) A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section of this Ordinance, without the prior approval of Winnebago County and/or its authorized agents.

14.14 VIOLETIONS, ENFORCEMENT, AND PENALTIES

(1) It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. Any person who has violated or continues to

violate the provisions of this Ordinance, may be subject to the enforcement actions outlined in this Section or may be restrained by injunction or otherwise abated in a manner provided by law.

(2) In the event the violation constitutes an immediate or imminent danger to public health or public safety or to the environment, the administering authority and/or its agents are authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation. The administering authority is authorized to seek costs of the abatement as outlined in Section 14.15 of this Ordinance.

(3) The administering authority shall serve the responsible owner or operator with a notice of violation of any non-complying activity(ies). Such notice of violation may require without limitation:

- (a) the elimination of illicit connections or discharges;
- (b) that violating discharges, practices, or operations shall cease and desist;
- (c) the performance of monitoring, analyses, and reporting; the elimination of illicit connections or discharges;
- (d) the abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- (e) payment of a fine to cover administrative, monitoring, and remediation costs; and the implementation of BMPs.

Investigation and/or resolution of the matter in response to the notice of violation in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the notice.

(4) If the owner or operator does not comply with Ordinance requirements and/or a notice of violation from the administering authority, the administering authority and/or its agents are authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation. The administering authority is authorized to seek costs of the abatement as outlined in Section 14.15 of this Ordinance.

(5) Any person that continues discharging to the MS4 in violation of this Ordinance or notice of violation may have their MS4 access terminated if such termination would abate or reduce an illicit discharge.

(6) Any person who does not comply with the provisions of this Ordinance, or fails to cease activity as required in a cease and desist order posted under this Section, or fails to comply with any approved plan or permit, shall be subject to a forfeiture in

accordance with Section 25.04 of the General Code of Winnebago County. Every violation of this Ordinance is a public nuisance and each day that the violation exists shall constitute a separate offense. The administering authority may impose upon a violator additional compensatory actions, such as storm drain stenciling, attendance at compliance workshops, and cleanup of MS4s or watercourses.

(7) Compliance with this Ordinance may be enforced by an order for injunction by Winnebago County pursuant to § 59.69(11), Wis Stats. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunction proceedings.

14.15 COST OF ABATEMENT OF THE VIOLATION

(1) Within 60 days after abatement of the violation, the owner or operator of the property will be notified of the cost of abatement, including administrative costs. If the amount due is not paid by the date determined by the municipal authority, the charges shall become a special charge against the property and shall constitute a lien on the property.

(2) In the event an owner or operator fails to pay the amount due, the clerk shall enter the amount due on the tax rolls and collect the amount plus any interest thereupon as a special charge against the property pursuant to § 66.60(16), Wis Stats.

14.16 VIOLATIONS DEEMED A PUBLIC NUISANCE

(1) Any condition in violation of any of the provisions of this Ordinance and declared and deemed a nuisance, may be summarily abated or restored at the violator's expense.

14.17 REMEDIES NOT EXCLUSIVE

(1) The remedies listed in this Ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the administering authority to seek cumulative remedies.

(2) The administering authority may recover all attorney's fees court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

14.18 ORDINANCE EFFECTIVE DATE

(1) This Ordinance shall become effective upon passage and publication.

14.19 ADMINISTRATIVE REVIEW PROCEDURE

(1) Any person aggrieved by a decision of the administering authority in relationship to this Ordinance shall be provided a review of said decision pursuant to the provisions of Chapter 68, Wis Stats.

CHAPTER 14
HISTORY INDEX

14.01 – 14.19

Ordinance Adopted

09/19/2017

**WINNEBAGO COUNTY BOARD OF SUPERVISORS
TUESDAY, FEBRUARY 13, 2018**

There will be an Adjourned Meeting of the Winnebago County Board of Supervisors on Tuesday, February 13, 2018, at 6:00 p.m., in the Supervisors' Room, Fourth Floor, Winnebago County Courthouse, 415 Jackson Street, Oshkosh, Wisconsin. At this meeting, the following will be presented to the Board for its consideration:

- Roll Call
- Pledge of Allegiance
- Invocation
- Adopt agenda

Time will be allowed for persons present to express their opinion on any resolution or ordinance that appears on the agenda.

- Notice of Claim:
 - Notice of Claim from Adam Stadtmueller for damage to his snowmobile and trailer caused by a county vehicle in August 2017
 - Notice of Claim from AFNI Subrogation Department on behalf of American Family Mutual Insurance Company for Mark J. Vander Velden for damage to his vehicle caused by a collision with a county snow plow
 - Notice of Claim from David Wiesner for damages caused by Winnebago County Highway crews while trimming trees
- Zoning Petitions:
 - No. 001 – Petition from Cary Rowe, Winnebago County Zoning Administrator; for Text Amendment to Chapter 27, Article 6, Section 6.1(e) of the Winnebago County General Code regarding Shoreland Zoning
- Reports from Committees, Commissions & Boards
- Approval of the proceedings from the January 9, 2018 Special Orders Meeting and January 16, 2018 County Board meeting
- County Executive's Report
- County Executive's Appointments:
 - Neenah Library Board: Supervisor George Scherck
 - Director of Finance: Vicky K. Fitzgerald
- County Board Chairman's Report

ZONING REPORTS & ORDINANCES – reports will be handed out at the meeting

Report No. 001 – Kim L. Walsh, Town of Neenah; tax parcel nos. 010-0111-01 and 010-0111-02-01
Amendatory Ordinance No. 02/01/18 – Rezoning from A-2 General Agriculture with wetlands to R-2 Suburban Low Density Residential without wetlands.

Amendatory Ordinance No. 002 – Cary Rowe, Winnebago County Zoning Administrator; text amendment to Winnebago County Erosion Control Code, Chapter 23, Article 15, of the Winnebago County General Code

Report No. 003 – Hahn Irrevocable Real Estate Trust, et al; Town of Wolf River; tax parcel no. 032-0454
Amendatory Ordinance 02/03/18 – Rezoning from A-2 General Agriculture to R-1 Rural Residential

Report No. 004 – James Fochs, Town of Algoma, tax parcel nos. 002-0130, 002-0131-09, 002-0131-11, 002-0131-13 and 002-0131-14

Amendatory Ordinance 02/04/2018 – Rezoning from A-2 General Agriculture to B-3 General Business

RESOLUTIONS AND ORDINANCES

RESOLUTION NO. 240-022018: Commendation for Lyssa Koscher
Submitted by:
PERSONNEL & FINANCE COMMITTEE

RESOLUTION NO. 241-022018: Commendation for Cindy Erspamer-Stenz
Submitted by:
PERSONNEL & FINANCE COMMITTEE

RESOLUTION NO. 242-022018: Commendation for Michael Augustine
Submitted by:
PERSONNEL & FINANCE COMMITTEE

RESOLUTION NO. 243-022018: Disallow Claim of David Lewis
Submitted by:
PERSONNEL & FINANCE COMMITTEE

RESOLUTION NO. 244-022018: Request Authority to Apply for Funds for Maintenance of Winnebago County-Owned
And Leased Snowmobile Trails
Submitted by:
PARKS & RECREATION COMMITTEE

RESOLUTION NO. 245-022018: Move \$20,000 for the Winnebago Waterway Program from the Miscellaneous
Unclassified Account to the Land and Water Conservation Department
Submitted by:
LAND CONSERVATION COMMITTEE
PERSONNEL & FINANCE COMMITTEE

RESOLUTION NO. 246-022018: Amending Human Resources Policies to Add Worksite Breastfeeding Policy
Submitted by:
PERSONNEL & FINANCE COMMITTEE

RESOLUTION NO. 247-022018: Reauthorization of the Winnebago County Self- Funded Workers' Compensation
Insurance Program
Submitted by:
PERSONNEL & FINANCE COMMITTEE

Respectfully submitted,
Susan T. Ertmer
Winnebago County Clerk

Upon request, provisions will be made for people with disabilities.
(Times provided are estimates. Any item on the agenda may be taken up by the Board after 6:00 P.M.)

**WINNEBAGO COUNTY BOARD MEETING
TUESDAY, FEBRUARY 13, 2018**

Chairman David Albrecht called the meeting to order at 6:00 p.m. in the County Board Room, Fourth Floor, Courthouse, 415 Jackson Street, Oshkosh, Wisconsin.

The meeting was opened with the Pledge of Allegiance and an invocation by Supervisor Locke.

The following Supervisors were present: 32 - Konetzke, Brunn, Eisen, Ramos, Smith, Long, Scherck, Albrecht, Gabert, Binder, Thompson, Schorse, Wojciechowski, Gordon, Wingren, Lautenschlager, Norton, Warnke, Robl, Singstock, Brooks, Powers, Locke, Hegg, Youngquist, Farrey, Rasmussen, Keller, Egan, Ellis, Snider and Kriescher. Excused: 4 - Harpt, Powell, Roh and Finch

Motion by Supervisor Robl and seconded by Supervisor Ellis to adopt the agenda for tonight's meeting.
CARRIED BY VOICE VOTE.

PUBLIC HEARING

No one from the public addressed the board.

COMMUNICATIONS AND PETITIONS

The following correspondence was presented to the board by Julie Barthels, Deputy County Clerk:

- Notice of Claim:
 - Notice of Claim from Adam Stadtmueller for damage to his snowmobile and trailer caused by a county vehicle in August, 2017 was referred to the Personnel and Finance Committee.
 - Notice of Claim from AFNI Subrogation Department on behalf of American Family Mutual Insurance Company for Mark J. Vander Velden for damage to his vehicle caused by a collision with a county snow plow was referred to the Personnel and Finance Committee.
 - Notice of Claim from David Wiesner for damages caused by Winnebago County Highway crews while trimming trees was referred to the Personnel and Finance Committee.
- Zoning Petitions:
 - No. 001 – A zoning request from Cary Rowe, Winnebago County Zoning Administrator; for text amendment to Chapter 27, Article 6, Section 6.1(e) of the Winnebago County General Code regarding Shoreland Zoning was referred to the Planning and Zoning Committee.

REPORTS FROM COMMITTEES, COMMISSIONS AND BOARDS

Supervisor Norton reported on his attendance at the Wisconsin Counties Association Legislative Exchange Conference in Madison on February 6 & 7, 2018. He highlighted his points of interest from the conference, which included diversifying population to integrate into county government; and the 911 Next Generation program.

Supervisor Snider reported on his attendance at the Wisconsin Counties Association Conference. He felt all the speakers did an excellent job. He kept in contact with our Representatives regarding Senate Bill 713 for Bureau of Commissioners of Public Lands. Supervisor Snider attended a joint finance committee meeting in regard to funding for Senate Bill 666 and Assembly Bill 732 for Veterans Outreach and Recovery Program.

Supervisor Powers reported on her distribution of scholarship applications. She has contacted over fifty local churches to encourage graduate students to apply for this opportunity.

Supervisor Warnke provided a 2017 Veterans Service Commission Annual Report from the Veterans Office. He explained that in 2017 they helped 72 veteran families.

Motion by Supervisor Robl and seconded by Supervisor Konetzke to approve the proceedings from the January 9, 2017 special orders meeting and January 16, 2018 county board meeting. CARRIED BY VOICE VOTE.

COUNTY EXECUTIVE'S REPORT

Executive Mark Harris reported that three departments, Parks, Highway and Public Health, worked together to create a plan for a bicycle/pedestrian path. They won an award for their plan from the American Planning Association Wisconsin Chapter. This would connect paths between rural and urban communities.

Executive Harris described the appointment and hiring procedure for the new finance director.

COUNTY EXECUTIVE'S APPOINTMENTS

Neenah Library Board

Executive Harris asked for the Board's approval of his appointment of Supervisor George Scherck to the Neenah Library Board. Mr. Scherck will replace Tom Widener on the Board. This is a three-year term which will expire on April 30, 2021.

Motion by Supervisor Robl and seconded by Supervisor Ellis to approve. CARRIED BY VOICE VOTE.

Director of Finance

Executive Harris asked for the Board's approval of his appointment of Vicky K. Fitzgerald as the Director of Finance for Winnebago County.

Motion by Supervisor Rasmussen and seconded by Supervisor Norton to approve. CARRIED BY VOICE VOTE. Nays: 2 – Wingren and Gabert

Executive Harris introduced Ms. Fitzgerald to the board.

COUNTY BOARD CHAIRMAN'S REPORT

Chairman Albrecht reported that Supervisors Harpt, Powell, Roh and Finch are excused from tonight's meeting.

Chairman Albrecht announced that the Special Orders meeting scheduled for March 6, 2018 has been cancelled due to lack of agenda items.

ZONING REPORTS & ORDINANCES

Report No. 001 – A report from the Planning and Zoning Committee regarding a requested zoning change from Kim L. Walsh, Town of Neenah; for tax parcel no. 010-0111-01 and 010-0111-02-01. Motion by Supervisor Egan and seconded by Supervisor Gabert to accept. CARRIED BY VOICE VOTE.

Amendatory Ordinance No. 02/01/18 – A requested zoning change from R-2/A-2 Suburban Low Density Residential/General Agriculture to R-2 Suburban Low Density Residential for tax parcel no. 010-0111-01 and 010-0111-02-01. Motion by Supervisor Egan and seconded by Supervisor Gabert to adopt. CARRIED BY VOICE VOTE. (Effective Date: February 21, 2018)

Amendatory Ordinance No. 002 – A requested text amendment from Cary Rowe, Winnebago County Zoning Administrator to Chapter 23, Article 15 of the Winnebago County General Code--County Erosion Control Code. Motion by Supervisor Egan and seconded by Supervisor Snider to adopt. CARRIED BY VOICE VOTE. (Effective Date: February 21, 2018)

Report No. 003 – A report from the Planning and Zoning Committee regarding a requested zoning change from Hahn Irrevocable Real Estate Trust; and Jean A. Kriese, Trustee; Town of Wolf River; for tax parcel no. 032-0454. Motion by Supervisor Kriescher and seconded by Supervisor Gabert to accept. CARRIED BY VOICE VOTE.

Amendatory Ordinance No. 02/03/18 – A requested zoning change from A-2 General Agriculture to R-1 Rural Residential for tax parcel no. 032-0454. Motion by Supervisor Kriescher and seconded by Supervisor Gabert to adopt. CARRIED BY VOICE VOTE. (Effective Date: February 21, 2018)

Report No. 004 – A report from the Planning and Zoning Committee regarding a requested zoning change from the Oshkosh Area School District (Unified), Town of Algoma; for tax parcel nos. 002-0130, 002-0131-09, 002-0131-11, 002-0131-13 and 002-0131-14. Chairman Albrecht reported that only two parcels, 002-0130 and 002-0131-11, should have been listed on the agenda for this report. Motion by Supervisor Rasmussen and seconded by Supervisor Ellis to accept. CARRIED BY VOICE VOTE.

Amendatory Ordinance No. 02/04/18 – A requested zoning change from A-2 General Agriculture to B-3 General Business for tax parcel nos. 002-0130 and 002-0131-11. Motion by Supervisor Keller and seconded by Supervisor Gabert to adopt, as corrected. CARRIED BY VOICE VOTE. (Effective Date: February 21, 2018)

RESOLUTIONS AND ORDINANCES

RESOLUTION NO. 240-022018: Commendation for Lyssa Koscher

WHEREAS, Lyssa Koscher has been employed with Park View Health Center for the past twenty-three (23) years, and during that time has been a most conscientious and devoted County employee; and

WHEREAS, Lyssa Koscher has now retired from those duties, and it is appropriate for the Winnebago County Board of Supervisors to acknowledge her years of service.

NOW, THEREFORE, BE IT RESOLVED by the Winnebago County Board of Supervisors that sincere appreciation and commendation be and is hereby extended to Lyssa Koscher for the fine services she has rendered to Winnebago County.

BE IT FURTHER RESOLVED that the Winnebago County Clerk send a copy of this Resolution to Lyssa Koscher.

Submitted by:
PERSONNEL & FINANCE COMMITTEE

Motion by Supervisor Rasmussen and seconded by Supervisor Ellis to adopt. CARRIED BY VOICE VOTE.

RESOLUTION NO. 241-022018: Commendation for Cindy Erspamer-Stenz

WHEREAS, Cindy Erspamer-Stenz has been employed with Park View Health Center for the past twenty (20) years, and during that time has been a most conscientious and devoted County employee; and

WHEREAS, Cindy Erspamer-Stenz has now retired from those duties, and it is appropriate for the Winnebago County Board of Supervisors to acknowledge her years of service.

NOW, THEREFORE, BE IT RESOLVED by the Winnebago County Board of Supervisors that sincere appreciation and commendation be and is hereby extended to Cindy Erspamer-Stenz for the fine services she has rendered to Winnebago County.

BE IT FURTHER RESOLVED that the Winnebago County Clerk send a copy of this Resolution to Cindy Erspamer-Stenz.

Submitted by:
PERSONNEL & FINANCE COMMITTEE

Motion by Supervisor Rasmussen and seconded by Supervisor Ellis to adopt. CARRIED BY VOICE VOTE.

RESOLUTION NO. 242-022018: Commendation for Michael Augustine

WHEREAS, Michael Augustine has been employed with the Winnebago County Highway Department for the past twenty-three (23) years, and during that time has been a most conscientious and devoted County employee; and

WHEREAS, Michael Augustine has now retired from those duties, and it is appropriate for the Winnebago County Board of Supervisors to acknowledge his years of service.

NOW, THEREFORE, BE IT RESOLVED by the Winnebago County Board of Supervisors that sincere appreciation and commendation be and is hereby extended to Michael Augustine for the fine services he has rendered to Winnebago County.

BE IT FURTHER RESOLVED that the Winnebago County Clerk send a copy of this Resolution to Michael Augustine.

Submitted by:
PERSONNEL & FINANCE COMMITTEE

Motion by Supervisor Rasmussen and seconded by Supervisor Ellis to adopt. CARRIED BY VOICE VOTE.

RESOLUTION NO. 243-022018: Disallow Claim of David Lewis

WHEREAS, your Personnel and Finance Committee has had the claim of David Lewis referred to it for attention; and

WHEREAS, your Committee has investigated the claim and recommends disallowance of same by Winnebago County.

NOW, THEREFORE, BE IT RESOLVED by the Winnebago County Board of Supervisors that the claim of David Lewis, filed with the County Clerk on December 5, 2017, be and the same is hereby disallowed for the reason that there is no basis for liability on the part of Winnebago County.

Submitted by:
PERSONNEL & FINANCE COMMITTEE

Motion by Supervisor Rasmussen and seconded by Supervisor Ellis to adopt. CARRIED BY VOICE VOTE.

RESOLUTION NO. 244-022018:

**Request Authority to Apply for Funds for Maintenance of
Winnebago County-Owned and Leased Snowmobile Trails**

WHEREAS, Winnebago County is interested in maintaining County-owned and -leased lands for public snowmobile trail use; and

WHEREAS, funds are available for snowmobile trail maintenance as well as snowmobile trail bridge building and repair through the Department of Natural Resources pursuant to § 23.09(26), Wis Stats; and

WHEREAS, in order to participate in this program, it is necessary that the Winnebago County Board authorize submittal of an application for said funds.

NOW, THEREFORE, BE IT RESOLVED by the Winnebago County Board of Supervisors that it hereby authorizes the Winnebago County Executive and the Winnebago County Clerk to apply on behalf of Winnebago County to the Department of Natural Resources, pursuant to § 23.09(26), Wis Stats, for any financial aid that may be available for public snowmobile trail maintenance and snowmobile trail bridge building and repair in Winnebago County.

Submitted by:
PARKS & RECREATION COMMITTEE

Motion by Supervisor Konetzke and seconded by Supervisor Norton to adopt. CARRIED BY VOICE VOTE.

RESOLUTION NO. 245-022018:

**Move \$20,000 for the Winnebago Waterway Program from the
Miscellaneous Unclassified Account to the Land and Water
Conservation Department.**

WHEREAS, the \$20,000 cost for the Winnebago Waterway Program was originally budgeted in the Winnebago County 2018 Budget, in the Miscellaneous Unclassified Account; and

WHEREAS, the Land and Water Conservation Department and the Land Conservation Committee are directly connected to the Winnebago Waterway Program; and

WHEREAS, in accordance with accepted accounting practices it is most appropriate that this cost be budgeted and accounted for in the Land and Water Conservation Department's Contracted Services Account;

NOW, THEREFORE, BE IT RESOLVED by the Winnebago County Board of Supervisors that it hereby authorizes that the \$20,000 cost for the Winnebago Waterway Program be moved from the Miscellaneous Unclassified Account to the Land and Water Conservation Department's Contracted Services Account in the Winnebago County 2018 Budget.

Submitted by:
LAND CONSERVATION COMMITTEE
PERSONNEL & FINANCE COMMITTEE

Motion by Supervisor Farrey and seconded by Supervisor Gordon to adopt. CARRIED BY VOICE VOTE.

RESOLUTION NO. 246-022018:

**Amending Human Resources Policies to Add Worksite Breastfeeding
Policy**

WHEREAS, the Federal Patient Protection and Affordable Care Act, passed in 2010, requires employers to provide opportunities for employees to take breaks for the purposes of expressing breast milk, and to provide appropriate space for such breaks; and

WHEREAS, although Winnebago County has been complying with this law, it has not had a formal policy implementing its requirements; and

WHEREAS, a written policy implementing this law in Winnebago County will help provide guidance and direction to County managers as well as support to County employees who may wish to take advantage of its provisions.

NOW, THEREFORE, BE IT RESOLVED, by the Winnebago County Board of Supervisors, that the Winnebago County Human Resources Policies shall be and hereby is amended by adding Policy 21.08, Worksite Breastfeeding, as attached to this Resolution.

Submitted by:
PERSONNEL & FINANCE COMMITTEE

Motion by Supervisor Rasmussen and seconded by Supervisor Gordon to adopt. CARRIED BY VOICE VOTE.

Reauthorization of the Winnebago County Self-Funded Workers' Compensation Insurance Program

WHEREAS, the County of Winnebago is a qualified political subdivision of the State of Wisconsin; and

WHEREAS, the Wisconsin Worker's Compensation Act (Act) provides that employers covered by the Act either insure their liability with worker's compensation insurance carriers authorized to do business in the State of Wisconsin, or to be exempted (self-insured) from insuring liabilities with a carrier and thereby assuming the responsibility for its own worker's compensation risk and payment; and

WHEREAS, the State of Wisconsin and its political subdivisions may self-insure worker's compensation without a special order from the Department of Workforce Development (Department) if they agree to report faithfully all compensable injuries and agree to comply with the Act and rules of the Department; and

WHEREAS, the Personnel and Finance Committee at its February 1, 2018, meeting, approved the continuation of the self-insured worker's compensation program in compliance with Wisconsin Administrative Code DWD 80.60(3).

NOW, THEREFORE, BE IT RESOLVED, by the Winnebago County Board of Supervisors, that it hereby authorizes the continuation of the self-insured worker's compensation program that is currently in effect.

BE IT FURTHER RESOLVED by the Winnebago County Board of Supervisors that it hereby directs the Winnebago County Clerk to forward a certified copy of this Resolution to the Worker's Compensation Division, Wisconsin Department of Workforce Development.

Submitted by:

PERSONNEL & FINANCE COMMITTEE

Motion by Supervisor Rasmussen and seconded by Supervisor Scherck to adopt. CARRIED BY VOICE VOTE.

Motion by Supervisor Robl and seconded by Supervisor Ellis to adjourn until the March 20, 2018 board meeting at 6:00 p.m. The meeting was adjourned at 6:33 p.m.

Submitted by:

Julie A. Barthels

Winnebago County Deputy Clerk

State of Wisconsin)

County of Winnebago) ss

I, Julie A. Barthels, do hereby certify that the foregoing is a true and correct copy of the Journal of the Winnebago County Board of Supervisors for their regular meeting held February 13, 2018.

Julie A. Barthels

Winnebago County Deputy Clerk

The following amendments are being proposed to Article 15 of the Winnebago County Town/County Zoning Ordinance, entitled Erosion Control and Stormwater Management. These amendments are necessary for enforcement consistency and to stay current with NR151.

Amend S.01(2) to read “The Winnebago County Board hereby designates the Planning & Zoning Committee to administer and enforce the provisions of the ordinance”.

Amend S.01(3)(b) to read “Targeted non-agricultural performance standards promulgated in rules by the Department of Natural Resources under Chaper NR 151, Wisconsin Admin. Code”.

Amend S.01(3)(c) to read “Technical standards for implementing non-agricultural performance standards developed by the Department of Natural Resources under III of Chapter NR 151, Wisconsin Admin. Code”.

Amend S.07 (1) to read “”Administering authority” means the governmental employees or their designees empowered under S.59.693, Wisconsin Statutes to administer this ordinance. For the purpose of this ordinance the administering authority is the Planning and Zoning Department under guidance from the Planning and Zoning Committee.”

Delete and recreate S.07 (6) to read “”DSPS” means the Department of Safety and Professional Services.”

Amend S.07 (19) to read “”Impervious surfaces” means a land cover that releases as runoff all or a large portion of the precipitation that falls on it. Rooftops, sidewalks, driveways, parking lots, gravel, and streets are examples of surfaces that are typically impervious.”

Amend S.07 (35) to read “”Peak flow discharge rate” means the maximum unit volume of storm water discharged during a specified unit of time. Atlas 14 rainfall intensities with appropriate MSE3 or MSE4 rainfall distribution shall be used for peak flow calculations.”

Amend S.07 (43) to read “”Redevelopment” means new development that is replacing older development. Redevelopment in this ordinance only applies when activity will increase the impervious area or projects requiring an NOI that was filed on or after January 1, 2011.”

Delete and recreate S.08 (1) to read “Wisconsin Storm Water Construction technical standards.”

Amend S.10 (a) to read “General Applicability. These general applicability provisions apply to the following land-disturbing construction activities, excluding that otherwise regulated by the DSPS under Wisconsin Admin. Code SPS 321.125.”

Amend S.10 (2) to read “EROSION AND OTHER POLLUTANT CONTROL REQUIREMENTS. And erosion control plan shall ensure, to the extent practical, that soil erosion, siltation, sedimentation, and other offsite impacts from land-disturbing activities are minimized through installation of BMPs pursuant to S.05 of this ordinance. The erosion control plan for permitted sites must incorporate maintenance of existing vegetation, especially adjacent to surface waters whenever possible, minimization of soil compaction and preservation of topsoil, minimization of land disturbing construction activity on slopes of 20% or more and development of spill prevention and response procedures. The BMPs may be located on or off the construction site. In addition, the erosion control plan shall.”

Amend S.10(2)(a) to read “BMPs that, by design, achieve to the maximum extent practical, a maximum discharge of 5 tons per acre per year of sediment. No person shall be required to exceed a 5 tons per acre per year discharge to meet the requirements of this paragraph. Erosion and sediment control BMPs may be used alone or in combination to meet the requirements of this paragraph. Credit towards meeting the sediment reduction shall be given for limiting the duration or area, or both, of land disturbing construction activity, or the appropriate mechanism.”

Amend S.10(2)(b) to read “Notwithstanding par. (a), if BMPs cannot be designed and implemented to reduce the maximum sediment discharge to 5 tons per acre per year, the plan shall include a written and site-specific explanation as to why the maximum discharge of 5 tons per acre per year is not attainable and the sediment load shall be reduced to the maximum extent possible.”

Amend S.11 (1)(1)(a) to read “The erosion and sediment control plan shall be prepared in accordance with good engineering practices and the design criteria, standards and specifications outlined in the Wisconsin DNR’s Stormwater Construction technical standards.”

Amend S.11 NOTE to read “Note: the plan requirements of this subsection will meet the plan requirements of Chapter NR 216.46, Wisconsin Admin. Code, when prepared in accordance with good engineering practices and design criteria, standards and specifications outlined in the most recent Wisconsin DNR publication. This is important for municipalities seeking to develop a “Qualifying Local Program” under phase 2 of the federal storm water permit program. Qualifying local programs will also be required to impose, either through this ordinance or a stormwater management ordinance, stormwater management plan requirements consistent with Chapter NR 216.47, Wisconsin Admin. Code.”

Amend S.14 (1)(1)(a) to read “By design, maintain, or lower peak runoff discharge rates as compared to pre-settlement (meadow) conditions for the 1-, 2-, 10-, and 100-year, 24–hour design storms applicable to the site, using the Runoff Curve Numbers designated on Table 1 for the appropriate site soil hydrologic group. If TR-55 methodology is not

used for the hydrologic calculations, the local administering authority must approve an equivalent methodology.”

Amend S.14(2)(c)(4)(a) to read “For 1 and 2 family residential developments within a subdivision or plat that is subject to this ordinance effective June 17, 2003, a 50 foot buffer from wetlands, except in cases where the administering authority deems a larger buffer is necessary. For high quality wetlands such as sedge meadows, open and coniferous bogs, low prairies, calcareous fens, coniferous swamps, lowland hardwood swamps, and ephemeral ponds, a setback of 75 feet.”

Amend S.15 (1) to read “PERMIT REQUIRED. No land owner or land operator may undertake a land development or land redevelopment activity subject to his ordinance without receiving a permit from the administering authority prior to commencing the proposed activity. A permit shall be required for land development or redevelopment which increases impervious greater than 3000 square feet. The total area of impervious surfaces shall be considered within the area of the parcel(s). Land development activities generally fall into the following categories: commercial, industrial, platted subdivisions, or single lot activities. Stormwater plans for commercial, industrial, subdivisions, will require more detailed information generally provided by an engineer whereas, single lot activities normally will require non-engineered plans. Minor land development activities such as the construction of a fence, minor landscaping, or construction of minor structures (10x10 or smaller) may be considered exempt from permit requirements if the administering authority determines that no, or very minimal, adverse impacts will result. The determination of impact shall be based, without limitation, upon criteria such as ponding of water, backing up of water, or a threat to neighboring properties.”

Amend S.16 (1)(c)(2) to read “Computations of peak flow discharge volumes for the 1-year, 2-year, 10-year, and 100-year/24 hour storm events. All major assumptions used in developing input parameters shall be clearly stated. The computations shall be made for each discharge point in the development, and the geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).”

Amend S.16 (1)(d)(6) to read “Computations of peak flow discharge rates for the 1-year, 2-year, 10-year, and 100-year/24 hour storm events. All major assumptions used in developing input parameters shall be clearly stated. The computations of peak flow discharge rates shall be made for each discharge point in the development, and the geographic areas used in making the calculations shall be clearly cross references to the required map(s).”