

**TOWN OF WAUSAU  
MARATHON COUNTY  
WISCONSIN  
CODE OF ORDINANCE**

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**Chapter 1**  
**GENERAL PROVISIONS**

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Sec. 1.104.	Provisions deemed continuation of existing ordinances.
Sec. 1.105.	Repeal of ordinances.
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Sec. 1.107.	Certain ordinances not affected by Code.
Sec. 1.108.	Code does not affect prior offenses or rights.
Sec. 1.109.	General penalty.
Sec. 1.110.	Reserved.
Sec.1.111	Fees and charges.

**Sec. 1.100. Title; effective date; citation.**

These ordinances shall be known as the "Municipal Code of the Town of Wausau" and shall take effect from and after passage and publication as required by statute. All references shall be cited by section number. For references to the provisions of Chapters of this Code, the section of this Code shall be cited together with the specific citation of the applicable Wisconsin Statute (example: Section 1.100, Municipal Code of the Town of Wausau).

**Sec. 1.101. Definitions and rules of construction.**

The following words, terms and phrases when used in this Code shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Generally.* Words shall be construed in their common and usual significance unless the contrary is clearly indicated.

*Acts of agent.* When a provision requires an act to be done that may by law as well be done by an agent as by the principal, such requirement shall be construed to include all such acts when done by an authorized agent.

*And/or.* The term "and" may be read as "or," and the term "or" may be read "and" where the sense requires it.

*Computation of time.*

1. The time within which an act is to be done or proceeding had or taken shall be computed by excluding the first day and including the last; and when any such time is expressed in hours the whole of Sunday and of any legal holiday, from midnight to midnight, shall be excluded.
2. If the last day within which an act is to be done or proceeding had or taken falls on a Sunday or legal holiday, the act may be done or the proceeding had or taken on the next secular day.
3. When the last day within which a proceeding is to be had or taken or an act done that consists of any payment to or the service upon or filing with any officer, agent, agency, department or division of the state or of the county, or a city, village, town, school district or other division of the state, of any money, return, statement, report, notice or other document, falls on a Saturday and the duly established official office hours of such officer, agent, agency, department or division to which such payment is to be made or upon which such service is to be made or with which such return, statement, report notice or other document is required to be filed, do not include any office hours on such Saturday, such proceeding may be had or taken or such act may be done on the next succeeding day that is not a Sunday or legal holiday.
4. Regardless of whether the time limited in any ordinance for the taking of any proceeding or the doing of any act is measured from an event or from the date or day on which such event occurs, the day on which such event took place shall be excluded in the computation of such time.
5. The term "legal holiday" as used in this section means any statewide legal holiday provided in Wis. Stats. § 895.20. When an act is permitted to be done by the use of the postal service, and the last day within the time prescribed by law for performing such act falls on a legal public holiday under federal law, or other holiday designated by the president such that the postal service does not receive registered mail or make regular deliveries on that day, the day shall be considered a legal holiday for purposes of this definition.

**State law reference**—similar provisions, Wis. Stats. § 990.001(4).

*County.* The term "county" means the County of Marathon, Wisconsin.

*Includes.* "Includes" does not limit a term to a specified example.

*Officers and employees generally.* Whenever any officer or employee is referred to by title, such as "Town Clerk" or "health officer," such reference shall be construed as if followed by the words "of the Town of Wausau, Wisconsin."

*Owner.* The term "owner," as applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or of a part of such building or land.

*Person.* The term "person" extends and applies to natural persons, firms, corporation, associations, partnerships or other bodies politic and all entities of any kind capable of being sued unless plainly inapplicable.

*Personal property.* The term "personal property" includes every species of property except real property.

*Premises.* The term "premises" as applied to real property, includes real estate, structures and hereditaments.

*Property.* The term "property" shall include real, personal and mixed property.

*Real property.* The term "real property" shall include lands, tenements and hereditaments.

*Reasonable time or notice.* In all cases when an enactment shall require any act to be done in a "reasonable time" or a "reasonable notice" is to be given to any person, such reasonable time or notice shall be deemed to mean such time only as may be necessary for the prompt execution of such duty or compliance with such notice.

*Regulations and Code.* Whenever in this Code reference is made to any "regulations" or "code" of any government or board, bureau, commission or agency, such terms shall mean the regulations in effect on the effective date of this Code, unless the context clearly provides otherwise.

*Singular and plural; male and female.* Every word in this Code and in any ordinance importing the masculine gender may stand and be applied to females as well as males, and every word importing the singular number only may extend and be applied to several persons or things as well as to one person or thing; provided that these rules of construction shall not be applied to any provisions that shall contain any express language excluding such construction or when the subject matter or context of such provisions may be repugnant thereto.

*Street.* The term "street" shall include any highway, road, lane or cul du sac in the town dedicated or devoted to public use.

*Tenant; occupant.* The terms "tenant" and "occupant," applied to a building or land, shall include any person holding a written or oral lease or who occupies the whole or part of such building or land, either alone or with others.

*Town board, board.* The terms "town board" and "board" mean the Board of Supervisors of the Town of Wausau, Wisconsin.

*Wis. Admin. Code.* The abbreviation "Wis. Admin. Code" shall mean the official Wisconsin Administrative Code, as amended.

*Wisconsin Statutes.* Whenever in this Code reference is made to the "Wisconsin Statutes" or "state statutes" or "state law" or "laws of the state," such term shall mean the Wisconsin Statutes, as amended, unless the context clearly provides otherwise.

### **Sec. 1.102. Titles, chapters, sections.**

1. *Reference to this Code.* All references to titles, chapters, articles, sections, subsections or paragraphs refer to this Code of Ordinances unless otherwise indicated.
2. *Conflicting provisions.* If the provisions of the different chapters of this Code conflict with or contravene each other, the provisions of each chapter shall prevail to all matters and questions arising out of the subject matter of such chapter.

### **Sec. 1.103. Catchlines of sections; history notes, references, editor's notes.**

1. The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and are not titles of such sections, or of any part of the section, nor unless expressly so provided shall they be so deemed when any such section, including the catchline, is amended or reenacted.

2. The history or source notes appearing in parentheses after sections in this Code have no legal effect and only indicate legislative history.
3. Unless specified otherwise, all references to chapters or sections are to chapters or sections of this Code.
4. Editor's notes and other references appearing after sections throughout this Code are not intended to have any legal effect but are merely intended to assist the user of the Code.

**Sec. 1.104. Provisions deemed continuation of existing ordinances.**

The provisions of this Code, in so far as they are substantially the same as legislation previously adopted by the town relating to the same subject matter, shall be construed as restatements and continuations of the Code and not as new enactments.

**Sec. 1.105. Repeal of ordinances.**

All ordinances adopted by the town board prior to the effective date of this Code and inconsistent with any of the provisions of this Code are repealed, except those ordinances and parts mentioned in section 1.107.

**Sec. 1.106. Repeal of repealed acts.**

No act or part of any act repealed by subsequent act of the town board shall be deemed to be revived by the repeal of such repealed act, nor shall any ordinance or part of any ordinance heretofore repealed be considered re-ordained or reenacted by virtue of the provisions of section 1.105.

**Sec. 1.107. Certain ordinances not affected by Code.**

1. Nothing in this Code or the ordinance adopting this Code affects the validity of any ordinance or portion of an ordinance:
  - a. Promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness;
  - b. Authorizing or approving any contract, deed or agreement.
  - c. Granting any right or franchise;
  - d. Making or approving any appropriation or budget;
  - e. Providing for salaries or other employee benefits not codified in this code;
  - f. Levying, imposing or otherwise relating to taxes not codified in this code;
  - g. Adopting or amending the comprehensive plan and regarding zoning and platting and sub-divisions;
  - h. Dedicating, accepting or vacating any plat or sub-division;
  - i. Dedicating, establishing, naming, locating, relocating, opening, paving, grading, widening, repairing or vacating any street;
  - j. Establishing the grade of any street or sidewalk;
  - k. Levying or imposing any special assessments;
  - l. De-annexing property or excluding property from the town;
  - m. Regarding water wells, water and sewer services;
  - n. That is temporary, although general in effect;

- o. That is special, although permanent in effect;
- p. The purpose of which has been accomplished; and
- q. Reserved.

2. The ordinances designated in subsection (1) of this section continue in full force and effect to the same extent as if published at length in this Code.

**Sec. 1.108. Code does not affect prior offenses or rights.**

- 1. Nothing in this Code or the ordinance adopting this Code affects any offense or act committed or done, any penalty or forfeiture incurred, or any contract or right established before the effective date of this Code.
- 2. The adoption of this Code does not authorize any use or the continuation of any use of a structure or premises in violation of any town ordinance on the effective date of this Code.

**Sec. 1.109. Enforcement of ordinance; general penalty.**

1. *Established.* Unless another penalty is expressly provided in this Code or in any ordinance of the town, any person who shall violate any of the provisions of this Code shall upon conviction of such violation be subject to a forfeiture, which shall be-as-follows:

- a. *First offense.* For the first offense, a forfeiture of not less than \$50.00 nor more than \$100.00 plus costs, fees and surcharges imposed under Wis. Stat. ch. 814, and in default of payment of such forfeiture and costs shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding ninety (90) days.

- b. *Second offense.* Any person found guilty of violating any ordinance or provision of this Code who shall previously have been convicted of a violation of the same ordinance or provision shall, upon conviction, forfeit not less than \$100.00 nor more than \$1,000.00 for each such offense, plus costs, fees and surcharges imposed under Wis. Stat. ch. 814 and in default of payment of such forfeiture and costs shall be imprisoned in the county jail until such forfeiture and costs of prosecution are paid, but not to exceed six months.

- c. In addition to any penalties as set forth herein, the town may institute the appropriate legal action or proceedings to enjoin a violation of this code or seek abatement or removal.

- d. Each day that a violation continues to exist shall constitute a separate offense.

2. *Execution against defendant's property.*

- a. Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of a court for violation of this Code or ordinance of the town, the court may, in lieu of ordering imprisonment of the defendant, or after the defendant has been released from custody, issue an execution against the property of the defendant for such forfeiture and costs.

- b. The imposition of forfeiture does not prevent revocation or suspension of a license, permit or franchise.

3. *Enforcement of Town Ordinances.*

- a. *Enforcement.* In addition to civil actions for violation of town ordinances authorized by Wis. Stat. § 66.0114, the town hereby adopts and authorizes use of the citation method of enforcement of ordinances. Any town board members and any town personnel responsible for enforcing the provisions of this Code, who are so directed by the town board, are hereby authorized to issue citations for violations of this Code, including ordinances for which a statutory counterpart exists.

- b. *Contents of Citation.* The citation shall contain the following:

- (1) The name and address of the alleged violator;
- (2) The birth date of the alleged violator;
- (3) The factual allegations describing the alleged violation;
- (4) The time and place of the alleged violation;
- (5) The number of the ordinance violated;
- (6) A designation of the offense in a manner that can be readily understood by a person making a reasonable effort to do so;
- (7) The time at which the alleged violator may appear in court;
- (8) A statement that in essence informs the alleged violator of all of the following:
  - (a) That a cash deposit may be made, which deposit shall be mailed or delivered to the Marathon County Clerk of Circuit Court prior to the time of the initial court appearance;
  - (b) That, if a deposit is made, no appearance in court is necessary unless the court subsequently summons the alleged violator;
  - (c) That, if a cash deposit is made and alleged violator does not appear in court, he or she will be deemed to have entered a plea of no contest and submitted to forfeiture, plus costs, fees and surcharges imposed under Wis. Stats. ch. 814 not to exceed the amount of the deposit or, if the court does not accept the plea of no contest, a summons and complaint may be issued to commence an action to collect the the forfeiture plus costs, fees and surcharges imposed under Wis. Stats. ch. 814;
  - (d) That, if no cash deposit is made and the alleged violator does not appear in court at the time specified, the court may issue a summons or a warrant for the alleged violator's arrest or consider the nonappearance to be a plea of no contest and enter judgment or the town may commence an action to collect forfeiture plus costs, fees and surcharges imposed under Wis. Stats. ch. 814;
  - (e) That, if the court finds that the violation involves an ordinance that prohibits conduct that is the same as or similar to conduct prohibited by state statute punishable by fine or imprisonment or both and that the violation resulted in damage to the property of or physical injury to a person other than the alleged violator, the court may summon the alleged violator into court to determine if restitution shall be ordered under Wis. Stats. § 800.093;
  - (f) A direction that, if the alleged violator elects to make a cash deposit, the statement that accompanies the citation shall be signed to indicate that the statement required under subsection 8 of this section has been read and such statement shall be sent or brought with the cash statement; and
  - (g) Such other information as the town deems necessary.

4. *Form of citation.* The form of the citation to be used by the town is on file in the town clerk's office and is adopted by reference as fully set forth in this section.

5. *Schedule of deposits.* The schedule of cash deposits may be established for use with citations issued under this section of the Code by adoption of a resolution by the town board according to penalty provisions of this Code or the Wisconsin Statutes, whichever is applicable. In the absence of a scheduled or statutorily mandated deposit amount for a particular violation, the deposit amount shall be \$100.00 plus applicable costs, fees and surcharges imposed under Wis. Stat. ch. 814. Deposits shall be made in cash, money order or certified check made payable to the Marathon County Clerk of Court.

6. *Adoption of Wis. Stats. § 66.0113.* Wisconsin Stats. § 66.0113 and any amendments thereto relating to violator's options and procedure on default is hereby adopted and incorporated herein by reference.

7. *Statute of Limitations.* Pursuant to Wis. Stats. § 893.93(2)(b), any action to recover a forfeiture or penalty imposed by ordinance or regulation, when no other limitation is prescribed by law, shall be commenced within two (2) years of the violation. In those situations in which there occurs a continuing violation in existence for more than two (2) years prior to the issuance or the citation and wherein each day the violation exists continues to constitute a separate offense, no penalty may be imposed for each day a violation occurs more than two (2) years prior to the issuance of the citation; a penalty may be imposed, however, for each day of the violation occurring within a two (2) year period prior to the issuance of the citation.

**State law references**—Citation procedure, Wis. Stats. Chapter 66.0113 and 778.05; actions for violations of ordinances, Wis. Stats. Chapter 66.0114; penalty for violation of ordinances, Wis. Stats. Chapter 66.0109; bond generally, Wis. Stats. Chapter 66.0111; outstanding unpaid forfeitures, Wis. Stats. Chapter 66.0115; actions for violations of municipal ordinances, Wis. Stats. Chapter 66.0114; fees of municipal courts, Wis. Stats. Chapter 814.65; collection of forfeitures generally, Wis. Stats. Chapter 778.10, Chapter 815.01 and Chapter 815.05.

**Sec. 1.110. Reserved.**

**Sec. 1.111. Supplementation of code.**

When preparing a supplement to this Code, the person authorized to prepare the supplement may make formal, non-substantive changes in ordinances and parts of ordinances included in the supplement, insofar as necessary to do so in order to embody them into a unified code. For example, the person may:

1. Arrange the material into appropriate organizational units.
2. Supply appropriate catchlines, headings and titles for chapters, articles, divisions, subdivisions and sections to be included in the Code and make changes in any such catchlines, headings and titles or in any such catchlines, headings and titles already in the Code.
3. Assign appropriate numbers to chapters, articles, divisions, subdivisions and sections to be added to the Code.
4. Where necessary to accommodate new material, change existing numbers assigned to chapters, articles, divisions, subdivisions or sections.
5. Change the words "this ordinance" or similar words to "this chapter," "this article," "this division," "this subdivision," "this section" or "sections" and also inserting section numbers to indicate the sections of the code affected.
6. Make other non-substantive changes necessary to preserve the original meaning of the ordinances inserted in the Code.

**Sec. 1.112. Fees and charges.**

All fees and charges required by the town are set by the town board from time to time and none of the provisions of this Code or the ordinance adopting this Code shall affect such fees and charges.

Chapter 2

**ADMINISTRATION**

**Article I. General**

Sec. 2.101. Statutes adopted.

**Article II. Voting**

Sec. 2.102. Voter registration.  
Sec. 2.103. Poll Worker Shifts.

**Article II. Town Board**

Sec. 2.104. How constituted.  
Sec. 2.105. Duties and powers.  
Sec. 2.106. Extension of Term of Office.  
Sec. 2.107. Board meetings.  
Sec. 2.108. Accounts to be audited, filed and referred.  
Sec. 2.109. Publication of ordinances.  
Sec. 2.110. Order of business.  
Sec. 2.111. Committees.  
Sec. 2.112. Duties of Chairperson.  
Sec. 2.113. Duties/Election of Town Clerk.  
Sec. 2.114. Duties of Treasurer.

**Article III. Officers and Employees**

Division 1. Generally.

Sec. 2.115. Term of office of appointive officials.  
Sec. 2.116. Vacancies in office of appointive officials.  
Sec. 2.117. Certificate of appointment.  
Sec. 2.118. Vacancy, when occurring.  
Sec. 2.119. Gifts and Gratuities.

Division 2. Appointed Officials.

Sec. 2.120. Town Attorney; Town Constable.

**Article IV. Boards, Commissions and Committees**

Sec. 2.121. Designated.  
Sec. 2.122. Robert's Rules of Order.  
Sec. 2.123. Additional commissions and committees.  
Sec. 2.124. Alternate Board of Review.

**Article V. Finance**

Sec. 2.125. Receipts and earnings.

**Article VI. Records**

Sec. 2.126. Destroying Old Records.  
Sec. 2.127. Accessing Records.



## ARTICLE I. GENERAL

### Sec. 2.101. Statutes adopted.

The provisions of Wis. Stat., Ch. 6, as amended, regarding voter registration is incorporated and made a part of this section as if fully set forth at length.

### Sec. 2.102. Voter registration.

1. *Authorization.* Before any adult resident of the town shall be permitted to vote at any election held within the limits of the town, he shall register as a qualified elector.
2. *Registration.* The town clerk shall receive applications for registration at his/her office during regular office hours throughout the year and at such other places and at such times as he deems advisable, except that pre-registration for any election or primary shall be closed at 5:00 p.m. on the second Wednesday next preceding the election or primary. Registration at other times and places is permissible in accordance with Wis. Stats., ch. 6.

### Sec. 2.103. Poll workers' shifts.

Under the authority of Wis. Stats. 7.30(1), the town board of the Town of Wausau shall provide for the selection of two sets of officials to work at different times on each election day. The first shift shall commence at 6:30 a.m. and end at 1:30 p.m. The second shift shall commence at 1:30 p.m. and end with completion of all required election day duties that follow the closure of the polls.

### Sec. 2.104. Voting wards.

Under the authority of Wis. Stats. 5.15, the Town of Wausau is required to establish municipal wards based on the results of the census based on the municipality's population. The following wards have been established based on the Town's population:

*Ward 1*-This part of the Town of Wausau lying South of State Highway 52 with the exception of the area comprising the DC Everest School district.

*Ward 2*-That part of the Town of Wausau lying North of State Highway 52.

*Ward 3*-That part of the Town of Wausau comprising the DC Everest School District.

The polling place is designated at the Town of Wausau Municipal Building located at the intersection of County Trunk Z and Fire Station Road.

## ARTICLE II. TOWN BOARD

### Sec. 2.104. How constituted.

The elective officials of the town board shall be a town chairman and two supervisors and shall constitute a board to be designated "Town Board of Wausau," two of whom shall constitute a quorum, except when otherwise provided by law, and the chairman may administer oaths and affidavits in all matters pertaining to the affairs of the town. Unless otherwise set by resolution of the town board, meetings of the town board shall be held in the Town of Wausau Municipal Center. The town board shall have the duties and powers as provided in this article.

**State law reference**—Town board generally, Wis. Stats. § 60.20 et seq.

### Sec. 2.105. Town board duties and powers.

The town board shall have all the powers and duties conferred upon it by Wis. Stats. § 60.22 et seq., as amended, which sections are incorporated by reference and made a part of this section as though fully set forth. The town board shall have charge of all affairs of the town not committed by law to another body or to a town employee. In addition, the town board shall exercise powers relating to villages and conferred on village boards, having been lawfully authorized so to do by resolution of a town meeting held on April 3, 1962, which resolution was adopted pursuant to Wis. Stats. Chapter 60.10(2)(c).

1. *Legislative authority.*

- a. The town board may only engage in discussions or take action on matters at a properly noticed town board meeting.
- b. The town board may take action by voting on motions and adopting ordinances and resolutions by a simple majority vote, unless state statutes require a super majority such as Wis. Stats. Chapter 65.90(5) or 62.23(7)(d)(2m).

2. *Finance.*

- a. The town board is responsible for preparation of the annual budget and conduct the required public hearing.
- b. The town board is responsible for the preparation of an annual financial statement pursuant to Wis. Stats. § 60.41.
- c. The town board must approve all claims and disbursements from the town treasury pursuant to Wis. Stats. § 66.0607.
- d. The town board may adopt an alternative claims procedure by ordinance pursuant to Wis. Stats. Chapter 60.44(2).
- e. The town board may provide for an audit of the town finances pursuant to Wis. Stats. Chapter 60.43.
- f. The town board shall designate the public depositories to be used by the town under Wis. Stats. Chapter 66.0603.
- g. The town board elects not to provide a treasurer's bond as required by Wis. Stats Chapter 0.67(1). Therefore, obligating the town of Wausau to pay, in case the treasurer fails to pay all state and county taxes required by law to be paid by the treasurer to the county treasurer.

3. *Public works.*

- a. The town board is responsible for the care and supervision of town highways.
- b. The town board is responsible for accepting, laying out and altering highways.
- c. The town board is responsible for complying with the competitive bidding law applicable to town public works pursuant to Wis. Stats. Chapter 60.47.
- d. For most projects over \$25,000.00, as prescribed by Wis. Stats. Chapter 66.0903, the town board also shall comply with the state prevailing wage rate law.
- e. The town board must approve all contracts.

4. *Public safety.*

- a. *Fire protection.* The town board shall provide fire protection for the town.
- b. *Ambulance service.* The town board shall provide ambulance service unless ambulance service is provided by another person or entity pursuant to Wis. Stats. Chapter 60.565.
- c. *Law enforcement.* The town board has the option of providing law enforcement for the town as prescribed by Wis. Stats. Chapter 60.56.
- d. *Emergency management.* The town board must develop and adopt an emergency management program and plan that is consistent with the state emergency management plan and also must designate a head of emergency management services.

5. *Property assessment.*

a. The town board shall select the assessor, determine whether the assessor will be a town employee or an independent contractor.

b. The town board members and town clerk shall act as the town board of review unless the town board establishes a citizen board of review under Wis. Stats. Chapter 70.46.

c. The town board shall establish the compensation for part-time board of review members.

d. The town board also may allow the recovery of "unlawful taxes" and "claims on excessive assessments" pursuant to Wis. Stats. Chapters 74.35 and 74.37.

6. *Planning and zoning.*

a. *Zoning.* The town board may adopt zoning ordinances but the zoning ordinances and any amendments shall not be effective unless the Marathon County Board approves the zoning ordinances and any amendments.

b. *Creation of a plan commission.* The town board may establish a plan commission pursuant to Wis. Stats. Chapters 60.62 and 62.23(1).

c. *Comprehensive planning.* The town board may adopt a comprehensive plan under Wis. Stats. Chapter 66.1001, may amend a comprehensive plan once adopted, may establish official maps under Wis. Stats. Chapter 62.23(6) and may establish local subdivision regulations under Wis. Stats. Chapter 236.45.

d. *Subdivision/land division ordinances.* The town board may regulate how land is divided and platted through the adoption of a local subdivision ordinance pursuant to Wis. Stats. Chapter 236.45.

7. *Personnel.*

a. The town board has the authority to hire employees on a permanent basis or temporary basis to carry out the functions of town government under Wis. Stats. Chapter 60.37.

b. The town board may hire legal counsel to assist the town pursuant to Wis. Stats. Chapter 60.37(2).

c. The town board may hire elected town officials as part-time town employees under Wis. Stats. Chapters 60.37(4) and 66.0501.

8. *Additional miscellaneous town board responsibilities.*

a. The town board may act as fence viewers when requested under Chapter 90, Wis. Stats.

b. The town board may act as required under Wis. Stats. § 88.90 to assist with removal of obstructions from the natural watercourse.

c. The town board may review and comply with the state ethics laws for local officials under Wis. Stats. Chapter 19.59 and avoid misconduct in office under Wis. Stats. Chapters 946.12 and 946.13.

**Sec.2.106. Extension of term of office.**

Officers elected in April 2012 and, thereafter, will have their term of office commence on the third Tuesday in April.

**Sec. 2.107. Board meetings.**

1. *Regular meetings.* Unless otherwise set by resolution of the board the regular meetings of the town board shall be held at the Town of Wausau Municipal Center on the first Monday of each month, commencing with the first meeting of the town board after the annual town meeting at 6:30 p.m. (Amended 3/11/2024)

2. *Special meetings.* Special meetings of the town board may be called by the chairperson at such times as he may appoint by oral or written notice of the purpose and time of the meeting to each member, which notice shall be given within a reasonable time prior to the meeting.
3. *Adjournments.* Any regular or special meeting may be adjourned by a majority of the members present at a town board meeting.
4. *Meetings shall be public.* All meetings of the town board shall be open and public, and all its procedures shall be recorded by the town clerk or under his authorization in record books kept for that purpose.
5. *Call to order.* The town chairperson shall promptly call each meeting of the town board to order at the hour fixed for the holding of such meeting. In case of the absence of the town chairperson, the senior supervisor shall call the meeting to order.
6. *Attendance; leave of absence.* No member of the town board, the town clerk, or other town official or employee directed by the town board to attend a town board meeting shall be absent from a meeting of the town board unless for illness or other good cause without first having obtained a leave of absence.
7. *Disturbance, how suppressed.* Whenever any disturbance or disorderly conduct shall occur in the town board meetings or rooms or halls adjacent to such meetings, the town chairman or other presiding officer of the board shall have power and authority by and with the aid of the designated attending law enforcement officer to cause the disturbance or disorderly conduct to be cleared of all persons except members and officers of the town board.

**Sec. 2.108. Accounts to be examined.**

Every account presented to the town board shall not be allowed or directed to be passed until it shall have been examined by the board; and no account shall be acted upon unless it has been filed with the town clerk at least by the Wednesday preceding the Monday upon which a town board meeting is to be held, at which meeting said account is to be presented.

**Sec. 2.109. Publication/posting of ordinances.**

All ordinances adopted by the town board shall be published/posted as provided by Wis. Stat. 60.80, as amended, and shall not be in effect until so published/posted unless otherwise provided.

**Sec. 2.110. Order of business.**

The order of business set forth in this section shall in all cases be adhered to, but the order may be temporarily suspended by majority vote.

- a. Call of roll and announcement of presence or absence of a quorum;
- b. Reading and correcting the minutes of the last preceding meeting or meetings unless dispensed with by the board without objection from any member;
- c. Old business;
- d. Reports of standing committees;
- e. Reports of special committees; and
- f. New business.

**Sec. 2.111. Committees.**

1. *Standing committees.* The planning commission is a standing committee of the town board and the members shall be appointed by the town chairman with the consent of the board.

2. *Special committees.* Select or special committees may be provided for on motion or by resolution designating the number and object and, unless otherwise ordered, shall be appointed by the town chairperson with the approval of the town board.

**Sec. 2.112. Duties of the Town Board Chairperson**

1. *Presiding Officer.* The town board chairperson is the presiding officer of the town board and town meetings. The town chair is a member of the town board of supervisors and has an equal vote to the other board members. The town chair does not have veto power. In addition to the powers and duties exercised as a town supervisor, the chairperson has numerous powers and duties of an executive and administrative nature.

2. *Presiding over meetings.* Duties include:

- a. Preparing meeting notice and agenda;
- b. Complying with open meetings law;
- c. Conducting the meetings and following rules of parliamentary procedure;
- d. Maintaining order at meetings which may include limiting the length of public comments and cutting short repetitive comments.

3. *Authorized Signature.* Sign all ordinances, resolutions, bylaws, orders, regulations, commissions, licenses and permits adopted or authorized by the town board unless the town board, by ordinance, authorizes another officer to sign specific types of documents in lieu of the chairperson. Counter-sign all drafts, order checks and transfer orders. In an emergency when the chairperson is not available, one of the supervisors may sign checks. (Amended 12/6/2021)

4. *Authorization of the Town Board, the Town Chair shall:*

- a. Supervise the administration of statutes relating to the town and town operations to see that they are faithfully executed;
- b. Ensure that town orders and ordinances are obeyed;
- c. Maintain peace and order are in the town, and
- d. Obtain assistance, if available, in case of emergency, except as provided under Wis. Stats., ch. 166;
- e. Direct, as appropriate, the solicitation of bids and quotations for the town’s purchase of equipment, materials and services and submit the bids and quotations to the town board for approval.
- f. Represent, or designate another officer to represent, the town at meetings of, and hearings before, vernmental bodies on matters affecting the town.
- g. Represent the interests of the town in connection with appearances before the state tax appeals commission.

5. Administer oaths and affidavits on all matters pertaining to the affairs of the town.

6. Nominate individuals for service as election officials to the town board whenever the town board disapproves the nominee of a party committee and the names of additional nominees are not available.

7. Bonding. Sue on official bonds.

8. *Loans.* Execute and sign a certificate of indebtedness in connection with obtaining a state trust fund loan.

9. *Fire Warden.* Serve as town fire warden under Wis. Stats., Chapters 26.13 and 26.14.

10. *Noxious Weeds.* Appoint, at his or her discretion, one or more commissioners of noxious weeds.
11. *Bonding.* Approve the bond of the town treasurer delivered to the county treasurer.
12. *Highway work.* Sign orders for payment of work performed and materials furnished on town highways.
14. *Tunnels.* See that all tunnels in the town are constructed under Wis. Stats., Chapter 82.37 and that they are kept good repair.
15. *County highway committee.* Serve as a member of the county highway committee.
16. *Close county highways.* Close county trunk highways when rendered dangerous for travel and notify the county highway commissioner.
17. *Emergencies.* May apply to governor for activation of the National Guard in the event of a public disaster.
18. *Fireworks.* Enforce regulation of fireworks.
19. *Strays; lost goods.* Perform the town chairperson's duties related to stray animals and lost goods.
20. *Distraigned animals.* Perform the town chairperson's duties related to distraigned animals.
21. *Damage by animals.* Perform the town chairperson's duties related to animals that have caused damage in the town.
22. *Town forfeitures.* Cause actions to be commenced for recovery of forfeitures for violations of town ordinances that can be recovered in municipal court. Notify the district attorney of forfeitures which may not be recovered in municipal court.
23. *Contractors' bonds.* Approve bonds furnished by contractors for public works.
24. *Committees.* Appoint members to the Town Plan Commission and advisory committees, subject to confirmation of the town board.
25. *Banking.* Review and sign bank reconciliations.
26. *Other duties.* Any other responsibilities required by law, but not specifically enumerated herein. (Wis. Stats., Chapter 60.24)

**Section 2.113. Duties of Town Clerk.** The town clerk shall have the following duties:

1. *Legislative.*

- a. The town clerk is responsible for taking minutes of the town board meetings and ensuring that any ordinances or resolutions adopted by the town board are posted or published as required under Wis. Stats. § 60.80.
- b. The town clerk may be delegated the responsibility of providing proper notice of town board meetings, public hearings and other matters such as required public bidding notices.
- c. The town clerk shall provide notice of the annual town meeting (if required) and other town elector meetings under Wis. Stats. § 60.12(3) and shall serve as clerk of those meetings.
- d. Within five (5) days of a town elector meeting, the town clerk must file the minutes of that meeting in his or her office and shall post or publish all resolutions, motions and other actions taken by the electors at a town elector meeting must be posted or published as required within 30 days of the meeting under Wis. Stats. Chapter 60.80(1)(a).

2. *Finance.* The town clerk shall keep a finance book containing a complete record of the finances of the town showing the receipts, with the date, amount and course of each receipt; the disbursements, with the date, amount and object of each disbursement; and any other information relating to town finances prescribed by the town board.

3. *Property assessment.*

- a. The town clerk shall carefully examine and correct the assessment roll upon receipt from the assessor and prior to the board of review.
- b. The town clerk is responsible for providing notice to the public of the open book under Wis. Stats. Chapter 70.45 and board of review under Wis. Stats. Chapter 70.47(2).
- c. An elected town clerk is a voting member of the town board of review.
- d. The town clerk shall provide the proper notices for the board of review, keep a record of the proceedings and swear in all persons testifying before the board of review. The town clerk also provides notice of board of review decisions as required by law.
- e. The town clerk also provided notice of board of review decisions as required by law.
- f. The town clerk shall prepare the tax roll, pick up the tax bills from the Marathon County treasurer, and deliver the bills to the town treasurer by December 8.
- g. The town treasurer shall mail the bills to the property owners.
- h. The town clerk shall provide the notice of proportional property tax revenue and credits to the county treasurer as required under Wis. Stats. Chapter 60.33(10).

4. *Elections.* The town clerk shall perform the functions in Chapters 5-12, Wis. Stats., relating to elections.

5. *Public records custodian.*

- a. The town clerk shall be the custodian of town records under Wis. Stats. Chapter 19.33 and shall comply with requests under the public records law under Wis. Stats. Chapter 19.34.
- b. The town clerk shall maintain, preserve, and dispose of town records in accordance with Wis. Stats. Chapter 19.21.

6. *Licenses.* The town clerk may issue licenses granted by the town board and shall process applications for alcohol licenses including providing notice pursuant to Wis. Stats. Chapter 125.04.

7. *Miscellaneous additional duties.*

- a. The town clerk shall perform the town clerk's duties under Chapters 115 to 121, Wis. Stats., relating to public instruction.
- b. The town clerk shall perform all other duties required by law, ordinance or lawful direction of the town meeting or town board.

**Sec. 2.114. Duties of Town Treasurer.**

1. *Finance.*

- a. The town treasurer shall receive and take charge of all money belonging to the town and deposit town funds in the depository designated by the town board as soon as practicable.
- b. The town treasurer must keep an itemized account of all monies received and disbursed, specifying the source from which it was received, the person to whom it was paid and the object for which it was paid.

c. The town treasurer shall issue numbered receipts for all funds received.

d. At the request of the town board, the town treasurer must present the account books and any supporting documents requested to the town board.

e. The town board may direct the town treasurer to give a report on the town's finances at the regular monthly board meeting.

2. *Property assessment.*

a. The town treasurer is responsible for collecting all property taxes, special assessments, special taxes and special charges shown on the tax roll.

b. The town treasurer must issue receipts for all tax payments.

c. The town treasurer shall settle all taxes received pursuant to Wis. Stats. § 74.23 in January and all taxes received in February and delinquent for over one year.

**ARTICLE III. OFFICERS AND EMPLOYEES**

DIVISION 1. GENERALLY

**Sec. 2.115. Term of office of appointed officials.**

All appointed officials, except as otherwise provided, shall hold their office for the term of two (2) years and/or until their successors are lawfully appointed and qualified.

**Sec. 2.116. Vacancies in office of appointed officials.**

Vacancies in appointed offices shall be filled by appointment for the residue of the unexpired term by the appointing power and in the manner prescribed in this article for making regular full-term appointments.

**Sec. 2.117. Certificate of appointment.**

When an appointive official has filed the oath and bond as required, the town clerk shall issue to him a certificate of appointment. If the appointment is to a commission, the appointee shall file the certificate with the secretary of the commission.

**Sec. 2.118. Vacancy, when occurring.**

A vacancy shall occur in case of the dismissal or death of any official or in case of the removal of any officer from the town, or when any officer elected or appointed in, for, or from any part of the town shall remove his residence outside the limits of the town, or when any official shall refuse or neglect for twenty (20) days after notice of his election or appointment to qualify and enter upon the discharge of his duties.

**Sec. 2.119. Gifts and gratuities.**

1. *Restricted.* No town employee or official shall receive or offer to receive, either directly or indirectly, any gift, gratuity or other thing of value which he/she is not authorized to receive from any person who:

a. Has or is seeking to obtain contractual or other business or financial relationships with the town or elected officials of the town; or

b. Conducts operations or activities which are regulated by the town; or

c. Has interests which may be substantially affected by the town.



## DIVISION 2. APPOINTED OFFICIALS

### **Sec. 2.120. Town Attorney; Town Constable.**

1. The town attorney shall be appointed by the town board. The town attorney need not be a resident of the town. The town attorney shall receive such compensation as the town board shall prescribe.
2. The town constable shall be appointed by the town board or elected by the town residents.

## **ARTICLE IV. BOARDS, COMMISSIONS AND COMMITTEES**

### **Sec. 2.121. Designated.**

The boards and commissions of the town are the Board of Appeals, Board of Review, and Plan Commission.

### **Sec. 2.122. Robert's Rules of Order.**

*Robert's Rules of Order*, Newly Revised (11<sup>th</sup> Edition, 2011), shall apply at all town board, committee or commission meetings unless otherwise required by ordinance or statute.

### **Sec. 2.123. Additional commissions and committees.**

The town board shall appoint additional commissioners and members of committees and shall form additional commissions and committees as it shall deem necessary for the efficient operation of the town.

### **Sec. 2.124. Alternate Board of Review member.**

1. *Establishing a public list.* The town board shall establish and maintain a public list of names of persons eligible and appointed by the town board to serve as alternate members of the board of review. The list shall be arranged and maintained by the town clerk in a priority order of probable and likely service as an alternate.
2. *Notification of alternate.* The town clerk shall notify any named member who has been lawfully removed under Wis. Stats. Chapter 70.47 (6m) (a) or (b) and shall then notify the alternate member of his or her appointment to replace a named member of the board of review. The alternate, once notified, if he or she approves the appointment, and if the appointment would not violate Wis. Stats. Chapter 19.59, shall then take the oath of office and act as a member of the board of review under Wis. Stats. Chapter 70.47 (6m) (c).

## **ARTICLE V. FINANCE**

### **Sec. 2.125. Receipts and earnings.**

Whenever any town officer or employee is required to turn over any receipts or earnings to the town clerk monthly, such funds received by him/her during the month shall be turned over on or before the tenth day of the succeeding calendar month.

## **ARTICLE VI. RECORDS**

### **Sec. 2.126. Destroying old records**

1. *Types of records destroyed.* The town board, any office, any special office, any committee, any commission, any agency, any authority, any board or any other special government units of the town and their officers, their employees, and their agents of the aforesaid shall destroy the following public records of the town only upon the conditions and at the times noted below:

a. *Financial records.* All financial records, that are not utility records, if these financial records are considered obsolete, may be destroyed by the legal custodian at any time seven (7) years after the record was effective, unless a shorter time period has been fixed by the State Public Records and Forms Board pursuant to Wis. Stats. Chapter 16.61(3)(e) and then only after the shorter period of time. By way of illustration and not limitation, financial records include bank statements, deposit books, slips and stubs; bonds and coupons after maturity; license and permit applications, stubs and duplicates; pay rolls and other time and employment records of personnel; receipt forms; vouchers, requisitions, purchase orders and all other supporting documents pertaining thereto; special assessment records.

b. *Other obsolete records.* All other public records of the town that are not utility or financial records, if these records are considered obsolete, may be destroyed by the legal custodian at any time seven (7) years after the record was effective unless another period has been set by statute and then only after such a period, or unless a shorter period has been fixed by the State Public Records and Forms Board pursuant to Wis. Stats. Chapter 16.61(3)(e) and then only after the shorter time period.

2. *Specific date of destruction for specific public records.* The following public records of the town shall not be destroyed until after the years listed below:

- a. *Contracts and insurance policies* issued to the town seven (7) years;
- b. *Personal property tax roll*— fifteen (15) years;
- c. *Minutes* and supporting documents of the town board, town meeting, Zoning Board of Appeals, planning commission—Permanent; and
- d. *Annual reports* — permanent.

3. *Required notices.* No assessment roll containing forest crop acreage may be destroyed without approval of the Department of Revenue. Unless notice is waived by the State Historical Society, notice shall be given the State Historical Society at least sixty (60) days prior to the destruction of any record as provided by Wis. Stats. Chapter 19.21(4)(a).

4. *Taped records of meetings.* Any tape recordings of governmental meetings of the Town may be destroyed, erased or reused no sooner than ninety (90) days after minutes of the meeting have been approved and published, if the purpose of the recording was to make minutes of the meeting.

5. *Preservation through micro-film, optical disk or other technologies.* The town may keep and preserve public records in its possession by means of micro-film or other photographic reproduction methods or optical disk, or any other technology as may be approved by State statutes. Such records shall meet the standards for photographic reproduction set forth in Wis. Stats. Chapter 16.61(7)(a)(b), Wis. Stats., or for optical disk format set out in Wis. Stats. Chapter 16.61(5), Wis. Stats., or administrative rules promulgated there under, or by any other means approved by the State after the date of enacting this ordinance. Such records that meet these standards shall be considered original records for all purposes. Such records shall be preserved along with other files of the town and open to public inspection and copying through the provisions of State law. References: Wis. Stats. Chapters 16.61(3), 19.21(4) and 19.21(7).

## **Sec. 2.127. Accessing records**

1. *Legal Custodian.* The town clerk has been designated under Wis. Stats. Chapter 19.33 as the legal custodian of records for the Town of Wausau, except those designated legal custodians.

2. *Designated legal custodians* are the custodians of their own records of office. These individuals include elected officials and chairpersons of committees of elected officials.

3. *Public access.* The public may obtain information and access to records in the custody of the clerk or other appropriate legal custodians, make requests for records, or obtain copies of records, and learn the costs of obtaining copies of records from the town clerk or other appropriate legal custodian as follows:

a. The town clerk does not maintain regular office hours at the location where records of the town are kept. The town clerk will permit access to town records in the custody of the clerk upon at least forty-eight (48)-hour written or oral notice to the town clerk of the intent to inspect or copy a record. The location of the records in the custody of the town clerk is located at the Town of Wausau Municipal Building at 161484 County Road Z, Wausau, Wisconsin.

b. The designated legal custodians do not maintain regular office hours at the location where records of the agency or department in their custody are kept. The town will permit access to the records of the agencies and departments in the custody of the designated custodian upon at least forty-eight (48) hour written or oral notice to the legal custodian of the intent to inspect or copy a record. The location of the records will be provided at the Town of Wausau Municipal Building at 161484 County Road Z, Wausau, Wisconsin.

4. *Fees.* The fees for satisfying record requests under Wis. Stats. Chapter 19.35 are established in the town fee schedule.

## **Chapter 3**

### **Code of Ethics**

- Sec.3.01. Scope of policy.
- Sec.3.02. Conflicts of interest.
- Sec.3.03. Conflicts of interest when federal law applies.
- Sec.3.04. Prohibited conflicts of interest in federal contracts.
- Sec.3.05. Gift standards.
- Sec.3.06. Violations of policy.
- Sec.3.07. Protections for whistleblowers.

### **Section 3.01 Scope of policy.**

1. Purpose. This Conflict of Interest Ordinance establishes ethical standards for Town of Wausau (Town) officials, and also governs ethical standards relating to Town contracts that must comply with federal law.
2. Federal Assistance. If a federal statute, regulation, or the terms of a financial assistance agreement applicable to a particular form of Federal Financial Assistance conflicts with any provision of this ordinance, such federal statute, regulation, or terms of the financial assistance agreement shall govern.

### **Sec. 3.02. Conflicts of interest.**

1. Conflicts of Interest Generally.
  - a. Definitions. Except as otherwise specified, the terms used in this section shall have the same meaning as those defined by Wis. Stat. § 19.42.
  - b. No public official shall do any of the following:
    - i. Use his or her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated. This paragraph does not prohibit a local public official from using the title or prestige of his or her office to obtain campaign contributions that are permitted and reported as required by chapter 11 of the Wisconsin Statutes.
    - ii. Solicit or accept from any person, directly or indirectly, anything of value if it could reasonably be expected to influence the person's vote, official actions or judgment, or could reasonably be considered as a reward for any official action or inaction. This paragraph does not prohibit a local public official from engaging in outside employment.
    - iii. Directly or by means of an agent, give, or offer or promise to give, or withhold, or offer or promise to withhold, his or her vote or influence, or promise to take or refrain from taking official action with respect to any proposed or pending matter in consideration of, or upon condition that, any other person make or refrain from making a political contribution, or provide or refrain from providing any service or other thing of value, to or for the benefit of a candidate, a political party, any committee registered under chapter 11 of the Wisconsin Statutes, or any person making a communication that contains a reference to a clearly identified local public official holding an elective office or to a candidate for local public office.
    - iv. Take any official action substantially affecting a matter in which the public official or a member of his or her immediate family or an organization with which the person is associated has a substantial financial interest.
    - v. Use his or her office or position in a way that produces or assists in the production of a substantial benefit, direct or indirect, for the person, one or more members of the person's immediate family either separately or together, or an organization with which the person is associated.

### **Sec. 3.03. Conflicts of interest when federal law applies.**

1. Purpose: In contracts that require the Town to comply with federal procurement requirements, the following restrictions apply.
2. Definitions. For purposes of this subsection, the following definitions shall apply.
  - a. *Direct Benefit* means, with respect to a Public Official or employee of the Town, or the spouse of any such Public Official or employee, (i) having a ten percent (10%) ownership interest or other interest in a Contract or Subaward; (ii) deriving any income or commission directly from a Contract or Subaward; or (iii) acquiring property under a Contract or Subaward.

- b. *Federal Financial Assistance* means Federal financial assistance that the Town receives or administers in the form of grants, cooperative agreements, non-cash contributions or donations of property (including donated surplus property), direct appropriations, food commodities, and other Federal financial assistance (except that the term does not include loans, loan guarantees, interest subsidies, or insurance).
- c. *Immediate Family Member* means: (i) a spouse; (ii) a child or spouse of a child; (iii) a parent or spouse of a parent; (iv) a sibling or spouse of a sibling; (v) a grandparent or grandchild, or their spouse; (vi) domestic partners or their parents, including domestic partners of any individual in (ii) through (v) of this definition; and (vii) any individual related by blood or affinity whose close association with the person is the equivalent of a family relationship.
- d. *Involved in Making or Administering* means (i) with respect to a Public Official or employee, (a) overseeing the performance of a Contract or Subaward or having authority to make decisions regarding a Contract or Subaward or to interpret a Contract or Subaward, or (b) participating in the development of specifications or terms or in the preparation or award of a Contract or Subaward, (ii) only with respect to a Public Official, being a member of a board, commission, or other body of which the Public Official is a member that is taking action on the Contract or Subaward, whether or not the Public Official actually participates in that action.
- e. *Pass-Through Entity* means a non-Federal entity that provides a Subaward to a recipient to carry out part of a Federal program.
- f. *Public Official* means an individual who is elected or appointed to serve or represent the Town (including, without limitation, any member of the Town Board), other than an employee or independent contractor of the Town.
- g. *Recipient* means an entity, usually but not limited to a non-Federal entity, that receives a Federal award directly from a Federal awarding agency. The term does not include Subrecipients or individuals that are beneficiaries of the award.
- h. *Related Party* means (i) an Immediate Family Member of a Public Official or employee, (ii) a partner of a Public official or employee, or (iii) a current or potential employer (other than the Town) of a Public official or employee, of a partner of a Public Official or employee, or of an Immediate Family Member of a Public Official or employee.
- i. *Subaward* means an award provided by a Pass-Through Entity to carry out part of a Federal award received by the Pass-Through Entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.
- j. *Subcontract* means mean any agreement entered into by a Subcontractor to furnish supplies or services for the performance of a Contract or a Subcontract. It includes, but is not limited to, purchase orders and changes and modifications to purchase orders.
- k. *Subcontractor* means an entity that receives a Subcontract.
- l. *Subrecipient* means an entity, usually but not limited to a non-Federal entity, that receives a subaward from a Pass-Through Entity to carry out part of a Federal award but does not include an individual that is a beneficiary of such award. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

**Sec. 3.04. Prohibited conflicts of interest in federal contracts.**

1. Purpose: Without limiting any specific prohibition set forth in Section 3.02 elected officials, appointed officials, or employees shall not participate in the selection, award, or administration of a contract if the person has a real or apparent conflict of interest.
2. Real Conflict of Interest. A real conflict of interest shall exist when the Public Official or employee or any Related Party has a financial or other interest in or a tangible personal benefit from a firm considered for a Contract or Subaward.

3. Apparent Conflict of Interest. An apparent conflict of interest exists where a real conflict of interest may not exist, but where a reasonable person with knowledge of the relevant facts would find that an existing situation or relationship creates the appearance that an elected official, appointed official, or employee, or any Related Party has a financial or other interest in or a tangible personal benefit from a firm considered for a Contract or Subaward.

**Sec. 3.05. Gift standards.**

1. No elected official, appointed official, or employee shall solicit or accept gratuities, favors, or anything of monetary value from a Contractor or a Subcontractor.

**Sec. 3.06. Violations of policy.**

1. Disciplinary Actions for Public Official or Employees. Any elected official, appointed official, or employee that fails to disclose a real, apparent, or potential real or apparent conflict of interest arising with respect to the person or the person's Related Party may be subject to disciplinary action, including, but not limited to, an employee's termination or suspension of employment with or without pay, the consideration or adoption of a resolution of censure, prosecution under this Ordinance, or termination of the contract with the Town.
2. Penalties. Any violation of this Ordinance shall be punishable by a forfeiture not to exceed \$500.
3. Disciplinary Actions for Contractors and Subcontractors. The Town shall terminate any Contract with a Contractor or Subcontractor that violates any provision of this Ordinance.

**Sec. 3.07. Protections for whistleblowers.**

In accordance with 41 U.S.C. § 4712, the Town shall not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing information to a member of Congress or a representative of a committee of Congress; an Inspector General; the Government Accountability Office; a Treasury or other federal agency employee responsible for grant oversight or management; an authorized official of the Department of Justice or other law enforcement agency; a court or grand jury; a management official or other employee of the Town; or a Contractor or Subcontractor who has the responsibility to investigate, discover, or address misconduct that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant; a gross waste of federal funds; an abuse of authority relating to a federal contract or grant; a substantial and specific danger to public health or safety; or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract).

## **Chapter 4**

### **Procurement**

- Sec.4.01. Adoption of state standards.
- Sec.4.02. Procurement standards mandated by federal law.
- Sec.4.03. Federal thresholds.
- Sec.4.04. Noncompetitive procurement.
- Sec.4.05. Awarding contracts.
- Sec.4.06. Bids.
- Sec.4.07. Projects under \$25,000.
- Sec.4.08. Minority or women's business enterprises.
- Sec.4.09. Made in the United States.
- Sec.4.10. Environmental Protection Agency requirement.
- Sec.4.11. Negotiated profit.
- Sec.4.12. Contract execution.

**Sec 4.01. Adoption of State Standards.** Except as otherwise provided by this Policy, the Town shall abide by Wis. Stat. § 60.47 and any other applicable Wisconsin statutes prior to entering into a Public Contract. (Adopted 11/3/2022)

**Sec. 4.02. Procurement standards mandated by federal law.** In addition to complying with the requirements of Section 4.01 the Town shall use the following standards for contracts for the construction, execution, repair, remodeling or improvement of a public work or building; the furnishing of supplies, materials, or equipment; or services that require adherence to federal procurement laws. If any federal provision conflicts with state law, the federal requirement shall apply for projects that require adherence to federal law. Where state law is more restrictive than federal law, state law shall apply.

**Sec. 4.03. Federal threshold.** The following requirements apply to projects where the total costs exceed the federal simplified acquisition threshold, as defined by 48 CFR § 2.101, which, as of 2022, is \$250,000:

1. The Town shall only select contractors through a full and open competition. All contracts shall be awarded to lowest responsible bidder.
2. The Town shall select a contractor based on sealed bids, unless either of the following apply:
  - a. The Town Board determines that it may seek proposals for a fixed price or cost-reimbursement contract, and it is not appropriate to use sealed bids.
3. Contracts awarded using proposals must adhere to the following requirements:
  - a. The requests for proposals must be publicized and identify all evaluation factors along with their relative importance.
  - b. Proposals must be solicited from an adequate number of qualified offerors.
  - c. The Town must prepare a written method for conducting technical evaluations of the proposals received and making selections.
  - d. The contract must be awarded to the responsible offeror whose proposal is the most advantageous to the Town.
3. The Town may use competitive proposal procedures for architectural or engineering services where the qualifications are evaluated and the most qualified entity is selected, subject to negotiation of fair and reasonable compensation. Price is not required to be a selection factor for architectural or engineering services. The Town cannot use this method to purchase other types of services through architectural or engineering firms that are a potential source to perform the proposed project.

**Sec. 4.04. Noncompetitive procurement.** The Town may use a noncompetitive procurement if one of the following apply.

1. The contract is for acquisition of property or services, and the aggregate dollar amount does not exceed the self-certified micro-purchase threshold as established below:
  - a. The item is only available from a single source.
  - b. There is a public emergency where the Town cannot delay in awarding the contract.
  - c. The federal agency awarding the grant or funds expressly authorized a noncompetitive procurement.
  - d. After solicitation of a number of sources, competition is determined inadequate.
2. The project shall be publicly advertised and provide bidders sufficient time to respond. For advertising purposes, the Town shall, at a minimum, comply with the requirements of Wis. Stat. § 60.47.



3. The Town will develop a clear and accurate description of the technical requirements for the material, product, or service to be procured that does not unduly restrict competition. The specifications will identify all requirements that contractors must fulfill.
4. Contractors that assist in developing specifications for the project to be bid cannot submit bids.
5. Bids shall be opened publicly at the time and place specified by the bid invitation.

**Sec. 4.05. Awarding contracts.**

1. The Town shall only award contracts to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. In determining if a contractor is responsible, the Town can consider factors such as:
  - a. The integrity of the contractor.
  - b. The contractor's past performance of contracts or projects.
  - c. The financial and technical resources of the contractor.
2. Any or all bids may be rejected if there is a sound documented reason.
3. The Town shall maintain records, pursuant to its records retention policy, of its procurement history involving the use of federal funds. These records will include:
  - a. The Town's rationale for the procurement method used.
  - b. How the Town selected the contract and contractor.
  - c. Records indicating the basis for a contract price.
4. The Town shall avoid acquisition of unnecessary or duplicative items.
5. The following bonding requirements shall apply to construction or facility improvement contracts:
  - a. Each bidder must submit a bid guarantee equal to five percent of the total bid price.
  - b. The selected contractor must submit a performance bond for 100 percent of the contract price.
  - c. The selected contractor must submit a payment bond for 100 percent of the contract price.
6. The Town shall perform a cost or price analysis in connection with every procurement. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but shall include making independent estimates before receiving bids or proposals.
7. The Town's strong preference shall be to select contractors that do not use estimated costs in their bids. However, the Town may accept time and materials type contracts (defined a contract whose cost to the Town is the total of the actual cost of materials and the direct labor hours charged at fixed hourly rates) only if it determines that no other contract is suitable and the contract includes a ceiling price that the contractor exceeds at its own risk.

**Sec. 4.06. Bids.**

1. The Town shall competitively bid projects in conformance with Sec. 4.03 of this Policy for projects involving the use of federal funds where the total project costs are greater than the town's self-certified micro-purchase threshold, but less than the federal simplified acquisition threshold.

2. In accordance with 2 CFR § 200.320(a)(1)(iv)(C), the Town self-certifies that its micro-purchase threshold shall be \$25,000. The self-certification is based on Wis. Stat. § 60.47, which only requires towns to competitively bid public works contracts in excess of \$25,000.

**Sec. 4.07. Projects under \$25,000.**

1. The following requirements apply to projects involving the use of federal funds where the total project costs do not exceed the Town's self-certified micro-purchase threshold, which, as of 2022, is \$25,000.
  - a. The Town shall follow Sec. 4.03 of this Policy.
  - b. If no bid is required, the Town may enter into a contract if, based on research, experience, purchase history or other information, the price is reasonable.
  - c. The Town shall review its self-certified micro-purchase threshold annually after the effective date of this Policy. If Wisconsin's bidding laws have not changed and the Town has not taken any formal action to revise its self-certified micro-purchase threshold, the Town will have been deemed to have self-certified the micro-purchase threshold used from the previous year.

**Sec. 4.08. Minority or women's business enterprises.**

1. The Town shall take the following steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible:
  - a. Placing qualified small and minority businesses and women's business enterprises on any solicitation lists.
  - b. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources.
  - c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises.
  - d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises.
  - e. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
  - f. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (a.) through (e.) of this subsection.

**Sec. 4.9. Made in the United States.**

1. When required by federal law, the Town should, to the greatest extent practicable provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States.

**Sec. 4.10. Environmental Protection Agency requirement.**

1. The Town shall comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; and procuring solid waste management services in a manner that maximizes energy and resource recovery.

**Sec. 4.11. Negotiated Profit.**

1. The Town shall negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of the contractor's record of past performance, and industry profit rates in the surrounding geographical area for similar work.

**Sec. 4.12. Contract Execution.**

1. Every contract executed by the Town shall include all provisions required by 2 CFR § 200.327 and 2 CFR Part 200, Appendix II.

**Chapters 5**

**RESERVED**

## Chapter 6

### ALCOHOL BEVERAGES

- Sec. 6.100. Adoption by reference.
- Sec. 6.101. Restrictions to the issuance of licenses.
- Sec. 6.102. Retail liquor and beer license fees.
- Sec. 6.103. Issuance of operator's license.
- Sec. 6.104. Operator's license requirement.
- Sec. 6.105. Provisional operator's license.
- Sec. 6.106. Business continuation.
- Sec. 6.107. Revocations, suspensions, refusals to issue or to renew licenses.
- Sec. 6.108. Decision to revoke a license.
- Sec.6.109. Revocation.
- Sec.6.110. Provisional alcohol beverage license.
- Sec.6.111. License application.
- Sec6.112. License quota.
- Sec.6.113. Transfer of license.
- Sec.6.114. Late filing fees.

**Sec. 6.100. Adoption by reference.**

The provisions of Wis. Stats. Ch. 125 are hereby adopted and by reference made a part of this section as if fully set forth herein. Any person violating any provisions of this chapter shall, upon conviction, be subject to the penalties set forth in Wis. Stats. Ch. 125. (This section was amended on 11/3/2022.)

**Sec. 6.101. Restrictions to the Issuance of licenses.**

Restrictions on issuing alcohol beverage licenses shall be as follows:

1. *Statutory Requirements.* Class A and B licenses shall be issued only to persons eligible under §125.04, Wis. Stats.
2. *Premises.* No initial or renewal of a Class A and/or Class B license shall be granted for any premises for which taxes, assessments or other claims of the town are delinquent and unpaid.
3. *Persons.* No initial or renewal alcohol license shall be granted to any person:
  - a. Delinquent in payment of any taxes, assessments or other claims owed to the town;
  - b. Delinquent in payment of a forfeiture resulting from a violation of any ordinance; or
  - c. Delinquent in payment to the state of any taxes owed.
3. *Violators of Liquor, Beer Laws, or Ordinances.* No Class A or B license shall be issued to any person who has been convicted of a violation of any federal or State liquor or fermented malt beverage law or the provisions of this section or whose license has been revoked under §125.12, Wis. Stats., during one year prior to such application. A conviction of a member of a partnership or the partnership itself shall make the partnership or any member thereof ineligible for such license for one year.
4. *Health and Sanitation Requirements.* No Class A or B license shall be issued for any premises which does not conform to the sanitary, safety and health requirements of the State Department of Industry, Labor and Human Relations pertaining to buildings and plumbing, to the rules and regulations of the State Department of Health and Social Services applicable to restaurants and all such ordinances and regulations adopted by the Town.
5. *Issuance for Sales in Dwellings Prohibited.* No license shall be issued to any person for the purpose of possessing, selling, or offering for sale any intoxicating liquor or fermented malt beverages in any dwelling house, flat, or apartment.
6. *Employment of underage persons.* No licensee shall employ any underage person who does not have a valid operator's license to serve, sell, dispense, or give away any alcohol beverage.
7. *Sales by clubs.* No club shall sell intoxicating liquors or fermented malt beverages except to members and guests invited by members.

**Sec. 6.102. Retail liquor and beer license fees.**

1. *Class A licenses.* The annual fees for class A licenses shall be from time to time set by the town board.
2. *Class B licenses.* The annual fees for class B licenses shall be from time to time set by the town board.

**Sec. 6.103. Issuance of operator's license.**

The operator's license shall be issued for one (1) year and shall expire on June 30 of the year for which issued.

**Sec. 6.104. Operator's license requirement.**

1. An operator's license shall be issued by the town clerk/treasurer only to persons qualified under Wis. Stats. § 125.04(5), as amended, eighteen (18) years of age or over, of good character, who have been citizens of the United States and residents of this state continuously for not less than ninety (90) days prior to the date of the filing of the application. Such licenses shall be operative only within the limits of the town. For the purpose of this section, any member of the immediate family of the licensee shall be considered as holding an operator's license.
2. No operator's license shall be issued, except as otherwise provided, unless the applicant has completed a responsible beverage server training course. Applicants are exempted from the training course requirement if they are renewing an existing operator's license, have completed the training course within two (2) years prior to the date of making the application or have held a retail license, manager's, or operator's license within the preceding two (2) years. Applicants may be issued a provisional operator's license if they are enrolled in a training course.
3. The fee for an operator's license from time to time shall be determined by the Town Board

**Sec. 6.105. Provisional operator's license.**

The town clerk shall issue a provisional operator's license to a person who has applied for an operator's license. The standards contained in section 6.104 shall apply to any person issued a provisional operator's license. Such license shall be effective for a period of sixty (60) days or until a regular operator's license is issued, whichever event shall first occur. The fee for a provisional operator's license shall be set by the town board.

**Sec. 6.106. Business continuation.**

1. As a condition of maintaining and keeping an alcohol beverage license in this town, any licensee must continue in business. Issuance or retention of a license by a party not doing business is hereby declared to be against public policy and lacking in usefulness.
2. The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:
  - a. *Time of operation.* The applicant must maintain appropriately zoned premises and be open for the business 50 percent of the days within a 12-month period for at least six (6) continuous hours in a twenty-four (24)-hour period. For each renewal, the applicant must have been open for the business of at least 50 percent of the days within a 12-month period except due to circumstances beyond its control, with each day consisting of at least six continuous hours in a twenty-four (24)-hour period.
  - b. *Damage to business premises.* Any applicant whose place of business suffers damage that causes it to be non-operable for a period of time shall make every reasonable effort to timely remedy the damage in order to resume normal operations in six (6) months or less from the date of damage. Open means conducting business publicly at least six hours per calendar day.

**Sec. 6.107. Revocations, suspensions, refusals to issue or renew licenses.**

1. Any license to sell alcohol beverages authorized by this Chapter may be subject to revocation, suspension, or non-renewal pursuant to the procedures in Wis. Stats. § 125.12 under the following circumstances:
  - a. The subject premises is not open for business with stock and equipment within 90 days of the granting of such license.
  - b. The subject premises is not open for business at least 50 percent of the days within the 12-month period licensing period.
  - c. The licensee suspends or ceases doing business for a period of at least 30 consecutive days.
  - d. An establishment is deemed to have ceased regular operations when any of the following occurs:
    - i. The alcohol beverage license is surrendered to the Town Clerk absent the issuance of a newly- granted license.

- ii. The establishment is no longer open to the public.
- iii. The establishment is open to the public only intermittently in an attempt to circumvent the provisions of this subsection.
- iv. The establishment fails to maintain open and active accounts with its food and/or alcohol distributors.
- v. The alcohol beverage license holder fails to submit a renewal application to the Town Clerk before the last possible submittal date.

2. A violation of this section by an authorized agent or employee of a licensee shall constitute a violation by the licensee.

**Sec. 6.108. Decision to revoke a license.**

1. The town board may take disciplinary action under this section, including reprimand, license suspension for a specified number of days [up to ninety (90) days] or revocation.
2. Upon making such a decision to revoke the license, the Clerk shall mail or have a written notice delivered to the license holder, notifying the person of the action taken, the reason for such action, and the right to have a license review hearing before the Town Board upon the applicant's written request.
3. When a request for a hearing is made, the Board shall follow general procedures as set forth in §125.12, Wis. Stats., although no complaint is required. The Clerk shall notify the licensee of the Board time scheduled for hearing by mail or delivery. Any mail notice in this paragraph is sufficient if mailed first class to the last known address of the licensee in an envelope containing the return address of the Town or Clerk. No request for a license review hearing is valid when received past the final day the provisional license would have been effective.
4. In lieu of a hearing, the town board may accept surrender of the license, and the board shall then determine the time period before another application for the same type of license will be accepted from the former licensee.
5. The Town make revoke the license if the licensee voluntarily vacated the premises more than thirty (30) days before the Board decision or was court ordered out of the premises with vacation to be at least thirty (30) days before the Board's decision.
6. The board may schedule the hearing date prior to the expiration of the thirty (30)-day period and may make its decision effective on a later date, in its discretion.

**Sec. 6.109. Revocation.**

1. Any license that has been revoked shall not be reinstated within the following twelve (12) months.
2. There shall be no refunds of any license fee paid to a party whose license is revoked.
3. The licensee shall reimburse the town for costs of personal services, mailings, and any per diem paid to a town officer or employee to attend the meeting due to a license violation, unless no disciplinary action, including reprimand or probation, is offered by the town board. Payment of the fees shall accrue at five percent interest (5%) if unpaid after thirty (30) days. Payment shall be required before any future license is issued or reinstated to the licensee.

**Sec. 6.110. Provisional alcohol beverage license.**

1. A provisional alcohol beverage license may be issued by the Town Clerk to a person who applies for a Class "A" or Class "B" license, issuance or when the license is issued to the holder, whichever is sooner, pursuant to 125.185(4) Wis. Stats.
2. Prior to the issuance of such a provisional license the Clerk shall determine that the applicant and the premises will meet all standards required for the issuance of an original alcohol beverage license including qualifications of applicant, location of premises, availability, and physical condition of premises.



3. At the town board meeting, the Clerk shall report the name of premises, the name and contact information of the individual requesting the provisional alcohol beverage license, and the premise's address. Such licenses shall be issued within 10 days of application.
4. The town chairperson may revoke the provisional alcohol beverage license if it is discovered that the holder of the license made any false statement in the application for the license.
5. The provisional alcohol beverage license shall expire sixty days after issuance or when the person/business is issued an original alcohol beverage license, whichever is sooner.
6. The Clerk may not issue any provisional alcohol beverage license under this section if such issuance will violate the town's quota under Chapter 125 of the WI Stats.
7. No person may hold more than one provisional retail license for each type of license applied for per year.
8. The provisional alcohol beverage license fee will be determined by the Town Board and posted in its Fee Schedule.

**Sec. 6.111. License Application.**

1. Application for a Class A or Class B license shall be made in writing on forms prescribed by the State Department of Revenue and filed with the Clerk.
2. Applications shall be signed and sworn to by the applicant as provided by §887.01, Wis. Stats.
3. All licenses shall be numbered in the order in which they are issued and shall state clearly the specific premises for which granted, the date of issuance, the fee paid, and the name of the licensee and, unless sooner revoked, shall expire on June 30 thereafter except as otherwise provided. The Clerk shall affix this affidavit as required by §125.04(4), Wis. Stats.
4. By July 15 of each year, the Clerk shall forward to the State Department of Revenue a list containing the name, address and trade name of each person holding a license issued under this section, except a picnic, manager or operator's license.

**Sec. 6.112. License quota.**

1. The number of persons and places that may be granted a retail Class B liquor license under this section is limited as provided in §125.51(4), Wis. Stats.

**Sec. 6.113. Transfer of license.**

1. *As to persons.* No license shall be transferable to a different licensee except as provided by §125.04(12)(b), Wis. Stats. The granting of the transferred license to the new licensee is to be reviewed in the same manner as the granting of a new license by the Town Board.
2. *As to place.* Licenses issued pursuant to this section may be transferred to another premises once during any license year as provided in §125.04(12), Wis. Stats. Proceedings for transfer shall be made in the same manner and form as the original application. The fee for such transfer shall be as stated in the Town of Wausau Fee Schedule.

**Sec. 6.114. Late filing fees.**

The Town of Wausau shall charge a late filing fee of triple the amount as specified on the Town of Wausau Fee Schedule for alcoholic beverage license applications filed after the filing deadline as provided in Wis. Stats. § 125.51(1)(c)1.

**Chapters 7-9**

**RESERVED**

## **Chapter 10**

### **ANIMALS**

#### **Article I. General**

- Sec. 10.100. State code adopted.
- Sec. 10.101. Nuisance.
- Sec. 10.102. Reserved.
- Sec. 10.103. Abandonment of domestic animals.
- Sec. 10.104. Reserved.
- Sec. 10.105. Reserved.

#### **Article II. Dogs**

- Sec. 10.106. Definitions.
- Sec. 10.107. License Required.
- Sec. 10.108. Restrictions on keeping dogs.
- Sec. 10.109. Killing a dog.
- Sec. 10.110. Dogs of premises.
- Sec. 10.111. Impounding of dogs.
- Sec. 10.112. Dogs running at large, unlicensed dogs, etc.
- Sec. 10.113. Claiming impounded dogs.
- Sec. 10.114. Duty of the owner in cases of dog bites.
- Sec. 10.115. Number of dogs limited.
- Sec. 10.116. Vicious dogs.

## ARTICLE I. GENERAL

### **Sec. 10.100. State code adopted.**

The provisions of Wis. Stats. ch. 172, as amended, are incorporated verbatim by reference into this section.

### **Sec. 10.101. Nuisance.**

1. The keeping or harboring of any animal or fowl that, by frequent or habitual howling, yelping, barking, crowing or making of other noises, shall greatly annoy or disturb a neighborhood or any considerable number of persons within the town which tends to create a disturbance is hereby declared a public nuisance and is prohibited.
2. The keeping or harboring of any animal or fowl that permits an offensive odor or unusual odor in a residential district which greatly annoys or disturbs a neighborhood or any considerable number of persons within the town shall be declared a public nuisance and is prohibited.

### **Sec. 10.102. Reserved.**

### **Sec. 10.103. Abandonment of domestic animals.**

No person shall transport any domestic animal into the town for the purpose of abandoning the animal, and no person shall abandon any domestic animal within the town.

### **Sec. 10.104. Reserved.**

### **Sec. 10.105. Reserved.**

## ARTICLE II. DOGS

### **Sec. 10.106. Definitions.**

The following definitions shall apply in construing the provisions of this section, unless the context or subject matter otherwise requires:

1. "Owner" means any person owning, harboring or keeping a dog. The occupant of any premises on which a dog remains or to which it customarily returns daily within a two week period is presumed to be harboring or keeping the dog within the meaning of this Code.
2. " At large" means to be off the owner's premises and not under the control of the owner or any other person, either by leash or otherwise; provided, however, that a dog within its owner's automobile or within an automobile of any other person with the consent of the dog's owner shall be deemed to be on the dog owner's premises.
3. "Habitually" means an action or state that lasts, is done, is experienced or is repeated over a substantial period of time.

### **Sec. 10.107. Licenses required.**

No person shall own, harbor or keep any dog more than five (5) months of age without complying with Wis. Stats. §§ 174.05 through 174.10 relating to the licensing, listing and tagging of dogs.

### **Sec. 10.108. Restrictions on keeping dogs.**

No person within the town shall own, harbor or keep:

- a. Any dog which habitually pursues any vehicle upon any public street, alley or highway in the town;
- b. Any dog which assault or attacks any person;
- c. Any dog which is at large within the limits of the town;
- d. Any dog which habitually barks or howls to the annoyance of two (2) or more of its neighbors;

- e. Any dog that kills, wounds, or worries any domestic animal;
- f. Any dog that is kept for the purpose of animal fighting, or train, torment, badger, bait or use any animal for the purpose of causing or encouraging said animal to attack human beings or domestic animals when provoked;
- g. Any dog that is brought from another city, village, town or county that has been declared dangerous or vicious or its equivalent by that jurisdiction; or
- h. Any dog which is known by any such person to be infected with rabies or to have been bitten by any animal known to have been infected with rabies.

**Sec.10.109. Killing a dog.**

- 1. A person may intentionally kill a dog if a person is threatened with serious bodily harm by the dog and other restraining actions were tried and failed; or immediate action is necessary; or
- 2. A person may intentionally kill a dog if a domestic animal that is owned or in the custody of a person is threatened with serious bodily harm by the dog and the dog is on property owned or controlled by the person and other restraining actions were tried and have failed; or immediate action is necessary.

**Sec.10.110. Dogs off premises.**

Any dog found or discovered off the premises of its owner and unaccompanied by its owner or some other person in control of it, shall be considered an unlicensed dog and a private nuisance and may be seized, restrained and impounded.

**Sec. 10.111. Impounding of dogs.**

It shall be the duty of the town chairperson or his/her designee to impound every dog found or known to be running at large within the town. Each dog impounded shall be taken to the Marathon County Humane Society for seven (7) days from the time of his capture, unless sooner released as hereinafter provided. Any dog remaining at the Marathon County Humane Society for a period of seven (7) days after the time of its capture may be disposed of as deemed appropriate by the town chairman or his/her designee upon the recommendation of the Marathon County Humane Society.

**Sec. 10.112. Dogs running at large, unlicensed dogs, etc.**

The town constable, board member or its designee, law officer or a person representing a duly authorized humane society may seize impound or restrain any dog that:

- 1. Is unlicensed;
- 2. Is or has been found to be running at large;
- 3. Habitually pursues any vehicle upon any public street, alley, or highway in the Town;
- 4. Assaults or attacks any person;
- 5. Habitually barks or howls to the annoyance of any person;
- 6. Kills, wounds or worries any domestic animal; or
- 7. Is known to be infected with rabies or to have been bitten by any animal known to have been infected with rabies.
- 8. Is brought into the township but has been declared dangerous or vicious by another jurisdiction.
- 9. Is trained, owned, or harbored primarily or in part for the purpose of fighting.

**Sec.10.113. Claiming impounded dog.**

Impounded dogs shall be forthwith delivered to the Marathon County Humane Society by the town chair or his/her designee. Any person whose dog has been impounded may obtain the animal's release from the Marathon County Humane Society by making payment to the Marathon County Humane Society for all of the costs, charges and/or expenses that were incurred as a result of the animal's impoundment. Every person taking a dog or cat from the Marathon County Humane Society shall sign a receipt therefore.

**Sec. 10.114. Duty of the owner in cases of dog bite.**

Every owner or person harboring or keeping a dog who knows that such dog has bitten any person shall immediately report such fact to the Town Chairman or his/her designee and the Marathon County Health Department and shall keep such dog confined for not less than fourteen (14) days or for such a period of time as the Marathon County Health Department shall direct. The owner or keeper of any such dog shall surrender the dog to the Marathon County Health Department or to the Town Chairperson or his/her designee upon demand for examination.

**Sec. 10.115. Number of dogs limited.**

No more than four (4) dogs shall be kept at any residence in any zoning district unless issued a conditional use permit for boarding of dogs or providing day care to operate a dog kennel as permitted in the Town of Wausau Zoning Ordinance. Upon establishing residence in the town, any person who owns more than four dogs licensed by another municipality, may be issued a temporary kennel license until nature takes its course.

**Chapters 11–13**

**RESERVED**

## Chapter 14

### BUILDINGS AND BUILDING REGULATIONS

#### Article I. General

- Sec. 14.100. No town liability.
- Sec. 14.101. Building code and regulations.

#### Article II. Administration and Enforcement

##### Division 1. Generally

- Sec. 14.102. Penalties.
- Sec. 14.103. Enforcing official.
- Sec. 14.104. Building inspector.
- Sec. 14.105. Stop work order.
- Sec. 14.106. Change.
- Sec. 14.107. Open excavations prohibited.

##### Division 2. Permits and Fees

- Sec. 14.108. Licenses and fees.
- Sec. 14.109. Permits.
- Sec. 14.110. Time Limitations.
- Sec. 14.111. Moving Permit.

##### Division 3. Inspections and Orders

- Sec. 14.112. Inspections.
- Sec. 14.113. Certificate of occupancy.

#### Article III. Wrecking, Razing and Demolition of Buildings

- Sec. 14.114. Demolition regulations.
- Sec. 14.115. Permit required.
- Sec. 14.116. Liability of independent contractor.
- Sec. 14.117. Wrecking permit fee.
- Sec. 14.118. Public safety.
- Sec. 14.119. Removal of rubble and rubbish.

#### Article IV. House and Building Numbering

- Sec. 14.120. Intent.
- Sec. 14.121. Address Assignments.
- Sec. 14.122. Address Sign Specifications.
- Sec. 14.123. Address Numbers Required.



## ARTICLE I. GENERAL

### Sec. 14.100. No town liability.

The provisions of this Chapter shall not be construed so as to impose any liability or the assumption of liability on the part of the town for damages to anyone injured or any property destroyed by any defect in any building or equipment or in any heating, ventilating, air conditioning, electrical, plumbing or other equipment.

### Sec. 14.101. Building code and regulations.

1. *Administrative Code provisions* describing and defining regulations with respect to new one (1) and two (2) family dwellings in Comm. 20-25 of the Wisconsin Administrative Code are hereby adopted by the Town of Wausau, Marathon County and by reference made a part of this ordinance as if fully set forth herein. Any future amendments, revisions or modifications of the Administrative Code provisions incorporated herein are intended to be made part of this ordinance to secure uniform statewide regulation of all new one (1) and two (2) family dwellings. A copy of these administrative code provisions and any future amendments shall be kept on file in the office of the Town of Wausau Building Inspector.

2. *Uniform Dwelling Code* means those Administrative Code provisions and any future amendments, revisions or modifications thereto, contained in the following chapters of the Wisconsin Administrative Code:

- Wis. Adm. Code Comm. 20- Administration and Enforcement
- Wis. Adm. Code Comm. 21- Construction Standards
- Wis. Adm. Code Comm. 22- Energy Conservation Standards
- Wis. Adm. Code Comm. 23- H.V.A.C.
- Wis. Adm. Code Comm. 24- Electrical Standards
- Wis. Adm. Code Comm. 25- Plumbing and Potable Water Standards

3. *Zoning*. No provision or provisions of this Chapter shall be construed to repeal, modify or constitute an alternative to any of the town's zoning regulations.

## ARTICLE II. ADMINISTRATION AND ENFORCEMENT

### DIVISION 1. GENERALLY

### Sec. 14.102. Penalties.

In addition to the failure to obtain a permit, revocation of a permit or the withholding of a building permit and injunctive relief, any person who violates any provision of this Chapter shall be subject to Wisconsin Administrative Code Comm. 20.22.

### Sec. 14.103. Enforcing official.

For the purposes of enforcing the provisions of this Chapter and the administrative codes adopted in this chapter, the building inspector and/or zoning administrator shall be that person appointed or assigned such duties by the town board.

### Sec. 14.104. Building inspector/zoning administrator.

1. *Creation*. The position of building inspector and zoning administrator is hereby created within the town. The building inspector shall administer and enforce the provisions of the Wisconsin Uniform Dwelling Code and be certified under the provisions of the Wisconsin Safety and Buildings Division. The zoning administrator shall enforce the Town of Wausau Zoning Ordinances.

2. *Appointment*. The building inspector and the zoning administrator shall be appointed by the Town of Wausau Town Board.

3. *Compensation*. The building inspector and zoning administrative shall receive such compensation as the town board shall prescribe.

4. *Records.* There shall be kept in the office of the building inspector or the town clerk a book containing a record of all applications for building and zoning permits and each permit shall be regularly numbered in the order of its issue.

**Sec. 14.105. Stop work order.**

If the building inspector or zoning administrator determines that any work or construction is not proceeding in accordance with the requirements of the approved plans, a stop work order shall be served upon the owner or his representative and a copy shall be posted at the site of the construction. Such stop work order shall not be removed except by written or verbal notice from the building inspector or zoning administrator are satisfied that any violation has been corrected.

**Sec. 14.106. Change.**

It shall be unlawful to change the use of any building, structure, premises or part without first obtaining from the Building Inspector an approval of such change in the occupancy or use and a certificate of occupancy.

**Sec. 14.107. Open excavations prohibited.**

1. No excavation for building, whether or not completed, shall be left open for more than six months without proceeding with the erection of a building on the premises. If any such excavation remains open for more than six months, the town shall order the erection of a building on the excavation to begin forthwith or in the alternative that the excavation be filled to grade.
2. Such order shall be served upon the owner of record or his agent or an agent in charge of the premises and upon the holder of an encumbrance of record in the manner provided for service of a summons in the circuit court. If the owner or the holder of an encumbrance of record cannot be found; the order may be served by posting it on the premises and by publishing it at least three places in the town for at least ten (10) days before the time limited in the order commences to run.
3. If the owner of record fails to comply with the order within fifteen (15) days after service upon him, the town shall cause the excavation to be filled to grade; and the cost shall be charged against the real estate and entered in the next succeeding tax roll as a special tax and shall bear interest at the rate of eighteen percent (18%) per annum or one and one-half percent (1.5%) per month from the date of the report of the cost.
4. The term "excavation" shall include depressions caused by filling two or more sides of a plot of land and shall include excavations for any purpose, including stripping of land, basements, part basements or other excavations left as residue of a burned or razed building; and such basements and excavations shall after six months be subject to the same provisions as excavations made for the purpose of erecting new structures. This section shall not apply to excavations in streets.

DIVISION 2. PERMITS AND FEES

**Sec. 14.108. Licenses and fees.**

No person shall conduct or begin construction for any project requiring a permit for such actions without first applying for a permit and payment of such permit fees established by the town board.

**Sec. 14.109. Permits.**

1. Permit fees are established within the contract of the Building Inspector for erection of new homes. Zoning permit fees are established and approved by the town board.
2. *Street dedication required.* No permit for residential or commercial construction shall be issued unless the property on which the building is proposed to be built abuts a street that has been dedicated and improved for street purposes. The lot upon which the structures are to be located must comply with all ordinances.
3. *Conditions for issuance.*

a. If the building inspector finds that the proposed building will comply in every respect with the provisions of this Chapter and other municipal ordinances and all laws of the State and lawful orders issued pursuant to such ordinances and laws, he/she shall issue a building permit. After being approved, there shall be no material alterations or changes in the plans or specifications that would in any way impact upon these ordinances or other ordinances or laws without the written consent of the building inspector.

b. In no event shall work commence on any building prior to a building permit being issued. The building inspector in his/her discretion may issue a permit for the construction of part of a building or structure prior to receiving the plans and specifications for the entire building or structure. However, the issuance of a permit shall not be construed to prevent the building inspector from thereafter requiring correction of errors in any plan or specification or from preventing building operations being carried on when in violation of any ordinances of the town or the laws of the state or lawful orders issued pursuant to such ordinances or laws.

4. *Revocation of the permit.* The Town may revoke any permit, certificate of occupancy or approval issued under this section and may stop construction or the use of any materials, equipment, methods of construction, devices or appliances for any of the following reasons:

a. Whenever there is a violation of any provision of this Chapter, the laws of the State or any lawful orders relating to this Chapter or such laws.

b. Whenever the continuance of any construction becomes dangerous to life or property.

c. Whenever there is any violation of any condition or provision of the application for a permit or of the permit.

d. Upon discovery of any false statement or misrepresentation having been made in the application for a permit or plans, drawings, data, specifications or certified lot or plot plan on which the issuance of the permit or approval was based.

e. In the event of violation of any condition of any approval or occupancy given by the Building Inspector for the use of any materials, equipment, methods of construction, devices or appliances.

5. *Permit is void.* The Town shall cause to be served personally upon the applicant for the permit, the owner of the premises and his agent, if any, and on the person having charge of construction, a notice that the permit is revoked and construction shall cease forthwith. In addition thereto, such notice shall be posted upon the building, structure, equipment or premises. After such notice is given, it shall be unlawful for any person to proceed thereafter with construction on the premises, and the permit shall become null and void. No additional construction shall take place upon the premises until a new permit is issued pursuant to the requirements of this Chapter after the payment of the fees required in this Chapter. All construction thereafter pursuant to the new permit must be in full compliance with the requirements of this Chapter and other ordinances of the Town and the laws of the State.

6. *Bond required.* The town board shall require a \$1,000 bond to be filed by the applicant and/or owner on all new home construction projects. Any bond required by the town board herein may be conditioned upon, among other things, the indemnification to the town for any costs or expenses incurred by it in connection with payment of any judgment together with the costs and any connected expenses incurred by the town arising out of the construction of the building for which the permit is issued.

7. *Refund.* The bond will be refunded less any costs or expenses incurred by the town arising out of the construction of the building for which the permit is issued. The refund will be issued upon final inspection and issuance of the certificate of occupancy.

#### **Sec. 14.110. Time limits.**

1. *Six (6) months.* The building and the zoning permit shall become void unless visible on-site construction is commenced within six months from the date of issuance of the permit or if the building or work authorized by such permit is suspended at any time after work is commenced for a period of sixty (60) days. The period of time may be extended by the Building Inspector and the Zoning Administrator if the delay was due to conditions beyond the control of the applicant. All permits granted under the terms of this division shall be valid for only twenty-four (24) months unless otherwise so regulated by the Wis. Admin. Code.

2. *New permit.* Before any on-site work or construction is commenced after the permit has lapsed, a new permit shall be issued and a new fee paid. In all cases, all construction shall be completed within twenty-four (24) months from the date of issuance of the permit.

**Sec. 14.111. Moving permits.**

1. *General.*

a. No existing building as defined *Requirements* in Chapter 17 of the Town of Wausau Zoning Ordinance may be moved from one place or location to another within, into, or out of the town without first obtaining a "building moving permit." Ice fishing shanties and other buildings with less than 250 square feet of floor area or buildings ordered to be moved by the town board, are exempt from the provisions of this Chapter. Moving a new manufactured dwelling or new manufactured home shall not be required to obtain a building moving permit. The fee for applying for a building moving permit shall be paid at the time an application is submitted.

b. No building moving permit may be issued by the town board until it has reviewed the recommendation of the town zoning administrator.

c. Any person moving a building within or into the town as provided herein shall obtain a zoning/building permit only after the building moving permit has been approved by the town board.

d. Moving a building out of the town shall require a moving permit.

2. *Building Moving Permit Application.* The Town of Wausau requires a written application for a building moving permit. The firm moving the building shall file full and complete information and a plan signed by a principal or other authorized person of the firm moving the building and signed by the owner of the building to be moved specifying the following:

a. Type of building to be moved;

b. A map and photographs showing the present location of the building to be moved;

c. Exterior dimensions of the building to be moved;

d. A map showing the place to which it is intended to move the building, a plot plan showing where the building will be located on the new site, and photographs of the new site where the building will be moved;

e. Exterior elevations of the existing building and accurate photographs of all sides and views of the building, and in cases where it is proposed to alter the exterior of the building to be moved after it is moved, detailed plans and specifications showing any changes proposed to be made to the building after the move and a detailed schedule for accomplishing the alterations;

f. The start date and time of the move;

g. The expected date and time the move will be completed;

h. A map showing the streets to be crossed and traversed in moving the building and the type and location where overhead wires and other utilities will need to be moved;

i. Any other information required by the town board to protect the public health, safety and general welfare.

3. *Architectural compatibility.* No moving permit shall be issued by the town board unless the building inspector, zoning administrator and/or planning commission shall first determine by a majority vote and after an inspection of the property and the application for a permit that the exterior architectural appeal and functional plan of the building to be moved or to be moved and altered will not be so at variance with either the exterior architectural appeal and functional plan of the buildings already constructed or in the course of construction in the immediate neighborhood, or the character of the applicable district established by the town zoning ordinances, or any ordinance amendatory of or supplementary to such ordinance, as to cause a substantial depreciation in the property values of the neighborhood within the applicable district. In making such determination, the following shall be considered: the exterior elevations of the building, the

photographs of all sides and views of the building and, if it is proposed to alter the exterior of the building, the plans and specifications of such proposed alterations as well as a view of the building proposed to be moved and of the site to which it is to be located and such other information as the planning commission or town board in its discretion deems appropriate. If the owner proposes to alter the exterior of the building after moving it, he/she shall submit with his application papers complete plans and specifications for the proposed alterations.

4. *Planning commission, building inspector and zoning administrator review required.*

a. The zoning administrator and/or the building inspector shall investigate the condition of the building proposed to be moved at the location from which it is to be moved, to determine if said building is in a sound and stable condition and of such construction that it will meet the requirements of the building code if a moving permit is granted. Should any repairs, improvements or remodeling be contemplated or required with respect to said building, the zoning administrator/building inspector may order that these alterations be made before the building is taken from the premises from which it is to be moved. The Town Board shall have the option to inspect any building before is moved.

b. Complete plans of all further repairs, improvements and remodeling with reference to such building shall be submitted to the zoning administrator who shall make a finding of fact as to whether the planned repairs, improvements and remodeling are in conformity with the requirements of the zoning ordinance, and that when same are completed, the building as such will comply with said zoning ordinance. The zoning administrator shall report said findings to the town board and the planning commission prior to issuance of a moving permit.

c. Upon submission of a completed building moving permit application for a dwelling or other building, the planning commission shall review the application and make a recommendation to the town board. The town board may meet jointly with the planning commission to act on the moving permit, or it may reserve its decision for a separate meeting.

d. The planning commission and zoning administrator shall review all of the application information required to be submitted, view the building or photographs of the building proposed to be moved and carefully examine its current exterior architectural appeal and the plans for any proposed building alterations. The planning commission and zoning administrator shall also view the proposed site or photographs of the proposed site where the building to be moved will be relocated.

e. The exterior design and construction materials of the building to be moved or moved and altered shall be in close harmony with the exterior architectural appeal of the buildings already constructed or likely to be constructed in the immediate neighborhood where the building is proposed to be moved.

f. In cases where the exterior of the building will be altered after the building is moved, the building owner shall submit with the application for a building moving permit complete plans and specifications for the proposed alterations and a detailed time schedule for completing the alterations.

g. Before a permit is issued for a building to be moved and altered, the owner shall provide a financial surety to the town board which shall not be less than an amount needed for the town to remove the building from the site or to complete the proposed alterations if the applicant fails to do so. The amount of said financial surety shall be recommended to the town board by the Planning Commission. The financial surety shall be executed and administered in the manner provided in section 7 hereto to the effect that the owner will within a time to be set by the town board, complete the proposed exterior alterations to said building in the manner set forth in the plans and specifications as submitted if a building moving permit is approved by the town board. This financial assurance shall be in addition to any other bond or surety which may be required by this and other town ordinances.

h. No occupancy shall be allowed for said building until the exterior alterations proposed to be made have been completed.

5. *Definitions:*

a. *Accessory building.* A structure which is incidental or subordinate to the principal structure on the same parcel for the use of the parcel as permitted by this Chapter.

b. *Dwelling and other buildings.* A structure which contains or is directly related to the main use of the property

on which it is located, conforms to the purpose section of the zoning district in which it is or is to be located and is a structure listed as a permitted or special exception in the zoning district. Only one principal structure is permitted on each lot or parcel.

6. *Denial of permit.* The town board may refuse to grant a building moving permit for any reason, if, in the judgment of the town board, damage to the streets, surrounding area, trees, wires, pipes, utilities or other facilities may result from the move or the building proposed to be moved will not be in close harmony with the exterior architectural appeal of the buildings already constructed or likely to be constructed in the immediate neighborhood where the building is proposed to be moved or if the move will otherwise be contrary to or jeopardize the public health, safety or general welfare.

7. *Moving permit specifics.* If a building moving permit is granted, said permit shall specify the present location of the building, the location to which it is permitted to be moved, the streets to be traversed, the alterations to the building which shall be made after the building is moved, a detailed schedule for accomplishing the building alterations, a list and schedule of any other work deemed necessary and any other conditions imposed by the town board including the right to stop the moving operations if it becomes apparent that damage, with reasonable probability, will ensue if the operations are continued.

8. *Street repair.* Every person receiving a permit to move a building shall, within twenty-four (24) hours after any building or structure for which a permit has been issued reaches its destination, report to the town chairperson that the move has been completed. The town chairperson shall thereupon inspect the streets and highways over which the building had been moved. After such inspection, if in the opinion of the town board the transportation of the building over any public street or property has caused any damage to any street or property, the person to whom the permit was issued shall forthwith restore the streets and/or property to in as good repair and condition as they were in prior to the time the permit was granted. On the failure of the permit holder to do so within ten days thereafter to the satisfaction of the town board, the town shall repair the damage, and the person to whom the permit was issued and his or her sureties shall be responsible for the payment of the costs of repair.

9. *Financial surety required.* A bond, certificate of deposit, irrevocable letter of credit or a certified check shall be filed by the applicant or owner of the building with the town treasurer to insure that the work associated with moving a building, including the proposed alterations to the building after the move is completed, are in accordance with the plans and specifications submitted and are accomplished to the satisfaction of the town board and in accordance with the approved schedule and permit conditions. The amount of financial surety shall not be less than an amount needed for the town to remove the building from the site or to complete the proposed alterations if the applicant fails to do so. The amount of said financial surety shall be recommended to the town board by the building inspector and/or zoning administrator. This surety shall constitute an agreement to comply with this ordinance and any conditions of granting a permit as established by the Town Board.

Within thirty (30) days following a written request by an applicant for release of the financial surety, the town zoning administrator shall report to the town board on the condition of the building and present a determination as to compliance with the permit conditions. The town board shall determine if the building alterations and other work has been accomplished and whether to release the funds.

If the building alterations and other work has not been completed in accordance with the schedule established in the building moving permit, the town board shall notify the applicant in writing that the town will undertake the repair work and other necessary action, including removal of the building from the site, and that the cost of said work shall be paid from the applicant's financial surety.

The town board may also require an additional financial surety to be filed for a moving permit under such special conditions as the town board may prescribe. Any surety filed under this provision shall be returned to the applicant within thirty (30) days following satisfactory completion of the work, as determined by the town board, for which the financial surety was provided. If the work is not accomplished within the time period specified in the moving permit the town board may undertake the repair work and other necessary action and the cost of said work shall be paid from the applicant's financial surety.

10. *Insurance.* In addition to any financial surety that may be required, the applicant or firm moving the building shall file a certificate of insurance of the policy limits of which shall be at least five hundred thousand dollars (\$500,000.00) for each person, five hundred thousand dollars (\$500,000.00) for each occurrence and five hundred

thousand dollars (\$500,00.00) for property damage. Insurance coverage shall include a one million dollar (\$1,000,000.00) excess limit umbrella policy.

11. *Continuous movement.* The movement of any building or structure pursuant to a lawfully issued moving permit shall be continuous and uninterrupted until the move is fully completed. The moving shall be performed with the least possible obstruction to thoroughfares. No building shall be allowed to remain overnight upon any public thoroughfare or public property, nor shall any such building be allowed to obstruct access to any fire hydrant or any other public facility. Lighted warning flashers shall be kept in conspicuous places at each end of the building or structure during hours of darkness.

### DIVISION 3. INSPECTIONS AND ORDERS

#### **Sec. 14.112. Inspections.**

It shall be the responsibility of the applicant who is building a new residence to request inspections of the Building Inspector at certain stages of progress during construction. The building inspector shall perform the requested inspection within forty-eight (48) hours after notification except the final inspection. Construction shall not proceed beyond the point of inspection until the inspection has been completed. The following sequence of inspections shall be performed for the purpose of determining if the work complies with the requirements of the State Uniform Dwelling Code (UDC) and Town of Wausau Ordinances:

1. *Footings.* The excavation shall be inspected after the placement of forms, shoring and reinforcement and prior to placement of footing materials.
2. *Foundation.* Where below-grade drain tiles, waterproofing or exterior insulation is required, the foundation shall be inspected prior to backfilling.
3. *General construction and rough plumbing.* When the structure is framed and the plumbing is roughed in.
4. *Heating, ventilating, air conditioning and electrical.* When the rough heating, ventilating, air conditioning and electrical is completed.
5. *Insulation.* After the insulating and vapor barrier are installed and after all other rough inspections have been made.
6. *Final inspection.* The dwelling may not be occupied until a final inspection has been made which finds that no violations of the dwelling code or ordinance have occurred.

#### **Sec. 14.113. Certificate of occupancy.**

1. *Inspections.*

a. *Occupancy permit and final inspection.* A building or structure cannot be occupied until a final inspection is completed and a certificate of occupancy is issued. In addition to other requirements for the issuance of an occupancy permit, such permit cannot be issued if there are any safety and health violations; i.e. handrails missing, improper stairs, landings or exits incomplete, electrical, smoke detectors missing, improper egress windows, etc. An occupancy surcharge set by the town board will be added to each building permit fee. If the building is unoccupied at the time of final inspection and a certificate of occupancy is issued by the building inspector after a finding of no violations, the surcharge will be refunded. If no violations of this Chapter or other ordinances are found, the building inspector shall issue a certificate of occupancy under this section, which shall state the purpose for which the building or structure is to be used.

b. *Use must be consistent with certificate of occupancy.* No building or no part of a building shall be occupied until such certificate has been issued nor shall any building be occupied in any manner that conflicts with any conditions set forth in the certificate of occupancy.

2. *Use discontinued.*

a. *Use contrary to occupancy permit.* Whenever any building or portion thereof is being used or occupied contrary to the provisions of this Chapter, the building inspector shall order such use or occupancy discontinued and the building vacated by notice served on any person using or causing such use or occupancy to be continued; and such person shall vacate such building within ten days after receipt of the notice or make the building comply with the requirements of this Chapter.

b. *Occupancy of vacated or damaged premises.* Any building, structure or premises vacated or damaged by any cause whatsoever so as to jeopardize public safety or health shall not thereafter be occupied or used under any existing certificate of occupancy or without the certificate until an application has been filed and a new certificate of occupancy issued.

3. *Hardship.* The Building Inspector shall have the authority and power to permit the occupancy of any building or structure in the town prior to issuance of an occupancy certificate, in all such cases of hardship, as in his/her judgment and discretion, warrant occupancy before final stage of completion as set forth in this Chapter. Before granting such permission, the Building Inspector shall first examine the premises and determine if it is safe and sanitary. The Building Inspector shall determine the time within which such building or structure can be completed. Such time should not exceed one hundred twenty (120) days.

### **ARTICLE III. WRECKING, RAZING AND DEMOLITION OF BUILDINGS**

#### **Sec. 14.114. Demolition regulations.**

This article is designed to provide for the safe, orderly and supervised wrecking, razing or demolition of buildings or structures.

#### **Sec. 14.115. Permit required.**

1. *Wrecking permit.* No person shall wreck, raze or demolish or commence the wrecking, razing or demolition of a building or structure without first filing an application in writing with the building inspector and obtaining a written wrecking permit from the Zoning Administrator.

2. *Conditions of permit.* The Zoning Administrator shall issue a wrecking permit after the applicant has submitted written evidence to him that:

a. The owner of the building or structure or his authorized agent has notified all utilities including but not limited to such utilities as water, electricity, gas and sewer, having service connections with such building or structure, of the work to be done.

b. All connections such as meters and regulators have been removed or sealed and plugged in a safe manner.

c. Proof of liability insurance is in effect in those amounts as from time to time determined by the town board.

#### **Sec. 14.116. Liability of independent contractor.**

Any independent contractor who contracts with the owner of any building or structure for the wrecking, razing or demolition of the building or structure shall be liable for all permits, fees and regulations the same as if he were the owner of such building or structure.

#### **Sec. 14.117. Wrecking permit fee.**

The fee for a permit required by section 14.117 shall be as set by the town board.

#### **Sec. 14.118. Public safety.**

A snow fence and/or lighted barricades or such other safeguards as the zoning administrator and/or building inspector shall direct must be erected at the worksite to promote public safety.

#### **Sec. 14.119. Removal of rubble and rubbish.**



All rubble, rubbish and other debris shall be removed from any work or construction site promptly so as to safeguard against the health, safety and welfare of the public. All rubble and rubbish shall be hauled to a site that is either a licensed solid waste disposal facility or will otherwise allow the deposit of such materials under all State and town laws, ordinances, and regulations.

## **ARTICLE IV. HOUSE AND BUILDING NUMBERING**

### **Sec. 14.120. Intent.**

The intent of this article is to assist the designated law enforcement and fire departments in quickly finding the correct residence at which to provide emergency services as well as a convenience for other services that serve rural properties by requiring house and building numbers to be placed and maintained in prominently visible locations.

### **Sec. 14.121. Address assignment.**

It shall be the duty of the town clerk to assign a rural address number following a request by the zoning administrator. Marathon County shall maintain digital maps of the rural addressing for use by emergency services. The address assigned shall become the official address of the property and replace any prior address. A list of all assigned addresses shall be maintained by the town clerk.

### **Sec. 14.122. Town of Wausau address sign specifications.**

1. *Display requirement.* Address signs are to be flag style signs with address visible on both sides. The end of the sign by the post shall have rounded corners; the end away from the post shall have rounded corners. There shall be two mounting holes on the squared end.
2. *Size of sign.* Address signs are to be fourteen inches (14") by nine inches (9") silver or white engineer grade reflective sheeting covered with a blue computer generated cut out legend with a three-eighths inch (3/8") white border. The legend is to include the road and township name in three-fourths inch (3/4") letters below the main legend that will be four-inch (4") numbers.
3. *Materials.* Address signs are to be constructed from aluminum base materials.
4. *Placement.* Address signs are to be attached to six foot "U channel" posts. The rural address sign for a property shall be placed at the intersection of the public road and the access for the property. In the case of a private drive way for multiple properties, a sign indicating the address of each property served by the access shall be placed at the intersection of the public road and the access. A sign shall then be placed at each individual driveway at the point they intersect the private access. Properties with more than one residence shall have a rural address for each residence. Address signs shall be installed by the Town of Wausau.
5. *Fee.* The fee for a rural address sign shall be established by the town board and may be amended when deemed necessary. A property owner shall submit the appropriate fee to the zoning administrator along with the completed zoning/building application when requesting a rural address sign. The type, color, and scheme of the sign shall be in accordance with the type of sign approved by the town board. Any rural address not obtained through the town clerk under the jurisdiction of this ordinance shall be deemed in a violation of this ordinance.
6. *Maintenance.* After installation it shall be the responsibility of the property owner to maintain the rural address sign for his or her property. Maintenance shall include ordering a replacement sign if the sign is destroyed, repairs, clearing of vegetation, and keeping the sign in a condition where it is easily visible and legible at any time.
7. *Replacement.* Owners or occupants of a building or location having a rural address sign shall be responsible for the replacement of damaged, destroyed or removed signs shall be replaced at the owners' expense. These signs shall be ordered through the Town of Wausau and will be installed by the Town of Wausau.

### **Sec. 14.123. Numbers required.**

No permit for the construction of a house or building shall be issued until the assigned number has been obtained from the Town of Wausau Clerk. No permit for the repair or alteration shall be issued unless the proper number is displayed in accordance with this article.

## **Chapter 15**

### **Property Maintenance**

- Sec. 15.01. Purpose.
- Sec. 15.02. Duties of persons owning or controlling property.
- Sec. 15.03. Storage of firewood.
- Sec. 15.04. Accessory structures.
- Sec. 15.05. Compost piles and yard waste holding bins.
- Sec. 15.06. Enforcement; violations and penalties.

## Chapter 15

### PROPERTY MAINTENANCE

#### Sec. 15.01. Purpose.

The purpose of this chapter is to recognize and protect the private and public benefits resulting from safe, sanitary and attractive residential and nonresidential buildings, structures, yards and vacant areas. Attractive and well-maintained properties enhance neighborhoods and the Town provides a suitable environment for increasing physical and monetary values.

#### Sec. 15.02. Duties of persons owning or controlling property.

It shall be the duty of any person owning or controlling a house or other building or premises, including vacant areas, to improve and maintain all properties under his or her control.

1. *Exterior and storage of garbage, etc.* The exterior appearance of all buildings shall reflect a level of maintenance in keeping with the standards of the neighborhood. No building shall have the appearance of progressive deterioration, which would lead to the downgrading of the neighborhood. The exterior of premises and all structures thereon shall be kept free of all nuisances, unsanitary conditions and any hazards to the safety of occupants, pedestrians and the persons utilizing the premises. Such hazards include, but are not limited to, brush, weeds, broken glass, stumps, roots, obnoxious growth, garbage, trash and refuse. Any of the foregoing shall be promptly removed and abated by the owner or operator.

a. Siding not commonly intended or customarily used in a natural or exposed state shall be painted or sealed to prevent deterioration.

b. Every building shall have adequate refuse, garbage or rubbish storage. No occupant shall accumulate rubbish, boxes, lumber, metal refuse or other materials that will be an eyesore to the neighborhood.

2. *Lawn areas.*

a. Lawn areas, where provided, shall not be allowed to deteriorate to such conditions as to be a seriously blighting influence on the neighborhood or the Town in general. The growth of grass or weeds in excess of six (6) inches in height or the maintenance of the property with a lack of vegetation, which renders the yard areas unsightly and results in the diminution of the appearance of the property as compared with adjacent properties, shall be considered a violation.

b. Where lawn areas are not provided or have been removed, such areas shall be landscaped with garden beds or other ground cover so as not to be a public nuisance or a serious blighting influence.

3. Every yard, court, driveway or other portion of the lot shall be graded or drained so as to prevent the accumulation of stagnant water on any such surface. Driveways and sidewalks shall be maintained and kept in good condition.

#### Sec. 15.03. Accessory structures.

All accessory structures shall be maintained in good repair and in a clean and sanitary condition. All natural siding shall be painted or sealed to prevent deterioration.

#### Sec. 15.04. Compost piles and yard waste holding bins.

Compost piles or yard waste holding bins shall be permitted, provided that they are located in the rear yard and at least ten (10) feet or more from a habitable structure and provided that they are maintained in a manner that does not produce an odor or nuisance or provide a rodent harborage.

**Sec. 15.05. Enforcement; violations and penalties.**

1. *Order to correct conditions.* Whenever the town, its agents or employees shall, upon inspection of any premises within the town, find that the conditions of the premises are in violation of this chapter, the town board shall issue an order to the owner and/or occupant of the premises to correct said conditions.
  
2. *Causing work to be done.* Upon failure to comply with an order, where there is proof of service of said order, which required any building, premises, structure or property to be cleaned or repaired or condition abated or improved in accordance with this chapter, the town shall cause such cleaning, repair, improvement, abatement or removal of the offending substance or structure. Such cleaning, repair, improvement, abatement or removal shall be deemed a special benefit to such premises and the cost for the same shall be charged against the owner or owners of the property. If the cost of the same is not paid within sixty (60) days, it shall be levied as a special charge against the premises as authorize by state statutes.
  
3. *Citation.* Any person, firm or corporation violating any provision of this chapter shall be subject to the general penalty provisions in Chapters 1-2 of this Code. A citation may be issued pursuant to local ordinances and state statutes.  
(Amended 6/25/18)

## **Chapter 16**

**Reserved**

## **Chapter 17**

### **ZONING ORDINANCE**

#### **ARTICLE I. INTRODUCTION**

- Sec. 17.01. Title.
- Sec. 17.02. Authority.
- Sec. 17.03. Purpose and intent.
- Sec. 17.04. Repeal.
- Sec. 17.05. General interpretations.
- Sec. 17.06. Severability and non-liability.
- Sec. 17.07. Effective date.
- Sec. 17.08. Definitions.

#### **ARTICLE II. GENERAL REGULATIONS**

- Sec. 17.09. Jurisdiction.
- Sec. 17.10. Compliance.
- Sec. 17.11. Exemptions.
- Sec. 17.12. Use regulations.
- Sec. 17.13. Nonconforming structures and uses.
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- Sec. 17.15. Area regulations.
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#### **ARTICLE III. DISTRICTS AND MAP**

- Sec.17.41. Maps and boundaries.
- Sec.17.42. Interpretation of district boundaries.
- Sec.17.43. R-1/20 residential district.
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- Sec.17.46. CM-1 commercial/manufacturing district.
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#### **ARTICLE IV. MOTOR VEHICLE AND PARKING REGULATIONS**

- Sec.17.70. Loading requirements.
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- Sec.17.81. Signs in residential and agricultural districts.
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Sec.17.83. Special provisions.

## **ARTICLE VI. ADMINISTRATION**

Sec.17.90. Organization.

Sec.17.91. Administration.

Sec.17.92. Zoning administration.

Sec.17.93. Zoning/building permit process.

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Sec.17.95. Building inspector.

Sec.17.96. Planning commission.

Sec.17.97. Zoning change or amendment.

Sec.17.98. Conditional use.

Sec.17.99. Zastrow Rezone.

Sec.17.100. Variances.

Sec.17.101. Fees, violations and penalties.

## **ARTICLE I. INTRODUCTION**

### **Sec.17.01. Title.**

This Chapter shall be known as, referred to or cited as the TOWN OF WAUSAU ZONING ORDINANCE.

### **Sec. 17.02. Authority.**

These regulations are adopted under authority granted by Wis, Stats.§§ 60.6261.35 and 62.23.

### **Sec. 17.03. Purpose and intent.**

This Chapter is adopted to promote and protect public health, safety, comfort, convenience, aesthetics and other aspects of the general welfare and, more specifically, to fix reasonable standards to which buildings and structures shall conform, to regulate and restrict lot coverage and population density, to guide the proper distribution and location of various land uses by the establishment of zoning districts which are applied where the town has zoning jurisdiction, to promote the safety and efficiency of the streets and highways, to provide for adequate light, air, sanitation and drainage, to conserve natural resources, to provide safety from fire, flooding, water pollution, contamination and other hazards, to define the powers and duties of the administrative bodies as provided in this chapter and to prescribe penalties for the violation of the provisions of this Chapter or any amendment to this Chapter.

### **Sec. 17.04. Repeal.**

All other ordinances or parts of ordinances of the town inconsistent or conflicting with this section, to the extent of the inconsistency only, are hereby repealed.

### **Sec. 17.05. General interpretations.**

The following rules of construction shall apply to this Chapter:

1. The particular shall control the general; in case of any difference of meaning or implication between the text of this Chapter and any caption or illustration, the text shall control; "shall" is mandatory, "may" is permissive; words used in the present tense shall include the future and words used with singular number shall include the plural and the plural the singular, unless the context clearly indicates the contrary; "building" or "structure" includes any part thereof; "used for" includes "arranged for"; "person" includes an individual, corporation, partnership, incorporated association or any other similar entity, unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions or events connected by the conjunction; "and", "or" or "either/or," the conjunction shall be interpreted as follows: "and" indicates that all the connected items, conditions, provisions or events shall apply; "or" indicates that the connected items, conditions, provisions or events shall apply singly or in any combination; "either/or" indicates that the connected items, conditions, provisions or events shall apply singularly but not in combination. All measured distances shall be to the nearest integral foot. If a fraction is one-half ( $\frac{1}{2}$ ) foot or more, the integral foot next above shall be taken. The masculine gender includes the feminine and neuter.

2. The provisions of this Chapter shall be held to be minimum requirements and shall be liberally construed in favor of the Town and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes and related administrative codes.

### **Sec. 17.06. Severability and non-liability.**

Should any section, clause, provision or portion of this chapter be adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby.

### **Sec. 17.07. Effective Date.**

This section shall be in effect after a public hearing, adoption by the Town of Wausau Board and subsequent publication as well as approval by the Marathon County Board of Supervisors as required by Wis. Stats. § Sec. 60.62 (3).



**Sec. 17.08. Definitions.**

The following words, phrases and terms, wherever they occur in this chapter shall be interpreted as defined in this section:

1. **Agricultural Event Venues.** An Agricultural Event Venue means any activity incidental to the operation of a farm that brings members of the public to the farm which may include but is not limited to educational, recreational, or retail events as well as for special events, such as weddings, receptions, or parties, craft sales, and/or wine tasting. (Amended 6/14/2021)
2. **Alley.** Any public space or thoroughfare which has been dedicated or deeded to the public for public travel and which affords secondary access to abutting property.
3. **Alteration.** A building or structure is a change or rearrangement in the structural parts of the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location to another as well as adding a basement.
4. **Antenna.** Any structure for the receipt of VHF, UHF, DVT, or other high frequency waves with an antenna or that uses any other method for reception than that which is typically used by satellite dishes.
5. **Animal Confinement Facilities.** Concentrations of livestock at a density exceeding five animal units per acre per ATCP51. An animal confinement facility must meet the State of Wisconsin Code regarding confinement operation (CAFO) and Chapter 13 Marathon County Code of Ordinances Livestock Facilities Licensing Ordinance.
6. **Animal Units.** Animal units shall be as defined in Wis. Admin. Code ch. NR 243 unless otherwise provided by this Chapter. This chart shall be used in the A-1/80 Agricultural District:

**COMBINED ANIMAL UNIT CALCULATION EQUIVALENCIES**

Animal Units*	Animal Type	AEF*	Animal Units*	Animal Type	AEF*
	<b>DAIRY CATTLE</b>			<b>SHEEP/GOATS</b>	
715	Milking & Dry Cows	1.4	10,000	Per animal	0.1
910	Heifers (800-1200 lbs)	1.1		<b>HORSES</b>	
1,670	Heifers (400-800 lbs)	0.6	500	Per animal	2.0
5,000	Calves (under 400 lbs)	0.2		<b>DUCKS</b>	
2,000	Veal calves	0.5		Per bird(Liquid poultry manure handling)	0.2
	<b>BEEF CATTLE</b>		5,000	Per bird (Non-liquid poultry manure handling)	0.1
1,000	Steers/Cows (400-Mkt)	1.0	100,000	<b>CHICKENS</b>	
5,000	Calves (under 400 lbs)	0.2		Per bird (Liquid poultry manure handling)	0.033
700	Bulls	1.4	3,000	Layers (Non-liquid poultry manure handling)	.001
	<b>SWINE</b>		10,000	Broilers & Pullets (Non-liquid poultry manure handling)	.0005
2,500	Pigs (55 lbs-Mkt)	0.4	200,000	<b>TURKEYS</b>	
10,000	Pigs (up to 55 lbs)	0.1	55,000	Per Bird	0.018
2,500	Sows	0.4		*Animal Units=# Equivalent to 1,000 animal units	
2,000	Boars	0.5		*AEF=Animal Equivalency Animal Units	

**COMBINED ANIMAL UNITS**

1,000 Calculated Total

Examples for determining maximum allowable animals:

Example #1 Determining how many 400-800 lb. heifers are permissible 40 acres:

$$\frac{5 \text{ animal units/acre} \times \text{acres}}{\text{Animal Equivalency Factor (AEF)}} = \text{Number of animals}$$

$$\frac{5 \text{ animal units/acre} \times 40 \text{ acres}}{.6 \text{ AEF}} = 333 \text{ (400-800 lb. heifers)}$$

Example #2	Determining how many milking or dry cows are permissible on 40 acres:	$\frac{5 \text{ animal units/acre} \times 40 \text{ acres}}{1.4 \text{ AEF}} = 142 \text{ (milking or dry cows)}$
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Animal unit density equivalents for non-typical species or exotics such as bison, llamas, emu and ostriches shall be determined based on recommendation from the Wisconsin Department of Natural Resources.

7. Animal Units in R-1/20 Residential District and AT-1/40 Agricultural Transition District Facilities will be calculated as followed: one animal equivalent per acre: one 1,000 pound steer, one cow, one dairy cow and calf, 2 heifers, 10 months to freshening, 4 llamas, 4 calves, 1½ to 10 months to freshening, 2 swine, 4 sheep, 4 goats, 25 chickens, 10 rabbits, 10 ducks, 10 turkeys or other poultry, one horse or pony or other small animals as determined by the Town Board. Roosters are not allowed in R-1/20 Residential District or in defined subdivisions (Amended 10/2/2017).

8. Animal waste facility. Any site or area specifically designed and/or constructed for the purpose of storage or holding of animal waste and manure as regulated by Chapter 11.02 of the Marathon County Code of Ordinances, Animal Waste and Manure Management Code.

9. Apartment house. A building containing accommodations for two (2) or more families living independently of each other.

10. Auto laundry/car wash. A building or portion thereof containing facilities for washing vehicles using a steam cleaning device, cleaning solutions and water under pressure, blower, chain conveyor or other mechanical devices.

11. Automobile service station. Any building, structure or premises or other place used for the dispensing, sale or offering for sale of any motor fuel or oils, having pumps and storage tanks; also where battery, tire and similar services are rendered, but not including buildings and premises where such business is incidental to the conduct of a public garage used for the repair or storage of motor vehicles.

12. Automobile wrecking yard, junk yard or salvage yard. Any area of land where three or more vehicles, unlicensed and/or not in running condition, an accumulation of auto parts, or both, are stored in the open and are not being restored to operation. Any land, building or structure used for the wrecking or storing of such motor vehicles, or parts thereof, not in running condition. Any area where tire carcasses are stored or recycled. Any area where three (3) or more pieces of unlicensed or inoperative construction equipment, motorcycles, snowmobiles, boats or appliances or their parts are stored and are not being restored to operation, or any land or structure for the wrecking or storing of such vehicles, equipment or appliances, or parts thereof, not in working condition. The examples listed by this definition are examples and not intended to be an inclusive list.

13. Bed and breakfast establishment. A building that provides four or fewer sleeping rooms for temporary occupancy for compensation by transient guests who are traveling for business or pleasure and is the owner’s personal residence and occupied by the owner at the time of rental.

14. Berms. A berm is an earthen wall or embankment.

15. Boarding house. A building other than a hotel or restaurant where meals or lodging are regularly furnished by prearrangement for compensation for five (5) or more persons not members of a family but not exceeding ten (10) persons and not open to transient customers.

16. Building height. Unless otherwise specified in this ordinance, the vertical distance from the average grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the mean height level between eaves and ridges for gable, dormers, hip and gambrel roofs.

17. Building permit. A permit that is required for construction of any building or structure for occupancy and is issued by the building inspector.

18. Building site area. The ground area of a building or buildings, together with all open spaces required by this chapter.

19. Campgrounds. Any premises established for overnight habitation by persons, not the owner of the property, using equipment designed for temporary camping whether or not a fee is charged.

20. Camping unit. Any portable device, no more than four hundred (400) square feet in area, used as a temporary shelter, including, but not limited, to a camping trailer, motor home, bus, van, pickup truck, park unit, tent or other mobile recreational vehicle.
21. Class 1 collocation. The placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a free standing support structure for the facility but does need to engage in substantial modification.
22. Class 2 collocation. The placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a free standing support structure for the facility or engage in substantial modification.
23. Collocation. Class 1 or Class 2 collocation or both.
24. Club. An association for some common purpose but not including a group organized for or which is actually engaged in rendering a service which is customarily carried on as a business. A roadhouse or tavern shall not be construed as a club.
25. Community and other living arrangements. Community and other living arrangements for adults will be defined in Wis. Stats. § 62.23(7)(i).
26. Composting. The temporary storage and recycling and sale of stored materials consisting solely of dirt and yard waste suitable for composting onsite.
27. Conditional uses. Uses of a special nature as to make impractical their predetermination as a permitted use in a district. Conditional Uses in the ordinance shall have the same meaning as special exceptions as used in Wis. Stats. Chapter 62.23.
28. Condominium. Property subject to a condominium declaration established under section 703 Wisconsin Statutes.
29. Conforming building or structure. Any building or structure which complies with all the regulations of this Chapter.
30. Day care or childcare facility. A facility that provides care or supervision for children under 12 years of age for less than 24 hours per day.
31. Development. Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or substantial improvements to buildings, structures or accessory structures; the placement of building or structures; mining, dredging, filling, grading, paving, excavation or drilling operations; and the storage, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities.
32. Distributed antenna system. A network of spatially separated antenna nodes that is connected to a common source via a transport medium and that provides mobile service within a geographic area or structure.
33. Distribution equipment. Poles, towers, wires, cable, conduits, vaults, laterals, pipes, mains, valves for telephone or other communications and electric power, gas, water and sewer lines, the sole purpose of which is to connect the utility service to retail customers. Distribution equipment does not include transmission equipment as further defined herein.
34. District. A designated area for which the regulations governing the use of the land and buildings are uniform.
35. Dog kennel, breeding and/or boarding. More than four (4) dogs that are more than six (6) months old at a business where dogs are bred and sold and/or boarded, cared for and/or trained, generally for a fee.
36. Dog kennel structure. The pen(s), run(s), and accessory structure(s) associated with land used for harboring of dogs.
37. Draining system. One (1) or more artificial ditches, tile drains or similar devices which collect surface runoff on ground water and convey it to a point of discharge.

38. Driveway. A private road that gives access to private property from a public roadway.
39. Dwelling. A building or portion thereof designed exclusively for residential occupancy, including one family, two family and multiple family dwellings. An accessory building is not considered a dwelling.
40. Earth excavation. All excavations of sand, gravel, clay, silt, loam, rock, stone, muck, dirt, soil, and other earth materials as well as the operation of a non-metallic mining. This does not include preparation for building sites, landscaping, or driveways.
41. Equipment compound. An area surrounding or adjacent to the base of an existing support structure within which is located mobile service facilities.
42. Fall zone. The area over which a mobile support structure is designed to collapse.
43. Family. An individual or two (2) or more persons related by blood, marriage, guardianship, foster care or adoption, including domestic servants, and not to exceed one (1) gratuitous guest, living together as a single housekeeping unit or a group of not more than three (3) persons not so related, maintaining a common household and using common cooking and kitchen facilities.
44. Farm. An area of land devoted to the production of field or truck crops, livestock or livestock products, which constitutes the major use of such property. This includes fur farms in which the animals are housed and fed under artificial conditions.
45. Farm Operator. An owner or occupant of a parcel of land that is devoted to the production of field or truck crops, livestock, or livestock products, which constitutes the major use of such property.
46. Federal emergency management agency (FEMA). The federal agency that administers the National Flood Insurance Program. This agency was previously known as the Federal Insurance Administration (FIA) or Department of Housing and Urban Development (HUD).
47. Feedlot. A feedlot shall be determined to be any of the following facilities, when they are a business and means of livelihood:
- a. Any tract of land or structure wherein any type of fowl or the byproducts thereof are raised in close quarters for sale at wholesale or retail.
  - b. Any structure, pen or corral wherein cattle, horses, sheep, goats, swine, and other animals domestic and/or exotic are maintained in close quarters for the purpose of fattening, milking or production of other animal products for final sale and/or shipment to market.
48. Floor area: The gross horizontal areas of the several stories within the outer lines of the exterior walls of a building or from the centerline of party walls; provided that the floor area of a dwelling shall not include space not usable for living quarter, such as attics, utility or unfinished basement rooms, garages, breezeways and unenclosed porches or terraces.
49. Front yard: A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing or proposed street or highway line and a line parallel thereto through the nearest point of the principal structure. Corner lots shall have two such yards.
50. Frontage: The smallest dimensions of a lot abutting a public street measured along the street line.
51. Garage, private. An accessory building or accessory portion of the main building, used or designed or intended to be used for the storage of private motor vehicles.
52. Garage, public. A building or portion thereof other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling or storing motor driven vehicles.
53. Grading. The physical disturbance of the ground by the addition, removal, or re-distribution of soil.

54. Greenhouse. Commercial greenhouses means glassed enclosures used for horticulture for wholesale and retail use.
55. Greenhouse, non-commercial. Non-commercial greenhouses means glassed enclosures used for horticulture where the enclosure covers less than five hundred (500) square feet or five percent (5%) of the lot, whichever is lesser, and the operation does not exceed the definition of a home occupation.
56. Habitable structure. Any structure, or portion of a structure, used or intended to be used for permanent or intermittent human occupancy.
57. Hearing notice. A publication or posting meeting the requirements WI Statutes Chapter 985.
58. Home occupation. Any occupation for gain or support, when such occupation is incidental to the residential use of the premises and does not involve any external alteration that would effect a substantial change in the residential character of the building provided, further, that no article is sold or offered for sale that is not produced by such home occupation, that no stock in trade is kept or sold, that no person other than a member of the resident family is employed on the premises and that no more than twenty-five percent (25%) of the floor area of any floor of the residence or accessory building is used for the home occupation. A home occupation, as determined by the town board, includes but is not limited to uses such as daycare, millinery, dressmaking, canning, laundering and crafts but does not include the display of any goods nor such occupations as barbering, beauty shops, non-retail cabinet making, real estate brokerage or photographic studios. (Amended 12/5/2016)
59. Home professional business. Any professional occupation for gain or support when such occupation is incidental to the residential use of the premises and does not involve any external alteration that would effect a substantial change in the residential character of the building provided, further, that such business is conducted solely by a member or members of the resident family entirely within the residence, that not more than fifty percent (50%) of only one floor of the dwelling shall be devoted to such business and that no more than two (2) persons not members of the resident family are employed in non-professional capacities in any such office. A home professional business, as determined by the town board, includes but is not limited to uses such as attorneys, doctors, dentists, tax preparation, ministers, architects, landscape architects, professional engineers, authors or other recognized professions and real estate brokerages, photographic studios and service oriented shops such as beauty and barber shops and licensed children's day care for no more than twelve (12) children. (Amended 12/5/2016)
60. Hotel. A building in which board and lodging are provided to the transient public for compensation.
61. Human habitation. The act of occupying a structure as a dwelling or sleeping place, whether intermittently or as a principal residence.
62. Interchange. A grade separated intersection with one or more turning lanes for travel between intersecting highways.
63. Land use. Any nonstructural use made of unimproved or improved real estate. Also see: "DEVELOPMENT".
64. Landscape commercial: A landscape business offers products and services to clients that involve planting and caring for trees, shrubs, flowers, ground covers and grass. Some landscape businesses also offer design and implementation services for sidewalks, walkways, decks, retaining walls, patios, lighting and other external design elements outside of a building.
65. Landing. An uncovered platform at the end of a flight of stairs or a platform for ingress and egress to a structure or a jump platform.
66. Livestock, small. Small livestock is defined as goats, poultry (excluding roosters), rabbits, and sheep or other small animals as determined by the town board.
67. Lot. A parcel of land occupied or designed to be occupied by one principal structure or use and its accessory structures or uses, including the open spaces required by this Chapter. A lot may be a parcel designated in a plat or described in a conveyance recorded in the Office of the Register of Deeds, or any part of a large parcel when such part complies with the requirements of this chapter as to width and area for the district in which it is located. No land

included in any street, highway or railroad right-of-way shall be included in computing lot area.

68. Lot, corner. A lot located at the intersection of two streets, any two corners of which have an angle of one hundred twenty (120) degrees or less, or is bounded by a curved street, any two chords of which, on the inside of the curve, form an angle of one hundred twenty (120) degrees or less.

69. Lot, width. The width of a lot shall be the shortest distance between the side lines at the building location at which the principal building shall be constructed.

70. Maintenance and repair. Includes the replacement of windows, doors, roofing, wiring and siding; upgrading of insulation; internal remodeling and improvements; and repair, but not replacement, of an existing foundation or changes to the pitch of the roof.

71. Manufactured home. A home certified and labeled as a manufactured home under 42 USC Sections 5401 to 5426 which is set upon a foundation constructed at a minimum to the requirements of Wis. Admin. Code ILHR 21.18 or its successor or a comparable foundation as approved by the local zoning administrator or building inspector is installed according to manufacturer's instructions and is properly connected to utilities. For purposes of this Chapter, a manufactured home shall be treated the same as a single-family residence and, where appropriate, a two (2)-family residence.

72. Metallic mining. The process used to extract nonferrous metallic minerals from the earth is called metallic mining or sulfide mining. Metallic nonferrous minerals include such minerals as copper, zinc, gold, silver, platinum, nickel, aluminum, and lead.

73. Mobile home. A structure that is or was as originally constructed, designed to be towed as a single unit or in sections upon a highway by a motor vehicle and equipped and used, or intended to be used, primarily for human habitation with walls of rigid uncollapsible construction, which has an overall length in excess of forty (40) feet and includes any additions, attachments, annexes, foundations and appurtenances. A mobile home includes the mobile home structure, its plumbing, heating, air conditioning and electrical systems and all appliances and all other equipment carrying a manufacturer's warranty.

74. Mobile recreational vehicle. A vehicle which is built on a single chassis, four hundred (400) square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle; is licensed for highway use if registration is required; and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

75. Mobile service. Mobile service has the meaning given in 47 USC 153(33).

76. Mobile services antenna. Communications equipment that transmits and receives electromagnetic radio signals and is used in the provision of mobile services.

77. Mobile services existing structure. A structure that exists at the time and a request for permission to place mobile service facilities on a support structure is filed with a political subdivision.

78. Mobile service facility. The set of equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling and associated equipment that is necessary to provide mobile service to a discrete geographic area but does not include the underlying support structure.

79. Mobile service provider. A person who provides mobile service.

80. Mobile service support structure. A freestanding structure that is designed to support a mobile service facility.

81. Motel or tourist cabin. A building or series of buildings containing guest rooms in which lodging is offered for compensation and which may have more than five sleeping rooms or units for this purpose and which is distinguished from a hotel primarily by reason of providing direct independent access to the adjoining parking for each or many of the guest rooms.

82. Nonconforming uses or structures. Any structure, land or water lawfully used, occupied or erected at the time of the effective date of the ordinance or amendments thereto which does not conform to the regulations of this ordinance or amendments thereto. Any such structure conforming in respect to use but not in respect to frontage, width, height, area, yard, parking, loading or distance requirements shall be considered a nonconforming structure and not a conforming use.
83. Non-metallic mining. Any pit or depression created by the removal of rock, gravel, clay, decomposed granite, sand, topsoil or other natural material from the earth by excavating, stripping, leveling, or any other process, whereby these materials are substantially removed from the site. This does not include preparation for building sites, landscaping or driveways. Non-metallic minerals do not include coal and petroleum. (Adopted 11/5/2018)
84. Normal water surface. The water surface established by the lowest invert elevation of a pond's surface overflow or outlet structure. Exfiltration shall not be considered part of the outlet system.
85. Noxious matter. Material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the physical or economic well-being of individuals.
86. Occupancy. Pertains to and is the purpose for which a building is used or intended to be used. A change of occupancy is not intended to include a change of tenants or proprietors.
87. Park. A pleasure ground set apart for recreation of the public to promote its health and enjoyment.
88. Park, amusement. An area publicly or privately owned containing amusement and recreational facilities and devices, whether operated for profit or not.
89. Parking lot. A lot where automobiles are parked or stored temporarily, but not including the wrecking of automobiles or other vehicles or storage for the purpose of repair or wrecking.
90. Party walls. A wall on the boundary line of adjoining properties that is shared by two (2) owners or tenants.
91. Person. A person shall be any individual, group of individuals, corporation, partnership, association, municipality, state agency or similar entity.
92. Pets, household. Animals commonly found in a residence as pets, such as dogs, cats, songbirds, and other small animals, that are not raised or reared for commercial resale or as a source of staple supplement. Household pets shall not include horses, chickens, cows, goats, sheep, hogs, snakes, etc. not commonly found in residences.
93. Pond. A constructed depression area designed to permanently maintain water. (Amended 5/4/2022)
94. Private sewage system. For the purpose of this Chapter a private sewage system shall have the same definition as contained in Wis. Stats. § 145.01(12).
95. Professional engineer. A person who is licensed as a Professional Engineer by the State of Wisconsin.
96. Professional geologist. A person who is licensed as a Professional Geologist by the State of Wisconsin.
97. Professional hydrologist. A person who is licensed as a Professional Hydrologist by the State of Wisconsin.
98. Professional office. The office of a doctor, practitioner, dentist, minister, architect, landscape architect, professional engineer, lawyer, author, musician or other recognized profession.
99. Public utilities. Publicly owned utilities using underground or overhead transmission lines such as electric, telephone and telegraph and distribution and collection systems such as water, sanitary sewer and storm sewer.
100. Rear yard. A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest point of where the principal structure may be built as provided in each zoning district.

101. Recreation or youth camp. An area containing one (1) or more permanent buildings used occasionally or periodically for the accommodation of members of associations or groups for recreational purposes.

102. Recycling. The temporary storage, recycling and sale of stored materials consisting solely of those materials listed in Wis. Stats. Chapter 287.07(1m) to (4).

103. Roadside stand. A structure having a ground area of not more than three hundred (300) square feet readily removable in its entirety, not fully enclosed and to be used solely for the sale of farm products more than one-half (1/2) of which were produced on the premises or adjacent premises.

104. Search ring. A shape drawn on a map to indicate the general area within which a mobile service support structure should be located to meet radio frequency engineering requirements, taking into account other factors including topography and the demographics of the service area. (Amended 12/5/2016)

105. Seasonal worker. An employee hired for an abbreviated time to meet seasonal program needs. Seasonal employment terminates at the end of the respective season. (Amended 12/5/2016)

106. Seasonal housing. Housing units intended for occupancy only during certain seasons of the year for a limited period of time, normally six months or less. (Amended 12/5/2016)

107. Setback line/building line. The minimum allowable distance from a given point or line of reference, such as a thoroughfare right-of-way, water line or property line to the nearest vertical wall or other element of a building or structure.

108. Shopping center. A group of contiguous retail stores originally planned and developed as a single unit with immediate adjoining off-street parking facilities.

109. Side yard. A yard extending from the street yard to the rear yard of the lot, the width of which shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of the principal structure.

110. Sign. Any advertisement, announcement, direction or communication produced in whole or in part by the construction, erection, affixing or placing of a structure on any land or on any other structure or produced by painting on or posting or placing any printed, lettered, pictured, figured or colored material on any building, structure or surface. Signs placed or erected by governmental agencies or nonprofit civic associations for a public purpose in the public interest shall not be included herein.

111. Sign, billboard, directional. Signs which direct potential patrons or visitors to a specific place of business interest or community and which may indicate either goods or services offered or both.

112. Sign, flashing. Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when such sign is in use.

113. Small livestock. Small livestock is defined as goats, poultry (excluding roosters), rabbits, and sheep or other small animals as determined by the town board.

114. Special Event Venue. A special event venue is any activity held on property in the Town of Wausau for the payment of money or any other valuable thing that brings the public to the property for educational, recreational, or retail events; organized meetings; and/or a gathering place for receptions, weddings, parties, or corporate events as part of its normal course of business. (amended 6/14/2021)

115. Special exception. See Conditional Use.

116. Story. The vertical distance between the surface of any floor and the floor next above it or, if there be no floor above it, the space between such floor and the ceiling next above it.

117. Street. A public or private thoroughfare which affords a primary means of access to abutting property. A driveway



to a farm building shall not be considered a street for the purpose of determining setback even though such driveway may have been designated a town road for the purposes of maintenance.

118. Structural alterations. Any changes in the supporting members of a structure such as bearing walls, columns, beams or girders, footing and piles.

119. Structure. Anything constructed or erected, the use of which requires a location in or on the premises, or any other attachment to something having a permanent location on the ground, which includes, but is not limited to, objects such as buildings, factories, sheds and cabins, mobile homes, gas or liquid storage tanks, bridges, culverts, decks, satellite dishes over eight (8) feet in diameter or swimming pools. Also included are items of personal property that may have been designed as transportable or as a vehicle but stand in a seasonal or permanent location for storage or intermittent human habitation. Such incidental structures may include, (but are not limited to, truck campers, mobile recreational vehicles, buses and motor homes.

120. Structure, accessory. A structure which is incidental or subordinate to the principal structure on the same parcel for the use of the parcel as permitted by this code.

121. Structure, nonconforming. A structure erected prior to the effective date of this Chapter or amendment thereto that conforms to use limitations but does not conform to dimensional or other standards including setbacks, floor area, parking, distance.

122. Structure, principal. A structure which contains or is directly related to the main use of the property on which it is located, conforms to the purpose section of the zoning district in which it is or is to be located and is a structure listed as a permitted or special exception in the zoning district. Only one principal structure is permitted on each lot or parcel.

123. Substantial Improvement. Any repair, reconstruction or improvement of a structure, the value of which equals or exceeds fifty percent (50%) of the present equalized assessed value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. However, the term does not include either any project for improvement of a structure to comply with existing State or local health, sanitary or safety code specifications, which are solely necessary to assure safe living conditions. Ordinary maintenance repairs are not considered structural repairs, modifications or additions; such ordinary maintenance repairs include internal and external painting, decorating, paneling and replacement of doors, windows and other nonstructural components.

124. Substantial modification. The modification of a mobile service support structure, including the mounting of an antenna on such a structure, that does any of the following:

1. For structures with an overall height of two hundred (200) feet or less, increases the overall height of the structure by more than twenty (20) feet.
2. For structures with an overall height of more than two hundred (200) feet, increases the overall height of the structure by ten percent (10%) or more.
3. Measured at the level of the appurtenance added to the structure as a result of the modification, increases the width of the support structure by twenty (20) feet or more unless a larger area is necessary for collocation.
4. Increases the square footage of an existing equipment compound to a total area of more than two thousand five hundred (2,500) square feet.

125. Support structure. An existing or new structure that supports or can support a mobile service facility, including a mobile service support structure, utility pole, water tower, building or other structure.

126. Transmission equipment. Poles, towers, wires, cables, conduits, vaults, laterals, pipes, main valves for high voltage electrical transmission, natural gas and other utility products and services not intended for direct access by retail customers but whose purpose is transmission from point of origin to distribution stations or similar locations.

127. Unnecessary hardship. A circumstance where special conditions, which are not self-created, affect a particular property and make strict conformity with restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of this Chapter.

128. Use, accessory. A use customarily incidental and accessory to the principal use of a lot or parcel, building or structure on the same lot or parcel as the principal use.

129. Use, nonconforming. A lawful use that occurs in any building or land on the effective date of this Chapter or amendment thereto which does not conform with the use requirements of the district in which it is situated.

130. Use, principal. The main use of land or building as distinguished from a subordinate or accessory use.

131. Utilities. Any public or private water supply, waste collection or disposal system including, but not limited to, septic systems, private and public wells and their attendant facilities, public sewage collection systems and treatment facilities.

132. Utility pole. A structure owned or operated by an alternative telecommunications utility as defined in Wis. Stats. Chapter 196.01(1d); public utility as defined in Wis. Stats. Chapter 196.01(5); telecommunications utility as defined in Wis. Stats. Chapter 196.01(10); political subdivision or cooperative association organized under Wis. Stats. ch. 185 and that is designed specifically for and used to carry lines, cables or wires for telecommunications service as defined in Wis. Stats. Chapter 182.017(1g)(cq); for video service as defined in Wis. Stats. Chapter 66.0420 (2)(y) for electricity or to provide light.

133. Variance. A departure from the dimensional standards of this Chapter as applied to a specific building, structure or parcel of land, which the Board of Appeals may permit, contrary to the regulations of this Chapter, for the district in which such building, structure or parcel of land is located when the board finds that a literal application of such regulation will affect a limitation on the use of the property, which does not generally apply to other properties in the same district and for which there is not compensating gain to the public health, safety or welfare. [See also subsection 17.97(4)(b).]

134. Warehouse - mini. Units rented to store personal property, sporting equipment such as snowmobiles and boats and other similar non-hazardous materials.

135. Wind electrical generation towers (WEGT), private. Any WEGT to be primarily used to provide electricity to a structure at the site of generation.

136. Wind electrical generation towers (WEGT), commercial. Any WEGT to be primarily used to produce electricity that will ultimately be sold and/or used not at the site of generation.

137. Yard. An open space on a lot, which, except for vegetation or specified structures, is unoccupied and unobstructed from the ground up. On a parcel which has a conforming principal building, the street, side and rear yards are presumed to extend from the street, side and rear boundary lines to the minimum setback line.

138. Yard, street. A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance equal to the minimum highway setback specified for the existing or proposed class of highway. On corner lots, the street yard is determined by the street which is parallel to the long axis of the principal structure or is the yard fronting on the street for which the address is assigned.

139. Zoning permit. A permit issued to verify and approve how the site and associated development will be used to ensure the site is in compliance with this Chapter.

## **ARTICLE II. GENERAL REGULATIONS**

### **Sec. 17.09. Jurisdiction.**

The provisions of this chapter shall apply to the land, water, air and all structures both above and below ground within the Town of Wausau, Marathon County, Wisconsin.

### **Sec. 17.10. Compliance.**

1. No structure, land, water or air shall hereafter be used without full compliance with the provisions of this Chapter and all applicable local, County and State regulations. No structure (with the exception of certain minor structures) or part thereof shall hereafter be located, erected, moved, reconstructed or altered and no substantial land use change made

without a zoning or conditional use permit. The zoning administrator shall accept applications, issue or deny all permits, investigate all complaints, give notice of violations and enforce the provisions of this Chapter. The zoning administrator shall have access to premises and structures during reasonable hours to make those inspections as deemed necessary by him to ensure compliance with this Chapter. If, however, he is refused entry after presentation of identification, he shall procure a special inspection warrant in accordance with Wis. Stats. Chapter 66.122 except in case of emergency.

2. No permit or approval pursuant to this Chapter shall be issued where the applicant is in violation of this or any ordinance administered by the Town of Wausau nor for any parcel(s) of land which have an outstanding violation until the violation has been corrected. A request for waiver of this provision may be made to the town board..

3. Where issuance of an after-the-fact permit or approval would have the effect of correcting a violation it may be granted if all conditions required for issuance can be complied with.

**Sec. 17.11. Exemptions.**

1. The following uses are exempt from the terms of this Chapter and permitted in any zoning district: poles, towers, wires, cables, conduits, vaults, laterals, pipes, mains, valves or any other similar distribution equipment for telephone or other communications and electric power, gas, water and sewer lines with the exception of cellular telephone towers, which are subject to the provision of subsection 17.45(3)(w).

2. Transmission equipment shall be discouraged in residential districts. Transmission equipment shall likewise be discouraged from bisecting agricultural parcels. Transmission equipment shall be located on or in close proximity to property lines and shall follow existing easements and/or right-of-ways.

3. In the event that either distribution equipment or transmission equipment needs to be relocated in the public interest, it shall be relocated at the sole expense of the utility company in accordance with a signed agreement as set forth in subsection 17.19(2), which shall be filed with the town board prior to initial installation.

**Sec. 17.12. Use regulations.**

1. Uses restricted. In any district no building or land shall be used and hereafter no building shall be erected, structurally altered or relocated except for one or more of the uses stated in this chapter for that district.

2. Temporary uses. Uses such as real estate sales field office or shelters for materials and equipment being used in the construction of a permanent structure, may be permitted by the Zoning Administrator upon issuance of a zoning permit.

3. Unclassified uses. In case of a question as to the classification of a use, the question shall be submitted to the Planning Commission for determination. Uses already classified in any district are not eligible for a determination.

**Sec. 17.13. Nonconforming structures and uses.**

1. Pre-existing structures - dimensional non-conformance. Structures erected prior to the effective date of this chapter or amendment thereto which are conforming to this Chapter as to use but do not conform to dimensional rules (setbacks, height, yard spaces, separation, etc.) and which are proposed to be altered are subject to the following requirements:

a. Repair, maintenance, renovation or remodeling of a nonconforming structure erected to the effective date of this Chapter shall be permitted.

b. Alterations, additions and expansions which change the exterior dimensions of the structure and conform to the dimensional rules of this Chapter and other applicable regulations shall be permitted.

c. Alterations, additions and expansions which change the exterior dimensions of the structure and which do not conform to this Chapter but which do not increase the dimensional nonconformity beyond what currently exists may be allowed provided that the improvements do not exceed fifty percent (50%) of the floor area of the existing structure on all levels over the life of the structure.

- d. No alterations, additions or expansions may occur which will increase the dimensional nonconformity.
2. Pre-existing uses and structures - use nonconformance. Land uses or uses of structures which were established prior to the effective date of this Chapter or amendment thereto which are nonconforming as to use may be continued provided that:
    - a. Any nonconforming use of a building or premises may be continued but such nonconforming use shall not be extended.
    - b. If a nonconforming use is discontinued for a period of twelve (12) months, any future use of the property shall be in conformity with this Chapter.
    - c. Nonconforming uses shall be subject to the provisions of Section 17.13(4)A. as to any dimensional nonconformity and Section 17.13(4)C.
  3. Pre-existing structures and uses - other standards and requirements.
    - a. Except as provided in Section 17.13(4)D., when a structure which is nonconforming as to dimensional standards or a structure containing a nonconforming use is demolished, removed or damaged to the extent of more than fifty percent (50%) of its current equalized assessed value, it shall not be restored except as a conforming use and at a conforming location.
    - b. The size and shape of a lot shall not be altered so as to increase the degree of nonconformity of a structure or use.
    - c. Existing conditional uses. All lawfully previously permitted uses existing on the effective date of this Chapter which would be classified as a conditional use in the particular zoning district concerned if they were to be established after the effective date of this Chapter are hereby declared to be conforming conditional uses to the extent of the existing operation only.
  4. Restoration of certain nonconforming structures. As required by Wis. Stats. Chapter 62.23(7)(hc), if a landowner can establish that a nonconforming structure has been destroyed or damaged by violent wind, fire, flood, vandalism, ice, snow, mold or infestation, the structure may be reconstructed or repaired to the size, location and use it had immediately before the damage occurred, subject to the following:
    - a. A structure that is destroyed or damaged due to a deliberate act by the landowner or by his or her agent or due to general deterioration or dilapidated condition may not be reconstructed or repaired except in conformance with the standards of this Chapter.
    - b. Reconstruction or repairs are authorized under this section only to the extent that they are necessary to repair the specific damage caused by violent wind, fire, flood, vandalism, ice, snow, mold or infestation and only that portion of the nonconforming structure that has been destroyed may be reconstructed.
    - c. The landowner shall bear the burden of proof as to the size, location or use a destroyed or damaged nonconforming structure had immediately before the destruction or damage occurred.
    - d. If deemed necessary for compliance with state or federal requirements the size of the structure may be larger than the size immediately before the damage or destruction occurred. Documentation of such shall be in writing from an architect/engineer certifying that the increase in size is necessary to comply with state or federal requirements.
    - e. All structures reconstructed or repaired shall remain nonconforming structures.
  5. Nothing herein contained shall require any change in the plans, construction size or designated use of any building or part thereof for which a zoning permit has been issued before the effective date of this Chapter and the construction of which shall have been started within six months from the date of such permit.

**Sec. 17.14. Accessory uses and structures.**

1. Accessory structures and uses customarily incidental to and compatible with permitted principal structures and uses shall be permitted subject to the district requirements. Accessory structures and uses shall not be established prior to the principal structure or use unless:

a. A conditional use permit is recommended by the planning commission and approved by the town board.

b. The accessory structure will be used to store tools or machinery on a parcel that is greater than 80,000 sq. ft in the zoned agricultural district. If the parcel is at least 80,000 sq. ft. or less, the accessory structure must be placed on the parcel to allow for the future construction of a principal structure. The accessory structure must meet all setbacks. (Amended 3/11/2024)

c. An accessory building may only be erected prior to a principal structure if the principal structure is erected within building shall be obtained at the same time and prior to either being erected. (Amended 12/5/2016)

2. No accessory building shall be erected, used, or maintained for dwelling purposes.

**Sec. 17.15. Area regulations.**

1. Lot reduction. After adoption of this Chapter, no lot area shall be reduced so that the area, dimensional and yard requirements of this Chapter cannot be met.

2. Existing lot. Lots existing and of record prior to the adoption of this Chapter or the establishment or change of zoning districts but of substandard size may be devoted to uses permitted in the district in which located providing the requirements of applicable Wisconsin Administrative Codes can be satisfied and further provided all dimensional setback requirements can also be satisfied. No existing lot shall have its boundaries altered in any way without the resulting parcel(s) being in full compliance with this code and the zoning district in which the parcel(s) are located. The board of appeals may waive this requirement where there is not sufficient contiguous ownership to comply but where the parcel(s) to be created will be less nonconforming.

3. Yard and open space regulations.

a. All yards and other open spaces allocated to a building or group of buildings comprising one principal use shall be located on the same lot as such building. No legally required yards, other open space or minimum lot area allocated to any building shall, by virtue of change of ownership or for any other reason, be used to satisfy yards, other open space or minimum lot area requirements for any other building.

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

(1) Marquees, awnings, chimneys, overhanging roof eaves and architectural projections adjoining the principal building may project no further than 1/2 the distance of the set back requirements.

(2) Ornamental light standards, flag poles, trees and outdoor fuel-dispensing equipment are permitted in any yard.

(3) Fences, landscape walls, hedges, or shrubbery are permitted on the property lines to separate parcels but shall not, in any case, exceed a height of six (6) feet. A fence shall not be constructed using barbed wire and shall not be electrified. (Note: This shall not apply to parcel boundaries between agricultural and residential parcels).

(4) Fences, walls, hedges, or shrubbery shall not exceed a height of four (4) feet in any required street yard and shall not be closer than two (2) feet to any public right-of-way.

(5) Acceptable materials for constructing fences, landscape walls, and decorative posts include wood, stone, brick, wrought iron, chain link, wire mesh, vinyl, plastic, and composite materials. (Amended 12/5/2016)

(6) Temporary fencing, including the fences for the purpose of limiting snow drifting, protection of excavation and construction sites, the protection of plants during grading and construction and for use with plants during the growing season, is permitted during such temporary conditions. (Amended 12/5/2016)

(7) Snow fences constructed of wood and wire, and/or plastic shall be permitted only as temporary fences, and used on a seasonal basis only between November 1 and March 31.

(8) All fences shall present the non-structured face outward.

(9) All fences shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair or danger or constitute a nuisance, public or private. Any such fence which is, or has become, dangerous to the public safety, health or welfare is a public nuisance and shall be repaired, replaced, or removed.

(10) Berm. Earthen berms shall be permitted in the A-1/80 agricultural and the CM-1 commercial zoning districts. In all other zoning districts, earthen berms shall be a conditional use. All berms permitted shall be designed with three to one (3 to 1) side slopes, have a base that is approximately seventy-five (75) feet wide, have a crown that is approximately fifteen (15) feet wide and have an elevation no more than ten (10) feet in height. The berm must be incorporated into the landscape treatment of a site. The owner must ensure proper drainage. A berm must meet the setback requirements of the zoning district. Berms must be covered, planted and landscaped with perennials within six months after it is erected.

(11) Fencing in agricultural zoned areas must comply with Wis. Stats. Chapter 90.

c. The owner of two (2) or more lots shall comply with the yard requirements of each individual lot unless the lots are legally combined into a single lot or re-divided by a CSM that is regulated by the town Land Division Ordinance to maintain minimum yard setbacks.

4. Minimum lot area. In all districts, the minimum lot area shall be calculated without including any road right-of-way or any other easements for streets or utilities, which are greater than twenty (20) feet wide.

#### **Sec. 17.16. Height regulations and exceptions.**

1. Height of the following structures may exceed limits for the district in which they are located: cooling towers, stacks, barns, lookout towers, silos, windmills, water towers, church spires, radio and television aerials, masts, antennas and similar mechanical appurtenances.

2. Churches, schools, hospitals, sanatoriums and other public and quasi-public buildings may be erected to a greater height not exceeding 60 feet provided the front, side and rear yards required in the district in which such building is to be located are each increased at least one foot for each foot of additional building height above the height limit otherwise established for the district in which such building is to be located.

#### **Sec. 17.17. Highway setbacks.**

For the purpose of determining the distance buildings and other structures shall be setback from streets and highways, the streets and highways of the Town are divided into the following classes:

1. Class A Highways.

a. All state and federal highways are hereby designated as Class A highways.

b. The setback for Class A highways shall be one hundred ten (110) feet from the centerline of the highway or fifty (50) feet from the right-of-way line, whichever is greater, except that for any freeway or divided Class A highway the setback distance shall be fifty (50) feet from the right-of-way line.

2. Class B Highways.

a. All county trunk highways are hereby designated as Class B highways. For the purpose of this Chapter any road will be considered as a county trunk after it has been placed on the county trunk system and approved by the Wisconsin Department of Transportation.

b. The setback for Class B highways shall be eighty-three (83) feet from the centerline of such highway or forty-five (45) feet from the right-of-way line, whichever distance is greater. Buildings which were legally built at a setback of at least seventy-five (75) to eighty-three (83) feet from the centerline may be added to or rebuilt on the existing foundation subject to the limitations in sections 17.13 1.a.(4) and 17.19.

### 3. Class C Highways.

a. All town roads, public streets and highways not otherwise classified are designated as Class C highways.

b. The setback from Class C highways shall be sixty-three (63) feet from the centerline or thirty (30) feet from the right-of-way, whichever is great. (Amended 3/11/2024)

### **Sec. 17.18. Vision clearance triangle (VCT).**

1. Purpose. The VCT setbacks are intended to provide motorists a safe braking and stopping distance to avoid accidents and to provide motorists turning onto roads, streets and highways a safe accelerating distance to merge with traffic to reduce traffic congestion. As essential as they are to the traffic safety, VCT regulations cannot guarantee unobstructed vision due to topography, natural vegetative growth and development that may encroach. Obstacles to be kept out of VCTs need only be capable of causing a traffic hazard and they need not actually be shown to cause unsafe traffic conditions. Obstacles which may be allowed are ones which a typical motorist in a vehicle can be expected to see over, under or through reasonably enough to see approaching traffic.

#### 2. Standards for VCTs

a. At each uncontrolled road intersection or road-railroad intersection in an agricultural zone, there shall be a vision clearance triangle (VCT) bounded by the road centerlines and a line connecting points three (300) feet from a Class A highway intersection, two hundred (200) feet from a Class B highway intersection and seventy-five (75) feet from a Class C highway and private easement road intersections.

b. At controlled intersections vegetation and landscape restrictions shall be as follows:

(1) In agricultural zones, when one road has a stop or yield sign, the leg of the VCT following the centerline of the road that has no stop or yield sign shall be the length as required in 2.a. The VCT line shall extend from the end of that line to a point on the centerline of the street that has the stop or yield sign and which is one hundred (100) feet from the intersection of the centerlines of the two (2) streets.

(2) When both roads have stop signs, yield signs or traffic lights or the intersection is in a non-agricultural zone, vegetation and landscape restrictions shall be as follows: the VCT line shall be bounded by the street centerlines and a line connecting points fifty (50) feet from their intersection.

(3) Within a VCT, no structure shall be constructed and no vegetative material shall be planted or landscaping done that causes or will cause an obstruction to view between a height of two and one-half (2½) feet and ten (10) feet above the elevation of the road or highway. Vegetation or landscaping occurring in the VCT may be ordered to be pruned, thinned and/or removed if it is capable of causing a traffic hazard and removal of the obstacle to view has been requested by the unit of government having jurisdiction over one or more of the intersecting roads, streets or highways or by a law enforcement agency having jurisdiction.

(4) The planting and harvesting of field crops is permitted but not so as to constitute a substantial obstruction to the view of motorists and pedestrians across the vision clearance triangle from one highway or street to another.

### **Sec. 17.19. Structures permitted within setback lines.**

1. The following structures shall be permitted within the required setbacks set forth in this Chapter.

a. Open fences.

b. Petroleum and gas transmission lines, telephone, telegraph, cable television and power transmission poles and lines and portable transmission equipment both above and below ground that is readily removable in its entirety. Additions to and replacement of all such structures may be made, provided the owner will file with the town clerk an agreement in writing that the owner will move or remove all new construction, additions and replacements erected after the adoption of this Chapter at his/her expense, when necessary to the public interest, i.e. highway construction, airport, sewer and water lines, etc.

c. Underground structures not capable of being used as foundations for future prohibited over-ground structures.

d. The planting and harvesting of field crops, shrubbery and trees except that no trees, shrubbery or field crops shall be planted so as to constitute a substantial obstruction to the view of motorists and pedestrians across the VCT from one highway or street to another.

e. Permitted signs and signs placed by the public authorities for the guidance or warning of traffic.

**Sec. 17.20. Landscaping.**

1. The Town of Wausau finds that it is in the public interest to provide landscape improvements for the purposes of complementing the natural environment and improve the general appearance of the community. All applicants applying for a zoning or conditional use permit shall submit a landscape plan. The plan must include:

a. The location of the site excavation.

b. The grading standards used at the building site to prevent drainage problems for neighboring property.

c. Other landscape elements, including, but not limited to, decks, patios, stepping stones, berms or landscape stones.

2. Ground cover in open spaces shall be seeded, at a minimum, six (6) months after completion of the building.

3. The following exceptions may be granted during the review process when applying for a zoning/building, conditional use permit:

a. The use of mulch material for shrubs and foundation plantings;

b. The seeding of future expansion areas delineated on the site plan; and

c. Areas maintained in a natural state that are undisturbed during construction.

**Sec. 17.21. Ponds. (Amended 5/4/2022)**

1. Ponds are permitted in all zoning district.

2. Ponds over one (1) acre shall require a public hearing under the procedures set forth in Section 17.96(2) prior to the Town Board determination.

3. A pond permit must be completed and approved by the Town Board before a zoning permit can be approved.

4. A zoning permit from the town is required prior to construction of any pond.

5. Notwithstanding the above section, this Chapter does not apply to the following:

a. Animal waste storage facility/manure storage pits that are located wholly in an agricultural district provided in the pond is:

(1) A minimum of three hundred (300) feet from any existing residential area; and



(2) Outside the sewer service area.

b. Retention ponds being constructed as part of an approved Storm Water Management System as long as they are designed and constructed in accordance to the set standards of Marathon County, EPA and DNR.

6. Ponds shall maintain a slope from the shoreline no greater than ~~four (4)~~ three (3) horizontal to one (1) foot vertical lowest level due either to seasonally fluctuating ground water levels, runoff or pumping for irrigation.

7. Ponds shall be located at least thirty (30) feet from any property boundary, fifty (50) feet from any septic system drain field area and twenty-five (25) feet from a septic or holding tank.

8. All ponds shall have a water inflow and outflow system to maintain the normal water surface elevation.

9. Ponds inflows shall be estimated by a professional engineer, professional hydrologist or professional geologist and the size of the outflow system shall be designed by a professional engineer to be capable of removing one-(1) inch of water from the surface of the entire pond every twelve (12) hours or less without causing adverse-impacts downstream of the pond

10. Ponds shall be designed and constructed to hold all water they receive from the one hundred (100)-year rainfall event, with two (2) feet of freeboard.

11. Ponds shall bear the seal of the professional hydrologist, professional geologist and professional engineer with their respective responsibilities identified on the plans.

12. Outflows shall not flow directly onto adjacent parcels of property.

13. Outflow discharge may cross adjacent parcels through a natural existing waterway only but in no way shall this discharge create a new waterway or a nuisance.

14. Ponds shall be designed and maintained to protect the shoreline and banks from erosion and seepage. This protection shall be provided using existing clay soils, clay blanket, compaction, waterproof liners, stones, rocks, native vegetation, turf reinforcement mat, geoweb, landscaping bricks or other acceptable method.

15. Spoils from excavation shall not be placed in any wetland.

16. The groundwater table in the surrounding area and adjacent to the pond or lake shall not be affected.

17. The area within twenty (20) horizontal feet of the normal water surface elevation of the pond shall be landscaped and seeded with a perennial ground cover immediately upon completion of the excavation.

18. Ponds shall meet all local, state, and federal regulations.

19. Introduction of fish, game or plant life shall meet all local, state and federal regulations.

20. The town board reserves the right to inspect before and during construction as well as after the pond has reached its normal water surface elevation.

21. Ponds with one acre of more total disturbed area require a Marathon County non-metallic mining reclamation permit.

22. Ponds which include a berm, dam or dike six (6) feet high or greater must be designed and reviewed by a professional engineer who is also competent as a dam or geotechnical engineer to ensure structural integrity when the pond is full to the top of the berm, dam or dike. In addition, an analysis by a professional engineer or hydrologist shall document that no damage to downstream structures shall occur in the event of a breach when the pond is full to the top of the berm, dam or dike.

23. No pond shall exceed five percent (5%) of the total lot area or two (2) acres in an area whichever is less.

24. Material excavated in creating any such pond must be removed from the site to the extent that such material is not to be used for onsite improvements and any such material may be disposed of either commercially or otherwise. No pond

excavation shall commence until a legal disposal location of all material to be excavated is identified.

25. Pond construction and material removed must be completed within six (6) months after the pond permit is issued.

26. The volume of water pumped from any pond located in a residential district or immediately adjacent to a subdivision shall be limited to the amount that will be replaced by ground water flow within twenty-four (24) hours of when pumping ends.

27. Water may not be diverted in any manner that causes it to concentrate or pool on another property owner's parcel of land.

### **Sec. 17.22. Mobile service support structures and facilities**

1. Purpose. The purpose of this chapter is to regulate by zoning permit (1) the siting and construction of any new mobile service support structure and facilities; (2) with regard to a class 1 collocation, the substantial modification of an existing support structure and mobile service facilities; and (3) with regard to a class 2 collocation, collocation on an existing support structure which does not require the substantial modification of an existing support structure and mobile service facilities.

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

3. Application process.

a. A town zoning permit is required for the siting and construction of any new mobile service support structure and facilities. The siting and construction of any new mobile service support structure and facilities is a conditional use in all zoning districts in the town.

b. A written permit application must be completed by any applicant and submitted to the zoning administrator. The application must contain the following information:

(1) The name and business address of, and the contact individual for, the applicant;

(2) The location of the proposed or affected support structure;

(3) The location of the proposed mobile service facility;

(4) If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling and related equipment associated with the proposed modification;

(5) If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling and related equipment to be placed on or around the new mobile service support structure; and

(6) If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage and capacity; is technically feasible; or is economically burdensome to the mobile service provider.

c. If an applicant submits to the town an application for a permit to engage in an activity described in this chapter, which contains all of the information required under this chapter, the town shall consider the application complete. If the town determines that the application is not complete, the town shall notify the applicant in writing, within ten (10) days of receiving the application, that the application is not complete. The written notification shall specify the information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.

d. Within ninety (90) days of its receipt of a complete application, the town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the town may agree in writing to an extension of the ninety (90)-period:

(1) Review of the application to determine whether it complies with all applicable aspects of the town's building code and subject to the limitations in this section;

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

(3) Notify the applicant, in writing, of its final decision; and

(4) If the decision is to disapprove the application, include with the written notification substantial evidence with supports the decision.

e. The town may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described hereinabove.

f. If an applicant provides the town with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the setback or fall zone area otherwise required in this chapter, that setback shall not apply to such a structure unless the town provides the applicant with substantial evidence that the engineering certification is flawed.

#### 4. Class 1 collocation.

##### a. Application process.

(1) A town zoning permit is required for a class 1 collocation. A class 1 collocation is a conditional use in all zoning districts in the town.

(2) A written permit application for a class 1 collocation must be completed by any applicant and submitted to the zoning administrator. The application must contain the following information:

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

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

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

(d) If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling and related equipment associated with the proposed modification;

(e) If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling and related equipment to be place on or around the new mobile service support structure; and

(f) If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage and capacity; is technically feasible; or is economically burdensome to the mobile service provider.

(3) If an applicant submits to the town an application for a permit to engage in an activity described in this chapter, which contains all of the information required under this chapter, the town shall consider the application complete. If the town does not believe that the application is complete, the town shall notify the applicant in writing, within ten (10) days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.

(4) Within ninety (90) days of its receipt of a complete application, the town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the town may agree in writing to an extension of the ninety (90)-day period:

(a) Review the application to determine whether it complies with all applicable aspects of the town's building code and, subject to the limitations in this section;

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

(c) Notify the applicant, in writing, of its final decision; and

(d) If the decision is to disapprove the application, include with the written notification the evidence which supports the decision.

(5) The town may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described as set forth hereinabove.

(6) If an applicant provides the town with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the setback or fall zone area required by this chapter, that setback shall not apply to such a structure unless the town provides the applicant with substantial evidence that the engineering certification is flawed.

## 5. Class 2 collocation.

### a. Application process.

(1) A town zoning permit is required for a class 2 collocation. A class 2 collocation is a conditional use in all zoning districts of the town which requires the issuance of a zoning permit.

(2) A written permit application for a class 2 collocation must be completed by any applicant and submitted to the zoning administrator. The application must contain the following information:

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

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

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

(3) A class 2 collocation is subject to the same requirements for the issuance of a zoning permit to which any other type of commercial development or land use development is subject.

(4) If an applicant submits to the town an application for a permit to engage in an activity described in this chapter, which contains all of the information required under this chapter, the town shall consider the application complete. If any of the required information is not in the application, the town shall notify the applicant, in writing, within five (5) days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.

(5) Within forty-five (45) days of its receipt of a complete application, the town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the town may agree in writing to an extension of the forty-five (45)-day period:

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

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

(c) If the application is approved, issue the applicant the permit; and

(d) If the decision is to disapprove the application, include with the written notification the evidence which supports the decision.

## **Sec. 17.23. Wind Energy Systems (WES). (Amended 3/11/2024)**

1. *Purpose.* The purpose of this Chapter is to adopt and incorporate the requirements of § 66.0401, Wis. Stats., and Wis. Admin. Code PSC 128 as a local ordinance and to establish local regulations on the installation, siting, use, and decommissioning of Wind Energy Systems that are authorized by, compliant with, and are no more restrictive than the rules promulgated by the Wisconsin Public Service Commission and that serve to preserve and protect public health, safety, and welfare.

### **Sec. 17.23.100 Definitions.**

1. *Commercial Use WES or SES.* The use/purpose of the WES and/or SES is to convert wind and/or *solar* energy into electricity which is to be used, distributed, or sold offsite. These uses may be deemed to be accessory to an existing residential, commercial, or agricultural use but are subject to all the standards, requirements, and conditional use processes set forth in this Ordinance.
2. *Large Wind Energy Systems.* Large Wind Energy Systems are systems that have a total installed nameplate capacity of 300 kilowatts or greater and consist of individual wind turbines that have an installed nameplate capacity of more than 100 kilowatts. Systems with a total installed nameplate capacity of greater than 100 Megawatts may not be regulated by this Ordinance.
3. *Maximum blade tip height.* This is 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.
4. *Nameplate capacity.* The nameplate capacity is the nominal generating capacity of a wind energy system, as listed in the wind turbine specifications provided by the wind turbine manufacturer.
5. *Nonparticipating property.* This is real property that is not a participating property.
6. *Nonparticipating residence.* This is a residence located on nonparticipating property.
7. *Occupied community building.* This includes a school, church or similar place of worship, daycare facility, or public library.
8. *Owner.* This is 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.
  - a. 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.
9. *Participating property.* This is any of the following:
  - a. A turbine host property.
  - b. 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.
10. *Participating residence.* This a residence located on participating property.
11. *Private Use WES or SES.* Means the primary purpose of the WES and/or SES is to convert wind and/or *solar* energy into electricity which is to be used and/or stored onsite. These WES and SES must be accessory to an existing residential, commercial, industrial, or agricultural use and are subject to all the standards, requirements, and processes set forth in this Ordinance.

12. *Renewable Energy System.* A solar energy or wind energy system. Renewable energy systems do not include passive systems that serve a dual function, such as a greenhouse or window.
13. *Residence.* This is an occupied primary or secondary personal residence including a manufactured home as defined in s. 101.91 (2), Stats., a hospital, community–based residential facility, residential care apartment complex or similar facility, or a nursing home. “Residence” includes a temporarily unoccupied primary or secondary personal residence. “Residence” does not include any of the following:
  - a. A recreational vehicle as defined in s. 340.01 (48r), Stats., notwithstanding the length of the vehicle.
  - b. A camping trailer as defined in s. 340.01 (6m), Stats.
  - c. A permanently abandoned personal residence.
14. *Shadow flicker.* This is a pattern of moving shadows cast on a residence or an occupied community building caused by sunlight shining through moving wind turbine blades resulting in alternating changes in light intensity.
15. *Small Wind Energy Systems.* Small Wind Energy Systems are systems that have 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.
16. *Turbine host property.* This is real property on which at least one wind turbine is located.
17. *Wind access easement.* This is 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.
18. *Wind energy system.* This meaning is given in s. 66.0403 (1) (m), Stats., and is used to convert wind energy to electrical energy.
19. *Wind energy system easement.* This is a written document that creates a legal interest in real property that permits an owner to place, construct or operate a wind turbine or other wind energy system facility on the property.
20. *Wind energy system emergency.* This is a condition or situation at a wind energy system that presents a significant threat of physical danger to human life or a significant threat to property or a natural event that causes damage to wind energy system facilities.
21. *Wind energy system facility.* This means any component of a wind energy system, such as a wind turbine, collector circuit, access road, electric system interconnection facility or operation and maintenance facility.
22. *Wind energy system lease.* This is a written agreement between a landowner and an owner that establishes the terms and conditions associated with the placement, construction or operation of a wind turbine or other wind energy system facility on a landowner’s property.

**Sec. 17.23.101. Permit, application, and filing requirements.**

1. *Permit Requirements and Fee(s) for Small Wind Energy Systems:*
  - a. The exemptions listed under PSC 128.60 and modifications under PSC 128.61 shall apply to an application that is submitted for a Small Wind Energy System.
2. *Permit Requirements and Fee(s) all Wind Energy Systems:*
  - a. The owner/applicant shall reimburse the Town for the reasonable costs associated with permit review and processing, subject to the reimbursement requirements of PSC 128.32(5). In the event the Town of Wausau establishes a fee consistent with Wis. Stats., 59.69 and PSC 128.32(5), said fee will be charged in lieu of reimbursement.
  - b. The established fee or reimbursement requirements consistent with PSC 128.32(5) shall include the requirement that the applicant shall pay all reasonable costs incurred by the Town of Wausau in connection with the review and processing of the application, including the cost for services provided by outside attorneys, engineers,

environmental specialists, planners, and other consultants and experts that are actual and necessary costs of review. Source: PSC 128.32(5).

- 1) The Town of Wausau is authorized to contract with one or more engineers, environmental specialists, planners, and other consultants and experts to perform necessary services in connection with this Ordinance.
  - 2) The Town of Wausau is authorized to contract with outside legal counsel to perform services in connection with this Ordinance.
- c. The Town of Wausau shall make the applicant aware of any such reasonable and necessary costs prior to incurring such costs and, if the applicant decides not to pay the reasonable and necessary costs, the application shall be denied.
- d. The Town of Wausau may require the owner of a Wind Energy System to submit up to 50 percent of the total estimated amount of the fee or reimbursement for the Wind Energy System application under PSC 128.32(5)(a) before issuing a written decision consistent with PSC 128.32(3), if the Town gives written notice to the owner of its intent to do so within ten days of the date the application is deemed complete and the notice contains an estimate of the amount of the fee and the relevant reimbursement requirements.
- e. The Town shall invoice the applicant for the reasonable costs incurred pursuant to this section. The applicant will be provided 30 days from the date of the invoice to reimburse the Town.

3. *Application Requirements for Small Wind Energy Systems:*

- a. An owner shall file an application with the Town that, at a minimum, includes the following information:
- 1) Wind Energy System description and maps showing the locations of all proposed wind energy facilities. (This may include the description and maps for alternative wind energy facility locations.)
  - 2) Technical description of wind turbines and wind turbine sites.
  - 3) Timeline and process for constructing the Wind Energy System.
  - 4) Information regarding anticipated impact of the Wind Energy Systems on local infrastructure.
  - 5) Information regarding noise is anticipated to be attributable to the Wind Energy System.
  - 6) Information regarding shadow flicker anticipated to be attributable to the Wind Energy System, consistent with PSC 128.15, with the exception of PSC 128.15(1)(c), 3(b)—(e), and (5) which do not apply to Small Wind Energy Systems.
  - 7) Information regarding the anticipated effects of the Wind Energy System on existing land uses within one-half mile adjacent to the Wind Energy System.
  - 8) Information regarding the anticipated effects of the Wind Energy System on airports and airspace.
  - 9) Information regarding the anticipated effects of the Wind Energy System on line-of-sight communications, consistent with PSC 128.16, except for PSC 128.16(2)—(4) which do not apply to Small Wind Energy Systems.
  - 10) A list of all state and federal permits required to construct and operate the Wind Energy System.
  - 11) Information regarding the planned use and modification of roads during the construction, operation, and decommissioning of the Wind Energy System, including a process for assessing road damage caused by Wind Energy System activities and for conducting road repairs at the owner's expense.

12) A representative copy of all notices issued consistent with PSC 128.105(1) and 128.30(5), except as provided by PSC 128.61.

4. *For Large Wind Energy Systems.*

a. An owner shall file an application with the Town that, at a minimum, includes the following information:

- 1) All information required under Section 17.23.101(3) of this section.
- 2) Information regarding the anticipated effects of the Wind Energy System on existing land uses within 0.5 mile of the Wind Energy System. (For example, information may include the anticipated effects to applicable environmental conditions and/or development limitations within 0.5 miles).
- 3) A representative copy of all notices issued under sub. PSC 128.105(1), 128.30(5), and 128.42(1), which are:
  - a) Pre-application notice. At least 90 days before an owner files an application to construct.
  - b) An owner shall use commercially reasonable methods to provide written notice of the planned Wind Energy System to all the following:
    - c) Landowners within one mile of the planned wind turbine host properties.
    - d) Political subdivisions within which the Wind Energy System may be located.
    - e) Emergency first responders and air ambulance service providers serving the political subdivisions within which the Wind Energy System may be located.
    - f) The Wisconsin Department of Transportation.
    - g) The Wisconsin Department Service Commission.
    - h) The Wisconsin Department of Natural Resources.
    - i) The Wisconsin Department of Agriculture, Trade and Consumer Protection.
    - j) The office of the deputy undersecretary of the U.S. Department of Defense.
- 4) Notice of process for making complaints. Before construction of a Wind Energy System begins, an owner shall provide written notice of the process for making complaints and obtaining mitigation measures to all residents and landowners within one-half mile of any Wind Energy System facility. An owner shall include in the notice the requirements under PSC 128.40(1) for submitting a complaint to the owner, a petition for review to the political subdivision, and an appeal to the commission, and shall include a contact person and telephone number for the owner for receipt of complaints or concerns during construction, operation, maintenance and decommissioning.
- 5) A copy of all emergency plans developed in collaboration with appropriate first responders under PSC 128.18(4)(b). An owner may file plans using confidential filing procedures, as necessary.
- 6) A decommissioning and site restoration plan must provide reasonable financial assurance that the owner will be able to comply with PSC 128.19.

5. *For All Applications.*

a. Evidence shall be included for all applications to show that, on the same day an owner filed an application under this Ordinance, the owner used commercially reasonable methods to provide written notice of the filing of the application to property owners and residents located within one mile of the proposed location of any Wind Energy System facility. The notice shall include all the following:



- 1) A complete description of the Wind Energy System, including the number and size of the wind turbines.
- 2) A map showing the location of all proposed Wind Energy System facilities.
- 3) The proposed timeline for construction and operation of the Wind Energy System.
- 4) Locations where the application is available for public review.
- 5) Owner contact information (including the contact person(s), primary phone number, and email).

**Sec. 17.23.102. Abandonment and Decommissioning.**

1. A Large Wind Energy System that is at the end of its useful life and/or does not generate electricity for a continuous period of 360 days and a Small Wind Energy System abandoned for 540 continuous day will be deemed abandoned, and the Town of Wausau may send a Notice of Abandonment to the owner. Exemptions under PSC 128.60 and modifications under PSC 128.61 apply to all Small Wind Energy Systems.
  - a. If, within 30 days of receipt of a Notice of Abandonment, the owner provides the Town with information showing to the Town's satisfaction that the Wind Energy System has not been abandoned, the Town will withdraw the Notice.
  - b. Unless the Town withdraws the Notice of Abandonment, a Wind Energy System tower must be decommissioned as prescribed by PSC 128.19. If the owner fails to remove a Wind Energy System and reclaim the site, the Town may remove or cause the removal of the Wind Energy System and arrange for the reclamation of the site.
  - c. For Large Wind Energy Systems an owner with a nameplate capacity of one megawatt or larger shall provide the Town with and maintain proof of financial assurance of the owner's ability to pay the actual and necessary cost to decommission the Wind Energy System before commencing major civil construction activities such as blasting or foundation construction at the Wind Energy System site. The owner will comply with this paragraph by providing an irrevocable letter of credit that will ensure the availability of funds necessary for decommissioning throughout the expected life of the Wind Energy System and through to completion of the decommissioning activities, consistent with PSC 128.19(3).
  - d. The owner shall provide the Town with three estimates of the actual and necessary cost to decommission the Wind Energy System. The cost estimates shall be prepared by three parties agreeable to the owner and the Town. The amount of financial assurance required by the Town shall not exceed the average of the three estimates.
  - e. The owner shall establish financial assurance that is acceptable to the Town and that places the Town in a secure position. The financial assurance must provide that the secured funds may only be used for decommissioning the Wind Energy System until such time as the Town determines that the Wind Energy System has been decommissioned, as provided for in PSC 128.30(5)(b), or the Town otherwise approves the release of the funds, whichever occurs first.
  - f. An owner shall establish financial assurance that allows the Town to access funds for the purpose of decommissioning the Wind Energy System if the owner does not decommission the Wind Energy System when decommissioning is required. Source: PSC 128.19(3)(c)(4)
  - g. The Town may periodically request information from the owner regarding industry costs for decommissioning the Wind Energy System. If the Town finds that the future anticipated cost to decommission the Wind Energy System is at least ten percent more or less than the amount of financial assurance provided under this section, the Town may correspondingly increase or decrease the amount of financial assurance required, but shall not adjust the financial assurance required under this paragraph more often than once in a five-year period.
  - h. The Town may require an owner to submit a substitute financial assurance of the owner's choosing if an event occurs that raises material concern regarding the viability of the existing financial assurance.

- i. Except as provided below in Section 17.23.105, if a Wind Energy System was constructed on land owned by a person or persons other than the owner of the Wind Energy System, the owner of the Wind Energy System shall ensure that the property is restored to preconstruction condition, unless otherwise provided in a contract signed by an affected landowner, considering any modifications needed to comply with DNR requirements.
- j. If a Wind Energy System was constructed on a brownfield, as defined in § 238.13(1)(a), Wis. Stats., the owner shall restore the property to eliminate effects caused by the Wind Energy System, except for the effects of environmental remediation activities, as defined in § 238.13(1)(d), Wis. Stats.

**Sec. 17.23.103. Lighting.**

1. A Wind Energy System may be artificially lit only if lighting is required by the Federal Aviation Administration. An owner shall use shielding or control systems approved by the Federal Aviation System to reduce visibility of light when viewed from the ground.

**Sec. 17.23.104. Noise Criteria for both Large and Small Wind Energy Systems.**

1. The noise generated by the operation of a Wind Energy System may not exceed 50 dB(A) during the daytime hours and 45 dB(A) during the nighttime hours as measured at the outside wall of a nonparticipating residence or occupied community building that existed when the owner gave notice pursuant to PSC 128.105(1) or for which complete publicly available plans for construction were on file with a political subdivision within 30 days of the date when the owner gave notice pursuant to PSC 128.105(1). Nighttime hours are the hours beginning at 10:00 p.m. and ending at 6:00 a.m. daily and daytime hours are 6:00 a.m. and ending at 10:00 p.m. daily.
2. The owner of an adjacent nonparticipating residence or adjacent occupied community building may relieve the owner of the Wind Energy System of the requirement to meet any of the noise limits in this section by written contract as provided in PSC 128.14(5) and (6).
3. The owner shall provide the notice as prescribed by PSC 128.61(4).
4. If an owner receives a complaint of a violation of the noise standards contained in PSC 128.14 and the owner has not provided the Town with the results of an accurate test conducted within two years of the date of the complaint showing that the Wind Energy System is in compliance with the noise standard at the location relating to the complaint, the owner shall promptly conduct a noise study to evaluate compliance with the noise standards at that location using the most current version of the noise measurement protocol as described in PSC 128.50(2).

**Sec. 17.23.105. Ownership Changes.**

1. *For Small Wind Energy Systems.* The owner shall provide the Town with notice of any change in ownership of the Wind Energy System on or within 30 days of the effective date of the change.
2. *For Large Wind Energy Systems.* The owner shall provide the Town with notice of any change in ownership of the Wind Energy System on or within 30 days of the effective date of the change. Notwithstanding the timing of notice of change in ownership of the Wind Energy System set forth above, the notice shall include information showing that the financial responsibility specified under Section 17.23.102 of this Chapter was assumed by the new owner, upon the effective date of the change.

**Sec. 17.23.106. Setbacks and Siting Criteria.**

1. An owner shall work with a political subdivision and owners of participating and nonparticipating properties to site wind turbines to minimize individual hardships. Source: PSC 128.13(1)(c).
2. Small and Large Wind Energy Systems shall comply with the below table for set backs in all zoning districts:

<b>Setback Description</b>	<b>Setback Distance</b>
Occupied Community Buildings	1.0 times the maximum blade tip height
Participating Residences	None
Nonparticipating Residences	1.0 times the maximum blade tip height
Participating Property Lines	None
Nonparticipating Property Lines	1.0 times the maximum blade tip height
Public Road Right-of-Way	None
Overhead Communication and Electric Transmission or Distribution Lines — Not including utility service lines to individual houses or outbuildings	1.0 times the maximum blade tip height
Overhead Utility Service Lines — Lines to individual houses or outbuildings	None

**Sec. 17.23.107. Notice of Federal or State Agency Consultation.**

- a. *For Large Wind Energy Systems.* In the event the owner has consulted with and received any non-binding recommendations for constructing, operating, or decommissioning of the Wind Energy System from any state or federal agency, the owner shall provide the Town with information about the consultation and whether the owner has incorporated such non-binding recommendations into the design of the Wind Energy System, within 30 days of receiving such recommendations. Source PSC 128.33(1).

**Sec. 17.23.108. Local procedure.**

1. All applications regulated by this section may be subject to additional conditions and restrictions consistent with but no more restrictive than those in § 66.0401(1M), Wis. Stats., and authorized by, and consistent with, PSC 128, Wis. Admin. Code. Where such conditions are considered and applied on a case-by-case basis; as well as satisfy one of the following:
  - a. Serves to preserve or protect public health or safety.
  - b. Does not significantly increase the cost of the system or significantly decrease its efficiency.
  - c. Allows for an alternative system of comparable cost and efficiency.
  - d. Small Wind Energy Systems shall be processed as a permitted use.
  - e. Large Wind Energy Systems shall be processed as a conditional use.
  - f. The Zoning Administrator or Town of Wausau Board may require the owner of a Wind Energy System to offer monetary compensation to the owner of a non-participating residence consistent with PSC 128.33(3) and may be subject to the monetary compensation requirements of PSC 128.33(3m).

**Sec. 17.23.109. Application Processing.**

1. Within 45 days of receiving the application, the Town or Zoning Administrator shall notify the applicant whether the application is complete and, if it is not, what the applicant must do to make it complete.
2. The applicant shall provide the additional information requested by the Town within 60 days of the date of the notice.
3. The owner may file a new application at a later date; there is no limit to the number of times that an owner may file an application.

4. An application shall be deemed complete if it complies with the filing requirements of Section 17.23.101 of this Ordinance and of PSC 128.30(2) and 128.50(1).
5. The Town as soon as reasonably possible after receiving a complete application, the Town shall publish a class 1 notice, under ch.985 Stats., stating that an application for approval has been filed with the Town.
6. The Town shall make the application available for public review consistent with PSC 128.30(6)(a) and shall accept written comments on the application for a minimum period of ten days following the date of the published notice.
7. The Town shall hold at least one public meeting to obtain comments on and to inform the public about the proposed Wind Energy System consistent with PSC 128.30(6).
7. For Large Wind Energy Systems. The application will be forwarded to the Planning Commission for issuance of a conditional use permit under Section 17.96 of this Ordinance and reviewed under the criteria of Section 17.23. Notwithstanding the provisions Section 17.96, the application shall be determined to be complete if it meets the requirements under PSC 128.30(2) and 128.50(1).
8. The Town shall make a record of its decision regarding the application, including a recording of any public hearing, copies of documents submitted at any public hearing, and copies of any other documents provided to the Town in connection with the application for approval.
9. The Town shall base its decision on an application on written findings of fact that are supported by the evidence in the record.
10. For Large Wind Energy Systems with a nominal capacity of at least one megawatt, the Town may deny an application for approval if the proposed site of the Wind Energy System is in an area primarily designated for future residential or commercial development, as shown in a map that is adopted, as part of a comprehensive plan, under § 66.1001(2)(b) and (f), Wis. Stats., before June 2, 2009, or as shown in such maps after December 31, 2015, as part of a comprehensive plan that is updated as required under § 66.1001(2)(i), Wis. Stats. This provision applies to Wind Energy Systems that have a nominal capacity of at least one megawatt under § 66.0401(4)(f)(2), Wis. Stats.
11. The Town shall approve or disapprove an application for approval no later than 90 days after the day on which it notifies the applicant that the application for approval is complete. The Town may extend this time period in writing provided the extension is done during the initial 90-day period, except the total amount of time for all extensions granted may not exceed 90 days. Any combination of the following extensions may be granted:
  - a. An extension of up to 45 days if the Town needs additional information to determine whether to approve or deny the application.
  - b. An extension of up to 90 days if the applicant makes a material modification to the application.
  - c. An extension of up to 90 days for good cause specified in writing by the Town. If the Town fails to act within the initial 90 days, or within any extended time period, the application is considered approved.
  - d. The decision made by the Town to deny an application shall be made in writing to the applicant and must include the reasons for denial.
  - e. The Town shall provide a written decision to the applicant and the public service commission. Said decision shall contain findings of fact supported by evidence in the record.

**Sec. 17.23.110. Modification to an approved system.**

1. *Material Change.* An owner may not make a material change in the approved design, location, or construction of a Wind Energy System without the prior written approval of the Zoning Administrator and/or Town of Wausau Board. An owner shall submit an application for a material change for an approved Wind Energy System to the Town. The

Town may not reopen the merits of the earlier approval but shall consider only those issues relevant to the proposed change.

- a. An application for material change is subject to PSC 128.35.
- b. At its discretion, the Town may hold at least one public meeting to obtain comments on and to inform the public about a proposed material change to an approved Wind Energy System.

**Sec. 17.23.111. Post construction filing requirements.**

1. The following post construction filing requirements apply only to Large Wind Energy Systems.
  - a. Within 90 days of the date a Wind Energy System commences operation, the owner shall file with the Town and the Wisconsin Public Service Commission an as-built description of the Wind Energy System, an accurate map of the Wind Energy System showing the location of all Wind Energy System facilities, geographic information system information showing the location of all Wind Energy System facilities, and current information identifying the owner of the Wind Energy System.
  - b. An owner shall label each wind turbine location described in its filing and shown on the map of the Wind Energy System with a unique identifier consistent with the information posted at the wind turbine location under PSC 128.18(1).

**Sec. 17.23.112. State Electrical Inspection.**

1. All solar energy systems are subject to an electrical inspection by the State Electrical Inspector.

**Sec. 17.23.113. Compliance monitoring.**

1. The following compliance monitoring standards apply only to Large Wind Energy Systems, where all such systems are also subject to PSC 128.36.
  - a. The Town may contract with a third-party inspector to monitor and report to the Town regarding the owner's compliance with permit requirements during construction. The inspector monitoring compliance under this section shall also report to a state permitting authority upon the state permitting authority's request. The inspector shall make monthly written reports to the Town. The owner shall reimburse the Town for the reasonable cost of the inspector.
  - b. At any time, following completion of construction, the Town may contract with consultants or experts it deems necessary to monitor compliance by the owner with conditions of the permit and to assess when Wind Energy System facilities are not maintained in good repair and operation.
  - c. At a minimum, the owner shall provide the Town with an annual report regarding maintenance checks and any maintenance performed on each turbine within the approved Wind Energy System.
  - d. The public shall have access to any reports or assessments produced pursuant to this section.
  - e. The owner of the Wind Energy System shall reimburse the Town for the reasonable costs associated with monitoring and/or assessment.

**Sec. 17.23.114. Decommissioning review.**

1. An owner shall file a notice of decommissioning completion with the Town and any political subdivision within which its Wind Energy System facilities are located when a Wind Energy System approved by the Town has been decommissioned and removed.

2. The Town shall conduct a decommissioning review to determine whether the owner has decommissioned and removed the Wind Energy System as required by PSC 128.19(1)(a) and, for Large Wind Energy Systems, whether the owner has complied with its site restoration obligations under PSC 128.19(4) when applicable.
3. The owner shall cooperate with the Town by participating in the decommissioning review process and, for Large Wind Energy Systems, ensure the obligations under PSC 128.19(3) are met.

**Sec. 17.23.115. Appeals.**

1. A decision of the Town to determine that an application is incomplete under Section 17.23.101, or to approve, disapprove a Wind Energy System under Section 17.23.101 or impose a restriction upon a Wind Energy System, or an action of a Town to enforce a restriction on a Wind Energy System, may be appealed only as provided in this section.
2. Any aggrieved person seeking to appeal a decision or enforcement action specified under Section 17.23.108 may begin the administrative appeal process as set forth in Section 17.98.
3. If the person is still aggrieved after the administrative review is completed, the person may file an appeal with the Wisconsin Public Service Commission (WPSC). No appeal to the WPSC under this section may be filed later than 30 days after the Town has completed its administrative review process. For purposes of this section, if the Town fails to complete its administrative review process within 90 days after an aggrieved person begins the review process, the Town is considered to have completed the process on the 90th day after the person began the process.
4. Rather than beginning an administrative review under Section 17.23.114, an aggrieved person seeking to appeal a decision or enforcement action of the Town specified in Section 17.23.108 may file an appeal directly with the WPSC. No appeal to the WPSC under this section may be filed later than 30 days after the decision or initiation of the enforcement action.
5. An applicant whose application for approval is denied under Section 17.23.114 may appeal the denial to the WPSC. The WPSC may grant the appeal notwithstanding the inconsistency of the application for approval with the political subdivision's planned residential or commercial development if the WPSC determines that granting the appeal is consistent with the public interest.

**Sec. 17.23.116. Complaints.**

1. The owner of a Small Wind Energy System is exempt from the provisions of Section 17.23.115 (4, 5, 6, and 8).
2. An aggrieved person who has made a complaint to an owner in accordance with PSC 128.40 may petition the Town for review of the complaint if it has not been resolved within 45 days of the day the owner received the original complaint.
2. The petition for review must be filed with the Town within 90 days of the date of the original complaint and shall contain the following:
  - a. Name, address, and telephone number of the person filing the petition.
  - b. Copy of the original complaint to the owner.
  - c. Copy of the owner's original response.
  - d. Statement describing the unresolved complaint.
  - e. Statement describing the desired remedy.
  - f. Any other information the complainant deems relevant to the complaint.

- g. Notarized signature of the person filing the petition.
3. The Town shall forward a copy of the petition to the owner by certified mail within ten days of the Town receiving the petition.
  4. The owner shall file a written answer to the petition with the Town and provide a copy of its answer to the complainant within 30 days of its receipt of the petition. The answer must include the following:
    - a. Name, address, and telephone number of the person filing the answer.
    - b. Statement describing the actions taken by the owner in response to the complaint.
    - c. Statement of the reasons why the owner believes that the complaint has been resolved or why the complaint remains unresolved.
    - d. Statement describing any additional action the owner plans or is willing to take to resolve the complaint.
    - e. Any other information the owner deems relevant to the complaint.
    - f. Notarized signature of the person filing the answer.
  5. The complainant and the owner may, within 30 days following the owner's filing of its answer, file additional information with the Town as each deems appropriate.
  6. The Town may request such additional information from the complainant and the owner as it deems necessary to complete its review.
  7. The Town may retain such consultants or experts as it deems necessary to complete its review.
  8. The Town shall issue a written decision and may take such enforcement action as it deems appropriate with respect to the complaint.
  9. The decision of the Town and enforcement action is subject to review under § 66.0401(5), Wis. Stats.
3. Additional process for Large Wind Energy Systems.
    - a. An owner shall comply with the notice requirements contained in PSC 128.42(1).
    - b. An owner shall, before construction of a large Wind Energy System begins, provide the Town with a copy of the notice issued pursuant to PSC 128.42(1), along with a list showing the name and address of each person to whom the notice was sent and a list showing the name and address of each political subdivision to which the notice was sent.
      - b. An owner shall, before construction of a large Wind Energy System begins, file with the Town the name and telephone number of the owner's contact person for receipt of complaints or concerns during construction, operation, maintenance, and decommissioning. The owner shall keep the name and telephone number of the contact person on file with the Town.

**Sec. 17.24. Solar energy systems (SES). (Amended 3/11/2024)**

1. *Purpose and intent:* The purpose of this Chapter is to adopt and incorporate the requirements and standards of §§ 66.0401 and 66.0403, Wis. Stats., to regulate Solar Energy Systems (SES) to produce electricity and/or conversion of energy for uses on-site as well as those systems which produce electricity for off-site use and distribution. The regulations of this section have been established to ensure Solar Energy Systems are sited, constructed, maintained, and decommissioned in a manner that maximizes utilization of the Town of Wausau solar energy resources, health, safety, and welfare of the community.

- a. No SES shall be erected, enlarged, or extended without conformance to the provisions of this section and other applicable regulations, as evident by the issuance of a zoning permit by the Zoning Administrator and/or where required, conditional use permit approval by the Town of Wausau Planning Commission and Board.
- b. All applications regulated by this section may be subject to additional conditions and restrictions consistent with but no more restrictive than those in § 66.0401(1M), Wis. Stats. Where such conditions are considered and applied on a case-by-case basis; as well as satisfy one of the following:
  - (1) Serves to preserve or protect the public health or safety.
  - (2) Does not significantly increase the cost of the system or significantly decrease its efficiency.
  - (3) Allows for an alternative system of comparable cost and efficiency.

**Sec. 17.24.100. Definitions.**

1. *Building-integrated SES.* A solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems include but are not limited to photovoltaic or hot water solar energy systems that are contained within roofing materials, windows, skylights, and awnings.
2. *Collector surface.* Any part of a solar collector that absorbs solar energy for use in the collector's energy transformation process. "Collector surface" does not include frames, supports and mounting hardware.
3. *Commercial Use WES or SES.* The use/purpose of the WES and/or SES is to convert wind and/or solar energy into electricity which is to be used, distributed, or sold offsite. These uses may be deemed to be accessory to an existing residential, commercial, or agricultural use but are subject to all the standards, requirements, and conditional use processes set forth in this Ordinance.
4. *Ground-mount.* Means a solar energy system mounted on a rack or pole that rests or is attached to the ground. Ground-mount systems can be either private or commercial uses.
5. *Passive Solar Energy System.* A solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.
6. *Photovoltaic System.* A solar energy system that converts solar energy directly into electricity.
7. *Private Use WES or SES.* Means the primary purpose of the WES and/or SES is to convert wind and/or solar energy into electricity which is to be used and/or stored onsite. These WES and SES must be accessory to an existing residential, commercial, industrial, or agricultural use and are subject to all the standards, requirements, and processes set forth in this Ordinance.
8. *Renewable Energy Easement, Solar Energy Easement.* An easement that limits the height or location, or both, of permissible development on the burdened land in terms of a structure or vegetation, or both, for the purpose of providing access for the benefited land to wind or sunlight passing over the burdened land, consistent with § 700.35, Wis. Stats.
9. *Renewable Energy System.* A solar energy or wind energy system. Renewable energy systems do not include passive systems that serve a dual function, such as a greenhouse or window.
10. *Roof-mount.* Means a solar energy system mounted on a rack that is fastened to or ballasted on a building roof. Roof-mount systems are accessory to the principal use.



11. *SES*. A *Solar Energy System*.
12. *Solar Access*. An unobstructed access to direct sunlight on a lot or building through the entire year, including access across adjacent parcel air rights, for the purpose of capturing direct sunlight to operate a *solar* energy system.
13. *Solar Collector*. A device, structure or a part of a device or structure for which the primary purpose is to transform *solar* radiant energy into thermal, mechanical, chemical, or electrical energy.
14. *Solar Collector Surface*. Any part of a *solar* collector that absorbs *solar* energy for use in the collector's energy transformation process. The collector's surface does not include frames, supports and mounting hardware.
15. *Solar Daylighting*. A device specifically designed to capture and redirect the visible portion of the *solar* spectrum, while controlling the infrared portion, for use in illuminating interior building spaces in lieu of artificial lighting.
16. *Solar Energy*. A radiant energy received from the sun that can be collected in the form of heat or light by a *solar* collector.
17. *Solar Energy System (SES)*. A device, array of devices, or structural design feature, which has the primary purpose of harvesting energy by transforming *solar* energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.
18. *Solar Heat Exchanger*. A component of a *solar* energy device that is used to transfer heat from one substance to another, either liquid or gas.
19. *Solar Hot Air System* (also referred to as *Solar Air Heat* or *Solar Furnace*). Means a *solar* energy system that includes a *solar* collector to provide direct supplemental space heating by heating and recirculating conditioned building air. The most efficient performance typically uses a vertically mounted collector on a south-facing wall.
20. *Solar Hot Water System* (also referred to as *Solar Thermal*). Means a system that includes a *solar* collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs, including residential domestic hot water and hot water for commercial processes.
21. *Solar Mounting Devices*. The racking, frames, or other devices that allow the mounting of a *solar* collector onto a roof surface or the ground.
22. *Solar Resource*. A view of the sun from a specific point on a lot or building that is not obscured by any vegetation, building, or object for a minimum of four hours between the hours of 9:00 AM and 3:00 PM Standard time on all days of the year.
23. *Solar Storage Unit*. A component of a *solar* energy device that is used to store *solar* generated electricity or heat for later use.

**Sec. 17.24.102. Private use: permit, application, and filing requirements.**

1. *Permitted*. Private use of Solar Energy Systems shall be permitted in all districts, subject to the requirements, standards, and processes set forth in this Town of Wausau Ordinance.
2. *Height*. Solar energy systems must meet the following height requirements:
  - a. Building- or roof-mounted solar energy systems shall not exceed the maximum allowed height in any zoning district unless the system protrudes less than one foot from the surface from which it is directly attached.

- b. Ground- or pole-mounted solar energy systems shall not exceed 35 feet in height when oriented at maximum tilt.
3. *Setback(s)*. Ground-mounted solar energy systems (and systems located on accessory structures) shall meet the accessory structure setbacks for the zoning district on which the system is located. Whereas roof or building mounted solar energy systems located on a principal or accessory structure shall adhere to the applicable zoning district's setbacks.
  - a. *Roof- or Building-mounted Solar Energy Systems*. In addition to the building setback, the collector surface and mounting devices for roof-mounted solar energy systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built, unless the collector and mounting system has been explicitly engineered to safely extend beyond the edge, and setback standards are not violated. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side yard exposure. Solar collectors mounted on the sides of buildings and serving as awnings are considered to be building-integrated systems and are regulated as awnings.
  - c. *Ground-mounted Solar Energy Systems*. Ground-mounted solar energy systems may not extend into the required setbacks when oriented at minimum design tilt.
4. *Visibility*. Solar energy systems shall be designed to blend into the architecture of the building to the extent such provisions do not diminish solar production or increase costs, consistent with § 66.0401, Wis. Stats.
  - a. *Building Integrated Photovoltaic Systems*. Building integrated photovoltaic solar energy systems shall be permitted, provided the building component in which the system is integrated meets all required setbacks for the district in which the building is located, as well as UDC and performance standards.
  - b. *Roof Mounted Solar Energy Systems*. Solar energy systems that are flush mounted on pitched roofs are blended with the building architecture. Non-flush mounted pitched roof systems shall not be higher than the roof peak, and the collector shall face the same direction as the roof on which it is mounted, to minimize wind loading and structural risks to the roof.
  - c. *Reflectors*. All solar energy systems using a reflector to enhance solar production shall minimize reflected light from the reflector affecting adjacent or nearby properties. Measures to minimize reflected light include selective placement of the system, screening on the north side of the solar array, modifying the orientation of the system, reducing use of the reflector system, or other remedies that limit reflected light.
5. *Coverage*. Roof or building mounted solar energy systems, excluding building-integrated systems, shall allow for adequate roof access for fire-fighting purposes to the south-facing or flat roof upon which the panels are mounted.
6. *Historic Buildings*. Solar energy systems on buildings within designated historic districts or on locally designated historic buildings (exclusive of State or Federal historic designation) must receive approval of the Town Board, consistent with the standards for solar energy systems on historically designated buildings published by the U.S. Department of Interior.
7. *Plan Approval Required*. All solar energy systems shall require approval by the Town of Wausau Board.
8. *Plan Applications*. Plan applications for solar energy systems shall be accompanied by two-scale horizontal and vertical (elevation) drawings. The drawings must show the location of the system on the building or on the property for a ground-mount system, including the property lines.
  - a. For all roof-mounted systems other than a flat roof, the elevation drawing(s) must show the highest finished slope of the solar collector and the slope of the finished roof surface on which it is mounted.
  - b. For flat roof applications, a drawing shall be submitted showing the following in addition to all applicable requirements set forth in this Ordinance.

- 1) The distance to the roof edge and any parapets on the building and shall identify the height of the building on the street frontage side.
  - 2) The proposed distance to property lines, rights-of-way, and/or easements.
  - 3) The highest finished height of the solar collector as well as the finished surface of the roof.
9. *Approved Solar Components.* Electric solar energy system components must have an UL (Underwriters Laboratories), or equivalent listing and solar hot water systems must have an SRCC (Solar Rating and Certification Corporation) rating.
  10. *Compliance with Building Code.* All solar energy systems shall meet the approval of local building code officials, consistent with the State of Wisconsin Building Code or the Town of Wausau Code of Ordinance Chapter 14, and solar thermal systems shall comply with HVAC-related requirements of the Energy Code. Compliance with State Electric Code - All photovoltaic systems shall comply with the Wisconsin State Electric Code.
  11. *Structural Integrity.* All building-mounted integrated solar energy systems shall only be permitted if it is determined the additional weight, infrastructure, and/or modifications will not compromise the structural integrity of the building.
  12. *Compliance with State Plumbing Code.* Solar thermal systems shall comply with applicable Wisconsin State Plumbing Code requirements.
  13. *Utility Notification.* All grid-intertied solar energy systems shall comply with the interconnection requirements of the electric utility. Off-grid systems are exempt from this requirement.
  14. *Compliance with State Electrical Code.* All solar energy systems are subject to an electrical inspection by the State Electrical Inspector.

**Sec. 17.24.103. Commercial use SES, permit, application, and filing requirements.**

1. *Commercial Use.* The Town of Wausau encourages the development of commercial use solar energy systems where such systems present few land use conflicts with current and future development patterns.
2. *Commercial Use Conditional Permit Requirements.* Ground-mounted solar energy systems that are not an accessory use to existing parcels, structures, or uses, as well as are designed for providing energy to off-site uses and/or export to the wholesale market require a conditional use permit in all zoning districts.
3. *Stormwater and NPDES.* Commercial Use SES are subject to the Wisconsin DNR stormwater management, erosion, sediment control provisions as well as NPDES permit requirements.
4. *Ground cover and buffer areas.* The following provisions shall be met related to the clearing of existing vegetation and establishment of vegetated ground cover. Additional requirements and standards may apply as required by the Zoning Administrator, Planning Commission, and/or the Town of Wausau Board.
  - a. Large-scale removal of mature trees on the site is discouraged.
  - b. To the greatest extent possible, the topsoil shall not be removed during development, unless part of a remediation effort.
  - c. Soils shall be planted and maintained for the duration of operation in perennial vegetation to prevent erosion, manage run off, and improve soil.
  - d. Seeds should include a mix of grasses and wildflowers, exclusively native to the region of the project site that, which will result in a short stature prairie with a diversity of forbs or flowering plants that bloom

throughout the growing season. Blooming shrubs may be used in buffer areas as appropriate for visual screening.

- e. Seed mixes and maintenance practices shall be consistent with those recommendations made by the Town and/or Wisconsin DNR.
  - f. Plant material must not have been treated with systemic insecticides, particularly neonicotinoids.
5. *Financial guarantee.* The applicant shall submit a financial guarantee in the form of a letter of credit, cash deposit, or bond equal to 125 percent of the costs to meet the ground cover and buffer area standard. The financial guarantee shall remain in effect until vegetation is sufficiently established.
  6. *Foundations.* A qualified engineer shall certify that the foundation and design of the solar panels racking and support is within accepted professional standards, given local soil and climate conditions.
  7. *Other standards and codes.* All commercial use SES shall be in compliance with all applicable local, state, and federal regulatory codes, including the State of Wisconsin Uniform Building Code, as amended; and the National Electric Code, as amended.
  8. *Power and communication lines.* Power and communication lines running between banks of solar panels and to nearby electric substations or interconnections with buildings shall be buried underground. Exemptions may be granted by the Town of Wausau Board in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines, or distance makes undergrounding infeasible.
  9. *Site Plan Required.* A detailed site plan for both existing and proposed conditions must be submitted, showing location of all solar arrays, other structures, property lines, rights-of-way, service roads, floodplains, wetlands and other protected natural resources, topography, electric equipment, screening features, and all other characteristics requested by the Zoning Administrator. The site plan should also show all zoning districts and overlay districts.
  10. *Agricultural Protection.* Commercial use SES must comply with site assessment or soil identification standards that are intended to protect agricultural soil.
  11. *Decommissioning.* A decommissioning plan shall be required to ensure that facilities are properly removed after their useful life.
    - a. Decommissioning of solar panels must occur in the event they are not in use for 12 consecutive months.
    - b. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation, and a plan ensuring financial resources will be available to fully decommission the site.
    - c. Structures and/or foundations shall be disposed of at a licensed solid waste disposal facility and/or otherwise in a manner consistent with federal, state, and local regulations.
    - d. The Town of Wausau Board may require the posting of a bond, letter of credit or the establishment of an escrow account to ensure proper decommissioning.

#### **Sec. 17.24.104. Application approval and permit issuance.**

1. *Commercial Use Approval Process.* The Planning Commission shall approve or deny the Commercial Use SES conditional use request after a public hearing.
2. *Commercial Issuance Process.* The Town of Wausau Board shall issue the zoning permit and grant the conditional use permit if it is determined the SES application and proposal conforms to the requirements of this Chapter, all applicable standards of this Ordinance, as well as meets or will meet any additional conditions placed on the conditional use permit by the Planning Commission.

3. *Private Use Approval Process.* All Private Use SES are subject to administrative review and approval of the zoning permit based on the standards and conditions of this section in all zoning districts.
4. *Publication:* Upon receiving an application for a Solar Energy System, the Town shall publish a Class 1 Notice stating an application for a Solar Energy System has been filed and notify the applicant within 45 days on whether the application is complete or not.
5. *Approval Timeline:* The Town shall approve or disapprove the application no later than 90 days after the day on which the Town notified the applicant the application is complete. The Town may extend the time to approve or disapprove the application for the following reasons, except the total amount of time for all extensions granted shall not exceed 90 days:
  - Up to 45 days if the Town needs more information.
  - Up to 90 days if material modification to the application is made.
  - Up to 90 days for other good cause specified by the political subdivision.

**Sec. 17.25. Small livestock.**

1. Purpose. The purpose and intent of this section is to provide standards that apply to the keeping of small livestock on parcels five acres or less in residential or agricultural transition districts. The standards are designed to ensure that the keeping of small livestock is done in a responsible manner that protects the public health, safety and welfare and avoids conflicts with neighboring uses. (10/2/2017)

2. Use. The keeping of small animals in this code shall be a conditional use in residential and agricultural transition districts within the Town, if such use complies with the following:

- a. The number of small livestock kept on any lot shall be determined by the Town Board through the conditional use process.
- b. Small livestock must have access to a covered enclosure.
- c. Small livestock shall not be allowed to roam free and must be kept in a covered or fenced enclosure at all times.
- d. Covered and fenced enclosures must be clean, dry, odor-free and kept in a manner that will not disturb the use or enjoyment of adjacent lots.

2. The Town Board through the Planning Commission may establish other conditions pursuant to Section 17.98.

3. Permits for covered enclosures. A zoning permit shall be required prior to the erection, placement or construction of any covered enclosures housing small livestock.

4. Location of covered and fenced enclosures.

a. Covered and fenced enclosures shall be within the rear or side yard and shall not be closer than 50 feet from the property line in the rear or side yard.

b. Covered and fenced enclosures shall not be located closer than 100 feet from the ordinary high water mark of any lake, river, or stream.

**ARTICLE III. DISTRICTS AND MAPS**

**Sec. 17.40. Zoning districts.**

For the purpose of determining separation of uses, the R-1/20 district is considered a residential district. In districts AT-1/40 and A-1/80 when the principal structure is a residence the parcel shall be treated as a residential parcel for all use determinations. When the principal structure is a farm structure, such as the main barn on a dairy farm, the parcel shall be treated as an agricultural parcel for all use determinations.

**Sec. 17.41. Maps and boundaries.**

The boundaries of these districts in the territorial limits of the town are hereby established as shown on a map entitled "Town of Wausau Zoning Map". This map is on file in the town office and is hereby incorporated in this section.

**Sec. 17.42. Interpretation of district boundaries.**

1. Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following rules shall apply:

a. Where boundaries approximately follow street, alley, or highways. Where district boundaries are indicated as approximately following the center line or street line of streets, the center line or alley line of alleys, or the center line of right-of-way line of highways such lines shall be construed to be such district boundaries.

b. Where boundaries parallel street lines, alley lines or highway right-of-way lines are so indicated that they are approximately parallel to the center lines or street lines of streets, the center lines or alley lines of alleys, or the center lines of right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance there from as indicated on the zoning map. If no distance is given, such dimension shall be determined by the use of the scale shown on said zoning map.

**Sec. 17.43. R-1/20 residential district.**

1. Purpose. The residential district is designed to encourage a suitable environment for family life by permitting under certain conditions, such neighborhood facilities as churches, schools, playgrounds and appropriate institutions and by protecting the residential character against non-compatible uses. The districts are intended to avoid overcrowding by requiring certain minimum yards, open spaces and site area.

2. Permitted uses.

a. Accessory buildings, including private kennels and private garages and buildings, clearly incidental to the residential use of the property; provided, however, that no accessory building may be used as a separate dwelling unit. Private garages and other residential accessory storage structures shall be subject to the following standards:

- (1) Any structure having more than one wall forming an enclosure shall have less floor area than the principal structure and shall not exceed 1200 square feet.
- (2) The length of the structure shall not be more than two times its width.
- (3) Side walls shall not exceed twelve (12) feet in height, from the top plate to the finished floor.
- (4) The maximum building height measured from the highest point of the roof to the floor shall not exceed thirty-five (35) feet.
- (5) Construction and finished appearance shall be compatible with existing neighborhood development.
- (6) The accessory building must be ten (10) feet from the side lot line.
- (7) A mobile home or manufactured home shall not be considered an accessory building.

b. Campers, travel trailers, motor homes, or camping trailers may be stored or parked indefinitely on a property owner's property providing the unit is parked in the rear or side yards only or in compliance with same setbacks allowed for accessory structures in subsection Chapter 17. They must be parked on some type of surface such as cement blacktop, or gravel and does not interfere with the vision clearance triangle. Tents, motor homes, and self-contained campers or camping trailers may be occupied by the owner or their immediate family on a temporary basis, not to exceed sixty (60) days in a calendar year. Approval by the Town Board or its designee is required if the use is to exceed thirty

(30) days. (Amended 3/11/2024)

- c. Churches, cemeteries subject to WI Statutes Chapter 157, public and parochial schools, colleges and universities;
- d. Greenhouses, non-commercial;
- e. Home occupations as defined in Section 17.08(55); and
- f. Home professional businesses as defined in Section 17.08(56).
- g. Parks and playgrounds, including swimming pools, golf courses, tennis courts, picnic grounds and bathing beaches.
- h. Single family dwellings on permanent foundations designed for and occupied exclusively by one family. Design construction and finished appearance shall be compatible with existing neighborhood development. This will include structures that are the following types: wood framed or stick by stick, brick and mortar or stone masonry, and interior framed steel but not steel or metal exterior walls or siding. (Amended 12/5/2016)

3. Conditional uses. The following are special uses permitted when the location of the use shall have been approved and a conditional use permit recommended by the planning commission after a public hearing and approved by the town board. Such approval shall be consistent with the general purpose and intent of this chapter and shall be based upon such evidence as may be presented at such public hearing. Such uses shall also be subject to certain specific conditions as may be required.

- a. Accessory structures with floor area or components differing from the standards listed in subsection 17.43(2)(a), provided the use of the structure is subordinate to a permitted use and the parcel equals or exceeds the minimum area for the zoning district. The design shall be compatible with existing neighborhood development and not contrary to any existing restrictive covenants. Nontraditional designs such as quonset roofs shall be subject to this section.
- b. Buildings, pens and structures used for the housing, shelter or feeding of small livestock shall be located no less than one hundred (100) feet from any lake or stream and no less than fifty (50) feet from any property line.
- c. Bed and breakfast establishment and tourist rooming house subject to Wis. Stats. ch.254.
- d. Dog kennels, for training, breeding or boarding, with more than four (4) dogs that are more than six (6) months old.
- e. Earthen berms are subject to the requirements of section 17.15.3.b.(7) of this chapter.
- f. Institutions of a charitable or philanthropic nature, day care or child care facilities and clinics and sanatoria, except mental institutions
- g. Libraries, museums and community buildings, private clubs and fraternities, except those whose principal activity is a service customarily carried on as a business;
- h. Municipal buildings, except sewage disposal plants, garbage incinerators and buildings for the repair or storage of road building or maintenance machinery;
- i. Non-commercial greenhouses, beekeeping, vegetable warehouses, seasonal sale of vegetable grown on the property, sale of eggs from chickens raised on the property and non-commercial maple syrup product.
- j. Small wind energy systems are subject to the requirements of Section 17.24 of this chapter.
- k. Small livestock as described in Chapter 17.24.

3. Single family dwelling designed for and occupied exclusively by one family on a non-traditional design, construction, or finished appearance. This includes any type not listed in Sec. 17.43.2.g of this Code, such as pole, post-frame, steel or metal exterior walls or siding, adobe, subterranean, earthen, concrete, etc. (Amended 12/5/2016)

4. Height, yards, area and other requirements.

a. Height, except as otherwise provided in this chapter no building or structure shall exceed a height of thirty-five (35) feet.

b. Floor area. Buildings used in whole or in part for residential purposes that are hereafter erected, moved, or structurally altered shall have a minimum of one thousand (1,000) square feet of floor area dedicated to living space.

c. Lot area. The minimum lot area shall be twenty thousand (20,000) square feet.

d. Lot coverage. No building, together with its accessory buildings, shall occupy in excess of thirty percent (30%) of the area of any lot.

e. Width. A minimum lot width of one hundred (100) feet at the building line.

f. Side yard. There shall be a side yard on each side of a building. No single side yard shall be less than ten (10) feet wide.

g. Rear yard. The minimum depth of any rear yard shall be thirty-five (35) feet.

h. Setback line (street). See Sections 17.17 and 17.18 and

i. Off Street Parking. See Sections 17.70-17.72.

**Sec. 17.44. AT-1/40 agricultural transition district.**

1. Purposes. The purposes of the AT-1/40 district is to provide for the orderly transition of agricultural land to other uses in areas planned for eventual urban expansion, defer urban development until the appropriate local governmental bodies determine that adequate public services and facilities can be provided at a reasonable cost, ensure that urban development is compatible with local land use plans and policies and provide periodic review to determine whether all or part of the lands should be transferred to another zoning district. Such review shall occur:

a. A minimum of every two (2) years;

b. Upon completion or revision of the Town of Wausau Comprehensive Plan by the planning commission which affects lands in these districts; or

c. Upon extension of public services such as sewer and water necessary to serve urban development.

2. Lands included within this district. This district is generally intended to apply to lands located adjacent to urbanized areas where such lands are predominantly in agricultural or related open space use but where conversion to nonagricultural use is expected to occur in the foreseeable future.

3. Permitted uses.

a. Any use permitted in the R-1/20 districts.

b. Accessory buildings, including private kennels and private garages and buildings clearly incidental to the residential use of the property, provided, however, that no accessory building may be used as a separate dwelling unit. Private garages and other residential accessory storage structures shall be subject to the following standards:

(1) Any accessory structure having more than one (1) wall forming an enclosure shall have less floor area than the principal structure and shall not exceed one thousand two hundred (1,200) square feet when the lot size is less than forty thousand (40,000) square feet. Accessory buildings structures may exceed one thousand two hundred (1,200) square feet if the lot size exceeds forty thousand (40,000) square feet. Accessory structures may exceed both one thousand two hundred (1,200) square feet and the floor area of the principal structure if both the lot size exceeds forty



thousand (40,000) square feet and the accessory structure is detached from and/or not a portion of the principal structure. (Amended 12/5/2016)

(2) The length of the structure shall not be more than two (2) times its width.

(3) Side walls shall not exceed eighteen (18) feet in height from the top plate to the finished floor.

(4) The maximum building height, measured from the highest point of the roof to the floor, shall not exceed thirty-five (35) feet.

(5) Construction and finished appearance shall be compatible with existing neighborhood development.

(6) The accessory building must be fifteen (15) from the side lot line.

(7) A mobile home or manufactured home shall not be considered an accessory building.

c. Campers, travel trailers, motor homes, or camping trailers may be stored or parked indefinitely on a property owner's property providing the unit is parked in the rear or side yards only or in compliance with same setbacks allowed for accessory structures in subsection Chapter 17. They must be parked on some type of surface such as cement blacktop, or gravel and does not interfere with the vision clearance triangle. Tents, motor homes, and self-contained campers or camping trailers may be occupied by the owner or their immediate family on a temporary basis, not to exceed sixty (60) days in a calendar year. Approval by the Town Board or its designee is required if the use is to exceed thirty (30) days. (Amended 3/11/2024)

d. General farming, subject to Section 17.24, with animal unit densities as provided in ATCP 51 and animal types as specified in NR 243.11 provided that no building for the housing of livestock or poultry shall be located within three hundred (300) feet of any boundary of a residential zoning district. Buildings, pens and structures used for the housing, sheltering or feeding of livestock shall be located no less than three hundred (300) feet from navigable waters.

e. Agricultural activities such as nurseries, greenhouses, beekeeping, vegetable warehouses, seasonal sale of seed and fertilizer and other similar enterprises or uses, except fur farms and farms operated for the disposal or reduction of garbage, sewage, rubbish.

f. Maple syrup processing plant.

g. Roadside stand.

h. Signs are as permitted in section 17.81.

i. Telephone exchanges, telephone, telegraph and power distribution poles and lines and necessary appurtenant equipment and structures, such as transformers, unit substations and equipment housings, provided there is no service garage or storage yard.

4. Conditional uses. The following are special uses permitted when the location of the use shall have been approved and a conditional use permit recommended by the planning commission after a public hearing and approved by the town board. Such approval shall be consistent with the general purpose and intent of this chapter and shall be based upon such evidence as may be presented at such public hearing. Such uses shall also be subject to certain specific conditions as may be required.

a. Accessory structures with floor area or components differing from the standards listed in subsection 17.44(3)(b), provided the use of the structure is subordinate to a permitted use and the parcel equals or exceeds the minimum area for the zoning district. The design shall be compatible with existing neighborhood development and not contrary to any existing restrictive covenants.

b. Bed and breakfast establishment and tourist rooming house subject to Wis. Stats. Chapter 254.

- c. Dog kennels, for training, breeding or boarding, with more than four (4) dogs that are over six (6) months old.
- d. Institutions of a charitable or philanthropic nature, day care or child care facilities, hospitals, clinics and sanatoria, except contagious hospitals and mental institutions.
- e. Libraries, museums and community buildings, private clubs and fraternities, except those whose principal activity is a service customarily carried on as a business.
- f. Municipal buildings, except sewage disposal plants, garbage incinerators and buildings for the repair or storage of road building or maintenance machinery.
- g. Small livestock as described in Chapter 17.24.
- h. Single family dwellings designed for and occupied exclusively by one family of a non-traditional design, construction or finished appearance. This includes any type in Sec. 17.43.2.g of this Code such as pole, post-frame, steel or metal exterior walls or siding, adobe, subterranean, earthen, concrete.etc. (Amended 12/5/2016)
- i. An Agricultural Event Venue (amended 6/14/2021)
  - 1. Must be conducted on a parcel with a lot area of at least five (5) acres.
  - 2. Buildings shall be compliant with the Wisconsin Commercial Building Code.
  - 3. Buildings and any portable structures/tents must maintain the minimum set back requirements.

5. HEIGHT, YARDS, AREA AND OTHER REQUIREMENTS.

- a. Height. Except as otherwise provided in this chapter, no building shall exceed a height of thirty-five (35) feet.
- b. Floor area. Buildings used in whole or in part for residential purposes which are hereafter erected, moved or structurally altered shall have a minimum of one thousand (1,000) square feet of floor area dedicated to living space.
- c. Lot area. No lot shall be less than forty thousand (40,000) square feet.
- d. No building, together with its accessory buildings, shall occupy in excess of thirty percent (30%) of the area of any lot.
- e. Width. There shall be a minimum width of one hundred fifty (150) feet at the building line.
- f. Side yards. No single side yard shall be less than fifteen (15) feet wide.
- g. Rear yard. The minimum depth of any rear yard shall be thirty-five (35) feet.
- h. Setback lines (streets). See Sections 17.17 and 17.18.
- i. Off-street parking. See Sections 17.70 - 17.72.

**Sec. 17.45. A-1/80 agricultural district.**

1. Purpose. This agricultural district is designed to foster the preservation and use of agricultural land related uses and to provide for limited residential uses in a rural environment.
2. Permitted uses.
  - a. Any use permitted in the R-1/20 and AT-1/40 districts. All new habitable structures other than that of the farm operator shall be located at least 300 feet from buildings, pens, and structures used for the housing, sheltering or feeding of livestock.
  - b. Campers, travel trailers, motor homes, or camping trailers may be stored or parked indefinitely on a property

owner's property providing the unit is parked in the rear or side yards only or in compliance with same setbacks allowed for accessory structures in subsection Chapter 17. They must be parked on some type of surface such as cement blacktop, or gravel and does not interfere with the vision clearance triangle. Tents, motor homes, and self-contained campers or camping trailers may be occupied by the owner or their immediate family on a temporary basis, not to exceed sixty (60) days in a calendar year. Approval by the Town Board or its designee is required if the use is to exceed thirty (30) days. (Amended 3/11/2024)

- c. Forestry and forest products.
- d. Governmental uses such as town halls, garages, solid waste transfer stations and recycling collection centers or depots.
- e. ~~Mini warehousing only in existing farm buildings.~~ (Amended 6/25/18)
- f. Mobile homes. One mobile home or manufactured home used for habitation which is not the principal residence shall be permitted as an accessory building on any operating farm, provided a determination is made in writing by the planning commission that:

(1) One or more of the occupants of the mobile home derives a substantial portion of their livelihood from the farm operations and/or substantially participates in the operation of the farm; or

(2) The occupants are infirm immediate family members and a County Sanitary Permit has been obtained for the principle dwelling and an approved private waste disposal system is utilized by the temporary mobile home. Such use shall require a temporary zoning permit valid for no more than a one (1)-year period and which must be renewed no less than annually.

In such cases, foundation requirements may be waived and floor area reduced by the planning commission if approved by the town board as a conditional use.

- g. Sawmills on-commercial use. Such sawmills must be located a minimum of five hundred (500) feet from a residence other than the owner of the property on which the sawmill is located.

3. Conditional uses. The following are special uses permitted when the location of the use shall have been approved and a conditional use permit recommended by the planning commission after a public hearing and approved by the town board. Such approval shall be consistent with the general purpose and intent of this chapter and shall be based upon such evidence as may be presented at such public hearing. Such uses shall also be subject to certain specific conditions as may be required.

- a. Aircraft landing fields, basins and hangars providing the site area is not less than twenty (20) acres.
- b. Animal hospitals and the boarding of animals.
- c. Bed and breakfast establishments or tourist rooming house subject to Wis. Stats. ch. 254.
- d. Canneries
- e. Cheese factories.
- f. Concrete batching and/or blacktop mix plant (temporary), processing and recycling of road surface material (temporary).
- g. Contractor's storage yards, when any such yard shall be so placed, fenced or screened by a planting so as not to be visible from any public highway or residential building other than that of the owner of such yard, his agent or employee.
- h. Creameries.

- i. Dog kennels, for training, breeding or boarding, with more than four (4) dogs that are more than six (6) months old.
- j. Drive-in theaters, provided there is a distance of not less than one thousand (1,000) feet between the boundary of any residential district and the drive-in theater site, measured in a straight line.
- k. Game farm.
- l. Housing for seasonal/temporary workers.
- m. Hunting grounds and game reserves and dog field trial grounds.
- n. Incinerator (public).
- o. Institutions of a charitable or philanthropic nature, day care or child care facilities, clinics and sanatoria, except mental institutions.
- p. Libraries, museums and community buildings, private clubs and fraternities, except those whose principal activity is a service customarily carried on as a business.
- q. Livestock collection and transfer depots when located not less than three hundred (300) feet from a RS residential district and when accessory to principal agricultural use of the property.
- r. Medical, correctional or charitable institutions.
- s. Mobile home or a manufactured home used for habitation which is not the principal residence for farm workers as an accessory building on any operating farm.
- t. Pet cemeteries.
- u. Riding stables and riding academies subject to the following:
  - (1) Lighted equestrian trails shall be no closer than two hundred (200) feet from any property line or three hundred (300) feet from any residence other than that of the owner unless written approval is granted by the adjoining owner(s) for a lesser setback and recommend by the planning commission and approved by the town board after a public hearing.
  - (2) Stables, barns, corrals and exercise yards shall be located no closer than three hundred (300) feet from any property line of a residential district.
  - (3) No more than two (2) people other than a member of the resident family shall be employed on the premises.
  - (4) The animal unit densities as provided in ATCP 51 and animal types as specified in NR 243.11.
- v. Single family dwellings designed for and occupied exclusively by one family of a non-traditional design, construction or finished appearance. This includes any type not listed in Sec. 17.43.2.g of this Code such as pole, post-frame, steel or metal exterior walls or siding, adobe, subterranean, earthen, concrete, etc. (Amended 12/6/2016)
- w. Mini warehousing only in existing farm buildings (Amended 6/25/18).
- x. An Agricultural Event Venue (amended 6/14/2021)
  - 1. Must be conducted on a parcel with a lot area of at least five (5) acres.
  - 2. Building shall be compliant with the Wisconsin Commercial Building Code.
  - 3. Building and any portable structures/tents must maintain the minimum set back requirements.

4. Height, yards, area and other requirements.

a. Height. Except as otherwise provided in this chapter, no building or structure shall exceed a height of thirty-five (35) feet.

b. Lot area.

(1) Buildings used in whole or in part for residential dwelling purposes which are hereafter erected or structurally altered shall be located on a lot having an area of not less than eighty thousand (80,000) square feet with a width of two hundred (200) feet at the building line.

(2) Riding stables and riding academies hereafter established shall be located on a parcel having a contiguous area of not less than thirty-five (35) acres.

(3) Division of land into no more than four (4) lots within five (5) years by certified survey map shall be permitted; however, the division of land into four (4) or more tracts, parcels or lots within a five (5)-?? period of time is prohibited.

c. Floor area. Buildings used in whole or in part for residential purposes which are hereafter erected, moved or structurally altered shall have a minimum floor area of one thousand 1,000 square feet, provided that this regulation shall not apply to mobile homes permitted on farms.

d. Width. A minimum width of two hundred (200) feet at the building line.

e. Side yards. There shall be side yards provided between each building and the property line of not less than twenty (20) feet.

f. Rear yard. There shall be a minimum rear yard depth of fifty (50) feet.

g. Street setbacks. See subsection 17.17 Highway setbacks.

h. Off-street parking. See subsections 17.70 - 17.72.

**Sec. 17.46. CM commercial/light manufacturing district.**

1. Purpose. This district is designed to provide for a wide range of retail stores and personal service establishments which cater to frequently recurring needs as well as light manufacturing. The regulations are designed to promote stability of retail development by encouraging continuous retail frontage and the manufacturing of light materials.

2. Permitted uses.

a. Animal hospitals and clinics but not the boarding of animals.

b. Antique or art shop.

c. Bakery employing not over eight (8) persons on the premises.

d. Bank, savings and loan or other financial institutions.

e. Barber shop, beauty parlor.

f. Book and stationery store.

g. Business, professional offices and clinics.

h. Clothing store, department store, shoe store, shoe repair shop.

- i. Clubs and lodges.
- j. Dance studios.
- k. Drugstore.

l. Dwelling, single family, but only as an accessory to a principle use. A dwelling unit will be permitted providing a business which is authorized in this district and the dwelling unit are located upon the same zoning lot and provided further that the owner of the dwelling resides therein and such owner is also the owner and operator of the business establishment.

- m. Florist shop.
- n. Food products (retail), fruit and vegetable store, grocery store, meat and fish market, supermarket.
- o. Funeral homes.
- p. Furniture store, appliances, office equipment, upholstery.
- q. General or clerical office.
- r. Greenhouses-commercial, landscape-commercial, garden store, or nursery.
- s. Hardware, household appliances, plumbing, heating and electrical supplies, auto supplies.
- t. Health club.
- u. Insurance firms, real estate firms, stockbrokers.
- v. Jewelry store.
- w. Libraries, museums.
- x. Martial arts schools.
- y. Medical and dental offices.
- z. Music, radio and television store, record shop.
- aa. Paint store, interior decorator.
- ab. Parking lot.
- ac. Photographer, photography supply shop.
- ad. Printing and duplicating.
- ae. Professional offices.
- af. Public utility office or substation, telephone exchange, fire station, police station, administration buildings and similar uses.
- ag. Publishing offices.
- ah. Radio and television broadcasting studio, tower, mast or aerial, microwave radio relay structures.

- ai. Retail stores and shops offering convenience goods and services.
- aj. Restaurant, café or fast food restaurants.
- ak. Signs as permitted in subsections 17.82.
- al. Sign painting shop.
- am. Sporting goods stores.
- an. Theater, except drive-in theater.
- ao. Schools and learning/training centers conducted for profit.
- ap. Manufacturing or storage in connection with any of the above uses, when clearly incidental to the conduct of a retail business on the premises.
- aq. Private storage garage as a principal use. (Amended 6/25/18)

3. Conditional uses. The following are special uses permitted when the location of the use shall have been approved and recommended by the planning commission and a conditional use permit is granted by the town board after a public hearing. Such approval shall be consistent with the general purpose and intent of this chapter and shall be based upon such evidence as may be presented at such public hearing.

- a. Amusement parks including baseball batting ranges, commercial skating rinks, go-cart tracks, golf driving range, miniature golf course or similar establishments;
- b. Automobile sales, service stations, gas station, repair, body shops, car wash;
- c. Bowling alleys, dance halls, skating rinks;
- d. Cabinetry, furniture and/or woodworking shop, when employing two (2) or less employees;
- e. Composting. Temporary storage and recycling and sales of stored materials consisting solely of unpainted wood waste and concrete together with rock, blacktop, dirt and yard waste suitable for composting in site;
- f. Concrete batching and/or blacktop mix plant. Processing and recycling of road surface material (temporary);
- g. Contractor's storage yards, when any such yard shall be so placed, fenced or screened by a planting so as not to be visible from an public highway or residential building other than of the owner of such yard, his agent or employee;
- h. Day care or child care facilities;
- i. Drive-through restaurant;
- j. Drive-in theater;
- k. Farm equipment sales and service;
- l. Farm machinery sales and service;
- m. Feed and seed stores;
- n. Fishing bait stores;
- o. Government and cultural uses, such as fire and police stations, community centers, libraries, public emergency

shelter, parks, playgrounds and museums;

p. Hotel, motel;

q. Light industrial plants such as required for production of millwork, machine tools, paper containers, patterns, die castings, light metal fabrication and similar small industries which do not require loud presses;

r. Laundry, cleaning and dyeing establishment;

s. Lumber yards;

t. Manufacture, fabrication, packing, packaging and assembly of products from glass, leather, metals, paper, plastic, textiles and wood, confections, cosmetics, electrical appliances, electronic devices, instruments, jewelry, pharmaceuticals, tobacco, toiletries and foods except cabbage, fish and fish products, meat and meat products;

u. Mobile homes sales and service;

v. Newspaper office and press rooms;

w. Pet stores;

x. Recycling and composting facilities;

y. Tavern, including outdoor and indoor sports facilities and entertainment facilities which are part of the tavern's operations;

z. Transportation, motor, taxi, limo and bus terminals as well as cartage express facilities;

aa. Warehousing, inside storage and mini warehousing, including inside storage of contractor's supplies and equipment; and

ab. Wholesale establishments.

ad. Commercial equipment, truck service, repair. (Amended 10/2/2017)

ae. Special event venues. (Amended 6/4/2021)

4. Height, yards, area and other requirements.

a. Height. Except as otherwise provided in this chapter, no building or structure shall exceed a height of thirty-five (35) feet. Telecommunications/cell towers shall not exceed one hundred fifty (150) feet. One additional foot of extra height may be permitted provided one (1) additional foot of each side and rear yards for each additional foot of extra height is also established up to a maximum height of sixty (60) feet unless the planning commission approves a greater height. See subsection 17.16.

b. Lot area. The minimum lot area shall be twenty thousand (20,000) square feet except that it is forty thousand (40,000) square feet with a combined residence and commercial building.(Amended 12/5/2016)

c. Floor area. The minimum floor area shall be one thousand (1,000) square feet.

d. Width. The minimum width shall be one hundred fifty (150) feet at the building line.

e. Side yards. Side yards shall be not less than fifteen (15) feet wide.

f. Rear yard. There shall be a rear yard of not less than thirty-five (35) feet in depth.

g. Setback lines. (Streets) See subsections 17.17 and 17.18.



h. Off-street parking. See subsections 17.70 - 17.72.

**Sec. 17.47. Multiple family residential district.**

1. Permitted uses:

- a. Any use permitted in the R-1/20 residential district and
- b. Duplexes.

2. Conditional uses. The following are special uses permitted when the location of the use shall have been approved and a conditional use permit is recommended to the town board by the planning commission after a public hearing. Such approval shall be consistent with the general purpose and intent of this chapter and shall be based upon evidence presented at such public hearing.

a. Three (3)-family and larger multiple family dwellings and apartment complexes. An application for a condition use permit for apartment complexes shall include an overall site plan showing location and orientation of all structures, parking and driveway areas. For the purpose of determining the setbacks from lot lines and separating distances between units, the planning commission may consider the orientation of the structures toward each other and abutting lots to achieve the minimum side yard of ten (10) feet and minimum rear setback of thirty-five (35) feet. When reviewing applications for a conditional use permit the planning commission shall consider the following as minimum guidelines and may increase floor and lot areas but shall not reduce them unless municipal sewer and water is available:

NUMBER OF FAMILIES	LOT AREA	TOTAL HEATED LIVING SPACE
2	40,000	1,200
3	50,000	1,800
4	60,000	2,400

For each additional family unit added, a minimum of ten thousand (10,000) square feet shall be added to the lot area and six hundred (600) square feet shall be added to the heated living space.

**Sec. 17.48. MF Manufacturing District.** (Adopted 11/5/2018)

1. Purpose. This district is designed to provide for a limited range of retail stores and personal service establishments which cater to frequently recurring needs as well as manufacturing and mining. The regulations are designed to closely control offensive industry.

2. Permitted uses.

- a. Bakery employing over eight (8) persons on the premises.

3. Conditional uses. The following are special uses permitted when the location of the use shall have had an opportunity for consideration by the planning commission and a conditional use permit is granted by the town board after a public hearing. Such approval shall be consistent with the general purpose and intent of this chapter and shall be based upon such evidence as may be presented at such public hearing.

a. Contractor's storage yards, when any such yard shall be so placed, fenced or screened by a planting so as not to be visible from a public highway or residential building other than of the owner of such yard, his agent or employee.

b. Light industrial plants such as required for production of millwork, machine tools, paper containers, patterns, die castings, light metal fabrication and similar small industries which do not require loud presses.

- c. Non-metallic mining.

- d. Metallic mining. Also see Code Ch. 61, Mining Permits.
  - e. Metallic mining exploration, bulk sampling, or prospecting as those activities are defined under Wis. Stat. ch. 293.
  - f. Shooting range.
4. Height, yards, area and other requirements.
- a. Height. Except as otherwise provided in this chapter, no building or structure shall exceed a height of thirty-five (35) feet. See Code section 17.16.
  - b. Lot area. The minimum lot area shall be twenty thousand (20,000) square feet except that it is forty thousand (40,000) square feet with a combined residence and commercial building.
  - c. Floor area. The minimum floor area shall be one thousand (1,000) square feet.
  - d. Width. The minimum width shall be one hundred fifty (150) feet at the building line.
  - e. Side yards. Side yards shall be not less than fifteen (15) feet wide.
  - f. Rear yard. There shall be a rear yard of not less than thirty-five (35) feet in depth.
  - g. Setback lines. (Streets) See Code sections 17.17 and 17.18.
  - h. Off-street parking. See Code sections 17.70 - 17.72.

**ARTICLE IV. MOTOR VEHICLE AND PARKING REGULATIONS**

**Sec. 17.70. Loading requirements.**

In all districts adequate loading areas shall be provided so that all vehicles loading, maneuvering or unloading are completely off the public ways and so that all vehicles need not back onto any public way.

**Sec. 17.71. Parking requirements.**

1. In all districts and in connection with every use, there shall be provided at the time any use or building is erected, enlarged, extended or increased, off-street parking stalls for all vehicles in accordance with the following:

- a. Adequate access or a public street shall be provided to each parking stall and driveways shall be at least ten (10) feet wide.
- b. Each parking stall shall be not less than nine (9) feet in width and not less than one hundred eighty 180 square feet in area exclusive of the space required for ingress and egress. Unpaved and unstriped parking lots for use by the general public shall provide three hundred sixty (360) square feet per parking space, exclusive of ingress/egress lanes.
- c. No parking stall or driveway except in residential districts shall be closer than twenty-five (25) feet to a residential district lot line or a street line opposite a residential district.

2. Number of parking stalls required:

Single Family Dwellings	2 stalls/dwelling unit
Hotel, Motels	1 stall/guest room +1 stall/3 employees
Hospitals, Clubs, Lodges, Sororities, Dormitories, Lodging and Boarding Houses	1 stall/2beds + 1 stall/3 employees
Sanitariums, Institutions, Rest and Nursing Homes	1 stall/5 beds + 1 stall/3 employees

Medical and Dental Clinics	4 stalls/doctor +1stall/3 employees
Churches, theaters, auditoriums, community centers, vocational and night schools and other places of public assembly	1 stall/5 seats
Colleges, Secondary and Elementary Schools	1 stall/2 employees + a reasonable number of stalls for student and other parking
Restaurants, Bars, Places of Entertainment, Repair Shops, Retail and Service Stores	1 Stall/150 square feet
Financial Institutions, Business, Governmental and Professional Offices	1 Stall/300 square feet
Funeral Homes	1 Stall/4 Seats
Bowling Alleys	3 Stalls/bowling lanes
Golf Courses	4 spaces/hole
Ball diamonds	40 spaces/diamond
Volleyball courts	14 spaces/court
Bars w/live music or DJ, banquet halls, dance clubs	1 space/50 square feet of patron space including outdoor decks and patios

d. In the case of structures or uses not mentioned, the provision for a use which is similar shall apply. Combinations of any of the above uses shall provide the total of the number of stalls required for each individual use during such periods of time as the various uses are reasonably likely to be simultaneously requiring parking for employees, customers and other persons.

e. Parking lots containing ten (10) or more stalls which are located in the residential districts or adjoining residential lots shall be screened along the side or sides of such lots which abut the lot lines of residential lots by a solid wall, fence, evergreen planting of equivalent opacity or other equally effective means, built or maintained at a minimum height of four (4) feet. If parking lots so located are lighted, the lights shall be so shielded as to prevent glare or illumination of adjoining residential property.

## **ARTICLE V. SIGNS**

### **Sec. 17.80. General.**

1. No signs or billboards shall be permitted in any district except as specifically permitted herein.
2. At no time shall signs be permitted within a vision clearance triangle in such a manner as to impair vision or safety.
3. No sign located within one hundred fifty (150) feet of a highway or street right-of-way shall contain, include or be illuminated by a flashing or rotating beam of light.
4. No sign shall be illuminated by any source of light that is not shielded to prevent glare of illumination of residential property other than that of the sign owner nor shall the glare of any light source be so directed as to impair the safety of moving vehicles.
5. No signs, except of a public nature normal to public right-of-ways, shall be permitted within any public right-of-way without approval in writing from the jurisdictional governmental unit.
6. No sign larger than five (5) square feet shall be located, erected, moved, reconstructed or enlarged until a zoning permit has been issued.

7. Signs or billboards applied or attached to vehicles, trailers or portable structures kept in the town shall be in compliance with this chapter provided, however, that vehicles and trailers which at the discretion of the zoning permit administrator are used primarily for the purpose of a sign are prohibited.

8. Area measurements of signs shall include any border or trim but not the standard or supporting structure.

**Sec. 17.81. Signs in residential and agricultural districts.**

The following signs are permitted when located no less than forty-eight (48 feet from the center of a four (4)-rod road, except otherwise provided in this subsection:

1. Signs advertising a home occupation or home professional business shall not exceed twenty (20) square feet.
2. "For Rent" or "For Sale" signs shall not exceed four (4) square feet in area.
3. One (1) on-premises announcement sign or bulletin board of an appropriate nature, identifying a hospital, school, church or other similar facility or institution shall not exceed twenty (20) square feet in area.
4. Temporary signs shall not exceed more than twenty (20) square feet in area for the purpose of advertising an auction, bazaar, festival, political or other special event. Such signs shall be removed at the conclusion of the event.
5. Off-premises signs, provided they are directional only, the outside dimensions of which do not exceed twenty (20) square feet in area, must be located within a three (3)-mile radius of the advertised business or activity and must not be in conflict with any local, state or federal regulation of law.
6. Signs for public safety and welfare or for the identification, operation or protection of a public utility installation shall be no larger than three (3) square feet in area and may be located any distance outside of the public right-of-way.
7. In all agricultural districts, signs which advertise agricultural products that are produced on the property where the sign is located shall be allowed provided the following conditions are met:
  - a. Signs shall not conflict with state or federal sign regulations.
  - b. For signs larger than thirty-two (32) square feet in area, all conditions set forth in subsection 17.82(2)(a) (d) shall be met.
  - c. Signs shall be located only on an operating farm and adjacent to the principal building or buildings used in the production of the agricultural product being advertised.
  - d. Signs shall contain only one message per face and no more than one (1) double face or two (2) single face signs larger than thirty-two (32) square feet per face shall be permitted.
  - e. One farm identification sign which is thirty-two (32) square feet in area or less shall be permitted. Such signs shall include the farm name and/or surname of the farm operator. Farm identification signs shall be no less than fifteen (15) feet from the right-of-way.
  - f. No sign other than a farm identification sign as defined in par. (e) above shall contain a brand name, trade name, organization, co-op, union or bureau name.

**Sec. 17.82. Signs in commercial/light manufacturing districts.**

The following signs are permitted:

1. All signs permitted in subsection 17.81;

2. Identifying signs advertising a business or activity conducted on the premises in accordance with the following provisions:

a. Wall signs placed against the exterior walls of buildings shall not extend more than one (1) foot from the wall surface and shall not exceed three hundred (300) square feet in area.

b. Projecting signs fastened to, suspended from or supported by attached structures shall not exceed forty (40) square feet in area on a side.

c. Ground signs shall meet all yard requirements for the district in which they are located and shall not exceed two hundred (200) square feet on a side and shall not exceed twenty-five (25) feet in height above the main road grade.

d. Roof signs shall not exceed ten (10) feet in height above the roof or parapet nor may such a sign extend beyond the building upon which it is located and shall not exceed two hundred (200) square feet in area on a side.

3. Off-premises signs:

a. Signs shall meet all local, state and federal sign regulations and law.

b. Signs which are not within the jurisdiction of the Wisconsin Administrative Code or State Statutes shall meet the same size requirements as on-premises signs in par. (2) of subsection 17.82.

**Sec. 17.83. Special provisions.**

Signs lawfully existing at the time of the adoption or amendments of this chapter may be continued although the use, size or location does not conform with the provisions of this chapter. Such signs shall be deemed nonconforming uses or structures and, therefore, shall be subject to the provisions of subsection 17.13, Nonconforming structures and uses.

**ARTICLE VI. ADMINISTRATION**

**Sec. 17.90. Organization.**

The administration of this ordinance is hereby vested in five (5) offices of the government of the Town of Wausau: town board, zoning administrator, building inspector, planning commission and board of appeals.

**Sec. 17.91. Administration.**

1. Town board: The town board or its designee shall administer and enforce the provisions of this chapter.

2. Powers and duties. In the administration and enforcement of this chapter, the town board or its designee shall have the following powers and duties:

a. Delegate duties and supervise the zoning administrator;

b. Approve all zoning permits; and

c. Upon reasonable cause or question as to proper compliance, to revoke any zoning or conditional use permit and issue cease-and-desist orders requiring the cessation of any building, moving, alteration or use which is in violation of the provisions of this chapter or order restoration and/or after-the-fact compliance

**Sec. 17.92. Zoning Administrator.**

1. The zoning administrator of the Town of Wausau shall be duly appointed by the town board and shall conduct the following duties to enforce this chapter:

- a. Issue zoning permits upon approval of the town board;
- b. Make and maintain records of all permits issued, inspections made, work approved and other official actions;
- c. Advise applicants as to the provisions of this chapter and assist them in preparing permit applications;
- d. Maintain permanent and current records of this chapter, including, but not limited to, all maps, amendments, conditional uses, variances, appeals and applications;
- e. Forward to the planning commission all applications for conditional uses and for amendments to this chapter that are initially filed with the office of the zoning administrator;
- f. Forward to the board of appeals applications for appeals, variances, or other matter on which the board of appeals is required to pass under this chapter
- g. Initiate, direct and review, from time to time, a study of the provisions of this chapter and to make reports of its recommendations to the planning commission not less frequently than once a year;
- h. Issue permits and inspect properties for compliance with this chapter and issue certificates of compliance when appropriate;
- i. Investigate alleged violations and report to the planning commission and town board;
- j. Make on-site investigations required for administration of this chapter, including having access to any structure or premises for the purpose of performing these duties between 8 a.m. and 8 p.m., by permission of the owner or upon issuance of a special inspection warrant in accordance with the laws of the State of Wisconsin;
- k. Attend all of the planning commission and board of appeal meetings.

**Sec. 17.93. Zoning/building permit process.**

1. The zoning administrator shall issue, upon Town Board approval, all zoning permits.
2. Applications for a zoning permit shall be made to the zoning administrator on forms furnished by him/her and shall include the following where applicable:
  - a. Names and addresses of the applicant, agent or owner of the site;
  - b. Subject site, existing and proposed structures;
  - c. Types and location of buildings to be erected on site;
  - d. The zoning district within which the subject site lies;
  - e. Existing and proposed easements, streets and other public ways;
  - f. The location of any wells(s) and/or septic system(s);
  - g. State approved plans;
  - h. Locations of off-street parking;
  - i. The use of any abutting lands and their structures within sixty (60) feet of the subject site;
  - j. A landscaping plan;

- k. Payment of the appropriate fee as prescribed in Section 17.100;
  - l. Additional information if required by the zoning administrator;
  - n. The following additional information is required for a zoning permit for a pond:
    - (1) Names and addresses of the professional engineer, professional hydrologist, professional geologist as required;
    - (2) The use of any abutting lands and their structures within fifty (50) feet of the subject site;
    - (3) Existing and proposed surface water drainage;
    - (4) Proposed grading and revegetation of site after excavation;
    - (5) Approximate total amount of earth material to be excavated;
    - (6) A map showing the depth of the area of the proposed excavation site;
    - (7) Width, depth and size of pond;
    - (8) A timetable for commencement and restoration of the site;
    - (9) A plan for visual screening on the site such as berms, plantings or fencing;
    - (10) A plan for removing materials and identify a legal disposal location for all excavated materials;
    - (11) A landscape plan;
    - (12) Pond inflow and outflow to maintain the normal water surface;
    - (13) Describe habitat that will be planted in the pond;
    - (14) A wetland map showing the delineation of the wetlands approved by the Army Corp of Engineers;
    - (15) Federal, state and county permits when and where required if a non-metallic mining reclamation permit is required.
  - o. Payment of the appropriate fee as prescribed in subsection 17.101; and
  - p. Any additional information if required by the zoning administrator
3. The zoning permit shall be granted or denied in writing within sixty (60) days.
4. The zoning permit expires two (2) years after the date of issuance. A new permit must be issued or an existing permit renewed if the project is not completed.

**Sec. 17.94. Planning Commission.**

- 1. Establishment. The town planning commission is hereby established under the provisions of Wis. Stats. Chapters 62.23 and 60.62(4).
- 2. Membership.
  - a. The planning commission shall consist of five (5) members, appointed by the town board chairman, subject to the

confirmation of the town board.

b. The members of the planning commission shall all reside within the township. Terms shall be for staggered three (3)-year periods beginning May 1.

c. The town chairman will designate the planning commission chairperson.

d. Vacancies shall be filled for an unexpired term in the same manner as appointments for a full term. Each member shall be paid an amount to be determined by the town board for each day he/she attends a meeting of the commission.

### 3. Rules.

a. The planning commission may adopt such rules for its government and procedure.

b. Meetings shall be held at the call of the chairman or at such other times as the planning commission may determine and shall be open to the public.

c. Minutes of the proceedings and a record of all actions shall be kept by the secretary, showing the vote of each member upon each question or, if absent or failing to vote indicating such fact, the reasons for the planning commission's determination and its findings of facts. These records shall be filed in the office of the town clerk and shall be public.

d. The concurring vote of a majority of the planning commission members present and voting shall be necessary to take any action upon which it is required to pass under this chapter or to effect any change to or amendment of this chapter.

### 4. Powers. The planning commission shall be in charge of the following duties under this chapter:

a. Hear all applications for conditional uses and amendments to the official zoning and/or this chapter may make recommendations to the town board in the manner prescribed in this chapter regarding the same;

b. To hear and decide all matters upon which it is required to pass under this chapter;

c. Carry out Wis. Stats. Chapter 62.23(2) regarding the making and maintaining of a master plan for the physical development of the town;

d. Make its recommendations and conduct its administration of this chapter in accordance with the town plan and with such of the other plans as the commission shall endorse; and

e. Review and approve other matters regarding zoning as provided for in this chapter.

### **Sec. 17.95. Zone change or amendment.**

1. Authority. The regulations imposed and the zoning districts created under authority of this chapter may be amended from time to time by ordinance in accordance with Wis. Stats. Chapter 62.23(7). An amendment shall be granted or denied by the town board only after a public hearing before the planning commission and a report of its findings and recommendations has been submitted to the town board.

2. Initiation. A petition for amendment may be made by the town board, the planning commission or, if the proposed amendment has the effect of changing the zoning district of a particular property, any person, firm or corporation having a legal or equitable interest in the subject property.

3. Application. The application for any change to the district boundaries or amendments to the regulations shall be filed with the zoning administrator. The application shall describe the premises to be rezoned or the regulations to be amended, list the reasons justifying the petition, specify the proposed use and have attached the following:

a. Plot plan drawn to a scale of not less than one (1) inch equals two hundred (200) feet the area proposed to be



rezoned, its location, dimensions, the location and classification of adjacent zoning districts and the location and existing use of all properties within three hundred (300) feet of the area proposed to be rezoned;

b. Names and addresses of all landowners whose property is within three hundred (300) feet of the area for which rezoning is proposed; and

c. Additional information as may be required by the planning commission or town board.

4. Referral and Recommendations. The zoning administrator shall review the petition for amendment for completeness, conferring with the petitioner as necessary. When the petition appears complete, the administrator shall place it upon the planning commission agenda.

5. Hearings. The planning commission shall hold a public hearing upon each proposed change or amendment and the town clerk shall give notice of the time and place of such hearing by:

a. Publication of a Class 2 notice, under Wis. Stats. Chapter 985;

b. Mailed notice to the owners of record of all lands lying within one hundred (100) feet of any part of the land involved and any affected municipality under Wis. Stats. Chapter 62.23(7)(d); and

c. Such mailed notice shall be postmarked at least ten (10) days prior to the date of hearing. The failure of such notice to reach any property owner, provided such failure be unintentional, shall not invalidate any amending ordinance or other action taken upon the matter noticed.

6. Finding of fact and recommendation of the planning commission. Within thirty (30) days after the close of the hearing on a proposed amendment, the planning commission shall make written findings of fact and shall submit same together with its recommendations to the town board. Where the purpose and effect of the proposed amendment is to change the zoning classification of a particular property, the planning commission shall make findings based upon the evidence presented to it in each specific case with respect to the following matters:

a. Existing use of property within the general area of the property in question;

b. The zoning classification of property within the general area of the property in question;

c. The suitability of the property in question to the uses permitted under the existing zoning classification;

d. The trend of development, if any, in the general area of the property in question including changes, if any, which have taken place since the property in question was placed in its present zoning classification;

e. Consistency with the Town of Wausau Comprehensive Plan Map;

f. The planning commission shall not recommend the adoption of a proposed amendment unless it finds that the adoption of such amendment is in the public interests of the applicant and not solely for the benefit of the applicant. The planning commission may recommend the adoption of an amendment changing the zoning classification of the property in question to any higher classification than that requested by the applicant. For the purpose of this paragraph, the R-1/20 district shall be considered the highest classification and the CM commercial/light manufacturing district shall be considered the lowest classification.

7. Town board action. The town board may grant or deny any application for an amendment, provided, however, that, in the event of a written protest against any proposed amendment, signed or acknowledged by the owners of twenty percent (20%) or more either of the areas of land included in such proposed amendment, or by the owners of twenty percent (20%) or more of the area of the land immediately adjacent extending one hundred (100) feet there from, or by the owners of twenty percent (20%) or more of the area of the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land, such amendment shall not be granted except by a favorable vote of a three-fourths (3/4) majority of the town board.

8. Effective date of amendment and ordinance. Approval of the Marathon County Board of Supervisors pursuant to Wis. Stats. Chapter 60.62(3) is required for any amendment to become effective.

**Sec. 17.96. Conditional use.**

1. Application for conditional use. An application for a conditional use shall be filed with the zoning administrator. The application shall include a plot plan showing the area involved its location, dimensions and location of adjacent structures within three hundred (300) feet of the property on which the proposed use will occur, a statement in writing by the applicant providing that the proposed conditional use will conform to the standards set forth in this chapter, names and addresses of all landowners whose property is within three hundred (300) feet of the subject property and any additional information as may be required by the planning commission or town board. Such application shall be forwarded from the zoning administrator to the planning commission with a request for a public hearing.

2. Hearing on application. Upon receipt in proper form of the application the planning commission shall hold at least one (1) public hearing on the proposed conditional use. The planning commission shall give notice of the time and place of such hearing by publication of a Class 2 notice, under Wis. Stats. ch. 985.

3. Authorization. For each application for a conditional use, the planning commission shall report to the town board its findings and recommendations, including the stipulations of additional conditions and guarantees that such conditions will be complied with when they are deemed necessary for the protection of the public interest. If an application for a proposed conditional use is not acted upon finally by the town board within ninety (90) days of the date upon which such application is received by the town board, it shall be deemed to have been denied unless such time has been extended by mutual agreement.

4. Standards. No conditional use shall be recommended by the Planning Commission unless such Commission shall find:

- a. That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare;

- b. That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted nor substantially diminish and impair property values within the neighborhood;

- c. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;

- d. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets; and

- e. That the conditional use shall conform, in all other respects, to the applicable regulations of the district in which it is located, except as such regulations may be modified, in each instance, by the town board pursuant to the recommendation of the planning commission.

5. Conditions and guarantees. The town board shall stipulate such conditions and restrictions upon the establishment, location, construction, maintenance, sureties, deed restriction and operation of the conditional use as is deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements specified above. In all cases in which conditional uses are granted, the town board shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with.

6. Effect of denial of application. No application for a conditional use which has been denied wholly or in part shall be resubmitted for a period of one (1) year from the date of said denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the town board.

7. Conditional use abandoned. In any case where a conditional use has not been established within one (1) year after the date of granting thereof, then, without further action by the planning commission or the town board, the conditional use or authorization shall be null and void.

## **Sec. 17.97. Board of Appeals.**

1. Establishment. There is hereby established under this chapter a board of appeals as authorized under Wis Stats. Chapter 62.23 for the purpose of hearing certain appeals and applications and reviewing requests for variances.

2. Membership.

a. The board of appeals shall consist of five (5) members appointed by the town board chairperson, subject to the confirmation of the town board. The town board chairperson also shall appoint two (2) alternate members for a term of three (3) years each. Annually, the town chairperson shall designate one of the alternate members as first alternate and the other as second alternate. The first alternate shall act with full power only when a member of the board refused to vote because of interest or when a member is absent. The second alternate shall so act only when the first alternate so refuses or is absent or when more than one member of the board refuses or is absent.

b. The members of the board of appeals shall all reside within the township. Terms shall be for staggered three (3)-year periods beginning May 1.

c. The town chairperson will designate the board of appeals chairperson.

d. Vacancies shall be filled for an unexpired term in the same manner as appointments for a full term. Each member shall be paid an amount to be determined by the town board for each day he/she attends a meeting of the board.

3. Rules.

a. The board of appeals may adopt such rules for its government and procedure.

b. Meetings shall be held at the call of the chairperson or at such other times as the board of appeals may determine and shall be open to the public.

c. Minutes of the proceedings and a record of all actions shall be kept by the secretary, showing the vote of each member upon each question or, if absent or failing to vote indicating such fact, the reasons for the board of appeal's determination and its findings of facts. These records shall be filed in the office of such board and shall be public.

d. A concurring vote of a majority of the board shall be necessary to reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant or appellant on any matter upon which it is required to pass under this chapter.

e. The chairperson may administer oaths and compel the attendance of witnesses.

f. All decision and findings of the board of appeals on appeal or upon application for a variance after a hearing shall be final administrative decisions, in all instances, and shall be subject to judicial review as provided by law.

4. Powers.

a. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the zoning administrator in the enforcement or administration of this chapter. The board of appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decisions or determination appealed from 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 zoning administrator from whom the appeal is taken.

b. To hear and pass upon the applications for variances from the terms provided in this chapter in the manner prescribed by and subject to the standards established herein.

c. To hear and review applications for substitution of nonconforming uses, provided no structural alterations are to be made. Whenever the board of appeals permits such a substitution, the use thereafter may not be changed without a

new application.

d. To hear and decide all matters referred to it or upon which it is required to pass under this chapter, as prescribed by Wis. Stats. Chapter 62.23.

**Sec. 17.98. Variances.**

1. Purpose. The board of appeals after a public hearing may authorize, in specific cases, such variance from the dimensional standards of this chapter as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions herein will result in unnecessary hardship and so that the spirit and intent of this chapter shall be observed and substantial justice done.
2. Application for variance and notice of hearing. An application for a variance shall be filed with the zoning administrator. The application shall contain such information as the board of appeals, by rule, may require.
3. Standards for variances. The board of appeals shall not vary the regulations of this ordinance unless it shall make findings based upon the evidence presented to it in each specific case that:
  - a. Because of the particular physical surrounding, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience if the strict letter of the regulations were to be carried out;
  - b. The conditions upon which a petition for a variance is based are unique to the property for which the variance is sought and are not applicable, generally, to other property within the same zoning classification;
  - c. The purpose of the variance is not based exclusively upon the basis of economic gain or loss;
  - d. The alleged unnecessary hardship is caused by this chapter and is not for a self-created hardship (whether created by the present owner or the prior owner);
  - e. The granting of the variance is not detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located;
  - f. The proposed variance will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion of the public streets or increase the danger of fire or endanger the public safety or substantially diminish or impair property values with the neighborhood;
  - g. The proposed variance does not permit standards lower than those required by local, state or federal law.
4. Hearing notice. The board of appeals shall fix a reasonable time and place for the hearing of the appeal or application, give public notice thereof by Class I notice and shall give due notice to the parties in interest, the officer from whom the appeal is taken and the town board. At the hearing, the appellant or applicant may appear in person, by agent or by attorney.
5. Decision
  - a. The board of appeals shall decide all appeals and applications within thirty (30) days after the final hearing and shall transmit a copy of the board's decision.
  - b. All decisions and findings shall be final administrative decisions and shall be subject to judicial review as provided by law.

**Sec. 17.99. Ordinance zoning change-Zastrow property.**

The Town of Wausau obtained approval by the Marathon County Board of Supervisors to change the R zoning of 42.5+ acres of property owned by Virginia Zastrow to zoning R1/20. The Town Clerk made the necessary alterations upon the

official zoning map of the town to reflect the changes authorized by this ordinance. The property is located at: Part of N1/2 of NE1/4-Sec. 30 and part of the SW1/4 of the SE1/4 Sec. 19 all in T29N, RBE Town of Wausau, Marathon County WI. Said order is on file with the Town Clerk.

**Sec. 17.100. Fees, violations and penalties.**

1. Issuance. Permit fees shall be set and amended from time to time by the town board. A list of permit fees shall be kept on file with the town clerk. All fees shall be paid to the town treasurer. A double permit fee will be charged for all after-the-fact permit applications to partially recover the cost of obtaining compliance.

2. Violations. No person shall construct or use any structure, land or premises in violation of any of the provisions of this chapter. The town board may institute appropriate action or proceeding to enjoin a violation of this chapter. Every structure, fill or development placed or maintained in violation of this chapter is a public nuisance and the creation thereof may be enjoined and maintenance thereof may be abated by an action instituted by the town.

3. Penalties. Any person who fails to comply with the provisions of this chapter or any order of the town board or its designee issued in accordance with this chapter or resists enforcement, upon conviction thereof, shall be subject to a forfeit not less than Ten and 00/100 Dollars (\$10.00) nor more than Two Hundred and 00/100 Dollars (\$200.00) and costs of prosecution for each violation and, in default of payment of such forfeiture and costs, shall be imprisoned in the county jail until payment thereof but not exceeding thirty (30) days. Each day a violation exists or continues shall constitute a separate offense.

## **Chapter 18**

### **Land Division**

#### **ARTICLE I. GENERAL**

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- Sec. 18.21. Dedications.
- Sec. 18.22. Parcel Combinations.

## **ARTICLE I. GENERAL**

### **Sec. 18.01. Statutory authority.**

The provisions of this chapter are adopted by the Town of Wausau pursuant to the authority granted by Wisconsin Statutes including but not limited to Wis. Stats. ch. 236 and by the town's adoption of village powers under Section 60.10. (Amended 2/16/2017)

### **Sec. 18.02. Title.**

This chapter shall be known as the Town of Wausau Land Division Ordinance.

### **Sec. 18.03. Purpose**

1. The purpose of this chapter is to control the division of land and to promote public health, safety and general welfare per Wis. Stats. §236.01. The regulations are intended to encourage the most appropriate use of land, to provide the best possible environment for human habitation and to conserve the value of buildings placed upon the land by:

- a. Furthering the orderly layout and use of land.
- b. Securing safety from fire, flooding and other dangers.
- c. Providing adequate light and air.
- d. Preventing overcrowding of land.
- e. Facilitating adequate provision for transportation, water, sewage, schools, parks, playgrounds, other public requirements, and the utilization of alternative energy sources.
- f. Conserving valuable natural resources such as floodplain areas, wetlands, and prime agricultural land.
- g. Facilitating further re-subdivision of large tracts into smaller parcels of land.
- h. Providing uniform and accurate maps and boundary descriptions of parcels of land.

### **Sec. 18.04. Administration, enforcement, fees, variances and appeals.**

The following offices of the government of the Town of Wausau shall be responsible for the administration and enforcement of this chapter:

1. Town board. The town board is vested with all the following responsibilities in regard to subdivision control:
  - a. Approval or disapproval of all final plats.
  - b. Approval or disapproval of all modifications recommended by the planning commission.
  - c. Amend the regulations of this chapter when found necessary and desirable.
  - d. Institute appropriate proceedings to enforce the provisions of this chapter.
2. Planning commission and zoning administrator. The zoning administrator along with the planning commission shall administer the provisions of this chapter and, in addition thereto and in furtherance of that authority, shall:
  - a. Maintain permanent and current records of this chapter including amendments.

- b. Receive and file all preliminary and final plats, together with applications.
  - c. Receive and file all final plats and check their compliance with the preliminary plat.
  - d. Make all other determinations required by the regulations in this chapter.
  - e. Review all preliminary subdivision plats and make determinations in the areas of design standards and forward its determinations and recommendations to the town board.
  - f. Forward all final plats and recommendations to the town board.
3. Fees. Application fees are subject to change. The subdivider shall pay the fees specified at the time of formal submission of application.
4. Violations. No person shall build upon, divide, convey, record or monument any land in violation of this chapter or the Wisconsin Statutes. No permit shall be issued authorizing the building on or improvement of any subdivision, replat or condominium plat within the jurisdiction of this chapter and not of record as of the effective date of this chapter, until the provisions and requirements of this chapter have been fully met. The Town of Wausau may institute appropriate action or proceedings to enjoin violations of this chapter or the applicable Wisconsin Statutes.
5. Penalties. Any person failing to comply with the provision of this chapter shall be subject to a penalty as provided by the Town of Wausau Zoning Ordinance.
- a. A separate offense and violation shall be deemed committed on each day on which a violation occurs or continues.
  - b. The town shall withhold permit(s) pursuant to this chapter where the applicant, owner or licensed contractor is in violation of this and any ordinance administered by the Town and for any parcel(s) of land which has an outstanding violation(s) until the violation(s) has been corrected.
  - c. The following shall be subject to the State Statute noted:
    - (1) Recordation improperly made shall be subject to the provision of Wis. Stats. Chapter 70.27.
    - (2) Conveyance of lots in unrecorded plats shall be subject to the provision of Wis. Stats. Chapter 236.31.
    - (3) Monuments disturbed or not placed shall be subject to the provisions of Wis. Stats. Chapter 236.32.
    - (4) Assessor's plat may be ordered by the Town of Wausau when a subdivision is increased by successive divisions as provided in Wis. Stats. Chapter 236.31(20).
6. Hardships. Where because of unique conditions it is inappropriate to apply literally the provisions of the land division ordinances and where such literal applications would impose undue hardship, the town in its exclusive judgment may vary the requirements of this chapter so that substantial justice may be done and the public interest secured, provided that such variation or exception shall not have the effect of nullifying the intent and purpose of this chapter. The town may attach conditions to the granting of such modifications to assure that the purpose and intent of the ordinance are observed and that compliance with any other applicable laws is achieved.
7. Appeals. Any person aggrieved by an objection to a plat or failure to approve a plat may appeal there from to the courts as provided in Wis. Stats. Chapters 236.13 (5) and 62.23(7).
8. Abrogation and greater restrictions. It is not intended by this chapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations or permits previously adopted or issued pursuant to law. However, wherever this chapter imposes greater restrictions, the provisions of this chapter shall govern. In their interpretation and application, the provisions of this chapter shall be



liberally construed in favor of the Town of Wausau and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

9. Interpretations:

a. In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare.

b. Where the conditions imposed by any provisions of this chapter upon the subdivision of land are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this chapter or of any other applicable law, ordinance resolution, rule or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern.

10. Vacations and replats. Replats of all or part of a recorded land division shall occur pursuant to Wis. Stats. Chapters 236.36 through 236.45.

11. Waiver of liability:

a. In carrying out any of the provisions of this chapter or in exercising any power or authority granted to them thereby, there shall be no personal liability upon the town, its agents and employees.

b. In such matters, it is understood that the town officers, its agents and employees act as agents and representatives of the town.

c. Since there can be considerable variation in the ability of soil to absorb sewage effluent on the individual lots approved pursuant to this chapter, attention is directed to the necessity of conducting individual lot soil tests by a certified soil tester as specified in Wis. Admin. Code COMM 83. There shall be no personal liability upon the town, its agents and employees where, as the result of individual lot soil tests, a state approved private sewage system other than the type expected must be used.

12. Severability. Should any section, clause, provision or portion of this chapter be adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

**Sec. 18.05. Definitions.**

1. Administrator. The Town of Wausau zoning administrator.

2. Block. A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways or municipal boundary lines of the Town of Wausau.

3. Building. A structure built, used, designed or intended for the support, shelter, protection or enclosure of persons, animals, chattels or property of any kind and which is permanently affixed to the land. When a building is divided into separate parts by unpierced fire or party walls extending continuously from the ground through all stories to and above the roof, each part shall be deemed a separate building.

4. Building setback line. A line within a lot of other parcel of land so designated on the preliminary plat, between which line and the adjacent boundary of the street upon which the lot abuts, the erection of a building is prohibited as prescribed by the Town of Wausau Zoning Ordinance.

5. Certified survey map(CSM). As defined in Wis. Stats. Chapters 236.34.

6. Commission. The Town of Wausau planning commission authorized by Wis. Stats. Chapters 60.62(4).

7. Condominium. Property subject to a condominium declaration established under Wis. Stats. ch.703.

8. County. Reference to county shall mean Marathon County and shall include any agency, department or committee thereof.
9. Cul-de-sac. A local street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic.
10. Easement. Is a grant by a property owner for the use of land for a specific purpose.
11. Final plat. The map or plan of record of a subdivision and any accompanying material and containing the requirements set forth in Wis. Stats. § 236.20.
12. Frontage. The distance between the side lot lines of a lot measured along the lot boundary abutting the road right-of-way designated to provide access to the lot or parcel.
13. Grade. The average level of the finished surface of the ground adjacent to the exterior walls of the building or structure and/or the slope of a road, street or other public way specified in percent (%).
14. Improvement, public. Any sanitary sewer, storm sewer, drainage ditch, water main, roadway, parkway, sidewalk, pedestrian way, planting strip, off-street parking area or other facility for which the Town of Wausau may ultimately assume the responsibility for maintenance and operation.
15. Limited access expressway or highway. A traffic way for through traffic, in respect to which owners or occupants of abutting property or lands and other persons have no legal right of access to or from the same, except only at such points only and in such manner as may be determined by the public authority having jurisdiction over such traffic way.
16. Lot. A parcel of land which is either a lot of record or a zoning lot or a portion of a subdivision or other parcel of land intended for transfer of ownership or for building development.
17. Lot Corner. A lot situated at the intersection of two (2) streets, the interior angle of such intersection not exceeding one hundred thirty-five degrees (135°).
18. Lot, through. A lot which has frontage along two (2), more or less parallel public streets and which is not a corner lot. On a "through lot," both street frontage lines shall be deemed front lot lines.
19. Outlot. A parcel of land other than a lot or block so designated on a plat.
20. Owner. Any person, groups of persons, firm, corporation or any other legal entity having legal title to the land sought to be subdivided under these ordinances.
21. Preliminary plat. A map showing the salient features of a proposed subdivision submitted to the commission for purposes of preliminary consideration.
22. Right-of-way. Right-of-way is a strip of land occupied or intended to be occupied by a street, walkway, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main or for another special use. The usage of the term "right-of-way" for land established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Rights-of-way intended for streets, walkway, water mains, sanitary sewers, storm drains or any other use involving maintenance by a public agency shall be dedicated to public use by the divider of the plat on which such right-of-way is established.
23. Roadway. Paved portion of the street available for vehicular traffic.
24. Service Drive. A public street, generally paralleling and contiguous to a main traveled way, primarily designed to promote safety by eliminating unregulated ingress and egress to the right-of-way and providing safe and orderly points of access at fairly uniformly spaced intervals.

25. Sewage disposal system, private, a/k/a private on-site waste treatment system. A septic tank seepage tile sewage disposal system or any other sewage treatment device approved by the town board or planning commission as being in accordance with the rules of the State Board of Health and servicing only one lot.
26. Sidewalk. That portion of a street or walkway, paved or otherwise surfaced intended for pedestrian use only.
27. Street. A public or private right-of-way which affords a primary means of vehicular access to abutting properties, whether designated as a street, avenue, highway, road, boulevard, land, throughway or however otherwise designated but excepting driveways to buildings.
28. Street, collector. A street which carries traffic from minor streets to the system of major arterials and highways, including the principal entrance streets of a residential development and the principal circulating streets within such a development.
29. Street, marginal access, a/k/a frontage road. A minor street which parallels and is adjacent to a major arterial or highway and which provides access to abutting properties and protection from through traffic.
30. Street, minor. A street of limited continuity used primarily for access to abutting properties and local needs of a neighborhood.
31. Street, through. A street which begins and ends on another public street.
32. Subdivider. Any person, corporation or authorized agent who undertakes the subdivision of land as defined in this section.
33. Subdivision. The division of a lot or parcel of land for the purpose of transfer of ownership or building development.
34. Subdivision, minor (certified survey map). A land division creating one (1) but not more than four (4) parcels or lots which are ten (10) acres or less in size or the division of a lot or outlot within a recorded subdivision into not more than four (4) parcels of lots without changing the original exterior boundaries of the lot or outlot within any five (5)-year period.
35. Subdivision, county. A land division creating five (5) or more parcels or lots which are between one and one-half (1½) acres to ten (10) acres in size and may include no more than four (4) parcels of one and one-half (1½) acres or less within any five (5)-year period.
36. Subdivision, state. A land division creating five (5) or more parcels or lots of one and one-half (1½) acres or less in an area or where five (5) or more parcels of lots of one and one-half (1½) acres or less in area are created by successive divisions within a period of five (5) years.
37. Subdivision design standards. The basic land planning standards established as guides for the preparation of preliminary plats and certified survey maps.
38. Thoroughfare. A street with a high degree of continuity, including collectors, and major arterials.
39. Town. Reference to town shall mean the Town of Wausau including the town board, town clerk, planning commission or any other designee.
40. Walkway. A walkway or crosswalk is a right-of-way within a block, dedicated to public use and intended primarily for pedestrians but which may include utilities where necessary.
41. Water supply, individual. A well and appurtenances usually supplying only one (1) lot and subject to the approval of the town board or town planning commission.
42. Zoning ordinances. The Town of Wausau Zoning Ordinance, as amended, adopted and approved by the town board.

**Sec. 18.06. Geographic jurisdiction.**

This chapter shall not repeal, impair or modify private covenants or other ordinances, except that it shall apply whenever it imposes stricter regulations.

**Sec. 18.07. Land division governed by this chapter.**

1. This chapter shall apply to:

a. The act of division of a lot, parcel or tract which existed on the effective date of this chapter by the owner thereof or his agent for the purpose of recording where the act of division creates one or more new lots, parcels or tracts.

b. Certified survey maps prepared for the purpose of monumenting existing parcels that are metes and bounds or rectangular descriptions.

2. This ordinance shall not apply to the following per Wis. Stats. § 236.45(2).

a. Transfers of interest in land by will or pursuant to court order.

b. Leases for a term not to exceed ten (10) years, mortgages or easements.

c. The sale or exchange of parcels of land between owners of adjoining property if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes required by this chapter or other applicable laws and ordinances, except a certified survey map must be approved and recorded for such exchanges for the purpose of verifying that additional lots are not thereby created and the lots resulting there from are not reduced below the minimum sizes required by law.

d. Assessor's plats made under Wis. Stats. Chapter 70.27.

e. Transfers of parcels which are larger than ten (10) acres excluding any right-of-way or easement of twenty (20) feet or wider.

**Sec. 18.08. Classification of land divisions.**

Any contiguous parcel or tract which is owned, controlled or managed as a single entity shall be treated as a single parcel or tract for the purpose of this chapter unless it is bisected by an existing dedicated street or by navigable water. The zoning administrator shall determine whether the proposed land division satisfies the above definition and this determination shall be subject to review by the commission. Land division is classified under this chapter as either:

a. Subdivision, minor (certified survey map). A land division creating one (1) but not more than four (4) parcels or lots which are ten (10) acres or less in size or the division of a lot or outlot within a recorded subdivision into not more than four (4) parcels of lots without changing the original exterior boundaries of the lot or outlot within any five (5)-year period.

b. Subdivision, county. A land division creating five (5) or more parcels or lots which are between one and one-half (1½) acres to ten (10) acres in size and may include no more than four (4) parcels of one and one-half (1½) acres or less within any five (5)-year period.

c. Subdivision, state. A land division creating five (5) or more parcels or lots of one and one-half (1½) acres or less in an area or where five (5) or more parcels of lots of one and one-half (1½) acres or less in area are created by successive divisions within a period of five (5) years.

**ARTICLE II. PROCEDURES FOR APPLICATION AND REVIEW OF LAND DIVISIONS**

**Sec. 18.09. Pre-application consultation.**

Whenever any person, firm or corporation proposes to divide any land located in the town, the subdivider shall first contact the Town of Wausau zoning administrator. At that time, the applicant should inform the administrator of the location and nature of the project which will be proposed. Based upon this information, the administrator shall explain to the applicant:

- a. Whether the proposal will require planning commission review;
- b. Which standards of this chapter and if Wis. Stats. ch. 236 will apply to the land division;
- c. The procedure to follow for a land division to occur in the town;
- d. That a town land division application must be filed with the zoning administrator and the number of copies needed will be determined by the town clerk; and
- e. That building permits will not be issued until the project is approved.

**Sec. 18.10. Review of minor (CSM) subdivisions.**

1. All land divisions shall be created by use of a certified survey map (CSM) and a town land division application must be completed. Such map and application shall be submitted to the administrator.
2. The administrator shall present the land division request to the planning commission and town for review.
3. The planning commission shall conduct a meeting to review the proposed application and certified survey map. Within fifteen (15) days of the public meeting the planning commission shall issue a written recommendation to the town board recommending approval, conditional approval or rejection of the project.
4. The town board shall review the planning commission's recommendation at the next town board meeting. The town board shall issue a decision within ninety (90) days of the date the land division application was received by the zoning administrator, unless the time is extended by agreement with the subdivider.
5. The following information is needed when submitting a CSM application:
  - a. Name of the proposed subdivision on each sheet;
  - b. Name of the proposed streets, which shall not duplicate or be similar in pronunciation or spelling to the names in any plat recorded in the town;
  - c. Legal description of the proposed land division and total area in acres or square feet to be divided;
  - d. Ordinary high water mark or, where established, an OHW elevation based on USGS datum and boundaries of wetlands within or contiguous to the subdivision from the most recent DNR Wetlands Inventory Maps or as staked in the field by a wetland delineator as approved by the state;
  - e. Any existing or proposed lake or stream access;
  - f. The regional floodplain boundary and the contour which is two (2) feet above floodplain using mean sea level datum;
  - g. Location of right-of-way width and names of all existing and proposed streets;
  - h. Dimensions of all lots, together with proposed lot and block numbers;
  - i. Location and dimensions of any sites to be reserved or dedicated for parks, playgrounds, drainage ways or other public use or which are to be used for group housing, shopping centers, church sites or other nonpublic uses not requiring lotting;

j. The surveyor preparing the preliminary plat shall certify on the face of the plat that it is a correct representation of the features and that he/she has fully complied with this chapter;

k. Scale of one inch (1") = one hundred feet (100') - an alternate scale may be used with prior written approval from the Town of Wausau zoning administrator;

l. North arrow and the preparation date on each sheet; and

6. Key map including the area within a one (1)-mile radius of the CSM.

**Sec. 18.11. Review of proposed subdivision plats.**

1. Pre-Preliminary Plat Consultation. Where it is desired to create a subdivision plat, it is necessary that the subdivider meet with the zoning administrator to review the proposed subdivision. It is also recommended that the following information be prepared for the consultation:

- a. A sketch of reasonable scale and accuracy showing the boundaries of the property being considered for division;
- b. The proposed general layout;
- c. A description of all contiguous lands owned by the divider;
- d. Existing and proposed zoning for the subdivision;
- e. Review of the Town of Wausau Master Plan; and
- f. A meeting date will be determined upon submittal of a completed application.

2. Preliminary Plat Submittal Requirements. A preliminary plat conforming to Wis. Stats. ch. 236.11 shall be prepared for the planning commission and town meeting. Material and information to be submitted shall include the following:

a. The plat shall be in conformity with the surveying and layout requirements of Wis. Stats. §§236.15 and 236.16 as well as the Marathon County Land Division Ordinance Section 18.12 for county subdivisions. The plat shall show correctly on its face the following information:

(1) A legal description of the proposed land division and total area in acres or square feet to be divided;

(2) Ordinary high water mark or, where established, an OHW elevation based on USGS datum and boundaries of wetlands within or contiguous to the subdivision from the most recent DNR Wetlands Inventory Maps or as staked in the field by a wetland delineator as approved by the state;

(3) Any existing or proposed lake or stream access;

(4) The regional floodplain boundary and the contour which is two (2) feet above floodplain using mean sea level datum;

(5) Location of right-of-way width and names of all existing and proposed streets;

(6) Dimensions of all lots, together with proposed lot and block numbers;

(7) Location and dimensions of any sites to be reserved or dedicated for parks, playgrounds, drainage ways or other public use or which are to be used for group housing, shopping centers, church sites or other nonpublic uses not requiring lotting; and

(8) The surveyor preparing the preliminary plat shall certify on the face of the plat that it is a correct representation of the features and that he/she has fully complied with this chapter.

3. Preliminary Plat Approval Process:

a. The application must be submitted to the town zoning administrator.

b. A meeting date will be determined upon submittal of a complete application.

c. The planning commission shall conduct a meeting to review the plat for conformance with this chapter, the adopted Town of Wausau Land Use Plan and all other ordinances, rules and regulations that affect the plat. Within fifteen (15) days of the public meeting, the planning commission shall issue a written recommendation to the town board recommending approval, conditional approval or rejection of the preliminary plat.

d. The town board shall take action to approve, approve conditionally or reject the preliminary plat at the next town board meeting. The town board shall issue a decision within ninety (90) days of the date a complete preliminary plat application is filed with the zoning administrator unless the time is extended by agreement with the subdivider.

e. Approval or conditional approval of a preliminary plat by the town board does not constitute automatic approval of the final plat.

f. Should the subdivider desire to amend the preliminary plat as approved, he/she shall resubmit the amended plat which shall follow the same procedure, except for the hearing and the fee, unless the amendment is, in the opinion of the Town Board of such scope as to constitute a new plat, in which such case it shall be refiled.

4. Final plat:

a. The subdivider shall prepare a final plat prepared by a land surveyor registered in Wisconsin and in accordance with Wis. Stats. Chapter 236. He/she shall file the appropriate number of copies of the final plat with applicable State agencies and Marathon County.

b. The final plat shall show correctly on its face, in addition to the information required by Wis. Stats. Chapter 236.20, all lands reserved for future public acquisition or reserved for the common use of property owners within the plat.

c. The town board shall issue a written decision within sixty (60) days of the final plat submittal, unless the time is extended by agreement with the subdivider, stating the conditions of approval or the reasons for rejection of the final plat.

5. Partial Platting. The final plat may constitute only that portion of the approved preliminary plat which the subdivider proposes to record at the time. Approval of a final plat for only a portion of the preliminary plat shall extend approval for the remaining portion of the preliminary plat for twelve (12) months from the date of such final plat approval unless extended by the town board.

6. Deed restrictions, protective covenants, conservation easements and homeowner's association. The following documents shall be submitted with the preliminary plat as required:

a. Declaration of deed restrictions and protective covenants. A draft of declaration of deed restrictions and protection covenants whereby the subdivider intends to regulate land use in the proposed subdivision and otherwise protect the proposed development.

**Sec. 18.12. Required improvements.**

1. The subdivider shall install street and utility improvements and other improvements indicated on the plat. These improvements must be made in accordance with the design standards described within this land division chapter subsection 18.15-18.22. If such improvements are not installed as required at the time the final plat is submitted for approval, the subdivider, before the recording of the plat, shall enter into a contract with the Town of Wausau agreeing to install the required improvements. The subdivider shall file with said contract a financial surety meeting with the approval of the town board.

2. Financial sureties. Financial sureties furnished to the Town of Wausau by subdividers to ensure performance of obligations and guaranteed under the terms of this chapter shall only be in a form which the town board deems secure and may include certified checks, corporate bonds, escrow accounts and irrevocable letter of credit in a form approved by the town board or performance bonds.

3. Determination of financial surety amount. The amount of financial surety shall be one hundred twenty-five percent (125%) of the estimated full amount of the obligation being ensured (including the costs of inspection) as estimated by an engineer or other agent appointed by the Town of Wausau, not for less than a period than the work is scheduled to be completed; however, the town board shall allow reductions in the amount of the financial surety in proportion to the amounts of the obligations as they are fulfilled.

4. Criteria for determining subdivider's delinquency. The town board shall give notice by registered mail to the subdivider of such delinquency in the following cases:

a. Fails to perform the work with sufficient workers and equipment or with sufficient materials to ensure the completion of said work within the specified time; or

b. Performs the work unsuitable, as determined by the town board; or

c. Neglects or refuses to supply materials or to perform anew such work as shall be rejected as defective and unsuitable; or

d. Discontinues the execution of work; or

e. For any other cause whatsoever does not carry on the work in an approved manner.

5. Guarantee of improvements. The town board shall call upon the performance guarantee to ensure that the work is completed.

a. The subdivider shall guarantee all improvements for a period of one (1) year from the date of the acceptance of improvements by the town board. The acceptance of improvements will formally be accepted and noted in the town board minutes.

b. To assure such improvement guaranteed, the subdivider shall provide any amount of financial surety not to exceed fifteen percent (15%) of the construction value of said improvements.

6. Development agreement. When deemed necessary the town board and the subdivider may enter into a development agreement that sets forth the mutual obligations of the town and the subdivider with respect to the actions required to be taken in connection with the certified survey map or planned subdivision.

7. Commencement of improvements and construction:

a. No construction or installation of improvements shall commence in a proposed subdivision until the final plat has been approved by the town.

b. Before recording the final plat with the county register of deeds, the applicant shall enter into a contract or other arrangement agreeable with the Town of Wausau agreeing to install all required public improvements and shall file with such contract a surety bond or other satisfactory security meeting the approval of the Town of Wausau board as a guarantee that such improvements will be completed by the subdivider or his subcontractors within the time limit established by the town.



### **ARTICLE III. SUITABILITY STANDARDS**

#### **Sec. 18.13. General**

1. No land shall be divided which is determined by the Town of Wausau planning commission to be unsuitable for its proposed use for reasons of flooding, inadequate drainage, adverse soil or rock formation, severe erosion potential, unfavorable topography, inadequate water supply or sewage capabilities or any other features or circumstances likely to result in the imposition of unreasonable costs or to be harmful to the health, safety or general welfare of the future residents of the land division or the town.
2. The town board shall consider, in its approval, approval on condition or disapproval of a land division application, the following as a result of the subdivision development:
  - a. The likely destruction or lack of preservation of natural feature of public interest;
  - b. The possible flooding problems;
  - c. The possible drainage problems;
  - d. The possible erosion problems; and
  - e. The possible groundwater pollution problem.

#### **Sec. 18.14. Zoning.**

1. Division of lands under this chapter shall be in conformance with the provisions of the Town of Wausau Zoning Code.
2. No permanent easement twenty (20) feet wide or wider shall be recorded which reduces the lot size below the minimum required by the Town of Wausau zoning district in which the lot is located.
3. Signage must conform with the Town of Wausau zoning ordinance.

### **ARTICLE IV. DESIGN STANDARDS**

#### **Sec. 18.15. General.**

Subdivision design standards shall apply to all divisions of land regulated by this ordinance. Land division layouts shall be planned in proper relation to existing and proposed land divisions and streets, topography, surface water, vegetative cover and other natural features. Land divisions shall conform to any county development plan, local master plan or element thereof applicable to the lands included.

#### **Sec. 18.16. Surface drainage and erosion control.**

1. Land division shall be designed so as to minimize soil erosion and to provide reasonable management of surface water drainage:
  - a. The town may require engineering studies of erosion potentials and may impose preventive design requirements.
  - b. The town may require documentation of surface water drainage patterns and may impose design requirements to assure the flows are transported and disposed of without causing undue erosion and siltation of surface waters, undue runoff onto adjoining lands or streets or other rights-of-way or excessive infiltration into locations of on-site waste water disposal facilities at the developer's expense.
2. Storm water easement and drainage right-of-way. Where a subdivision is traversed by a water course, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of such water course and of such width or construction or both as will be adequate for drainage purposes.

Wherever, possible, it is desirable that the drainage be maintained by an open channel with natural or landscaped banks and adequate width for maximum potential volume of flow.

**Sec. 18.17. Public streets and roads.**

1. Streets-general considerations. Streets shall be designed and located in relation to existing and planned streets, to topographic conditions and natural terrain, to promote convenience and safety and in appropriate relation to the proposed uses of land to be served by such streets. These provisions shall apply to all roads and highways within the jurisdiction of the chapter.

a. Survey. All newly created roads and any widened right-of-way, whether a recorded or unrecorded road, shall be surveyed by a registered land surveyor as a right-of-way plat and approved by the town. When a survey is conducted adjacent to an existing town road and there is no record of a right-of-way width, a right-of-way shall be dedicated to the town by one property owner so as to establish one width of the road in recordable form. This may be done on the parcel survey or on an accompanying survey. A certificate of dedication shall be signed by the town board.

b. Street names. Town road names are subject to approval by the town board. Before any CSMS or subdivision can be approved for recording, new town roads shall be named and these names as approved shall appear on the document to be recorded.

c. Town ordinance. All town roads and highways must comply with the Town of Wausau ordinance for minimum highway design standards.

2. Arrangement of streets:

a. All Streets shall be integrated with the existing and proposed system of streets and dedicated rights-of-way.

b. All streets shall be properly designed to accommodate special traffic generators, such as industries, business districts, schools, churches and shopping centers.

c. Minor streets shall be laid out to conform as much as possible to the topography, to discourage use by through traffic, to permit efficient drainage and sewer systems and to require the minimum amount of streets necessary to provide convenient and safe access to property.

d. The use of curvilinear streets, cul-de-sacs and U-shaped streets shall be encouraged where such use may result in a more desirable layout.

e. Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions, or unless in the opinion of the town such extension is not necessary or desirable for the coordination of the layout of the subdivision with the existing layout or the most advantageous future development of adjacent tracts.

f. In business and industrial developments, the streets and other access-ways shall be planned in connection with the grouping of buildings; location of rail facilities; the provisions of alleys, truck loading and maneuvering areas; and walks and parking areas so as to minimize conflict of movement between the various types of traffic, including pedestrian.

3. Access to thoroughfare streets and collector streets.

a. The number of residential streets entering a major street shall be kept to a minimum.

b. Where a subdivision borders on or contains an existing or proposed major street, the town may require that access to such streets be limited by one of the following means:

(1) A parallel street supplying frontage for lots backing onto the major street, such lots to be provided with a screen planting contained in a non-access reservation along the rear property line;

(2) A series of cul-de-sacs, U-shaped streets or short loops entered from and designed generally at right angles to such a parallel street, with the rear lines of their terminal lots backing on the major street; and

(3) A marginal access street or service drive, separated from the major street by a planting or grass strip and having access thereto at suitable points.

4. Width of streets. Right-of-way and paving widths of all streets shall be determined by the town board and must be in compliance with the Town of Wausau ordinance for minimum highway design standards or by the requirements of Wis. Stats. §82.50, whichever is greater.

	Paving	R.O.W.
a. Minor Street	22 ft.*	66 ft.
b. Marginal Access Street	22 ft.*	66 ft.
c. Collector Street	30 ft.	66 ft.
d. Arterial Street	48 ft.	66 ft.

\*The town commission upon recommendation of the town engineer shall establish the definite paving and right-of-way widths, within these ranges, for each particular subdivision.

5. Half streets. Half streets shall not be permitted.

6. Street grades. The grade of streets shall not exceed six percent (6%) unless necessitated by exceptional topography and approved by the town planning commission. The grade of all other streets shall not exceed ten percent (10%). The minimum grade of all streets shall be three-tenths of one percent (0.3%). Pedestrian ways or crosswalks shall not exceed twelve percent (12%) grade unless steps of an approved design are to be constructed.

7. Cul-de-sacs or dead-end streets. The use of cul-de-sacs in street layouts shall be limited to portions of developments which, due to unusual shape, size, location or topography, floodplain, wetland or other condition may better be served by cul-de-sacs than by continuous streets.

a. A cul-de-sac maximum desirable length is one thousand (1,000) feet.

b. The radius of a permanent cul-de-sac shall not be less than sixty (60) feet. The roadway within the turn-around shall have the largest diameter practical. The roadway shall generally be within ten (10) feet of the right-of-way.

8. Street intersections:

a. Streets shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection to two (2) new streets at an angle of less than seventy degrees (70°) shall not be acceptable. Not more than two (2) streets shall intersect at any one point unless specifically approved by the town.

b. Proposed new intersections along one side of an existing street shall coincide with any existing intersections on the opposite side of such street. Street jobs with centerline offsets of less than one hundred twenty-five (125) feet shall not be permitted. Where streets intersect major streets their alignment shall be continuous.

c. Where the grade of any street at the approach of an intersection exceeds seven percent (7%), a leveling area shall be provided having not greater than four percent (4%) grade a distance of fifty (50) feet measured from the nearest right-of-way line of the intersecting street.

d. Where any street intersection will involve earth banks or existing vegetation inside any lot corner that would create a traffic hazard by limiting visibility, the developer at the direction of the town board shall cut such ground and/or vegetation (including trees) in connection with the grading of the public right-of-way to the extent necessary to provide adequate sight distance.

9. Lot frontage. Every residential lot or parcel created as a part of a subdivision development under the terms of this chapter shall have a minimum of one hundred fifty (150) feet of frontage directly on a public street or if on a cul-de-sac one hundred fifty (150) feet along the set back line. The intent of this section is to discourage shared private roads and, thereby, require, the creation of new town roads within new subdivision developments. However, this provision does not apply to a minor subdivision creating only one lot.

**Sec. 18.18. Lots and blocks.**

1. Residential blocks.

a. Blocks shall have sufficient width to provide for two (2) tiers of lots of appropriate depths. Exceptions to this prescribed block width shall be permitted in blocks adjacent to major streets, railroads or waterways.

b. The lengths, widths and shapes of blocks shall be such as are appropriate for the locality and the type of development contemplated but block lengths in residential areas, where practical, should not exceed one thousand eight hundred (1,800) feet nor be less than four hundred (400) feet in depth. Wherever practicable, blocks along major arterials and collector streets shall be not less than one thousand three hundred twenty (1,320) feet in length.

c. Pedestrian walkways, not less than ten (10) feet wide, may be required by the town through the center of blocks more than nine hundred (900) feet long where deemed essential to provide circulation or access to schools, playgrounds, shopping centers, transportation or other community facilities.

2. Nonresidential blocks. Blocks designed for business, commercial or industrial uses shall be of such length and width as may be determined suitable by the town for the prospective use.

3. Lots. In general, the size, shape and orientation of lots shall be appropriate for the location of the subdivision and for the type of development and use contemplated. Lot dimensions shall conform to the requirements of applicable zoning regulations. No lot area calculation shall include any road right-of-way or any easement that is twenty (20) feet wide or wider. All lots shall conform with setbacks per 18.17 Public streets and roads, 8. Lot frontage. No lot depth shall be more than five (5) times its width at the building line. Private access strips that are narrower than the minimum lot width required by zoning shall not be used in calculating this ratio.

4. Residential lots.

a. Residential lots to be served by private sewage systems shall comply with the rules of the Department of Commerce and the Marathon County Private Sewage System Ordinance.

b. Access to lots from public roads may be limited by the town where it is determined by recommendation of the Wisconsin Department of Transportation, County Highway Department, town board or other reviewing agency, that such limitations would be in the interest of the public using the public roads upon which the lot(s) front or abut.

5. Business, commercial and industrial properties. Depth and width of properties reserved or laid out for business, commercial or industrial purposes shall be adequate to provide for the off-street parking and loading facilities required for the type of use and development contemplated, as established in the appropriate zoning regulations.

6. Corner lots. Corner lots for residential use shall have extra width to permit full building setback as required in the appropriate zoning regulations.

7. Every lot shall front on or abut a public street. Lots with access only to private drives or streets shall be permitted only with the approval of the town planning commission.

8. Drainage requirements. Lots shall be laid out so as to provide positive drainage away from all buildings and individual lot drainage shall be coordinated with the general storm drainage pattern for the area. Drainage shall be designed so as to avoid concentration of storm drainage water from each lot to adjacent lots.

9. Re-subdivision of parcels. In case a tract is subdivided into parcels containing one (1) or more acres, such parcels shall be arranged to allow the re-subdivision of any parcels into smaller lots in accordance with the provisions of this code.
10. Lot lines. Lot lines shall follow municipal boundary lines whenever practicable, rather than cross them.
11. Double frontage and reversed frontage lots. Double frontage and reversed frontage lots shall be avoided except where necessary to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation.
12. Private landscaping. No private landscaping or trees shall be located within the public right-of-way except lawn.
13. Natural features. In the subdividing of any land, regard shall be shown for all natural features, such as tree growth, water courses, historic spots or similar conditions which, if preserved, will add attractiveness and stability to the proposed development.
14. Remnants lots. All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots rather than allowed to remain as unusable parcels.

**Sec. 18.19. Easements.**

1. All utility lines for electric power and telephone service shall be placed on mid-block easements along rear lot lines, except where lots abut a lake or stream or where such location is deemed unfeasible, from an engineering standpoint, by the utility company involved. All easements shall run with the land and be on individual deeds. All power, telephone or cable service lines shall be buried in the same trench whenever possible.
2. Easements. Easements across lots or centered on rear or side lot lines shall be provided for utilities where required by the town such easements shall be at least ten (10) feet wide.

**Sec. 18.20. Building setback lines.**

Building setback lines shall conform to the requirements established in the Town of Wausau Zoning Ordinance.

**Sec. 18.21. Dedications.**

1. Roads. The subdivider shall be required to offer for dedication to the town all streets, roads and other public ways which are proposed to be established within the subdivision.
2. Disclosure. No person shall sell any parcel of land if it abuts on a road which has not been accepted as a public road or statutorily validated under Wis. Stats. §82.31, unless the seller informs the purchaser in writing of the fact that the road is not a public road and is not required to be maintained by the town.
3. Public access to navigable waters. Major subdivisions abutting on a navigable lake or stream shall provide, according to the provisions of Wis. Stats. §236.16(3) and this section, provide access at least sixty (60) feet wide to the low water mark so that there will be public access, which is connected to existing public roads at least one-half (½) mile intervals as measured along the lake or stream shore, except where greater intervals and wider access is agreed upon by the Department of Natural Resources and The Department of Development and excluding shore areas where public parks or open space streets or roads on either side of a stream are provided. For minor subdivision, no public access will be required. The town shall be substituted for the state agencies in deciding applications for access points at greater intervals and additional wider distances.
4. Terms of reservation. Reservation of land for public acquisition shall be for a period specified by the Town not to exceed 10 years. Land so dedicated or reserved shall be shown on the final plat.
5. Method of offering dedications. Dedications shall be affected as provided in Wis. Stats. §236.29. Dedications to the town shall require approval of the town board.

6. Dedication of Land for Public Use:

a. When a final plat of a subdivision has been approved by the town board and all other required approvals are obtained and the plat is recorded, that approval shall constitute acceptance for the purpose designated on the plat of all lands shown on the plat as dedicated to the public, including street dedications.

b. Whenever a preliminary plat includes a proposed dedication of land to public use and the town planning commission finds that such land is not required or not suitable for public use, the town planning agency may either refuse to approve such dedication or require the rearrangement of lots in the proposed subdivision to include such land.

7. Reservation of Public Spaces and Sites:

a. The preliminary plan to accommodate planned public space whenever a tract to be subdivided includes a proposed street, highway or parkway or proposed site for a park, playground, school or other public use as indicated on any officially adopted and authorized by State statutes, map or plan, such space shall be suitably incorporated by the developer into his subdivision plat after proper determination of its necessity by the town planning commission and the appropriate town body or other public agency involved in the acquisition and use of each such site.

b. Requirements for adequate open spaces:

(1) Flood plan areas. The town board may prohibit, when it deems it necessary for the health, safety or welfare of the present and future population of the area and necessary to the conservation of water, drainage and sanitary facilities, subdivision of any portion of the property which lies within the flood plain of any stream or drainage course. These flood plain areas shall be preserved from any and all destruction or damage resulting from clearing, grading, or dumping of earth waste, material or stumps.

(2) School parks and playground sites. Unless appropriate provision for dedication or donation of school, park or playground sites has been made by the town board in a previous action, such as in the case of a large-scale development involving multiple land uses, any required school sites or parks or playgrounds shall be acquired by the school district or the appropriate city, town or county agency.

**Sec. 18.22. Parcel Combination** (Amended 11/5/2018)

1. Any owner of two or more contiguous preexisting approved or subdivided lots or parcels in the same zoning district who wishes to merge the parcels for municipal regulation and taxation purposes may do so by completing the Marathon County Parcel Combination Application.

2. The application must be completed and submitted to the Town of Wausau Clerk.

3. The Town Clerk will present the application to the Town Board for review. Approval will be granted except if it would create a violation of then-current ordinances or regulations.

4. No public hearing or notice shall be required.

5. No new survey plat need be recorded.

6. Once the Town Board approves the request, the application will be returned to applicant to follow the directions listed on the form.

7. No such merged parcel shall thereafter be separately transferred without subdivision approval.

8. No city, town, county, or village district may merge preexisting subdivided lots or parcels except upon the consent of the owner.

9. The Marathon County Conservation, Planning and Zoning Department will determine the address that will be assigned to the lots being merged.

**Chapter 19-29**

**Reserved**

## **Chapter 30**

### **FIRE PREVENTION AND PROTECTION**

#### **Article I. General**

- Sec. 30.100. Open Burning and Recreational Fire Regulations.
- Sec. 30.101. Outdoor Wood Furnaces.
- Sec. 30.102. Fire Inspections.
- Sec. 30.103. Fire Call Fees.
- Sec. 30.104. False Alarms.

#### **Article II. Volunteer Fire Department**

- Sec. 30.105. Fire Department Objectives.
- Sec. 30.106. Membership.
- Sec. 30.107. Approval of officers.

#### **Article III. Ambulance Service**

- Sec. 30.108. Ambulance Service.

#### **Article IV. Concealed Weapons**

- Sec. 30.109. Concealed Weapons.

#### **Article V. Firearms**

- Sec. 30.110. Firearms.



## ARTICLE I. GENERAL

### Sec. 30.100. Open burning and recreational fires.

1. *Definitions.* The following words, terms and phrases, when used in this subsection, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

a. *Open Burning* means any fire wherein the products of combustion are emitted into the open air and are not directed through a screened stack or chimney associated with a building.

b. *Recreational fire* means any fire such as a campfire or cooking fire, not involving the burning of yard waste, located at a single-family or multifamily residence and used for the purpose of recreation and personal enjoyment.

c. *Yard waste* means dry grass, leaves, pine needles or brush.

d. *Clean wood* means natural wood which has not been painted, varnished or coated with a similar material has not been pressure treated with preservatives, and does not contact resins or glues as in plywood or other composite wood products.

2. *Burn barrels.* Barrels are authorized in the Town of Wausau as permitted pursuant to the Wisconsin Department of Natural Resource Regulations and after obtaining a permit from a Town of Wausau Fire Department authorized individual.

3. *Legal holidays.* Open burning on legal holidays is prohibited.

4. *Burning restrictions.* All open burning is prohibited except as follows:

a. *Open burning by permit.*

(1) No person shall kindle any fire without first securing a permit from the Town of Wausau Fire Department designee, who shall issue such permit subject to any conditions for the protection of life and property imposed by fire regulations.

(2) A permit is not required at times when at least one inch of continuous snow cover exists and hours are exempt.

(3) Hours of burning by permit are limited to 4:00 p.m. to 12:00 midnight.

(4) The Marathon County Sheriff's Department shall be notified by calling the non-emergency number before any open burning takes place.

b. *Recreational fires.* All recreational fires shall be in a fire pit with a minimum depth of eight inches and a maximum diameter of four feet, or in a portable (Weber-type) device that is placed upon a non-combustible surface and secured. The fire may not extend more than four feet above the ground at any time. Burning materials must be contained within the fire pit enclosure at all times. All below ground fire pits shall be surrounded on the outside, above ground, by a non-combustible material such as concrete block, rock or metal.

5. *Conditions of burning.* No person shall kindle, cause to be kindled or otherwise allow any open fire burning of leaves, weeds, brush, stumps, clean wood and other vegetative debris:

a. No fire is allowed in or upon any street, alley, or public way or closer than twenty-five (25) feet from any building, structure, shed or garage, except for recreational fires which may be no closer than (fifteen) 15 feet from any building, structure, shed or garage, except for barbecue, gas and charcoal grills.

b. No burning may be undertaken within twenty-five (25) feet from any combustible material, combustible wall or partition exterior window opening, exterior access or exit unless authorized by the Town of Wausau fire chief.

c. No fire may be started at a time when wind speed is eight (8) miles per hour or more.

d. No fire is allowed if the wind causes smoke, combustibles or other materials to be carried by the wind toward any building or other combustible or flammable material. Smoke from any fire shall not substantially annoy, injure or endanger the comfort, health, repose or safety of any neighboring property owners.

e. No fire is allowed unless adequate fire suppression equipment is present to extinguish or control the fire at all times. Adequate fire suppression equipment shall consist of shovels, fire extinguishers, water hoses or other equipment sufficient to extinguish the fire if necessary.

f. No fire is allowed unless attended at all times by at least one responsible person eighteen (18) years of age or older until the fire is completely extinguished.

g. No renter or lessee may kindle, cause to be kindled or otherwise allow any open fire without prior notice to the owner and written permission from the owner.

6. *Burning permits required.* No person may burn any of the following materials without a permit issued by the Town of Wausau fire chief, upon showing there are suitable air pollution control devices and providing a written approval by the Department of Natural Resources:

a. Rubbish or garbage including but not limited to food waste, food wraps, packaging, animal carcasses, paint or painted materials, furniture, composite shingles, construction or demolition;

b. Waste oil or other oily wastes except used oil burned on a heating device for energy recovery subject to the restriction in Chapter NR 590, WI Admin. Code;

c. Asphalt and products containing asphalt;

d. Treated or painted wood including but not limited to plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives;

e. Any plastic material including but not limited to nylon, PVC, ABS, polystyrene or urethane foam and synthetic fabrics, plastic films and plastic containers;

f. Rubber including tires and synthetic and rubber-like products;

g. Newspaper, corrugated cardboard, container board, office paper and other materials that must be recycled in accordance with the recycling ordinance except as follows:

(1) Paper and cardboard products may be used as starter fuel for a fire if allowed under this ordinance.

(2) Small quantities of confidential papers from a residence may be burned if necessary to prevent the theft of financial records, identification or other confidential information, provided that confidential paper from a commercial enterprise shall be shredded or destroyed in a manner other than burning.

8. *Burning moratoriums.* The Town of Wausau Fire Chief or the Department of Natural Resources (DNR) may, when weather conditions warrant, declare a burning moratorium for a specified period of time, during which all open burning is prohibited.

9. *Liability.* Any property owner and/or any renter or lessee who violates this section shall, in addition to the penalties provided in other sections of this Code, be jointly and severally liable for any damage caused by any fire, including the cost of suppression and any citations, and shall reimburse the town for reasonable cost of fire protection services made necessary by the violation including, but not limited to, the costs of investigation of the violation and any response by the town's Fire Department as a result of any violations; provided that any prosecution for violations of this section or payment of the penalties provided shall not preclude any person from seeking any other remedy against the person causing or permitting the burning.

**Sec. 30.101. Outdoor wood furnaces.**

1. *Definitions.* The following words, terms and phrases, when used in this subsection, shall have the meanings ascribed to them in this chapter, except where the context clearly indicates a different meaning:

a. *Outdoor furnace.* A self-contained unit or solid fuel heating device designated to provide heating to a building or structure, which unit is located outside of that building or structure.

b. *Existing outdoor furnace.* An outdoor furnace that was installed and operating previously to the effective date of this ordinance.

2. *Use restrictions:*

a. The use of any outdoor furnace, including any existing outdoor furnace shall comply with all the manufacturer's operation instructions, including, but not limited to, the manufacturer's written instructions for recommended loading times and amounts.

b. No person may burn, or allow to be burned, any of the following substances in an outdoor furnace within the town:

(1) Rubbish or garbage including, but not limited to food waste, food wrapping, packaging, animal carcasses, paint, or painted materials, furniture, shingles, construction or demolition debris or other household waste.

(2) Waste oil or other oily waste;

(3) Asphalt and products containing asphalt;

(4) Treated or painted wood including, but not limited to plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives;

(5) Rubber including tires and synthetic rubber-like products;

(6) Any plastic material including but not limited to nylon, PVC, ABS, polystyrene or urethane foam and synthetic fabrics, plastic films and plastic containers;

(7) Newspaper, corrugated cardboard, container board, office paper and other materials that must be recycled in accordance with the recycling ordinances; provided, however, that small amounts of paper and/or cardboard may be used for purposes of starter fuel if reasonably necessary to ignite an existing solid fuel heating device.

c. The owner and/or operator of any outdoor furnaces shall dispose of all ash or other byproducts from the operation of the furnace in accordance with all applicable laws, ordinances and regulations.

d. No person shall use lighter fluids, gasoline or chemicals to start the furnace.

3. *Stack and furnace location for outdoor furnaces installed after the effective date of this ordinance:*

a. The unit must be located with due consideration to the prevailing wind direction.

b. Any outdoor furnace installed must be set back a minimum of 50 feet from any property line in transitional and ag districts as well as commercial districts.

c. Any outdoor furnace in a residential district or in a subdivision shall maintain a setback at least 200 feet from any property lines.

d. The stack of any outdoor furnace located within 50 feet of any residence not served by the furnace shall be at least two feet higher than the eave line of said residence.

- e. The stack of any outdoor furnace located within 50 feet to 100 feet of any residence not served by the furnace must be at least five (5) feet higher than 75 percent of the height of the eave line of said residence.
  - f. The stack of any outdoor furnace located within 100 feet to 150 feet of any residence not served by the furnace must be at least five (5) feet higher than 50 percent of the eave line of said residence.
  - g. The stack of any outdoor furnace located within 150 feet to 200 feet of any residence not served by the furnace must be at least five (5) feet higher than 25 percent of the eave line of said residence.
  - h. All stacks or chimneys for outdoor furnaces must be so constructed to withstand high winds or other related elements.
  - i. An outdoor furnace may only be installed in the rear or side yard of the lot of the building being served by the outdoor furnace.
4. *Compliance.* Any outdoor furnace must comply with any other county, state or federal guidelines for the same, but not limited to, all emissions and air quality standards promulgated from time to time by the Environmental Protection Agency, the Wisconsin DNR and any other relevant state or federal agency.
  5. *Inspection of outdoor furnaces.* The Town of Wausau Fire Chief, or his or her designee, zoning administrator, law enforcement officer or other designated town official who presents credentials and upon reasonable notice may inspect any property within the town for the purpose of determining compliance with the provisions of this ordinance.
  6. *Outdoor furnace nuisances.* Any outdoor furnace which substantially annoys, injures or endangers the comfort, health, repose or safety by operating in a hazardous, harmful, noxious or offensive manner is declared a public nuisance and the procedures in Chapter 42 apply.
  7. *Replacement of an existing outdoor wood furnace.* An existing outdoor furnace may be replaced with new outdoor wood furnace that meets the EPA HH Phase 2 Program Requirements (0.32 lbs/MMBtu heat output) in the same location as the existing outdoor furnace, provided that the new furnace meets the specifications of this ordinance including but not limited to the chimney height requirements in Section 30.101(3).
  8. *Permit required.* Zoning permits and payment of the permit fee established by the town are required before any outdoor furnace is installed.

**Sec. 30.102. Fire inspection.**

1. *Enforcement.* In accordance with section SPS 314.10(13) of the Wis. Admin. Code, the Town of Wausau Fire chief shall conduct and document of fire prevention inspections within the town.
2. *Buildings to be Inspected.* Businesses, churches, schools and other nonprofit facilities shall be inspected semi-annually and may be charged a fee for fire prevention inspections, according to the town fee schedule.
3. *Administration of Fire Prevention Inspection Fees.* Fire prevention inspection and reinspection fees shall constitute special charges against the property under Wis. Stats. § 66.0627, and may be invoiced to property owners after each inspection. Any fees remaining unpaid as of November each year shall be placed on the annual tax roll for collection as a special charge together with an administrative charge. All proceedings related to the collection of real estate taxes shall apply. Fire reinspection fees shall not be charged for the first follow up inspection after any citations for fire code violations, but shall be charged for any follow up inspection conducted for any business, church, school and other nonprofit facilities which fail to take all necessary corrective action within 30 days after the issuance of the citation for fire code violation.
4. *Penalties.* The town fire department may issue citations for violations of the fire code. Penalties may be assessed to the owners or lessees for failure to correct fire code violations.

**Sec. 30.103. Charging for fire protection calls.**

1. *Purpose.* The purpose of this ordinance is to allow the town to recover fire costs incurred by the town..
2. *Definitions:*
  - a. *Real estate.* Land owned as property along with natural resources and permanent buildings on it.
  - b. *Personal property.* Tangible items for which the owner holds title or has in his/her possession, including but not limited to motor vehicles and hazardous materials.
  - c. *Owner.* Any person holding title to real estate or holding title to or otherwise owning or having a legal right to possession of personal property.
3. *Liability of fire protection costs.* Property owners of real estate and personal property located within the town shall be responsible for the costs of the fire calls made for their property. Fire call fees and costs will be determined by the town.
4. *Liability for fire calls from other fire departments.* The town contracts with other fire departments to provide mutual assistance on fire calls. Any property owner who requests fire protection directly from any fire department other than the Town of Wausau Fire Department shall be responsible for any and all costs billed to the town for the fire call by the other fire department. This section applies to the costs of any other fire department responding at the request of an authorized fire department under mutual aid.
5. *Billing and payment procedure.* The town clerk shall bill the owner for whom the fire protection was provided, and payment to the town treasurer shall be due within sixty (60) days of the date of the bill. Upon failure to pay the bill within sixty (60) days, interest will accrue retroactively from the date of the bill at the rate of 1.5 percent a month. Any bills for fire protection services for personal property, which remain outstanding for more than ninety (90) days may be turned over for collection. Any bills for fire protection services for real estate owners within the Town of Wausau, which remain outstanding for more than ninety (90) shall be imposed as a special charge against the real estate for which fire protection was provided and may be placed on the tax roll as a delinquent special charge pursuant to Wis. Stats. § 66.0627.

**Sec. 30.104. False alarms.**

1. *Purpose.* The purpose of this ordinance is to minimize unnecessary fire calls within the town.
2. *Definitions.*
  - a. *Alarm system* means any device designated for the detection of an unauthorized entry or other unlawful act on a premises, or for the detection of a fire or carbon monoxide, or both which when activated produces a signal, which signal is caused to be transmitted by the system to the County Dispatch Center or the Fire Department, and/or which signal, if produced by a device designed solely to detect fire, is caused to be transmitted in an audible manner to the general area surrounding the premises.
  - b. *Alarm system operator* means any person or business who operates a receiving device designed for the detection of an unlawful act or for detection of a fire or carbon monoxide, or both, who in turn by telephone or other means transmits such information to the County Dispatch Center or the Fire Department.
  - c. *False alarm* means any of the following:
    - (1) The unintentional activation of an by the owner or lessee of an alarm system or by an employee or agent of either.
    - (2) The activation of an alarm system by mechanical failure or malfunction because of improper maintenance of the alarm system.

(3) The activation of an alarm system because of improper installation and/or use of the equipment.

(4) The intentional activation of an alarm system where no unauthorized entry, omission of an unlawful act or fire exists.

(5) The above subsections do not include false alarms caused by abnormal weather conditions.

d. *Person* includes all partnerships, companies, associations and corporate bodies.

2. *Exception to this chapter.* None of the provisions of this chapter shall prevent the town from providing special alarm monitoring services for medical reasons, disabilities or communicative disorders.

3. *False Alarms Prohibited.* False alarms shall include, but are not limited to, reports by direct communication or by means of an electronic alarm requesting fire protection or carbon monoxide services when there was no need for fire protection or carbon monoxide services. Receipt of any such false report within the town shall constitute commission of said offense within the town for the purposes of this ordinance:

a. No person shall, within the town singly or in combination or conspiracy of others, make any false report of fire or carbon monoxide, in the town.

b. No person shall falsely report a fire to any official of the town, any fire department maintained in the town, any official or agent thereof, or to any person or persons in charge of giving any fire alarm to the said town.

c. No person shall participate in any such act by knowingly aiding, counseling, advising or consenting to the same to be done by another or others.

4. *Fees for unnecessary fire calls.* The town may charge a fee to any persons, partnership, corporation or other such entity who make or transmit a false alarm to which the fire department has responded to a call for fire protection or carbon monoxide provided that the same person, partnership, corporation or other entity has made or transmitted two (2) or more previous false alarms. This fee applies to false alarms received telephonically, directly, or through an alarm system and is due within 15 days of billing by the town clerk. Any fees not paid within thirty (30) days of the billing shall accrue interest at the rate of 1.5 percent (1.5%) per month.

## ARTICLE II. VOLUNTEER FIRE DEPARTMENT

**Sec. 30.105. Town of Wausau Fire Department.** The Town of Wausau Fire Department, Fire Department #37240, Marathon County, Wisconsin was authorized by town electors at a special meeting on January 1, 1987 for the purposes of preventing fires and safeguarding the lives and property of all people in the community.

### **Sec. 30.106. Membership.**

No more than thirty (30) firefighters and/or first responders shall be members of the department. Members of the Department shall reside in the town or live within one mile of the town boundaries, except that the fire chief shall have discretion to allow persons residing outside the department's protection area to join or to remain members of the department.

### **Sec. 30.107. Appointment of officers.**

1. The town board shall appoint the fire chief and the fire chief shall appoint the other department officers. The town board shall approve the department officers presented to it by the department within thirty (30) days of presentation to the town board.

2. The chief may suspend any member of the department for insubordination or for disobedience of the department rules and regulations for a period not to exceed two (2) months. The chief shall report any suspensions and the circumstances to the town board.

3. The town board may suspend any member of the department, reduce any member in rank or remove any member if a member was insubordinate or disobeyed any department rules and regulations.
4. Any member of the department who resigns, retires or is removed by the town board shall immediately return all department property in his/her possession to the fire chief. The department property to be returned includes, but is not limited to, keys, pager charger and case, radio charger and case, first responder equipment, soft pack, auxiliary kit, oxygen system and defibrillator, badges, insignia and any or all other equipment.

### **Article III. Ambulance Service**

#### **Sec. 30.108. Ambulance service.**

1. The town will provide ambulance service to its residents through a contract with a local municipality or service.

### **Article IV. Concealed Weapons**

#### **Sec. 30.109. Concealed weapons.**

1. Pursuant to Wis. Stat. § 943.13(1m)(c)4, no person shall enter or remain in any part of a building owned, occupied or controlled by the Town of Wausau if notified not to enter or remain in the building while carrying, a weapon or firearm, concealed or otherwise.

2. *Definitions:*

*a. Firearm.* Firearm means a weapon that acts by force of gun powder.

*b. Law enforcement.* Law enforcement means any person employed by the State of Wisconsin or any political subdivision of this State for the purpose of detecting or preventing crime and enforcing laws or ordinances and who is authorized to make arrests for violations of the laws or ordinances he or she is employed to enforce.

*c. Weapon.* Weapon means a handgun, an electric device as defined by Wis. Stats. § 941.295 or a billy club.

3. *Prohibitions on firearms or weapons.*

a. The prohibitions on carrying of firearms and weapons as enumerated in Wis. Stats. § 175.60 are incorporated herein by reference as though set forth verbatim;

b. No person other than a law enforcement officer shall enter any of the following buildings owned, occupied or under the control of the town while carrying a weapon or firearm;

c. Municipal Building;

d. Public Works Garage; and

e. Public Safety Building.

4. *Signs.* Signs meeting the requirements of Wis. Stat. Chapter 943.13(2)(bm)1, shall be posted in prominent places near all entrances of such buildings listed in subsection (3), above, to provide notice that no person is to enter or remain in any such building while carrying a weapon or firearm.

5. Any person who enters or remains in any town buildings owned, occupied or under the control of the town listed in subsection (3) above while carrying firearms may be reported for prosecution for trespassing or may be cited under this code and be subject to the penalty as prescribed under Wis. Stats. Chapter 943.13.

## Article V. Firearms

### Sec. 30.110. Firearms.

1. *Definitions:* As used in this chapter, the following terms shall have the meanings indicated:

- a. *Firearm:* A weapon that acts by force and uses gunpowder;
- b. *Other weapon:* Any paintball gun, pellet gun, bow and crossbow, but not firearms;
- c. *Paintball course or range:* Any area of land intended for the commercial use of paintball guns where individuals can engage each other by shooting a paintball projectile at each other;
- d. *Paintball gun:* Any handgun or long rifle designed to discharge projectiles containing a paint or ink-type substance;
- e. *Pellet gun:* Any weapon which uses a spring mechanism or compressed air to discharge a projectile and are considered dangerous weapons within the scope of this chapter;
- f. *Practice range:* An area of land designed and designated for use of weapons for target practice where the projectile used will not leave the limits of the property on which the range is established;
- g. *Target practice:* Utilizing firearms or other weapons to engage and fire at targets; and
- h. *Targets:* Inanimate objects made of paper, plastic, vinyl, styrofoam or any other man-made substance and are designed for use during the act of target practice.

2. *Permission of the landowner:* Requires one of the following:

- a. Presence of an owner of the land who has given consent to undertake a specific action; or
- b. Written permission to discharge either firearms or other weapons on the land, signed by one of the owners of the land which is available to be provided to law enforcement. Written permission is not required for a member of an owner's immediate family who resides with the owner.

3. *Prohibited discharge.*

- a. The discharge of firearms and other weapons on or over any public roadway or within fifty (50) feet of the center of any roadway, is prohibited.
- b. Any projectile discharged from a firearm or other weapon shall not travel beyond the boundary for the parcel from which it is launched.
- c. The discharge of firearms is prohibited on any land legally described as or identified as the following:
  - (1) Property zoned as Residential in the Town of Wausau; and
  - (2) Sections 7, 18, 19, 30, and 31 in the Town of Wausau.
- d. The discharge of firearms and use of other weapons is prohibited within one hundred (100) yards of any building or structure devoted to human occupancy without the permission of the landowner or occupant.
- e. Except as provided herein, the discharge of firearms is prohibited on any parcel less than two acres.
- f. The discharge of a firearm or other weapon is prohibited except as set forth in this chapter, state statute, or DNR regulation.



g. Target practice with any firearm or the establishment of any practice range for any firearm is permitted only as follows:

- (1) On a parcel having an area of two (2) or more acres;
- (2) Under conditions where the projectile used will not leave the parcel upon which the range is located;
- (3) With the permission of the landowner;
- (4) If the target center or bulls eye is less than four feet above the ground; and

h. Target practice with any other weapon or the establishment of any practice range for other weapons is permitted only as follows:

- (1) On a parcel having an area of 1/2 acre or more;
- (2) Where the target has a backstop constructed of such material so as to insure that the projectile shall come to a complete stop after penetrating the target;
- (3) Under conditions where the projectile used will not leave the parcel upon which the weapon is discharged;
- (4) The target center or bulls eye shall be less than four feet above the ground;
- (5) Permission of the landowner shall be obtained by the person(s) discharging the weapon.

i. Target practice shall only be allowed in the Town of Wausau between the hours of 8 a.m. and 8 p.m. or one-half (1/2) hour after sunset, whichever comes first.

j. Discharge of paintball guns is permitted only as follows:

- (1) On a parcel of five acres or more in area;
- (2) In compliance with any zoning regulations;
- (3) Permission of the landowner has been obtained by the person(s) discharging the paintball gun; and
- (4). Where all participants have appropriate attire, including head and face protection.

k. The provisions of this chapter relating to firearms and other weapons do not apply to law enforcement personnel, as defined in Wis. Stats. Chapter 165.85(2)(c), when said personnel are performing their official duties or during the conduct of an official training session.

**Chapters 31-41**

**RESERVED**

## **Chapter 42**

### **NUISANCES**

#### **Article I. Public Nuisances**

- Sec. 42.100. Definitions.
- Sec. 42.101. Penalty; Abatement; Costs.
- Sec. 42.102. Public nuisances prohibited.
- Sec. 42.103. Public nuisances affecting health.
- Sec. 42.104. Public nuisances offending morals and decency.
- Sec. 42.105. Public nuisances affecting peace and safety.
- Sec. 42.106. Obscene Materials and Performances.
- Sec. 42.107. Noxious Weeds and other Unsightly Growth.

#### **Article II. Junk**

- Sec. 42.108. State Code Adopted.
- Sec. 42.109. Junk.
- Sec. 42.110. Junk Cars.

#### **Article III. Events/Assembly**

- Sec. 42.111. Outdoor Transient, Temporary or Intermittent Events/Assembly.

## ARTICLE I. PUBLIC NUISANCES

### Sec. 42.100. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this chapter, except where the context clearly indicates a different meaning:

*Public nuisance* means a thing, act, occupations, condition or use of property which shall continue for such length of time as to:

1. Substantially annoy, injure or endanger the comfort, health, repose or safety of the public;
2. In any way render the public insecure in life or in the use of property; and
3. Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way or the use of public property.

### Sec. 42.101. Penalty, abatement, costs.

1. Any person violating any of the provisions of this chapter shall, upon conviction thereof, be subject to Section 1.109. In addition, a violation of this chapter is subject to subsections (2) and (3) of this section.

#### 2. *Abatement.*

a. *Inspection of premises.* Whenever a complaint is made to the town that a public nuisance or a violation of section 42.102, section 42.103, section 42.104, section 42.105, section 42.106, section 42.107 and section 42.109 exists, the town board shall forthwith inspect or designate an inspecting officer to investigate the complaint and to inspect the premises involved and make a written report of the inspection or investigation. Whenever practicable, the inspecting officer shall cause photographs to be made of the premises and shall file the same with the town clerk.

b. *Summary abatement. Notice to owner.* If the inspecting officer shall determine that a public nuisance exists within the town and that there is a great and immediate danger to the public health, safety, peace, morals or decency, the town board shall serve notice on the person causing, permitting or maintaining such nuisance or upon the owner or occupant of the premises upon which such nuisance is caused, permitted or maintained and to post a copy of the notice on the premises. Such notice shall direct the person, owner, or occupant of the premises causing, permitting or maintaining such nuisance to abate or remove such nuisance within 24 hours or such other time and the town board may prescribe and shall state that, unless such nuisance is so abated, the town will cause the same to be abated and will charge the cost to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.

3. *Abatement by town.* If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the town board shall cause the abatement or removal of such public nuisance.

4. *Abatement by court action.* If the inspecting officer shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, the inspecting officer shall file a written report of his or her findings with the town board who shall cause an action to abate such nuisance to be commenced in the name of the town and the Circuit Court of Marathon County, in accordance with the provisions of Wis. Stats. Chapter 823.

5. *Other methods not excluded.* Nothing in this article shall be construed as prohibiting abatement of public nuisances by the town in accordance with law.

6. *Cost of abatement.* In addition to any other penalty imposed by this article for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the town shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance and, if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge and, if not paid within a reasonable time set by the town board, may cause the delinquent special charge to be included

in the current or next tax roll.

**Sec. 42.102. Public nuisances prohibited.**

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the town in clear violation of Wis. Stats. Chapter 823 which is herein adopted as if fully set forth and as from time to time amended.

**Sec. 42.103. Public nuisances affecting health.**

The following acts, omissions, places, conditions and things are specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances of this section:

1. All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.
2. Carcasses of animals, birds or fowl not intended for human consumption or food which are not buried or otherwise disposed of in a sanitary manner within 24 hours after death.
3. Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal, refuse, wastes resulting from the remodeling, construction or reconstruction of a building or structure, roadway or sidewalk or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed, excluding compost piles.
4. All animals running at large.
5. The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust or other particulates and atmospheric pollutants within the town or within one mile there from in such quantities as to endanger the health of persons of ordinary sensibilities, to threaten or cause substantial injury to property in the town, or to substantially annoy persons of ordinary sensibilities in the town.
6. Any outdoor furnace operated in a manner which substantially annoys, injures or endangers the comfort, health, repose or safety and which is hazardous, harmful, noxious or offensive to the surrounding neighborhood.
7. The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances.
8. Any use of property, substances or things within the town emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stench extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the town. All abandoned wells not securely covered or secured from public use.
9. Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the town.

**Sec. 42.104. Public nuisances offending morals and decency.**

The following acts, omissions, places, conditions and things are specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances of this section:

1. All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution or gambling.
2. All places where alcoholic beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license required by Section 6.100.
3. Any place or premises within the Town where ordinances or laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.

4. Any place or premises resorted to for the purpose of drinking alcoholic beverages in violation of law or ordinance.

**Sec. 42.105. Public nuisances affecting peace and safety.**

The following acts, omissions, places, conditions and things are specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances of this section:

1. All signs and billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public so situated or constructed as to endanger the public's safety.
2. All buildings erected, repaired or altered in violation of fire hazard areas relating to materials and manner of construction of buildings and structures within such district.
3. All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing that purport to be or may be mistaken as an official traffic control device, railroad signal or which because of its color, location, brilliance or manner of operation, interferes with the effectiveness of any such device, signal or sign.
4. All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.
5. All dwelling so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.
6. All wires over streets, alleys or public grounds which are strung less than 15 feet above the surface thereof.
7. All loud, discordant and unnecessary noises or vibrations of any kind.
8. The keeping or harboring of any animal or fowl which by frequent or habitual howling, yelping, barking, crowing or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the town.
9. The keeping or harboring of any animal or fowl that permits an offensive odor or unusual odor that greatly annoys or disturbs a neighborhood or any considerable number of persons within the town.
10. All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the town or which, although made in accordance with town authorization, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished.
11. All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk.
12. All abandoned refrigerators or iceboxes from which the doors or other covers have not been removed or which are not equipped with a device for opening from the inside.
13. Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather obstructing traffic and free use of the streets or sidewalks.
14. Repeated or continuous violations of ordinances or laws of the state relating to the storage of flammable liquids.

**Sec. 42.106. Obscene materials and performances.**

1. *Definitions.* In this Ordinance the following words shall mean:

a. *Material* means any printed matter, visual representation, or sound recording, and includes but is not limited to books, magazines, motion picture films, videotapes, pamphlets, newspapers, pictures, photographs, drawings, sculptures and tape or wire recordings.

b. *Obscene*. Any material or performance is "obscene" if:

(1) The average person, applying contemporary community standards, would find the matter appeals to the prurient interest if taken as a whole;

(2) The matter, under contemporary community standards, describes or shows sexual conduct in a patently offensive way; and

(3) The matter lacks serious literary, artistic, political or scientific value if taken as a whole.

c. *Performance* means any play, motion picture film, dance or other exhibition performed before an audience.

d. *Sexual conduct* means the commission or simulation of any of the following: sexual intercourse, sodomy, bestiality, necrophilia, human excretion, masturbation, sadism, masochism, fellatio, cunnilingus or lewd exhibition of the human genitals.

2. *Prohibition*. No person shall, with the knowledge of the character and content of the material or performance:

a. Exhibit, commercially print, advertise, sell, publish or transfer any obscene material;

b. Have in his or her possession, for purpose of sale, any obscene material;

c. Advertise, produce, admit persons to or perform in any obscene performance;

d. Require a retailer, wholesaler or distributor, as a condition to the purchase of other goods, to accept obscene material.

## **Sec. 42.107. Noxious weeds and other unsightly growth.**

1. *Definitions*.

a. *Noxious Weed*. The following are noxious weeds:

(1) Canada or other thistles;

(2) *Chicorium itybus* (commonly called "chicory");

(3) *Ambrosia artemis laipolia* (commonly called "ragweed");

(4) *Lactuca scariola* (commonly called "prickly lettuce");

(5) *Hordeum jubatum* (commonly called "squirrel tail");

(6) *Lappa officinalis* (commonly called "burdock");

(7) White or ox-eyed daisies, snapdragon or toad flax, cockle-burr, sow thistle, sour dock and yellow dock, wild mustard, wild parsnip, quitch grass, also known also as quack grass or leafy spurge, and field bind weed (commonly called "creeping jenny");

(8) *Cuscuta* sp. (commonly called "dodder");

(9) *Brassica juncea* (commonly called "Indian mustard");

- (10) Plantage lanceolate (commonly called "buckthorn");
- (11) Raphanus raphanistrum (commonly called "wild radish"); and
- (12) Barbarea vulgaris (commonly called "yellow rocket").

b. *Weed commissioner* shall refer to the town zoning administrator or another person appointed or designated by the town board to serve as weed commissioner.

c. *Destroy* means the complete killing of weeds or the killing of weed plants over the surface and ground by the use of chemicals, cutting tillage, croppage system or a combination of these at such time and in such manner as will effectively prevent such plants from maturing to the bloom and flower stage.

## 2. *Unsightly growth.*

### a. *To be controlled.*

(1) The owner, lessee, occupant, or person in control of any lot where a residence is located shall not allow, permit, or maintain the growth of grass, hay, brambles, brush, reeds, rushes, cat-tails, or any combination thereof, or any unsightly growth, to a height of over 12 inches. The weed commissioner or the town board shall determine what, if any, unsightly growth may be maintained and what unsightly growth must be cut and removed. The weed commissioner shall cut down and remove or cause to be cut down and removed all such growths as described in subsection 1. above and shall charge the cost per the town's fee schedule.

b. *Policy and intent.* Unsightly growth as described in this subsection causes blight to residential areas and other properties, provides breeding and nesting areas for obnoxious insects and other pests, and conceals vermin and filthy deposits and which substantially annoys, injures or endangers the comfort, health, repose or safety of the public and which is declared a public nuisance.

## ARTICLE II. JUNK

### Sec. 42.108. Abandoned Vehicles.

1. *Abandonment of vehicles prohibited.* No person shall leave unattended any motor vehicle, trailer, semitrailer or mobile home on any public highway or private or public property, in ordinary public view, for such time and under circumstances as to cause the vehicle to reasonably appear to be abandoned. Except as otherwise provided in Wis. Stats. § 342.40, any vehicle left unattended without the permission of the property owner for more than forty-eight (48) hours is deemed abandoned and is declared a public nuisance.

2. *Adoption and incorporation of abandoned vehicle statutes.* Wis. Stats. Chapters 342.40 and 349.13 are hereby adopted and incorporated by reference.

3. *Authority of town board to junk.* The town board may determine that the cost of towing and storage charges for impoundment of an abandoned vehicle would exceed the value of the vehicle. If the town board makes this determination then it may direct that the vehicle be junked or sold by the town upon determination of the Marathon County Sheriff that the vehicle is not stolen nor otherwise wanted for evidence or for other reasons.

4. *Enforcement of ordinance.* The owner of any vehicle who abandons a vehicle shall be subject to the General Penalty set forth in sec. 1.109 and the town may also recover the cost of impounding and disposing any abandoned vehicle under the procedure set forth in Wis. Stats. Chapter 342.40.

### Sec. 42.109. Junk.

1. The keeping, storing and placing of all junk such as scrap iron, wire rods, wrecked vehicles, junked vehicles, junked machinery, wrecked machinery, junked trailers, wastes resulting from the remodeling, construction or reconstruction of a building or structure, roadway or sidewalk, bottles, jugs, rags, broken glass, paper of all kinds, scrap metal and anything



that might pertain to a junkyard is declared to be a public nuisance and detriment to the public health and welfare of the town.

2. Any person violating subsection 42.109 shall be subject to section 1.109. Upon removal, the junk shall be stored in a junkyard or salvage yard or other suitable place for thirty (30) days and the owner thereof shall be notified if the name and whereabouts of the owner can be readily ascertained. The junk shall be disposed of unless claimed by the owner. If the owner reclaims the junk, all reasonable charges for handling and storage shall be paid by the owner.

#### **Sec. 42.110. Junk Cars.**

1. The purpose of this section is to regulate placement of unlicensed motor vehicles, trucks, truck trailers, buses, vans, recreational vehicles and similar vehicles and equipment which are either inoperable, unused and unlicensed, stripped, damaged, worn out or abandoned.

2. *Definitions.* The following definitions shall apply in construing this Ordinance:

a. *Motor Vehicle.* Any vehicle that is or may be propelled upon the public highway including but not limited to cars, trucks, truck trailers, buses, vans, recreational vehicles and motorcycles. For the purposes of this Ordinance dismantled motor vehicles or parts thereof shall also be included within this definition.

b. *License.* Any license that is required to be carried by any motor-driven vehicle when driven, used or propelled upon the public highway.

c. *Unlicensed Motor Vehicle.* A motor vehicle which is required to be licensed by the state of Wisconsin, Department of Transportation, when driven or propelled upon a public road but is not so licensed.

d. *Debris.* Other items that may pertain to a junk yard such as wrecked cars, junked cars, junked trailers or wrecked trailers.

e. *Unsheltered.* Located outside of an enclosed building.

f. *Owner.* Person or persons who hold legal land title to the parcel of land upon which motor vehicles are stored or are to be stored.

g. *Occupant.* Considered to be the person or persons who occupy the premises and who may or may not be the responsible person or persons to harbor such unlicensed motor vehicles.

3. *Prohibited in Areas Zoned Residential.* No person shall allow more than one unsheltered, disassembled, dismantled, junked, wrecked or inoperable or unlicensed vehicle or debris to be stored or to remain in public view upon private property in any area zoned residential within the town for a period of more than thirty (30) days.

4. *Prohibition in Other Areas Not Zoned Residential.* No person shall allow more than three (3) unsheltered, disassembled, dismantled, junked, wrecked or inoperable or unlicensed vehicle stored or debris to be stored or to remain upon private property in public view in areas which are not zoned residential for a period of more than thirty (30) days. This prohibition does not apply to licensed junk yards or automotive sales or repair businesses located within a properly zoned area.

5. *Declared Public Nuisances.* Any violation of the provisions of subsections 3 or 4 of this section as well as the keeping, housing, storing and placing of all debris, such as wrecked cars, junked cars, junked trailers, wrecked trailers and anything that might pertain to a junk yard is hereby declared to be a public nuisance and detriment to the public health and welfare of the citizens of the town if the storing and placement thereof is located in an unsheltered area, unless the storing or placement thereof is located in a zoning district of the town allowing for such storage or placement as an authorized or "permitted use."

6. *Enforcement.*

a. The town board may direct that a citation be issued for violation of this section subject to the general penalty provisions in section 1.109.

b. If the town board shall find any vehicle, vehicles or debris as described above, placed or stored in the public view upon private property in said town for more than thirty (30) days, the town board shall notify the owner of such property and/or the owner of said vehicle or debris as to the existence of the violation, the proper disposal of the vehicle and/or debris and request said owner(s) to remove such vehicle and/or debris within ninety (90) days) except as set forth in subsection d.

c. Upon the expiration of the ninety (90) days herein, the town or its designee shall inspect the premises and determine if such vehicle, vehicles and/or debris has been removed. If such vehicle, vehicles and/or debris have not been removed within ninety (90) days after such notice the town board may direct an action to abate the vehicle, vehicles and/or debris to be commenced in Marathon County Circuit Court, to be commenced for the recovery of the forfeitures and costs as provided in this section and to abate the nuisance created thereby.

d. If the town board has made a prior request for removal of a vehicle or debris from the premises within one (1) year, the notice and time for removal shall be thirty (30) days. If the vehicles or debris are not removed within thirty (30) days, the town board may direct that abatement action be commenced in the Marathon County Circuit Court.

7. *Cost of removal.* Upon obtaining an Order of the Court, the town board may cause the removal of any property determined to be a nuisance in order to abate the nuisance. The cost of such removal shall be a special charge and shall be billed to the property owner or owners. If the town does not receive payment for the charges within thirty (30) days, the town may include delinquent special charges in the current or next tax roll for collection and settlement. If the owner of said vehicle, vehicles and/or debris removes the vehicles, the owner shall notify the town as to its disposal. If the town removes the vehicle, vehicles and/or debris, the removed items shall be stored in a junk or salvage yard or other suitable place for thirty (30) days and the town shall notify the owner of the storage location, if the name and whereabouts of the owner can be readily ascertained. Unless the owner or owners reclaim the removed items, the town may dispose of said vehicle, vehicles and/or debris. If the owner or owners reclaim the removed items, the owner shall pay all reasonable charges for handling and storage.

### **Article III. Events/Assembly**

**Sec. 42.111. Outdoor transient, temporary or intermittent events/assembly was (adopted to be removed and replaced on 5/5/2021) with Section 42.111 Special Events.**

#### **Sec. 42.111. Special Events**

1. *Intent.* A Special Event Permit is required for any outdoor venue event, including without limitation, fairs, festivals, fireworks, concerts, parties, and any other event held by a person or entity which may or may not be during the operation of their business. It is the intent of the Town Board to regulate the assemblage of large numbers of people more than those normally needing the health, sanitary, fire, police, transportation, and utility services regularly provided in the Town, in order that the health, safety and welfare of all persons in the Town, residents and visitors alike, may be protected.

#### *2. Definitions.*

a. "Assembly" means a company of persons gathered together at any location at any single time for any purpose. "Assembly" also includes any planned extraordinary occurrence on the public right-of-way or public premises, including but not limited to parades, processions, bicycle or foot races, and festivals; or any planned extraordinary occurrence on private property which requires the provision of extraordinary police, fire or other public services, including, but not limited to any public gatherings, rallies, assemblies or festivals at which attendance is anticipated to be greater than one hundred (100) people.

b. "Person" means any person, partnership, corporation, firm, company, association, society, or group.

### 3. *License required.*

a. No person shall permit, maintain, promote, undertake, organize, manage, or sell or give tickets or allow attendance to any assembly involving actual or reasonably anticipated attendance of more than one hundred (100) people without first obtaining a license from the Town Clerk. Application for such assembly license shall be made to the Town Clerk at least (14) fourteen days prior to a scheduled Town Board monthly meeting, in advance of the commencement of the assembly. A license to hold an assembly shall permit the licensee to engage in any lawful activity in connection with the holding of such licensed assembly.

Upon receiving the request for permit, the Town Board at the next scheduled Town Board meeting is to review the permit request and determine if a permit is required. A waiver of a permit is allowed if it is determined that none of the conditions of Section 42.111.3. are applicable to the assembly in question. If a permit request is not waived, the permit request will be in compliance with all other requirements of Section 42.111.3.

The Town Board has the authority to direct which of the sub-sections in Section 42.111.3. must be met as a condition for granting a permit if full compliance of Section 42.111.3. is deemed not necessary.

b. A license shall permit the assembly of only the maximum number of people stated in the license. The licensee shall not sell tickets to nor permit the assembly of more than the maximum permissible number of people stated in such license.

c. The licensee shall not permit the sound of the assembly to carry unreasonably beyond the enclosed boundaries of the location of the assembly and shall take such measures as are necessary to prevent any sound from the assembly entering upon adjoining lands between the hours of 10:00 p.m. and 8:00 a.m.

d. This Ordinance shall not apply to any regularly established permanent place of worship, stadium, athletic field, auditorium, or other similar permanently established place of assembly nor to assemblies required to be licensed by other laws, ordinances and regulations of Marathon County or the State. Further, this Ordinance shall not apply to those Special Event Venues which have received a Conditional Use Permit from the Town

4. *Permit Criteria.* The town board, or its designee, may issue permits based on consideration of the following:

a. Whether display or temporary use obstructs pedestrian or vehicular circulation or obstructs vehicular sight distances;

b. Whether the event is limited to daylight hours if the event/assembly is located adjacent to a residential or transitional agricultural district;

c. Whether the outdoor lighting system, if any, is designed so that no direct source of light is visible from the public right of way and so that no direct beams of light shine upon adjacent lands;

d. Whether fencing is necessary for safety and security reasons;

e. Whether hours of operation and duration of temporary outdoor sales shall be specified in the permit;

f. Whether adequate parking is available;

g. Whether possible substantial or undue adverse impact on adjacent property, or on the character of the neighborhood, and any other matters affecting the public health, safety, or general welfare, outweigh any public benefits of the proposed assembly or event;

h. Whether there is an adequate plan for restoration of site to original condition and sufficient time to accomplish the restoration;

i. Whether the event is an authorized or permitted use under the Town's zoning ordinance;

j. Whether, if the assembly or event is outdoors, there are adequate provisions for drinking water, toilet facilities and crowd control;

k. The location of amplifiers and speakers and their power source;

l. Any licensed food and beverages concessionaires' names must be disclosed at the time of the permit application. Applicant will notify the Marathon County Health Department of the planned concessions; and

m. The approval party, its management, employees, and/or wait staff are responsible to maintain an orderly environment consistent with Town ordinances.

5. *Content of Permit.* The town clerk shall issue the permit with approval of the Town Board and upon receipt of the permit fee. The permit shall specify where the event/assembly will be held and its duration. The permit shall not be transferable.

6. *Fee.* The town board shall establish the sum to be paid for a permit and it shall be listed in the Town's fee schedule. A separate license shall be required for each location in which one hundred (100) or more people shall assemble or can reasonably be anticipated to assemble and shall state the specific day or dates of the assembly.

7. *Exceptions.* Assemblies by non-profit organizations at events for a period of not more than one day such as school, religious or charitable fundraising events shall not be subject to the provisions of this section provided any such events otherwise comply with other applicable town ordinances.

8. *Refusal to grant permit, revocation.* The town board may, upon notice and an opportunity for the applicant or permit the holder to be heard, deny any application for, or revoke any issued permit upon a finding or determination that such permit should not be granted or should be revoked for cause based upon the health, welfare, and safety of the town. Any such determination shall set forth reasons for the denial or revocation of any permit.

#### 9. *Enforcement*

a. The provisions of this Ordinance may be enforced by injunction in any court of competent jurisdiction.

b. The holding of an assembly in violation of any provisions or conditions contained in this Ordinance shall be deemed a public nuisance and may be abated as such.

c. In addition to any and all other penalties herein, Section 1.109 is hereby incorporated and as if fully set forth herein.

### **Sec. 42.112. Fireworks.**

1. *Adoption of Wis. Stats. Chapter 167.10 by reference.* Wis. Stats. Chapter 167.10 is adopted by reference as though set forth verbatim.

2. *Possession prohibited without a town permit.* No person may possess or use fireworks without a user's permit issued by the town chairperson in accordance with the provisions of Wis. Stats. Chapter 167.10(3).

3. *Indemnity bond.* As a precondition for issuing any permit, the town chairperson may require an indemnity bond as described in Wis. Stats. Chapter 167.10(3)(e) or other to ensure that the town shall not be held liable for accident or injury occasioned during the transportation, handling, storage, sale or use of the fireworks or pyrotechnic devices.

4. *Fee.* The town board shall establish the fee for the permit, and it shall be listed in the town fee schedule.

**Chapters 43—53**

**RESERVED**

## **Chapter 54**

### **SOLID WASTE**

#### **Article I. General**

- Sec. 54.100. Storing of refuse.
- Sec. 54.101. Garbage from outside the town.

#### **Article II. Disposal**

- Sec. 54.102. Definitions.
- Sec. 54.103. Garbage, refuse and waste containers.
- Sec. 54.104. Disposal of garbage, refuse and waste.
- Sec. 54.105. Disposal of collection procedures.
- Sec. 54.106. Separation.
- Sec. 54.107. Draining carts.
- Sec. 54.108. Location of carts for collection.
- Sec. 54.109. Improper storage of furniture.
- Sec. 54.110. Noncollectible materials.
- Sec. 54.111. Storage of refuse.
- Sec. 54.112. Enforcement and penalties.

#### **Article III. Littering**

- Sec. 54.113. Definitions.
- Sec. 54.114. Penalty for violations of articles.

#### **Article IV. Recycling**

- Sec. 54.115. Definitions.
- Sec. 54.116. Separation of recyclable materials.
- Sec. 54.117. Care of separated recyclable materials.
- Sec. 54.118. Responsibilities of owners or designated agents of multi-family dwellings.
- Sec. 54.119. Responsibilities of owners or occupants of non-residential facilities and properties.
- Sec. 54.120. Prohibitions on disposal of recyclable materials separated for recycling

## Chapter 54 - SOLID WASTE DISPOSAL AND RECYCLING (Amended and replaced 3/11/2024)

### ARTICLE I. GENERAL

#### Sec. 54.100. Storing refuse.

Pursuant to Section 42.103, any accumulation of refuse and/or waste on any premises in the Town is declared to be a public nuisance and is prohibited. The owner is responsible for the removal of such accumulation. The remedies for violation of this section are set forth in Section 42.101.

#### Sec. 54.101. Garbage from outside the town.

No person shall bring refuse for disposal or recyclables from outside the corporate limits of the Town unless authorized by agreement with the town.

### ARTICLE II. DISPOSAL

#### Sec. 54.102. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meaning ascribed to them in this section except where the context clearly indicates a different meaning:

1. *Items* means discarded residential items that are heavier than 50 pounds in weight or are otherwise not able to fit within an approved empty cart. Such items include but are not limited to furniture, chairs, couches, tables, mattresses, box springs, carpeting/padding, snow blowers, as push and riding lawn mowers, disassembled outdoor play equipment, large toys, bicycles, and fish aquariums.
2. *Cart* means that wheeled, rollout receptacle or container provided by the Town or collector for the collection of residential solid waste and the collection of recyclables. Carts for collection of residential solid waste shall be distinguished from carts for recyclables by lid color. The cart body color is universal for all carts.
3. *Collector* means the person, firm or corporation specifically authorized by the Town to collect recyclables and residential solid waste from residential units located within the Town of Wausau.
4. *Combustible refuse* means discarded, relatively dry, miscellaneous materials, comprising chiefly wood, paper, rags, excelsior, straw, leather, rubber, boxes and sweepings from buildings and similar discarded articles of a combustible nature.
5. *Curbside* means a location that is within three feet of the shoulder of the public or private road, within the resident drive approach or as close to the roadway as practicable without interfering with or endangering the movement of vehicles or pedestrians and at least four feet away from obstructions; or, such other location designated by collector.
6. *Electronic devices* means any of the following devices as defined in Wis. Stats. § 287.07(5), including but not limited to facsimile machines, digital video players, video cassette recorders, televisions, consumer computers, consumer printers, and telephones.
7. *Holiday* means New Year's Day, Memorial Day, Independence Day (4th of July), Labor Day, Thanksgiving Day, and Christmas Day or other day's designated by the collector.
8. *Major appliances* includes but is not limited to residential or commercial air conditioners, clothes dryers, clothes washers, dishwashers, freezers, refrigerators, microwave ovens, stoves, ovens, furnaces, boilers, dehumidifiers, and water heaters.
9. *Medical waste* has the meaning given in Wis. Admin. Code NR § 500.03(143).
10. *Multi-family dwelling units* means a building containing more than two (2) residential units.

11. *Nonresidential buildings or property* means any property that is not a residential unit.

12. *Pallet* means a small, low, portable platform which is intended for, or on which goods are placed for storage or moving.

13. *Residential unit* means the following dwelling units located within the Town of Wausau: single family detached dwellings; duplex, mobile homes; condominium units, residential dwelling units; and, a single family dwelling unit located within or attached to a building which contains not more than one commercial use and not more than one single family dwelling unit. Single family dwelling units contained in or attached to any building or located on a single lot of real property which houses more than one residential unit and more than one commercial use, or any other use, are also excluded.

14. *Residential solid waste* means all normal domestic household garbage and rubbish generated by a residential unit including but not limited to all kitchen and table food waste, animal or vegetative waste attendant with or that results from the storage, preparation, cooking or handling of food materials, paper, rags, cardboard, cartons, wood, rubber, crockery, glassware, metallic ware, sweepings, or other similar wastes. Residential solid waste shall also include during the month of January, Christmas trees cut into four-foot lengths. Residential solid waste excludes unacceptable waste.

15. *Recyclable materials* includes lead acid batteries; major appliances; waste oil; yard waste; aluminum containers; corrugated paper or other container board; foam polystyrene packaging; glass containers; magazines; newspaper; office paper; rigid plastic containers, including those made of PETE, HDPE, PVC, LDPE, PP, PS and other resins or multiple resins; steel containers; waste tires; and bi-metal containers.

16. *Sharps collection station* means a drop-off site for home generated sharps operated in compliance with Wis. Admin. Code NR § 526.09(5).

17. *Solid waste* means that garbage and rubbish generated by nonresidential buildings or property including but not limited to all kitchen and table food waste, animal or vegetative waste attendant with or that results from the storage, preparation, cooking or handling of food materials, paper, rags, cardboard, cartons, wood, rubber, crockery, glassware, metallic ware, sweepings, or other similar wastes.

18. *Unacceptable waste* means hazardous waste as defined in Wis. Stats. § 291.05(1), (2) or (4); all materials or items prohibited from disposal or incineration at a solid waste disposal facility pursuant to Wis. Stats. § 287.07 including but not limited to waste tires, lead acid batteries, remodeling or demolition materials, new construction debris, concrete, bricks, paving materials, and soil; large tree debris, stumps, and shrubs with intact root balls; and electronic devices.

19. *Yard waste* means solid waste consisting of solely vegetative matter resulting from landscaping maintenance such as leaves, grass clippings, yard and garden debris and brush including clean woody vegetative materials no greater than six inches in diameter. Yard waste excludes stumps, roots, or shrubs with intact root balls.

### **Sec. 54.103. Garbage, refuse, waste, and recyclable containers.**

#### 1. *Containers for residential units.*

a. Each owner, tenant or person occupying any residential unit in the Town and producing garbage, refuse, and/or waste shall receive one container to hold the garbage, refuse and waste accumulating between collections and/or removal to the sanitary landfill without overloading.

b. Containers must be provided by the collector and have tight fitting covers, strong handles on the outsides, should be watertight, and fly-proof.

c. All containers shall be maintained by the user in a good, clean, and sanitary condition and covers shall be kept tightly on such containers so as to prevent all materials from blowing or spilling from the container.



d. Each owner and occupant of a residential unit shall properly use and safeguard carts and maintain and keep the carts in good condition, ordinary wear and tear excepted.

e. Any container that is defective or has ragged or sharp edges or any defects to injure or hamper the person collecting the waste or that does not meet the requirements of this article must be replaced immediately by a new container.

f. The owner or occupant of a residential unit shall be charged for replacement of any cart if replacement is required as a result of abuse, misuse, damage, fire or theft.

g. All carts are the property of the collector and shall not be removed from the residential unit served by such carts.

h. The charge for collection will be charged to the property owner annually on their property tax bill as a special charge.

## 2. *Multi-family dwelling unit container requirements.*

a. In all multi-family dwelling units and in all commercial buildings containing more than two (2) business establishments, garbage containers shall be placed and maintained within a three (3)-sided enclosure consisting of a fence of a height no less than two feet higher than the maximum height of the garbage containers.

b. The fence shall be constructed in such a manner so as to prevent paper, debris and other refuse material from being blown through the fence.

c. The owner of all multi-family dwelling units and all such commercial establishments shall be responsible for full compliance with the requirements of this article.

## 3. *Additional residential carts.*

a. Owners or occupants of a residential unit may request additional carts directly from the collector.

b. Owners and occupants of residential units requesting additional carts shall make arrangements for collection for such additional carts directly with the collector.

c. Owners and occupants of residential units requesting additional carts shall be billed by and pay the collection rates for such additional cart collection and the cost for any additional carts directly to collector.

## 4. *Nonresidential unit carts.*

a. Each and every owner of a nonresidential building or property shall provide and renew, when necessary, a sufficient number of containers to hold solid waste and recyclables which are of substantial construction, have tight fitting covers, strong handles on the outside, be watertight, and fly-proof.

b. All containers shall be maintained by the owner and occupant in a good, clean, and sanitary condition.

c. Any defective container having ragged or sharp edges or other defects that might injure or hamper the person collecting the waste must be replaced immediately by a new container.

## **Sec. 54.104. Disposal of garbage, refuse, and waste.**

### 1. *Prohibited disposal or removal of garbage or recyclables.*

a. No owner, tenant, housekeeper, building maintenance person or other person occupying any dwelling or other building or portion of a building in the Town shall deposit, throw, place, or leave any garbage, refuse or waste upon any street, court, lane, alley, business square, public enclosure, vacant lot, house yard, body of water, or any place except in a garbage container required for that purpose except bulky combustible rubbish may be prepared and left for collection or removal to a landfill site as provided in this article.

b. No person shall upset or turn over any contents of any waste container on any street, alley, and other public place.

c. No person shall remove any waste from containers on private premises without the consent of the occupant, owner, or lessee of the premises.

d. No person shall remove any waste from a container that has been set out at curbside for collection unless authorized to do so.

e. No person shall deposit or leave any garbage, refuse, or waste in any garbage container belonging to another person without first securing permission to use such container for disposal purposes.

*2. Prohibited disposal or removal of garbage and recyclables in public areas.*

a. No person shall deposit or leave any garbage, refuse, or waste in any public refuse container or at any public wayside or park within the town unless such garbage, refuse, or waste was generated upon the premises being served by the container and in connection with the use of the public facility.

b. No public container shall be utilized by any person for the disposal of his garbage, refuse, or waste except as authorized in this article unless the Town Board officially designates a site to be a solid waste collection station by the posting of official signs at the site to that effect.

3. *No burning or disposal.* No person may dispose of in a solid waste disposal facility or burn in a solid waste treatment facility any recyclables or other items prohibited by Wis. Stats. § 287.07.

**Sec. 54.105. Collection procedures.**

*1. Residential units.*

a. The Town of Wausau collection services shall be provided only for residential units and as provided in this chapter.

b. Residential solid waste shall be collected not less than once per week from all residential units according to a schedule set or approved by the Town.

c. If a scheduled collection day falls on a Holiday, collection shall be made on the following business day unless another day is designated by the collector.

d. Recyclables shall be collected at least once every two weeks on the same day scheduled for collection of residential solid Waste.

e. Collection shall not commence before 4 a.m.

*2. Nonresidential buildings or property.*

a. The Town shall not be responsible for or provide collection services for any solid waste, recyclables, or other waste that accumulates in or upon nonresidential buildings or property.

b. Nonresidential building owners or occupants must arrange for the collection and disposition of solid waste, recyclables, or other waste at their expense.

c. Nonresidential property owners or occupants shall hire a collector to collect, transport, and dispose of such waste as provided by Town ordinances and in accordance with other health and sanitary regulations pertaining to nuisances.

d. Owners or occupants of nonresidential buildings or property shall provide adequate separate containers for the disposal of both solid waste and recyclables.

e. Owners shall regularly notify the users, tenants, or other occupants of the premises of nonresidential buildings and properties, including employees, agents, and customers, of the Town recycling requirements and other requirements of this chapter.

3. *Refusal of service.* The Town or collector may refuse to furnish collection service for residential solid waste or recyclables to any person not complying and refusing to comply with this chapter and the rules and regulations promulgated by the Town for the collection and disposal of residential solid waste or recyclables.

a. Any person from whom service for the collection of residential solid waste or recyclables is withdrawn by the collector or the Town for failure to comply with the rules and regulations, and who as a result has residential solid waste or recyclables on his/her premises and which creates public or health nuisance under Chapter 42 may be prosecuted under any ordinances of the Town regulating the same.

4. *Special services for residential units.* Any waste collection requiring special services, such as bulk items, major appliances, yard waste, and electronic devices, or collection requiring more than the one cart provided and designated by the Town or collector for each of recyclables or residential solid waste, shall be requested by the owner or occupant of a residential unit directly from the collector. Services for such waste collection rendered shall be at the discretion of the collector.

a. A schedule of rates charged by the collector for such special services may be obtained from the collector.

b. The Occupant or owner of a residential unit requesting such service shall be billed directly by the collector.

5. *Unacceptable waste.* No person shall place unacceptable waste out for collection by the Town or collector, or a private licensed hauler, in the case of nonresidential buildings or property.

6. *Containment.* No person shall place any residential solid waste or recyclables at curbside for collection that is not contained within the proper cart.

#### **Sec. 54.106. Separation.**

1. *Use of the Proper Cart.* It shall be the duty of every owner and occupant of a residential unit and owners and occupants of all nonresidential buildings and property to place residential solid waste and recyclables in the proper container or cart(s).

a. All residential solid waste shall be placed by the owner or occupant of a residential unit into the cart provided and designated by the Town or collector for such purposes.

b. Recyclables shall be placed by the owner or occupant of a residential unit into the cart provided and designated by the Town or collector for such purposes.

c. No residential solid waste shall be placed in the cart for recyclables and no recyclables shall be placed in the cart designated for residential solid waste; such mixed wastes shall not be collected by the collector.

d. Owners and occupants of nonresidential buildings or property shall not place solid waste in the same container as that used for recyclables, nor shall owners and occupants of nonresidential buildings or property place recyclables in the same container as that used for solid waste; such mixed wastes shall not be collected, transported or disposed of by any person.

2. *Separation of Yard Waste.* Every occupant of a residential unit is required to separate yard waste from recyclables and residential solid waste that is placed for collection at curbside by the Town or collector.

a. It is not the responsibility of the Town or the collector to dispose of yard waste or brush. The owner or occupant of the property shall dispose of yard waste properly.

b. No yard waste shall be mixed with any residential solid waste or recyclables which are placed for collection at curbside by the Town or its collector.

**Sec. 54.107. Draining carts.**

1. *Keeping carts dry.* Before placing any residential solid waste or recyclables in a cart for collection, every occupant of a residential unit shall drain the residential solid waste or recyclables free of water or other liquid so that the carts shall contain relatively dry packages of residential solid waste and recyclables.
2. *Occupant Responsibility.* It shall be the responsibility of every occupant of a residential unit and nonresidential building and property to keep carts and other waste containers and their contents dry and free from rainwater and snow.

**Sec. 54.108. Location of carts for collection.**

1. *Location of cart.* Carts shall be set out at the curbside by residential unit owners, occupants, or other persons in charge of the residential unit, or as may be otherwise directed by the Town, or by the collector.

- a. Any cart not placed at curbside on the day designated for collection by the Town or collector will not be collected.
- b. During the winter months, the owner, occupant, or other person in charge of a residential unit shall provide a travel way to the carts which is free of snow.
- c. Carts shall not be placed out at curbside prior to 3:00 p.m. of the day prior to the collection day.
- d. Carts shall be removed from the curbside the same day after the garbage/recyclables are collected.
- e. The property owner, occupant, or person in charge of the residential unit shall be responsible for violations of this section.

**Sec. 54.109. Improper storage of furniture.** No person shall place and allow to remain exposed to the elements, whether outdoors or within an unenclosed porch or similar area, any chair, sofa, bed, table or other related or similar furniture, which is not designed and intended for outdoor use and which is thereby readily susceptible to deterioration or which thereby provides a harborage for rodents. This section shall not apply to furniture which is unused and placed outside as refuse for collection and disposal.

**Sec. 54.110. Noncollectible materials.**

1. *Noncollectible.* No person shall set the following materials out for collection:

- a. Nonseparated waste which is a mixture of any two or more of the four types of wastes, recyclables, residential solid waste, solid waste, and yard waste;
- b. Unacceptable waste;
- c. Tires;
- d. Appliances;
- e. Electronic devices;
- f. Yard waste;
- g. Large furniture items such as mattresses, chairs, couches, tables;
- h. Hazardous and toxic waste;
- i. Trees and stumps, roots, shrubs with intact root balls;
- j. Paint;
- k. Flammable liquids;
- l. Explosives;
- m. Chemicals;
- n. Carcasses;
- o. Medical waste, except home-generated sharps which shall be deposited at a designated sharps collection station;
- p. Automotive parts or accessories;
- q. Metal.

2. *Disposal of Items.* The above materials shall be disposed of by the property owner, occupant of the property, or other person in charge of the property by contacting a licensed hauler of the specified item or as otherwise provided by law.

3. *Violations.* The property owner, occupant of the property, or other person in charge of such property shall be responsible for violations of this section.

**Sec. 54.111. Storing of refuse.**

1. *Accumulation of materials.* Any accumulation of recyclables, residential solid waste, solid waste, landscaping materials, pallets, bulk items, yard waste, or noncollectible materials as defined in [Section 54.110](#), on any premises in the Town is prohibited and declared to be a nuisance under this chapter.

2. *Violations.* The premises owner, occupant of the premises, or other person in charge of such premises shall be responsible for any violations of this section and is subject to the penalties provided in [Section 54.112](#).

3. *Removal of materials.* In addition to the penalties in Section 54.112, the owner of the premises is responsible for removal of any accumulation of recyclables, residential solid waste, solid waste, landscaping materials, pallets, bulk items, yard waste, or noncollectible materials, and upon failure to remove such materials after written notice from the Town of Wausau Board or its designee, the Town will cause the removal of the accumulation and assess the charges for such removal to the owner(s) of the premises where the accumulation occurred.

**Sec. 54.112. Enforcement and penalties.**

1. *Enforcement.*

a. For the purpose of ascertaining compliance with the provisions of this section, any authorized officer, employee or representative of the Town may inspect recyclable materials separated for recycling, postconsumer waste intended for disposal, recycling collection sites and facilities, collection vehicles, collection areas of multi-family dwellings and non-residential facilities and properties, and any records relating to recycling activities, which shall be kept confidential when necessary to protect proprietary information. No person may refuse access to any authorized officer, employee, or authorized representative of the town, who requests access for purposes of inspection and who presents appropriate credentials. No person may obstruct, hamper, or interfere with such an inspection.

b. Any person who violates a provision of this section may be issued a citation by the Town to collect forfeitures. The issuance of a citation shall not preclude proceeding under any other section or law relating to the same or any other matter. Proceeding under any other section or law relating to the same or any other matter shall not preclude the issuance of a citation under this paragraph.

c. Penalties for violating this section may be assessed as set forth in Section 1.109 of the Code.

*Statutory Authority.* This section is adopted as authorized under Wis. Stats. Chapter 287.09(3)(b) and 66.0405

**ARTICLE III. LITTERING**

**Sec. 54.113. Definitions.**

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. *Aircraft* means any structure invented, used, or designed for navigation or flight in the air.
2. *Highway* has the meaning given in Wis. Stats. Chapter 340.01(22).
3. *Vehicle* has the meaning given in Wis. Stats. Chapter 340.01(74).
4. *Waters of the state* has the meaning given in Wis. Stats. Chapter 281.01(18).

#### **Sec. 54.114. Penalty for violation of article.**

1. Except as provided in subsection (2) of this section, a person who does any of the following shall be subject to the general penalty provisions set forth in section 1.109:
  - a. Deposits or discharges any solid waste on or along any highway, in any waters of the town, on the ice of any waters of the town or on any other public or private property;
  - b. Permits any solid waste to be thrown from a vehicle operated by the person;
  - c. Fails to remove within thirty (30) days or otherwise abandons any automobile, boat, or other vehicle in the waters of the town;
  - d. Owns an aircraft that has crashed in the waters of the town and fails to remove the aircraft from those waters within thirty (30) days after the crash or within thirty (30) days after the National Transportation Safety Board authorizes its removal, whichever is latest.
2. Subsection (1)(a) of this section does not apply to a person who places solid waste in a receptacle designed for solid waste storage that is located along a highway or on other public or private property.

### **ARTICLE IV. RECYCLING**

#### **Sec. 54.115. Definitions.**

1. *Bi-metal container* means a container for carbonated or malt beverages that is made primarily of a combination of steel and aluminum.
2. *Container board* means corrugated paperboard used in the manufacture of shipping containers and related products.
3. *Foam polystyrene packaging* means packaging made primarily from foam polystyrene that satisfies one of the following criteria: a) Is designed for serving food or beverages. b) Consists of loose particles intended to fill space and cushion the packaged article in a shipping container. c) Consists of rigid materials shaped to hold and cushion the packaged article in a shipping container.
4. *Glass container* means a glass bottle, jar or other packaging container used to contain a product that is the subject of a retail sale and does not include ceramic cups, dishes, oven ware, plate glass, safety and window glass, heat resistant glass such as Pyrex, lead based glass such as crystal, or TV tubes.
5. *HDPE* means high density polyethylene, labeled by the SPI code # 2.
6. *LDPE* means low density polyethylene, labeled by the SPI code # 4.
7. *Magazines* means magazines and other materials printed on similar paper.
8. *Major appliance* means a residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator, furnace, boiler, dehumidifier, water heater or stove.
10. *Newspaper* means a newspaper and other materials printed on newsprint.
11. *Non-residential facilities and properties* means commercial, retail, industrial, institutional and government facilities and properties. This term does not include multi-family dwellings.
12. *Office paper* means high grade printing and writing papers from offices in non-residential facilities and properties. Printed white ledger and computer printout are examples of office paper generally accepted as high grade. This term does not include industrial process waste.
13. *Other resins or multiple resins* mean plastic resins labeled by the SPI code # 7.
14. *Person* includes any individual, corporation, partnership, association, local government unit, as defined in s. 66.0131(1)(a), Wis. Stats., state agency or authority or federal agency.
15. *PETE or PET* means polyethylene terephthalate, labeled by the SPI code # 1. 2

16. *Plastic container* means an individual, separate, rigid plastic bottle, can, jar or carton, except for a blister pack, which is originally used to contain a product that is the subject of a retail sale.

17. *Postconsumer waste* means solid waste other than solid waste generated in the production of goods, hazardous waste, as defined in s. 291.01(7) Wis. Stats., waste from construction and demolition of structures, scrap automobiles, or high-volume industrial waste, as defined in s. 289.01(17)., Wis. Stats.

18. *PP* means polypropylene, labeled by the SPI code # 5.

19. *PS* means polystyrene, labeled by the SPI code # 6.

20. *PVC* means polyvinyl chloride, labeled by the SPI code # 3.

21. *Recyclable materials* includes lead acid batteries; major appliances; waste oil; yard waste; aluminum containers; corrugated paper or other container board; foam polystyrene packaging; glass containers; magazines; newspaper; office paper; rigid plastic containers, including those made of PETE, HDPE, PVC, LDPE, PP, PS and other resins or multiple resins; steel containers; waste tires; and bi-metal containers.

22. *Solid waste* has the meaning specified in s. 289.01(33), Wis. Stats.

23. *Solid waste facility* has the meaning specified in s. 289.01(35), Wis. Stats.

24. *Solid waste treatment* means any method, technique or process which is designed to change the physical, chemical, or biological character or composition of solid waste. "Treatment" includes incineration.

25. *Waste tire* means a tire that is no longer suitable for its original purpose because of wear, damage, or defect.

26. *Yard waste* means leaves, grass clippings, yard and garden debris and brush, including clean woody vegetative material no greater than 6 inches in diameter. This term does not include stumps, roots, or shrubs with intact root balls.

**Sec. 54.116. Separation of recyclable materials.** Each owner, tenant or person occupying any residential unit, multi-family dwellings, and non-residential facilities and properties shall separate the following materials from postconsumer waste:

1. Lead acid batteries
2. Major appliances
3. Waste oil
4. Yard waste
5. Aluminum containers
6. Bi-metal containers
7. Corrugated paper or other container board
8. Foam polystyrene packaging
9. Glass containers
10. Magazines
11. Newspaper
12. Office paper
13. Rigid plastic containers made of PETE, HDPE, PVC, LDPE, PP, PS, and other resins or multiple resins
14. Steel containers
15. Waste tires

**Sec. 54.117. Care of separated recyclable materials.**

1. *Cleanliness.* To the greatest extent practicable, the recyclable materials separated in accordance with Sec.54.116 shall be clean and kept free of contaminants such as food or product residue, oil or grease, or other non-recyclable materials, including but not limited to household hazardous waste, medical waste, and agricultural chemical containers.

2. *Storage.* Recyclable materials shall be stored in a manner which protects them from wind, rain, and other inclement weather conditions.

**Sec. 54.118. Responsibilities of owners or designated agents of multi-family dwellings.**

1. *Multi-family dwellings.* Owners or designated agents of multi-family dwellings shall do all of the following to recycle the materials specified in Sec.54.116 (1) through (15):

- a. Provide adequate, separate containers for the recyclable materials.
- b. Notify tenants in writing at the time of renting or leasing the dwelling and at least semi-annually thereafter about the established recycling program.
- c. Provide for the collection of the materials separated from the solid waste by the tenants and provide the collection dates by the collector.
- d. Notify tenants of reasons to reduce and recycle solid waste, which materials are collected, how to prepare the materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address, and telephone number.

**Sec. 54.119. Responsibilities of owners or occupants of non-residential facilities and properties.**

1. *Non-residential facilities and properties.* Owners or occupants of non-residential facilities and properties shall do all of the following to recycle the materials specified in Sec.15.116. (1) through (15):

- a. Provide adequate, separate containers for the recyclable materials.
- b. Notify in writing, at least semi-annually, all users, tenants, and occupants of the properties about the established recycling program.
- c. Provide for the collection of the materials separated from the solid waste by the users, tenants and occupants and the collection dates by the collector.
- d. Notify users, tenants, and occupants of reasons to reduce and recycle, which materials are collected, how to prepare materials to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address, and telephone number.

**Sec. 54.120. Prohibitions on disposal of recyclable materials separated for recycling.** No person may dispose of in a solid waste disposal facility or burn in a solid waste treatment facility any of the materials specified in Sec.54.116 (1) through (15) which have been separated for recycling, except waste tires may be burned with energy recovery in a solid waste treatment facility.



**Chapters 55—57**

**RESERVED**

## Chapter 58

### STREETS

#### Article I. General

- Sec. 58.100. Statutes adopted.
- Sec. 58.101. Street excavation permits and fees.
- Sec. 58.102. Prohibited deposits.
- Sec. 58.103. Removal of obstructions.
- Sec. 58.104. Depositing snow removal.
- Sec. 58.105. Width of highways or streets.
- Sec. 58.106. Minimum highway design standards.
- Sec. 58.107. Assignment of town road names.
- Sec. 58.108. Reserved.
- Sec. 58.109. Weight limits.
- Sec. 58.110. Reserved.
- Sec. 58.111. Driveway/ highway access.
- Sec. 58.112. Parking on town road restricted.
- Sec. 58.113. Regulation of mailboxes.

#### Article II. Excavations

- Sec. 58.114. Permit required.
- Sec. 58.115. No opening in frozen ground.
- Sec. 58.116. Notification of excavation.
- Sec. 58.117. Traffic control.
- Sec. 58.118. Report of utility pipes required.
- Sec. 58.119. Surety bond required.
- Sec. 58.120. Reserved.
- Sec. 58.121. Barricades.
- Sec. 58.122. Town utility policy.
- Sec. 58.123. Trench backfilling.
- Sec. 58.124. Compaction control tests.
- Sec. 58.125. Permanent pavement repair costs.

#### Article III. Traffic Routes

- Sec. 58.126. All terrain route.
- Sec. 58.127. Snowmobile route.

## ARTICLE I. GENERAL

### **Sec. 58.100. Statutes adopted.**

The provisions of Wis. Stats. Chapter 62.16, as amended, relating to the construction, improvement and repair of streets and alleys, so far as applicable to the town, are adopted by reference in this section verbatim.

### **Sec. 58.101. Street excavation permit and fees.**

No person shall begin or engage in any excavation or construction in, on, under, above or across any street, sidewalk or public property without obtaining a permit and paying of the permit fee set by the town board.

### **Sec. 58.102. Prohibited deposits.**

1. *Refuse.* No person shall deposit or place or cause or permit to be deposited or placed in, upon or over any street, alley, roadway or other public grounds within the town any brush, fence, wood, dirt, stone, rubbish, glass, bottles, crockery, nails, tacks, pieces of metal, wire, briars, thorns or other articles or obstructions that would in any way interfere with the convenient or intended use of a street, alley, ditch, roadway or other public ground by the public or that would be liable to injure or damage any person or animal or the wheels or tires of bicycles or any vehicles that have wheels with rubber or pneumatic tires.

2. *Building Materials.* No person shall place or cause to be placed, any dirt, coal, stone, timber, planks, boards or other materials for building or otherwise in or upon any street, alley, right-of-way or public square without written permission from the town board.

### **Sec. 58.103. Removal of obstructions.**

Whenever there shall be any fence, barrier or any such items of rubbish, building materials, etc., upon or over any sidewalk, street, alley or roadway or other public grounds in the town, the town board may direct the owner or the person having or claiming to have the care, custody or control of such places or the person who placed or caused the obstructions to be placed upon or over any such sidewalk, street, alley, roadway or other public grounds to remove the obstructions by a date certain, not less than five (5) nor more than 30 (30) days from the date of service of the order directing removal. Any person who fails to timely comply with the removal order is subject to the general penalty provisions of section 1.109 and/or the abatement provisions of section 42.101.

### **Sec. 58.104. Depositing snow removal.**

No person to push or deposit snow, or cause snow to be pushed or deposited from his/her own personal driveway or parking area into the public streets and/or alley or roadway.

### **Sec. 58.105. Width of highways or streets.**

All streets, highways and roads within the town shall be established, constructed and laid out having a width of sixty-six (66) feet unless the town board authorizes by resolution some other width.

### **Sec. 58.106. Minimum highway design standards.**

1. *Purpose.* It is in the public interest for the town to establish minimum highway design standards for highways being constructed in the town to accommodate anticipated traffic and afford satisfactory access to police, firefighting, snow removal, sanitation and road maintenance equipment.

2. *Definitions.* In order to clarify this ordinance, the following definitions are applicable:

- a. Approach: that portion of road extending 100 feet on each side of a culvert or bridge;
- b. Base Course: the supporting base material of a roadway, including shoulder;
- c. Drainage: the gradual drying of highway by system of ditches, trenches, channels, etc.;
- d. Grade: the rate of ascent or descent of roadway;
- e. Highway: the road which the public generally has a right to pass to include the complete right-of-way;
- f. Road Bed: the whole material laid in place and ready for travel;

- g. Roadway: the traveled portion of the highway; and
- h. Surface: one-half (1/2) the top of the roadway, or traveled surface.

3. *Applicability.* This section shall be applicable to all highways laid out by the town board after adoption of this section, including any highways dedicated in plats for proposed subdivisions submitted for review pursuant to ch. 236, Wis. Stats., any private highways being donated to the town and any other highways being accepted by the town as public highways in the town.

4. *Minimum road design standards.* The following minimum design standards shall apply under this section: all town highways shall be classified as local roads unless designated by the town board as collector or arterial. The classification of all roads under this section shall be within the complete discretion of the town board considering such factors as traffic count, character of anticipated traffic and relation of highway to traffic patterns within the town and other highway systems. It is intended that local be the lowest traffic count, with access to private property as principal function. Collector highways are intended to be highways acting as collectors from local roads to higher priority roads or developed areas. Arterials are intended to serve as corridors through the town serving intra-regional and inter-area traffic movement.

	Residential with C/G*	Residential W/O C/G*	Commercial with C/G*	Commercial W/O C/G*
<b>Minimum R.O.W.</b>	66 feet	66 feet	66 feet	66 feet
<b>Minimum width of Base Course (including curb, gutter, or shoulders)</b>				
<i>Local</i>	30 feet	30 feet	32 feet	32 feet
<i>Collector</i>	32 feet	32 feet	40 feet	50 feet
<i>Arterial</i>	40 feet	34 feet	40 feet	50 feet
Minimum Width of Surfacing				
<i>Local</i>	30 feet	22 feet	32 feet	24 feet
<i>Collector</i>	32 feet	22 feet	40 feet	30 feet
<i>Arterial</i>	40 feet	22 feet	48 feet	48 feet
Maximum Grade (percent)-Minimum Grade .5				
<i>Local</i>	10 feet	10 feet	8 feet	8 feet
<i>Collector</i>	8 feet	8 feet	6 feet	6 feet
<i>Arterial</i>	6 feet	6 feet	6 feet	6 feet
Minimum Radius of Horizontal Curve				
<i>Local</i>	100 feet	100 feet	200 feet	200 feet
<i>Collector</i>	100 feet	100 feet	200 feet	200 feet
<i>Arterial</i>	300 feet	300 feet	400 feet	400 feet
Corner Radius at Intersections	15 feet	30 feet	15 feet	30 feet
Minimum Length of Vertical Curve				
<i>Local</i> : 100 feet, but not less than 20 feet for each algebraic difference in grade				
<i>Collector</i> : 200 feet, but not less than 50 feet for each one percent				
<i>Arterial</i> : 300 feet, but not less than 50 feet for each algebraic difference in grade				
Minimum Length of Tangents between Reverse Curves				
<i>Local</i>	100 feet	100 feet	200 feet	200 feet
<i>Collector</i>	100 feet	100 feet	200 feet	200 feet
<i>Arterial</i>	200 feet	200 feet	300 feet	300 feet
<b>Cul de Sacs (permanent)</b>				
<i>Maximum Length is 1,000 feet-through roads are more desirable</i>				
<i>Minimum R.O.W. Radius** at Cul de Sacs-Local</i>	60 feet	60 feet	60 feet	60 feet
<i>Minimum Base Course Radius**-Local</i>	40 feet	42 feet	40 feet	42 feet
<i>Minimum Pavement Radius**</i>	40 feet	40 feet	40 feet	40 feet

\* With C/G means with curb/gutter  
 \* W/O C/G means without curb/ gutter  
 \*\* Radius = 1/2 of diameter

*Base course:* Base Course must be of a quality, thickness, and composition suitable for the location.

*Surface course:* Surface Course must consist of either crushed aggregate or bituminous concrete composition suitable for anticipated traffic loads. The minimum amount of gravel necessary for acceptance must be at least 4,000 yards per mile. The minimum amount of pavement necessary for acceptance must be a least 2 ½" compacted thickness.

*Ditching and culverts:* The ditching of the roadway must be complete and have proper elevation to provide for adequate drainage. Any culverts necessary for proper drainage shall be installed after elevation and location is obtained from the town board. The minimum length of my culvert installed in a roadbed shall be at least two feet greater than the base course width. The diameter and length will be subject to the approval of the Town Board, after the amount of the flowage is determined. In no case shall the culvert be less dm 18" in diameter.

*Bridges:* All bridges shall meet the minimum requirements of state and federal law. In the event the town board determines, that construction of a bridge would be of a size and cost as would create a hardship to the owner of land to require the owner to build said bridge, then the town board may proceed to accept the road, complete as required above, except that part extending 100 feet on each side of said bridge. This portion of the road shall be known as the approach. The approach will be accepted incomplete, with the reservation that the town will bill back to the owner a portion of the cost of construction of such a bridge. The town will proceed to build said bridge and approach, using available bridge, and billing the portion not covered by bridge aid to the owner.

5. *Authority for higher standards.* The road design standards in subsection 3 as stated above are intended to be minimum design standards. The town board shall have the discretion to impose higher design standards where in the opinion of the town board local conditions require higher standards or anticipated traffic in quantity or quality will require higher standards.

6. *Application for determination of applicable standards.* Any person may apply to the town board to determine what design standards should apply in a particular location, giving the description of the proposed highway and proposed design standards being requested to be approved for any proposed highway being proposed to be built. No person shall commence construction of any highway anticipated to be turned over the town without having written town board approval of the proposed highway design.

7. *Final inspection and acceptance by the town board.* Upon completion of the proposed highway, the town board will proceed to make final inspection and exercise its discretion to accept or reject the highway. If the highway is rejected, then corrections must be made as stated by the town board before final inspection will be made again. Upon town board acceptance of the highway, the owner or owners will convey their clear title to the highway, by warranty deed, free and clear and any liens.

**Sec. 58.107. Assignment of town road names.**

As mandated by Wis. Stats. Chapter 82.03(7), the town board assigns names for each road under the jurisdiction of the town as shown on the official town map and the official town map is incorporated by reference.

**Sec. 58.108. Reserved.**

**Sec. 58.109. Weight Limits.**

1. *Authority to impose special or seasonal weight limitations.*

a. The town board shall have the authority to impose special or seasonal weight limitations to prevent injury or damage to the roadways, highways, bridges or culverts within the town. All the provisions of Wis. Stats. Chapter 349.16 are hereby made a part of this section with the same force and effect as if the said provisions were set out herein at length.

b. *Highway* means all public ways and thoroughfares and bridges on the same. It includes the entire width between the boundary lines of every way open to the use of the public as a matter of right for the purposes of vehicular travel. It includes those roads or driveways in the state, county or municipal parks and in state forests which have been opened to the use of the public for the purpose of vehicular travel and roads or driveways upon the grounds of public schools, as defined in Wis. Stats. Chapter 115.01(1) and institutions under the jurisdiction of the county board of supervisors but does not include private roads or driveways as defined in Wis. Stats. Chapter 340.01(46).

c. The following heavy vehicles shall be exempt from special or seasonal weight limitations:

- (1) Municipal owned vehicles which are being used for the removal, treatment or sanding of snow or ice or the maintenance of a highway, bridge or culvert;
- (2) Authorized emergency vehicles;
- (3) Vehicles used to transport material pumped from a septic or holding tank in the town, if, because of health concerns, material needs to be removed from a septic or holding tank within twenty-four (24) hours after the vehicle owner or operator is notified and if the vehicle is operated for the purpose of emptying the septic or holding tank disposing of its contents and is operated on a route that minimizes travel on the highway, bridge or culvert;
- (4) School buses picking up and delivering children to the town residences; and
- (5) Garbage hauler contracted by the town.

2. *Weight Limitations.* The town chairman is responsible for designating roads and imposing weight limits subject to review by the town board. .

a. Seasonal (spring) weight restrictions: During the spring breakup normally from early March to late April (six or seven weeks) the maximum weight permitted on town roads is six (6) tons on single axle and ten (10) tons on tandem axle with a maximum of 48,000 pounds also known as Class B. Generally, the town follows the Marathon County Highway Department time table when imposing Spring weight restrictions. There may be areas of town where the seven and one-half (7½)-ton weight restriction may be imposed. Vehicles exceeding seven and one-half (7½)-ton weight restrictions require a road permit. The permit process to exceed seven and one-half (7½) tons requires individual trip approval. No blanket permits will be issued. Those haulers obtaining seasonal weight permits to haul on town roads may be required to:

- Haul early in the morning before 7:30 a.m.;
- Haul half loads or lighter loads;
- Drive in the middle of the road when safety conditions permit;
- Travel at a slower speeds than posted; and
- Take alternative route(s).

3. *Obtaining a Permit.* The town chairperson or his designee is responsible for administering the permit process. The process to obtain a permit is as follows:

- a. Permits must be requested by the hauler at least 24 hours before the need to use town roads.
- b. Hauler shall call, fax, or email or come to the town Municipal Building to request use posted roads when vehicle and/or load(s) are overweight.
- c. The following information is required via a written application:
  - (1) Name of requestor;
  - (2) Company or person doing the hauling;
  - (3) Dates of travel;
  - (4) What is being hauled;
  - (5) Number of loads;
  - (6) Weight of load as distributed by axle;
  - (7) Route (from beginning to destination); and
  - (8) Comments (i.e. speed limit, specific travel time-daylight hours, travel in middle of road, etc.

4. *Permits.* If the road usage is agreed upon, a permit(s) will be issued for each vehicle. The permit needs to be available at all times in each vehicle traveling town roads.

5. *Violations.*

a. *Suspension of operation.* The town board or its designee or any traffic officer may order the owner or operator of any vehicle being operated on a town road to suspend operation if in its/his judgment, such vehicle is causing or likely to cause injury to such road or is visibly inuring the pavement thereof or the public investment therein.

b. *Exception.* The exception to provision a. above is when the vehicle is being operated pursuant to a contract that provides that the town will be reimbursed for any damages done to the road, no suspension of operation is necessary.

c. *Penalties.* In general, the forfeiture penalty relates to three factors: the pounds over the legal weight limit, the number of prior convictions and the time period that multiple convictions occurred.

d. *Injury of highway.* In addition, the example of forfeiture provision in c. above. any person who shall injure any town road shall be liable in treble damages to be recovered by the town and the amount recovered shall be used for road maintenance.

#### **Sec. 58.110. Implements of husbandry.**

1. Pursuant to Sec. 348.15 (9) (f) of Wis. Statutes, all implements of husbandry (including Category B implements of husbandry) defined in Sec. 340.01 (24) (a) 1.b. may not exceed the weight limits imposed by Chapter 348.15 (3) (g) of Wis. Statutes.

2. Pursuant to Sec. 348.27 (19)(b) 4m.a. in the event an application for a no-fee permit is made for a Category B implement of husbandry as defined in Sec. 340.01 (24)(a)1.b., the Town of Wausau is required to provide an approved alternate route, which may include highways that are not under this jurisdiction if prior approval has been given by the jurisdiction over the alternate routes not under this entity's jurisdiction for operation of Category B implements of husbandry as defined in Sec. 340.01 (24) (a) 1. b.

#### **Sec. 58.111. Driveway/highway access.**

1. *Definitions.*

a. *Driveway* means any private way, private road or other avenue of private travel that runs through any part of a private parcel of land that connects or will connect with any public highway, and will provide vehicular access from the highway to a residence, business, recreational site or other similarly appropriate use.

b. *Emergency vehicle* means a fire, police, ambulance or first responder vehicle used in emergency or hazard activities in the town.

c. *Landowner* means an owner of real estate that is provided vehicular access to a public highway by a driveway determined to be unsafe.

2. *General Requirements.*

a. No direct access shall be permitted to the existing or proposed right-of-way of: expressways, freeways or interstate highways nor to any other road, street or highway without complying with provisions of the authority maintaining the facility. If the proposed driveway will intersect a county or state highway, the Wisconsin Department of Transportation or Marathon County Highway Department will establish the rules and regulations regarding conditions and compliance.

b. If the proposed driveway will intersect a town road, the applicant shall obtain a Driveway/Highway Access Permit from town board, subject to the requirements in this section.

(1) Commercial vehicle driveway entrances:

i. Vehicle entrances and exits to drive-in theaters, banks and restaurants; motels, funeral homes,

vehicular sales, service, washing and repair stations; and garages or parking lots shall be not less than two hundred (200) feet from any pedestrian entrance or exit to a school, college, university, church, hospital, park, playground, library, public emergency shelter or place of public assembly.

ii. Vehicle entrances or exits to drive-in or outdoor theaters, racetracks or other forms of open space facilities shall be subject to there being no direct entrance to or exit from any of the above to any federal, state or county highway.

3. *Construction and maintenance of a driveway.*

a. A private driveway must be designed and constructed in such a way to support the weight of emergency vehicles and that it will not cause any damage to the town road nor create any hazard to the public as they travel on the town road.

b. Minimum standards outlined below shall apply:

(1) Road width at the intersection of the driveway must be no less than twenty (20) feet.

(2) The minimum width of a driveway is 12 feet.

(3) Clearance width at the intersection shall be no less than twenty-four (24) feet.

(4) A steel or plastic culvert must be no less than thirty (30) feet.

(5) Driveway width clearance of sixteen (16) feet free of trees, brush, wires or other potential obstructions.

(6) Driveway height clearance of sixteen (16) feet free of trees, brush, wires or other potential obstructions.

(7) The driveway within the area of the public right-of-way shall slope away from the public road at a minimum of one percent (1%) and a maximum of five percent (5%) to prevent erosion onto the public road.

(8) The angle of any intersection of a town road and driveway shall be ninety (90) degrees.

(9) Curves in the driveway shall have an inside radius of not less than 36 feet.

(10) Any variance from these requirements must have prior approval from the town board.

(11) Private roads must withstand the weight of emergency vehicles.

(12) Driveways must withstand the weight of emergency vehicles.

(13) At the end of the driveway a turn around or some other method for emergency vehicles to exit the property shall be established and approved by the town board or its designee.

(14) Minimum standards are required for entry for agricultural purposes into a field or woods that border a town road.

(15) No provision of this ordinance would relieve any person from a requirement to comply fully with the Wisconsin Statutes regarding damage or obstruction to a public road or right-of-way. Corrective action would always be required from any owner or operator who damages a public road.

4. All operations shall be performed without closing any road traffic lane except as may specifically sanctioned by authorized representatives of the governmental agency maintaining the road. Unless otherwise authorized, full two-way traffic shall be maintained at all times. Signs, which conform in design and location with the specifications and details in the current WI Manual of Traffic Control Devices, shall be erected and in place at all times while operations are in progress which will affect traffic. Such signing shall be supplemental by proper barricades, light and/or flagmen when the nature of the operation or the conditions of visibility is such that these further safety protections are necessary.

5. *Damages to public road while constructing or maintaining a driveway.* The applicant must acknowledge and agree



ncluto comply fully with all applicable state statues , regarding repair or correction of damage to public roads, iding but not limited to Wis. Stats. Chapters 66.0425, 86.021 and 86.07.

6. *Ditching.* Ditching must be complete and have proper elevation to provide for adequate drainage.

7. *Culverts.*

a. Culverts are necessary for proper drainage and shall be installed at the owner's expense after elevation and location is obtained from the town board.

b. The permit holder shall maintain the driveway culvert and replace it when necessary.

c. The minimum length of any culvert installed shall be at least two (2) feet greater than the base course width. In no case shall the culvert be less than fifteen (15) inches in diameter.

d. The duplicate flare or slope of the culvert shall have a three (3) to one (1) slope.

8. *Installation.*

a. The permit applicant shall ascertain the location of any underground facilities already in place in the area influenced by the permitted work and suitably protect any such underground facilities from damage.

b. The town right-of-way shall be restored promptly. The town may issue a notice setting forth a deadline date by which the restoration must be completed. If the applicant fails to complete the restoration by the deadline, the town may arrange for the restoration and charge all resulting costs to the permit applicant as a special charge under Wis. Stats. § 66.0627 and impose a lien on the applicant's real estate.

c. The permit applicant is responsible and shall pay the entire cost of installing and maintaining the drive way.

d. The permit applicant shall dispose of any boulders, stumps or other debris resulting from the performance of the work by completely covering or entirely removing from the road right-of-way in a manner acceptable to the town.

e. The permit applicant shall restore road surfaces, slopes, shoulders, ditches, culverts and vegetation disturbed.

f. No blasting within the limits of the town right-of-way is permitted unless specifically authorized by the permit.

g. The permit applicant shall carry out all work in a manner satisfactory to the town in compliance with the terms and conditions set forth in the permit.

h. The town may make any changes, additions and relocations within the statutory limits on the right-of-way at any time the town considers it necessary to facilitate the relocation, reconstruction, widening and maintaining of the highway to protect life and property.

i. The applicant, his successors or assignees, shall agree to hold the town, its agents and employees, harmless against any action for personal injury or property damage relating to the permit.

9. *Permit process.*

a. The application form for a town Driveway Permit shall be available from the Zoning Administrator.

b. The applicant for a permit shall submit to the Zoning Administrator a completed application with the appropriate fee and following attachments if requested:

(1) *Sketch Map.* A rough sketch showing the conceptual design of the project and approximate location and dimensions of the project;

(2) *Plat Map.* A plat map indicating the location and dimensions of the desired driveway and highway access locations, if any, as well as the parcels immediately adjacent to the applicant's property; and

(3) *Other documents.* The town board or its designee may require other documents to be attached to the

permit.

10. *Permit approval or denial.*

The town board or its designee shall approve or deny the permit, approve the permit with specific restrictions or conditions on the permit. If the town board denies the permit, it shall state reasons for denying the permit which may include, but are not limited to, inconsistency and/or noncompliance of the driveway or highway access with any of the following:

- a. This ordinance, Town ordinances, rules, regulations, or plans;
- b. Any existing town comprehensive plan or land use plan;
- c. Any applicable county, state, or federal laws, ordinances, rules regulations or plans;
- e. That the driveway/highway access or any combination when constructed, rerouted, reconstructed or altered as proposed would be safe for use by persons in the town;
- f. That the application is complete or contains no false materials as determined by the town board or its designee;
- g. That there are no alternative driveway locations, bridges, culverts and highway access locations that would be safer;
- h. That there are no alternative locations that would preserve or better protect more prime or productive agricultural or forest land in the town or have less negative land use impact; and
- i. That the driveway will provide timely and adequate ingress and egress for emergency vehicles.

11. *Permit authority.*

a. *The permit may be renewed for an additional period of six (6) months.* The applicant may apply for an extension of the permit. If the driveway or highway access has not been constructed by the end of one six (6)-month renewal period, a new application and fee must be submitted and approved.

b. *Building permit.* No building permits for any construction of buildings or structures will be issued by the town until the driveway or highway access is constructed, reconstructed, rerouted or altered according to the specifications of the permit as issued and this ordinance.

c. *Nonrefundable application fees.* Application fee is nonrefundable in an amount determined by the town board.

d. The town board or its designees shall have the right of inspection onto land pursuant to a warrant issued under Wis. Stats. Chapter 60.119 for the purpose of inspecting existing or proposed driveway to determine if the driveways will allow for safe and timely travel by emergency vehicles.

**Sec. 58.112. Parking restrictions on town roads.**

1. *No parking* areas are hereby designated as follows:

a. On the town road running between Section Twenty-Nine (29) and Thirty (30) and Sections Nineteen (19) and Twenty (20), Township Twenty-Nine (29) North, Range Eight (8) East, running north from County Trunk Highway Z (Smith Road) to State Highway 52.

b. Those streets within the Sun Valley addition to the Town of Wausau located in the West one-half (W<sup>1</sup>/<sub>2</sub>) of the Southwest quarter (SW<sup>1</sup>/<sub>4</sub>) of the Northwest quarter (NW<sup>1</sup>/<sub>4</sub>) of Section Twenty-Nine (29), Township Twenty-Nine (29) North, Range Eight (8) East, which are extensions of Bridge and Stark Streets, located in the city of Wausau, and the street called Sun Valley Lane.

c. On 25th Street between County Highway Z and E and Hamilton Street and install signs to that effect.

d. On Stark Street between 20th Street and the city limits and install signs to that effect.

e. On East Jefferson Street 600 feet from 57<sup>th</sup> Street and install signs to that effect.

2. Any person who parks any vehicle in violation the above parking restrictions shall be subject to the penalty provisions in section 1.109.

### **Sec. 58.113. Regulation of roadside receptacles/mailboxes.**

1. *Definition.* The term "roadside receptacle" shall mean any container used for the delivery of mail, newspapers, advertising circulars or other printed material along any right-of-way in the town on roads or highways either owned or maintained by the town.

2. *Mailboxes to conform to regulations of postal authorities.* No rural mailbox shall be set, established or maintained unless the same shall conform in all respects to the regulations of the United States postal authorities.

3. *Set Back.* The front edge of all roadside receptacles shall be in perpendicular line with the outside line of the shoulder portion of the roadway right-of-way. Mailboxes shall conform to regulations of postal authorities. No mailbox shall be set, established or maintained unless it shall conform to all respects to the regulations of the United States postal authorities.

4. *Location-Grouping.*

a. *Grouping.* Roadside receptacles shall be grouped as the town board shall from time to time determine and order. In making such determination, the town board shall require the location of newspaper tubes and other receptacles which are designed or used for the receipt of newspapers, pamphlets, literature, packages or other similar material to be located as near as practicable to the mailboxes.

b. *Grouping Orders.* Upon any determination of the town board that certain roadside receptacles should be grouped in a particular location, the town board shall order any person affected by such determination in writing by certified mail, return receipt requested, to the last known address to comply with the determination of the town board within thirty (30) days from the date of notice. Such order shall specify the number of receptacles to be grouped, the names of the persons whose receptacles are being grouped and the precise location of such grouped receptacles.

## **ARTICLE II. EXCAVATION**

### **Sec. 58.114. Town utility policy.**

1. Introduction.

a. *Overview of utility accommodation.* The town constructs, operates and maintains the town highway system. Utility companies provide service to major centers of population as well as to individual users. Both the town and utility companies typically provide facilities that consider future as well as present needs. Cooperation between these two entities is essential if the public is to be served at the lowest costs consistent with the respective public service needs, obligations, and interests.

b. *Primary purpose of the town highway system.* The primary purpose of the town highway system is to provide a safe and convenient means for the vehicular transportation of people and goods. Any permitted use and occupancy of highway right-of-way for non-highway purposes is subordinate to the primary interests of the traveling public.

c. *Purpose of the utility accommodation policy.* The purpose of this document is to prescribe the policies and procedures that shall be met by any utility whose facility currently occupies, or will occupy in the future, any town highway or bridge over which the town has maintenance jurisdiction.

2. Permits. It is the policy of the town to issue permits for utility facilities on town highways provided that:

a. Such use and occupancy would not adversely affect the primary functions of the highways or materially impair their safety, operational or visual qualities;

b. There is no conflict with any provisions of federal, state or local laws or regulations or the accommodation provisions stated in this section; and

c. The occupancies would not significantly increase the difficulty or future cost of highway construction or maintenance.

3. Additions. Nothing in this section shall be construed as limiting the rights of the town to impose restrictions or requirements in addition to and/or deviations from those stated in any permit where the town deems it advisable to do so. In case of additional restrictions, requirements and/deviations, the town shall provide an appropriate explanation for such action to the utility.

4. Alterations. The permitted facilities shall, if town deems it necessary after the permit is approved, be altered by the utility to facilitate alteration, improvement, safety control or maintenance of the highway., The permit holder shall be obligated to pay all costs for constructing, maintaining, altering and relocating the permitted facilities unless a specific agreement executed by the town and the permit holder otherwise provides.

5. Hardship. If the utility encounters a hardship during installation that prevents installation in accordance with the permit, the utility may (at the risk of having to move the installation) make changes to permitted installation. The town has final determination as to the validity of the hardship. If the town determines that the changes were made due to the installer's preference, and not due to hardship, and so informs the utility, the utility will take action within ten (10) days to correct such alterations. In this subsection, hardships include solid rock, unnavigable swamps, cemeteries or similar circumstances that make construction physically or economically unfeasible.

#### 6. Permit Requirements.

a. Need for a permit. A utility shall obtain a permit from the town before any use or occupancy of town highways is allowed.

b. Permit authorization to use and/or occupy right-of-way.

(1) By issuance of a permit, the town formally indicates that, subject to all applicable permit conditions, a specified use and/or occupancy of right-of-way is not adverse to the highway interests at the time of the permit approval.

(2) The town does not warrant that public title to the right-of-way is free and clear, does not certify that it has sole ownership and does not indicate any intention to defend the utility in its peaceful use and occupancy of said lands.

(3) The permit does not transfer any land nor give, grant or convey any land right, right in land or easement.

(4) Written authorization from the town does not relieve the utility from compliance with all applicable federal and state laws and codes and local laws and ordinances, which affect the design, construction, materials or performance of the work. The town's authorization shall not be construed as superseding any other governmental agency's more restrictive requirements.

(5) Each permit shall require that the standard indemnification language is part of the overall document.

(6) The utility should retain a copy of the permit in their files during the entire time the facility is located on, over or under town highway right-of-way.

#### 7. Required Information.

a. General policy. A utility's request to use and occupy the right-of-way cannot be considered until adequate information is provided. The amount of detail will vary with the complexity of the installation and highway involved but must include the appropriate permit form, drawings or sketches and installation information so that the effect on the highway operation, traffic safety and visual qualities can be evaluated.

b. Permit application forms. Utilities shall only use the town permit application form which is available from the town clerk. The permit form shall not alter the application form and alteration shall cause for rejection of the application revocation of the permit.

c. Metric\English units. English units or English units followed by metric equivalents in parenthesis should be used on all permit forms. If the town converts to the metric system, this section may be amended to reflect new metric permit requirements.

d. Installation information. The utility shall provide the following installation information:

(1) A general description of the location, size, type, nature and extent of the utility facilities to be installed or to be adjusted and the impact on the utility's existing facilities to remain in place within the right-of-way and

(2) A description of proposed construction procedures, special traffic control and protection measures, proposed access points, coordination of activities with the highway contractor and/or vegetation to be removed.

(3) Whenever an attachment to a structure is proposed, a description of the bridge number, weight of lines, hanger spacing, hanger details and expansion/contraction details.

e. The telephone number of the applicant shall be included on each permit form.

f. Each permit application shall contain adequate drawings showing the existing and/or proposed location of all utility facilities within the right-of-way with respect to the existing highway or any planned highway improvement. The details shall include dimensions from the proposed utility installation to the commonly accepted right-of-way line and to the edge of the traveled way.

g. For highway crossings, a cross-section detail drawing showing depth of bury or overhead clearance is required along with the location of any bore pits (if needed). A distance reference from the crossing to the nearest public roadway intersection is also required. The drawing also shall show land ties (e.g. approximate distance from the proposed facility to side road intersection, county line, etc.).

#### 19. Location requirements.

a. General location. Utility facilities shall be located in such a manner in order to minimize the need for later adjustment to:

(1) Accommodate proposed highway improvements;

(2) Permit servicing or expanding such lines without obstruction or interference to the free flow of highway traffic;

(3) Provide adequate vertical and horizontal clearance between an underground utility facility and a structure or other highway facility to allow maintenance of all facilities.

(4) Be outside of the forty-five (45)-degree cone of support for the footings of all highway structures.

b. Crossing location. Utility facilities shall cross the highway on a line as nearly perpendicular to the highway alignment as possible. Conditions which are generally unsuitable or undesirable for underground crossings should be avoided. Crossing locations to be avoided include:

(1) Deep cuts;

(2) Near footings of bridges and retaining walls;

(3) Across highway intersections at grade or ramp terminals;

(4) At cross drains where the flow of water may be obstructed;

(5) Within basins of an underpass drained by a pump; and

(6) In wet or rocky terrain where it will be difficult to attain minimum bury.

c. Underground longitudinal location. The longitudinal location of underground utility facilities within the right-of-way shall provide as much clearance from the traveled way as conditions will allow.

(1) Such lines shall be on uniform alignment and be located at or as near as practical to the right-of-way line.

(2) To maintain a reasonable uniform utility alignment, location variances may be allowed when irregular-shaped portions of the right-of-way extend beyond the normal right-of-way limits. No utility lines are allowed in the ditch bottom or on the inslope.

d. Above ground longitudinal location. The longitudinal location of above ground utility facilities shall be outside of the clear zone. Such lines shall be on a uniform alignment and be located at or as near as practical to the right-of-way line. Exceptions may be granted when no other location is feasible or when the clear zone extends to the right-of-way line. If any above-ground utility facility is within the clear zone or is determined to be in a location that has a higher than average accident potential, the town may require:

(1) The utility facility to be approved yielding or breakaway construction or variances may be allowed when irregular-shaped portions of the right-of-way extend beyond the normal right-of-way limits.

(2) The utility facility to be protected by a town approved barrier such as beam guard, crash cushion, etc.

e. Existing utilities. When a utility facility exists within the right-of-way of an existing or proposed highway, it may remain provided it does not adversely affect highway safety based on sound engineering judgment and economic considerations. The existing facility shall be relocated if:

(1) It conflicts with any construction or maintenance activities;

(1) It is located longitudinally under the pavement or shoulder for a reconditioning or reconstructed project;  
or

(3) It is found to not be within accepted standards for depth of bury or overhead clearance or in locations not acceptable to the town. Exceptions may be granted for (1) and (2) above based on sound engineering, judgment and economic considerations.

### **Sec. 58.115. Trench backfilling.**

Trench backfilling shall be accomplished as follows:

1. The backfill from the bottom of the conduit to an elevation one foot above the conduit shall be fine granular material carefully placed by hand and well tamped to fill completely all the spaces under and adjacent to the conduit so as to form a bed that will preclude subsequent settlement. Compaction shall achieve at least ninety-five percent (95%) of maximum dry density at optimum moisture as determined in accordance with the Standard Method of Test for the Moisture Density Relations of Soils, AASHTO Designation T 180- 74.

2. The remainder of the backfilling may consist of suitable native soils with proper moisture content for maximum compaction. The contractor shall have a vibratory type compactor approved by the Town before starting to backfill. The backfill shall be uniformly compacted to at least ninety percent (90%) of maximum dry density, except for the upper three (3) feet, which shall be compacted to at least ninety-five percent (95%) of maximum dry density at optimum moisture as determined by the Standard Method of Test for the Moisture Density Relations of Soils, AASHTO Designation T 180-74.

a. All roots, debris, rocks greater than six (6) inches in diameter, frozen material, or other unsuitable materials that in the opinion of the Town may cause interference with the compaction requirements shall not be used in the backfill and shall be disposed of elsewhere by the contractor; and unsuitable materials shall be replaced with suitable granular materials approved by the town board.

b. This backfilling shall be made immediately after placing the hand backfill and shall be accomplished by placing and compacting in layers, not to exceed eight (8) inches in depth.

3. All who excavate in the public right-of-way, except those included under subsection 4 of this section, shall be responsible for trench backfilling and the placement of the two (2)-inch temporary asphalt patch as described in subsection 3 a. c. of this section. In addition, they shall remit in advance of receiving the excavation permit, the cost of the permanent pavement repairs as described in section 58.120.

a. Gravel surfaces. The contractor shall complete the compacted backfill to an elevation six (6) inches below the finished street grade and immediately place six (6) inches of compacted gravel surface course equal in quality to that which is existing.

b. Asphalt. The contractor shall complete the compacted backfill to an elevation two (2) inches below the finished street grade and immediately place a minimum of two and one-half (2½) inches of compacted asphalt surface course on the street.

c. Cleaning of area. Immediately after placement of the surface course, the area shall be cleaned and left in a safe and satisfactory manner and the street opened to traffic.

4. Utility companies and their subcontractors shall be responsible for the backfilling of the trench and the permanent pavement repair as described in subsection (4) (b).

a. Major utility companies responsible for the permanent pavement repair shall compact the trench backfill as described in subsections 1 and 2 and, in addition, perform the following: For an asphalt pavement with gravel base, the compacted backfill shall be completed to an elevation where a minimum of six (6) inches of state-graded base course shall be placed and compacted, followed by placement of a minimum two (2)-inch hot mixed asphalt pavement or a thickness equal to the existing pavement.

5. The permanent repair shall be to the satisfaction of the town board. Settling of the permanent patch, regardless of who installed the permanent pavement, within one (1) year from the date of trench backfilling shall be construed as evidence of poor compaction and the contractor who backfilled the trench and his surety shall be responsible for the cost and satisfactory performance of a replacement patch. If, after notification by the town, the contractor fails to re-compact the backfill and replace the pavement patch, the town shall perform the work and bill the contractor or his surety for the actual cost plus a penalty set by the town board. Each successive replacement patch by the contractor shall be subject to satisfactory performance for a period of one year.

6. The contractor shall not begin any excavation on any arterial street in travel lanes within the town before 9:00 a.m. and shall have such excavation backfilled, complete with the asphaltic interim pavement before 4:00 p.m. and have the barricades removed. If underground work cannot be completed by 4:00 p.m., the contractor shall make provisions to place a temporary bridge over the excavation that will allow traffic to utilize the travel lane unless specific permission is granted by the town to allow barricades to remain.

#### **Sec. 58.116. Compaction control tests.**

The town shall perform compaction control tests at such frequency and at such depths as deemed necessary to verify compliance with the compaction requirements. The contractor shall furnish such materials, labor and equipment deemed necessary by the town in order to obtain the necessary compaction test soil samples.

#### **Sec. 58.117. Permanent pavement repair costs.**

1. The town will accomplish the permanent pavement repairs necessary except as provided in section 58.106(4) and will charge the applicant in advance for such repairs according to a schedule prepared by the town and filed in the town clerk's office.

2. Such charges shall be paid at the time of the application for the excavation permit. There will be no further charges to the contractor upon payment of the permanent pavement repair fee except for the later repairs made necessary by failure of the contractor to properly compact the excavations.

### **Article III. Traffic Routes**

#### **Sec. 58.118. All-terrain vehicle route (amended and replaced 8/31/2020)**

1. On December 17, 2019, the Marathon County Board repealed and replaced Section 7.125 of the Marathon County Code of Ordinances, and the General code of Ordinance 7.125 for Marathon County addresses the regulation of ATVs and UTVs in Marathon County; and Wis. Stat. 23.33(8)(b) and 23.33(11)(a) provides Towns in Wisconsin authority to designate certain roadways or highways as ATV/UTV routes and regulate the use and operation of ATVs and UTVs on certain routes within Towns.

2. The Town of Wausau recognizes that having a uniform set of regulations for the use of ATVs and UTVs within Marathon County would support public safety, and the Town of Wausau has reviewed the 7.125 of the General Code of Ordinances for Marathon County and adopted the provisions and regulations therein in full within the jurisdiction of the Town; and the Town of Wausau adopted the provisions of 7.125 of the General Code of Ordinances for Marathon County in full to be applied to all ATV and UTV routes and trails designated as such with the jurisdiction of the Town.

3. The Town of Wausau designates all town roads as ATV/UTV routes (amended 12/6/2021)/

4. The Town of Wausau adopted in full the regulations on ATV and UTV use and the rules of operation as expressed in 7.125 of the General Code of Ordinances for Marathon County to be applied to the use and operation of ATVs and UTVs within the Town on designated ATV and UTV routes or trails; and adopts the application process for ATV and UTV route and trail designation outlined in 7.125 of the General Code of Ordinances for Marathon County to be applied to the designation of ATV routes and trails within the jurisdiction of the Town.

5. The Town approved the enforcement of the regulations and rules of operation of 7.125 of the General Code of Ordinances for Marathon County by the Marathon County Sheriff's Office.

**Sec. 58.119. Snowmobile route.**

1. The following town roads may be used for snowmobile routes as provided for in Wis. Stats. § 350.02(a) (5).
  - a. East Sell Street, beginning at North/South Crossing; and
  - b. County Highway X and continuing east to end of road.
2. Other roads shall not lawfully be used for snowmobiling.
3. The town board shall cause the snowmobile routes which cross town roads to be marked in accordance with Wis. Stats. Chapter 350.13 and the Wisconsin Administrative Code.
4. No person shall operate a snowmobile over the designated snowmobile routes at a rate of speed that exceeds the maximum posted speed limit.
5. No person shall operate a snowmobile at a rate of speed that is unreasonable or improper under the conditions and having regard for the actual and potential hazards then existing or in any careless way so as to endanger the person or property of another.



**Chapter 59**

**Reserved**

## **Chapter 60**

### **TRAFFIC AND VEHICLES**

#### **Article I. GENERAL**

- Sec. 60.100. Traffic control devices ratified.
- Sec. 60.101. Official traffic signs and signals.
- Sec. 60.102. Parking regulations; snow removal emergency.
- Sec. 60.103. Off-Street Parking.

## ARTICLE I. GENERAL

### Sec. 60.100. Traffic control devices ratified.

All traffic control signs, signals, devices and markings in place on the date of adoption of this Code are expressly ratified and confirmed.

### Sec. 60.101. Official traffic signs and signals.

1. *Erection.* Signs shall be erected in such locations and manner as the town board shall determine will best affect the purposes of this chapter and give adequate warning to users of the street or highway.
2. *Removal.* The town shall have the authority granted by Wis. Stats. § 349.09 to order the removal of a sign, signal, marking or device placed, maintained or displayed in violation of Wis. Stats. § 346.41. Any charge imposed on a premise for removal of such illegal sign, signal or device shall be reported to the town board at its next regular meeting for review and certification.

### Sec. 60.102. Parking regulations; snow removal emergency.

When circumstances warrant, the town may declare a snow removal emergency and specify its duration during which emergency the street shall be cleared for the purpose of permitting the official removal of snow and ice from the street, provided that:

1. Notice of such declaration shall be given by the town chairperson by broadcast or telecast over a radio or television station located in Wausau, Wisconsin.
2. After notice is given, during the period of such snow removal emergency as so declared, no vehicle shall be parked, stopped or left standing on any public street or alley within the town.
3. If a traffic officer finds any vehicle standing, stopped or parked upon any public street or alley within the town during the period of a snow removal emergency, the traffic officer is authorized to move the vehicle or to require the operator in charge of the vehicle to move the vehicle. The removal and towing of the vehicle may be performed by or under the direction of the traffic officer or may be contracted by the town or the law enforcement agency. The operator or the owner of such vehicle shall pay the reasonable charges for moving or towing or any storage involved and shall not be entitled to recover possession of such vehicle until the charges are paid. Any charges for towing and storage shall be in addition to all other penalties imposed by law or ordinance.

Authority: Wis. Stat. Chapter 349.13

### Sec. 60.103. Off-street parking

1. Parking of vehicles accessory to a residential use shall be limited to those actually used by the residents or for temporary parking of guests. Vans or pick-up trucks used for private and recreational use or a motor home (recreational vehicle) or a van or pick-up truck used in a business or trade and commercial vehicle per Subsection (2) used for transportation to and from a place of employment or workplace of the occupant may be parked on a residential property.
2. One (1) commercial vehicle of not over one (1)-ton rated capacity may be parked per residential dwelling unit, providing all of the following conditions are met:
  - a. Vehicle is registered and licensed;
  - b. Used by a resident of the premises;
  - c. Gross weight does not exceed ten thousand (10,000) pounds, including any load;

d. Height does not exceed nine (9) feet as measured from ground level, including antennas, air vents and roof mounted air conditioning units but including any load, bed or box; and

e. Total vehicle length does not exceed twenty-six (26) feet including attachments thereto (such as plows, trailers, etc.)

3. Recreational vehicles shall be parked in the rear or side yards only or in compliance with same setbacks allowed for accessory structures in subsection Chapter 17. For the purpose of this section, recreational vehicles shall include boats and trailers, snowmobiles and their trailers, mini-bikes or trail-bikes and their trailers and unoccupied tent-campers or travel trailers, all-terrain vehicles and personal watercraft and their trailers.

4. No other vehicular equipment of a commercial or industrial nature, except as stated above, shall be parked or stored for more than two (2) consecutive hours and four (4) accumulated hours during any twenty-four (24)-hour period on any lot in any zoning district except business and industrial districts.

5. *Design and Maintenance of Off-Street Parking Spaces.* All open, off-street parking areas, except one (1) single parking space accessory to a single family dwelling, shall be surfaced with a dustless all-weather material approved by the Zoning Administrator, such as blacktop, concrete or similar material.

6. At no time shall a recreational vehicle be used for permanent living, sleeping, materials storage or other purpose. No recreational vehicle shall be permanently connected to water, gas, electric, or sanitary sewer service.

**CHAPTER 61  
MINING PERMITS**

**ARTICLE I: GENERAL**

- Sec. 61.01. Findings, Purpose and Authority.
- Sec. 61.02. Definitions.

**ARTICLE II. ADMINISTRATION AND STANDARDS**

- Sec. 61.03. Applicability, Exemptions, Interpretation, and Effective Date.
- Sec. 61.04. Mining License Required.
- Sec. 61.05. Procedures for Applying for a Mining License.
- Sec. 61.06. Mining License Application Requirements.
- Sec. 61.07. Minimum Operational Standards.
- Sec. 61.08. Reporting.
- Sec. 61.09. Changes in Operation.

**ARTICLE III. INSPECTION AND ENFORCEMENT**

- Sec. 61.10. Inspection, Enforcement, and Penalties.
- Sec. 61.11. Severability.

## ARTICLE I: GENERAL

### Sec. 61.01. Findings, purpose, and authority.

1. Findings. Metallic mining constitutes a permissible activity in the State's economy and has the potential to both beneficially or adversely impact Town residents, environments and economies. Metallic mining may provide employment opportunities, needed industrial materials and significant economic benefits to local communities. Metallic mining operations, however, have the potential to create nuisance conditions, negatively impact property values and present health and safety impacts to Town residents if not properly designed and operated. While many aspects of metallic mining operations are subject to state or federal regulation, some are not.

2. Purpose. The purpose of this Ordinance is to establish local minimum standards for Mining Operations conducted within the Town, and a process by which to systematically consider metallic mineral licenses in a manner that promotes the health, safety, welfare, and convenience of the Town and its residents. The general intent of this Ordinance is to minimize or prevent any adverse on- or off-site impacts flowing from and as a result of metallic mining operations. The objectives of this Ordinance are to set forth rules and procedures to govern metallic mining within the Town, establish procedures for the administration and enforcement of this Ordinance, and provide penalties for its violation.

3. Authority. This Ordinance is adopted by the powers granted to the Town of Wausau by the Town's adoption of village powers under Wis. Stat. Chapters 60.10, 60.22(3) and 61.34, its authority under Wis. Stat. Chapter 66.0415, and other authority granted to it under the statutes.

### Sec. 61.02. Definitions.

1. Any term not expressly defined in this Ordinance shall have the meaning set forth in Wis. Stat Ch. 293 and if not defined therein then as defined in Wis. Adm. Code Ch. NR 132, and if not defined therein then as defined in Wis. Adm. Code Ch. NR 182.

2. *Buffer* means an undisturbed vegetated area measured from the property line of the Mining Site into the Mining Site, in which no Mining Operations, structures or roads can occur or be constructed except for the construction and maintenance of a vegetated berm.

3. *Dwelling* means a structure or part of a structure that is used or intended to be used and occupied for human habitation as a home or residence by one or more persons.

4. *Mining or Mining Operation* means all or part of the process involved in the mining of nonferrous metallic minerals, other than for exploration, bulk sampling, or prospecting, including, but not limited to, commercial extraction, agglomeration, beneficiation, construction of roads, removal of overburden and the production of refuse.

5. *Mining License* means a license issued by the Town which is required of all Mining Operations as a condition precedent to commencing Mining at a Mining Site.

6. *Mining Site* means the surface area disturbed by a mining operation, including, but not limited to, the surface area from which the nonferrous metallic minerals or refuse or both have been removed, the surface area covered by the refuse, all lands disturbed by the construction or improvement of haulage ways, and any surface areas in which processing facilities, structures, equipment, materials and any other things used in the Mining Operation are situated, operated, conducted or otherwise utilized.

7. *Person* means any person, individual, owner, operator, corporation, limited liability company, partnership, association, municipality, interstate agency, state agency or federal agency.

8. *Operator* means any person who is engaged in, or who has applied for and been granted a Mining License to engage in Mining, whether individually, jointly or through subsidiaries, agents, employees or contractors.

9. *Ordinance* means this metallic mining ordinance.

10. *Retained expert* means professional consultants, including, but not limited to, engineers, attorneys, planners, environmental specialists, and other consultants with skills relevant to reviewing, processing and acting upon applications

for a Mining License or to issues associated with the inspection, monitoring and enforcing of approvals arising under this Ordinance.

11. *Town* means the Town of Wausau.

12. *Town Board* means the Town Board of the Town of Wausau.

## **ARTICLE II. ADMINISTRATION AND STANDARDS**

### **Sec. 61.03. Applicability, exemptions, interpretation, and effective date.**

1. **Applicability.** This Ordinance shall apply to the use and proposed use of land within the Town for the purpose of metallic mining and any proposed Mining Operation regardless of when such use is commenced and regardless of where such use is proposed within the Town.
2. **Exemptions.** This Ordinance does not apply to:
  - a. Exploration, bulk sampling, or prospecting as those activities are defined under Wis. Stat. ch. 293.
  - b. The lawful use of a building, structure or lot for Mining Operations which existed at the time this Ordinance, or an applicable amendment to this Ordinance that took effect and which is not in conformity with the provisions of this Ordinance, subject to the following conditions:
    - (1) if a preexisting use is discontinued for 12 consecutive months, any future use of the building, structure or property shall conform to this Ordinance;
    - (2) uses which are nuisances shall not be permitted to continue.
  - c. Mining Operations where the Town has entered into a local agreement with the Operator under Wis. Stat. § 293.41, and the local agreement specifically states that this Ordinance, or any portion of this Ordinance, is inapplicable to that particular Mining Operation.
3. **Interpretation.** The provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Town. This Ordinance is not intended to repeal, abrogate, annul, impair or interfere with any existing laws, regulations, ordinances, rules, standards or permits that are not specific to metallic mining previously adopted pursuant to other Wisconsin law.
4. **Effective Date.** Following passage by the Town Board, this Ordinance shall take effect the day after the date of publication as provided by Wis. Stat. Chapter 60.80.

### **Sec. 61.04. Mining license required.**

1. **License Requirement.** No person may commence construction of a Mining Site nor engage in any Mining Operations in the Town except in conformance with a valid Mining License issued by the Town pursuant to this Ordinance or as otherwise authorized by a mining agreement as set forth in the Ordinance or a local agreement under Wis. Stat. Chapter 293.41.
2. **Compliance.** Conditions established by any Mining License pursuant to this Ordinance must be met at all times or the Operator may be found in violation and subject to enforcement, fines, penalties and Mining License revocation as provided in this Ordinance.
3. **Effective Date.** Except as provided in this Ordinance, a Mining License issued pursuant to this Ordinance shall become valid on the date the Operator is awarded a State of Wisconsin Metallic Mineral Mining Permit for the same mining site.
4. **Duration of License.** The Mining License issued in accordance with this Ordinance shall last through operation and reclamation of the Mining Site provided the Operator complies with all conditions of the Mining License, all provisions of this Ordinance, all required state and local licenses, permits, approvals and financial assurances are maintained, and suspension or revocation of the Mining License does not occur pursuant to this Ordinance.

5. Major License Modifications. If a Mining License has been issued, both the Town and the Operator may pursue an amendment to that Mining License during the Mining License term pursuant to this section.

- a. The Town reserves the right to reopen and modify any Mining License if it is determined by the Town Board, upon the basis of newly discovered evidence, including, but not limited to, evidence presented by governmental or other regulatory bodies for the same Mining Operation, such mining activity pursuant to the Mining License would, without further conditions placed on the Mining License, substantially endanger the environment, public health, safety or welfare of the community. Any action to reopen a Mining License shall be done by hearing with at least 30 days' notice to the Operator. In order to reopen the Mining License and modify any terms and conditions, the Town Board must determine that there is reasonable cause to believe that the newly discovered evidence demonstrates a substantial threat to the environment, public health, safety, or welfare.
- b. The Town reserves the right to reopen and modify any Mining License if newly discovered evidence shows that there is new science or technology that would substantially decrease the impact of the Mining Operations on human health, safety, welfare or the environment or would substantially and cost-effectively allow the required outcome of the planned reclamation to be accomplished in less time or with greater certainty. Any action to reopen a Mining License shall be done by hearing with at least 30 days' notice to the Operator. In order to reopen the Mining License and modify any terms and conditions under this section, the Town Board must determine that there is reasonable cause to believe that the newly discovered science or technology substantially decreases the impact of the Mining Operations on human health, safety, welfare or the environment or would substantially and cost-effectively allow the planned reclamation to be accomplished in significantly less time or with greater certainty.
- c. For the Town to reopen a Mining License, the Town Board shall identify the specific terms of the Mining License subject to reopening and shall hold a public hearing and issue a report that considers the specific reason(s) for reopening the license before voting on the proposed modification. The Town Board shall consider the report's findings and vote to either reopen or not to reopen the Mining License based on the report's findings and in accordance with the procedures established by this Ordinance.
- d. Should the Operator desire to modify the Mining License in any way, it may request modification by submitting a written application and evidence supporting such modification to the Town Clerk. Such application shall be in substantially the same form as the original application for the Mining License, with the same level and substance of information required, although it shall be permissible to incorporate by reference any portions of the original Mining License application that still pertain to the re-opening request. Upon receipt of the application to modify the Mining License, the Town Clerk and Town Board shall follow the procedures outlined in this Ordinance for review of an application for a Mining License.

6. Minor License Modifications. The Town Board has the discretion to determine that a proposed Mining License modification is so inconsequential in scope or limited in proposed duration that the Mining License modification procedures outlined under Section 61.04(5) of this Ordinance are unnecessary and therefore inapplicable. If such a determination is made, the Town Board may act on the proposed minor Mining License modification at a properly noticed Town Board meeting following the procedure set forth in (b) below. If a modification is approved, the Town Clerk shall issue written notice of the modification to the Operator within 30 days of approval.

- a. If the Operator is requesting a Mining License modification that it believes is minor in nature, the Operator may file a written request describing the proposed minor Mining License modification with the Town Clerk. Within 45 days of receipt of such a written request, the Town Board shall grant the request in whole or in part, deny the request in whole or in part, or notify the Operator in writing that, in its determination, the requested modification is not minor in nature and the procedures to be used for requesting a major Mining License modification as outlined under Section 61.04(5) must be followed.
- b. If the Town is proposing the minor Mining License modification, the Town Clerk shall provide the Operator with the following at least 30 days prior to the Town Board meeting at which the modification will be considered: (1) a written explanation of the proposed modification which shall include a description of the Town Board's rationale for determining that the proposed modification is warranted; and (2) written notice of the time, date, and location of the Town Board meeting at which the modification will be considered.



7. Transfer of License. When one entity succeeds to the interest of another in a Mining Site, the Town shall release the current Operator of the responsibilities imposed by the Mining License only if the following conditions are met, pursuant to the Town's reasonable discretion:

- a. Both the Operator and the successor Operator are in compliance with the requirements and standards of this Ordinance and all other applicable State, Federal and local laws, requirements, regulations, permits, and licenses.
- b. The successor Operator assumes the responsibility of the current Operator in writing and agrees to operate, complete, and reclaim the Mining Operations in accordance with the Mining License and all other applicable laws, requirements, regulations, permits, and approvals.
- c. The successor Operator shows proof of financial responsibility in substantially the same manner and amount as the current Operator and the successor Operator agrees to maintain any instrument of financial assurance at the same level as the current Operator.
- d. The Town Board makes a written finding that all conditions of the existing Mining License will be complied with by the successor Operator.

**Sec. 61.05. Procedures for applying for a mining license.**

1. Application. An application and the required documents for a Town of Wausau Mining License shall be filed with the Town Clerk along with 10 copies. The application shall include the information set forth in Section 61.06 and as otherwise reasonably required by the Town.

2. Reimbursement of Fees and Costs.

- a. At the time an application for approval of a Mining License is filed with the Town, the applicant shall execute for the benefit of the Town an agreement to pay and provide adequate security guaranteeing payment of the cost of the investigation, review and processing of the application, including, but not limited to, any Retained Experts and Town staff administrative costs. The agreement and the security shall be in form and substance acceptable to the Town. The Town shall not begin processing the application until the preliminary cost reimbursement agreement is approved and signed and until the required security is provided to the Town. The Town may accept an initial deposit to begin license processing and to provide an estimate to the applicant of anticipated costs, but it shall not be required to incur any processing costs beyond that for which a deposit or other security has been approved.
- b. The fees provided by an applicant when submitting a Mining License application, and for deposit upon being granted a Mining License and other administrative fee deposits received from the applicant or Operator shall be placed by the Town in an assigned account, for which statements shall be issued at least annually, and shall be used as necessary to pay the Town's reasonable administrative expenses associated with the evaluation of the Mining License application, including, but not limited to, Retained Expert fees, legal fees and administrative costs and expenses for holding required hearings, and other matters compelled by the need to review and respond to the application for Mining License as provided by this Ordinance, including environmental monitoring. At the request of an applicant or Operator that is attempting to transfer its interest in any application or Mining License, upon any such transfer any monies on deposit in the assigned account shall be held and applied for the benefit of the transferee, provided the transferee meets all requirements of this Ordinance and further provided that if Town approval is required for the applicant or Operator to transfer such interest then such transfer must first meet with the Town's approval and satisfaction.

3. Preliminary Review by Plan Commission.

- a. Notice and Preliminary Review. Within fifteen (15) days after receiving a complete Mining License application, the Town Clerk shall forward the Mining License application to the Plan Commission for initial review to determine if additional information or expertise is necessary to properly evaluate the application. Within 30 days of receipt of the application, the Town Clerk shall also publish or post a class 2 notice under Chapter 985 of the Wisconsin Statutes indicating that a metallic mining application has been filed and transmitted to the Plan Commission. A copy of the application shall be made available for public review.

- b. Additional Information. The Plan Commission may request the applicant to submit additional information if the Plan Commission determines that the application is incomplete, or if the Plan Commission determines that additional information is needed to determine whether the proposed Mining Operation will meet the standards of this Ordinance. The Plan Commission may also retain the services of Retained Experts to review the application and report to the Plan Commission whether additional information is required for review of the application and to determine whether the application meets the standards of this Ordinance. The Plan Commission shall make a determination regarding the need for additional information or expertise within 90 days after receiving the initial application. If no additional information or expertise is deemed necessary the Plan Commission shall proceed to schedule a final review.
  - c. Retained Expert Reports. Any Retained Experts shall report to the Plan Commission on whether the application meets the requirements of this Ordinance within 90 days of the Retained Expert's receipt of a complete Mining License application. A complete Mining License application shall include the following: (1) the initial application which shall contain all of the information required by Section 61.06; (2) any applicable fees; and (3) any additional information that is provided by the Operator during the application process to assist the Retained Experts with reviewing the application.
  - d. Recommendation to the Town Board. Within 45 days of receipt of any Retained Expert reports, or if there are no such reports, within 120 days of receipt of the complete Mining License application, applicable fees and any additional information, the Plan Commission shall make findings of fact and either recommend that the Town Board grant the applicant a license to operate a metallic mine with or without conditions, or recommend that the Town Board deny the application.
4. Decision by the Town Board.
- a. Notice and Hearing. Upon Recommendation by the Town Plan Commission, the Town Clerk shall place the Plan Commission's recommendation on the agenda for the next regular meeting of the Town Board, provided it can be practically done. At that meeting, the Town Board shall set a date for a public hearing. At least 15 days prior to the public hearing, the Town Clerk shall publish or post a class 1 notice under Chapter 985 of the Wisconsin Statutes and shall provide written notice of the hearing via U.S. Mail to all landowners immediately adjacent to the proposed Mining Site. At the public hearing, the Town Board shall take public comment on the proposed Mining Operation and Mining License.
  - b. Town Board Decision. Within 30 days following the public hearing, the Town Chairperson shall set a date for a Town Board meeting to consider a final decision on the Mining License application. At that meeting, the Town Board shall review the complete application, any Retained Experts' reports, and public comments made and information provided at the public hearing. The Town Board shall grant the Mining License if it determines that the Operator and Mining Operation will adhere to and comply with the minimum standards and purposes of this Ordinance and with all conditions, requirements and terms set forth in the Mining License.
  - c. Remedies on Denial. If the Town Board denies the Mining License request, the applicant may request a hearing before the Town Board by filing a written request for a hearing with the Town Clerk within 30 days of denial. Following the hearing, the Town Board may, in its discretion, reconsider its previous decision on the application. In addition, the applicant may re-submit its Mining License application in accordance with this Ordinance, and re-submittal shall constitute a new application in conformance with all provisions of this Ordinance, provided that any differences between the original Mining License application and the new Mining License application shall be summarized by the applicant in a document entitled "Explanation of Reasons for Re-Submittal." A Mining License application received by re-submittal may be denied for any reason that any original Mining License application may be denied.

#### **Sec. 61.06. Mining license application requirements.**

1. General Requirements. All applicants for a Mining License shall submit the information required in this Section 61.06. The applicant may provide this information by reference to other documents submitted to other governmental agencies, but in such cases shall provide a copy of the referenced document and a specific cross reference identifying where the information required by this Section 61.06 is located in any referenced material.

2. Ownership Information.

- a. The name, address, phone number, and email address of the Operator.
- b. The name, address, phone number, and email address of all owners or lessors of the land on which the Mining Operation will occur.
- c. A description of the distribution, depth and type of topsoil for the Mining Site. The description shall include the geological composition, depth and width of the metallic deposit and the location of slopes greater than 20% and highly erodible soils.
- d. A map identifying the location of all other non-contiguous sites within the Town or adjacent towns, cities, or villages, if any, that will contribute material to the Mining Operation for which the applicant seeks a Mining License.

3. Operation Plan.

- a. Dates of the planned commencement and cessation of the operation of the mine.
- b. Description of hours of operation of the Mining Site, including all times when any vehicles will enter or leave any portion of the Mine Site.
- c. Description of mining methods, machinery and equipment to be used for extraction and processing of the extracted material, and the sequence of operations.
- d. Estimated volume of material to be extracted over the life of the mine and for the next calendar year.
- e. Identification of all proposed off-site trucking routes, if any, together with the frequency of traffic and the common schedule of travel to be used for transporting extracted materials or products to or from the Mining Site; a description of the types of vehicles to be used on town roads and their respective weights, lengths, widths, axle numbers and spacing, and ESAL ratings both when empty and legally loaded; an assessment, which shall include core sampling, of the adequacy of roads within proposed off-site trucking routes and a description of any proposed alterations or improvements to such roads, and a description of any traffic control or other measures needed to protect public safety.
- f. A water budget, including an estimate of the amount of daily water use, water sources, and methods for disposing of water used or falling on the Mining Site, including, but not limited to, methods used for infiltration and control of run-off.
- g. A listing of any hazardous materials, including, but not limited to, stored or operational fuel supplies that will be used or located on the Mining Site and a description of measures to be used for securing and storing these materials. The operation plan shall also include a written plan for the use of any hazardous materials at the Mining Site and procedures for responding to spills of these materials and fuels on the site and the frequency of regular drills for responding to spills on the site.

5. Town Impact Summary. The Mining License application shall include a Town impact summary report, which shall include a thorough narrative description of the Mining project in sufficient detail to allow the Town to assess probable physical, environmental and developmental impacts of the proposed mine and assess and summarize the potential and estimated impacts on the human health, safety, and welfare of residents of the Town, based on the potential environmental, socioeconomic, and other impacts of the proposed Mining Operation. The report shall include, but shall not be limited to, the likely and potential impacts of the proposed Mining Operations with respect to each of the following baselines:

- a. A life-of-Mine analysis of impacts upon social and environmental baseline parameters through completion of reclamation, including any impact market conditions may have on the operation of the Mine.
- b. A traffic impact analysis that discusses all reasonably foreseeable roadway construction and maintenance needs arising in the Town from the proposed Mining Operation and reasonably foreseeable secondary impacts of the Mining Operation that may result in the demand for additional roadway or other infrastructure improvements, repairs or additional maintenance needed as a result of the Mining Operations, including a description of the anticipated needs for roadway modifications resulting from the likely Mine-related traffic impacts, both primary and secondary,

and shall fully describe the existing reasonably foreseeable Mine-related changes to traffic patterns, traffic volume, the class of roadways associated with those patterns, and any load-related needs and restrictions.

- c. The impacts of the mine on employment, economic activity and tax base within the Town.
- d. The impacts of the mine on the Town's population and housing stock, including the availability of such housing stock.
- e. The impacts of the mine on the need for additional government services, including, but not limited to, infrastructure, utilities, schools, fire protection, emergency medical services, and police.
- f. The expected changes in land use within the Town, including the percentage of lands devoted to each use currently and in the future.
- g. The impacts of the mine on air quality within the Town.
- h. A description of the current environmental characteristics of the Mining Site, including wildlife, vegetation and physical parameters of groundwater quality and quantity, and surface water quality and quantity, including wetlands as compared to the same environmental characteristics after the mine becomes operational.
- i. A description of the environmental characteristics within the Town, including, but not limited to, air, groundwater, surface water, and acres of disposal facilities for any waste as compared to the same environmental characteristics after the mine becomes operational.
- j. A description of the topographical and aesthetic features of the proposed Mining Site, including other geographical vegetative conditions.
- k. A description of the cultural features of the proposed Mining Site, including, but not limited to, an inventory and analysis of all historical and cultural sites and landmarks.
- l. A description and analysis of the ambient noise audible in half-mile increments within a five (5) mile radius of the proposed mining site.

6. Information Demonstrating Compliance with Minimum Standards. The Operator shall provide such additional information the Town deems necessary to determine whether the mining operation will comply with the minimum standards in Section 61.07.

7. Compliance with all Applicable Laws and Regulations. The Mining License application shall include a description of all other governmental or other regulatory permits, licenses, approvals, or other approvals necessary for the Mining Operation. The Mining License application shall also include a timeline of dates when such approvals were granted, or the expected date of approvals.

### **Sec. 61.07. Minimum operational standards.**

#### 1. General Standards.

- a. The borders of the entire Mining Site will be appropriately staked or marked, and the Mining Site will be secured by appropriate measures which may include fencing or other alternative measures consistent with mine safety and security as set forth by governmental or other regulatory authorities.
- b. The Mining Operation will comply with all applicable Town Ordinances.
- c. The Operator shall demonstrate, to the sole satisfaction of the Town, that all other applicable and required federal, state and local permits and approvals required for the Mining Operation have been or will be obtained prior to commencement of any Mining Operation. The applicant shall further demonstrate compliance with this sub-section by submitting a copy of all permits, approvals, or waivers of permits to the Town prior to commencing operations.
- d. The Operator shall provide proof that it has provided the financial assurances as required under Wis. Stat. Chapter 293 or any other applicable codes or regulations.

- e. The Operator shall agree to comply with all other applicable federal, state and local permits and approvals once issued.
2. Buffer Areas. The Operator shall provide a buffer area from the boundaries of the Mining Site, to protect bordering properties from noise, dust, lighting, odors, blasting, and other adverse impacts of the operation, along bordering property lines and public roadways.
- a. The buffer area shall provide a setback of ¼ mile from the mining site to the property line of an adjacent property owner unless the landowner consents to a lesser distance, but not less than 50 feet. If consent is provided for a lesser distance, a copy of such consent agreement shall be recorded against the property at the Marathon County Register of Deeds office and a copy of the agreement shall be provided to the Town Clerk.
  - b. The buffer area shall provide a setback of ½ mile from the Mining Site to any school, medical facility, nursing home, or community based residential facility.
  - c. The Operator shall screen the mining operations from public view to the maximum extent practicable. Screening may be achieved through the use of berms, additional setbacks or other measures deemed adequate by the Town Board. Screening activities, such as construction of a vegetated berm or installation of a fence, may occur in the buffer area.
3. Hours of Operation. The Operator shall limit normal hours of operations at the Mining Site to 12 hours a day Monday through Friday not earlier than 6:00 a.m. and not later than 9:00 p.m. and on Saturday not earlier than 6:00 a.m. and not later than noon, to avoid substantial or undue impacts on neighboring properties and town residents. Operations on-site shall not occur on Sundays or legal holidays.
4. Control of Light. The Operator shall limit night lighting on the Mining Site, to that which is minimally necessary for security and worker safety. Every effort consistent with the legal requirements for safety shall be made to minimize illumination of the night sky and neighboring properties. At a minimum, such measures shall include the following:
- a. The use of full cutoff shrouds on all lights.
  - b. Portable lighting shall be used only as necessary to illuminate temporary work areas.
  - c. The use of berms of sufficient height coupled with other methods of visual screening to block light from the Mining Site to neighboring properties.
  - d. The design and location of access roads, driveways and other access points to the Mining Site to minimize lights from traffic and operations to neighboring properties.
5. Control of Noise.
- a. The Operator shall control off-site noise levels to the maximum extent practicable to avoid adverse impacts to neighboring landowners. The noise levels at the boundaries of the mining or processing site shall not exceed 65 dB. The noise levels at the boundaries of any school, medical facility, nursing home, or community based residential facility shall not exceed 60 dB.
  - b. Noise levels shall be monitored at the Mining Site's property boundary by an independent testing company. The tests shall occur for a 10-day period at least once per quarter. The results shall be reported to the Town within 30 days of the last test result.
6. Well Monitoring and Impact on Groundwater Quality. For a period of one year prior to commencement of construction of any portion of the Mining Site or commencement of any Mining Operation, and during the period of the Mining Operation, and continuing for no less than three years after the completion of the Mine reclamation, the Operator shall monitor all private and public wells (to the extent access can be secured), at the Operator's sole cost and expense, located within two miles of the perimeter of the Mining Site in order to provide baseline data concerning quantity and quality of water. The wells shall be monitored quarterly for lead, arsenic, turbidity, total dissolved solids, chlorides, nitrates, specific conductivity and any toxic substance that may reasonably be believed to be present in the ore deposit proposed to be mined. Well monitoring required under this Ordinance shall be performed by an independent consultant agreeable to both the Town and the Operator. All test and monitoring results shall be reported to the Town within 30

days of completion. Mining Operations shall not cause an exceedance of groundwater quality standards in Wis. Admin. Code Ch. NR 140 or as otherwise may be set forth in applicable law.

7. Fugitive Dust Control. In addition to any ambient air monitoring required by the Wisconsin Department of Natural Resources, the Operator shall be required to comply with best management practices for control of off-site fugitive dust, including, but not limited to, use of truck covers, watering roads and equipment, and stabilizing stock piles.

8. Blasting: If blasting is necessary, the following is required:

- a. Three days' notice must be provided to public or adjacent landowners before blasting takes place. The notice can be by electronic communication, text, and/or the media.
- b. Blasting is limited to Monday-Friday between the hours of 9 a.m. and 5 p.m.
- c. Any structures in the affected area be surveyed as to their condition prior to initial blasting by an independent third party.
- d. All blasting adheres to state blasting standards as outlined under Wis. Admin. Code Chapter SPS 307.

### **Sec. 61.08. Reporting.**

1. Ongoing Reporting Requirements.

- a. The Operator shall provide notice to the Town of any notices of violations, citations, or other enforcement actions taken by any other governmental or regulatory authority against the mining operation. The Operator shall provide notice to the Town of such actions within 15 days after receiving such notice from the governmental or regulatory authority.
- b. All monitoring data, sampling results and any other test results required by this Ordinance shall be undertaken at the Operator's expense and provided to the Town Clerk. Unless otherwise specified in this Ordinance, all monitoring data, sampling results and any other test results shall be provided to the Town Clerk within 30 days of receipt of the results by the Operator.

2. Annual Report.

- a. No later than October 1 of each calendar year, the Operator shall submit an annual report to the Town Board for all active and intermittent Mining Sites and Mining Operations for which the Operator has a Mining License in the Town of Wausau. At its own discretion, the Town Board may also require that the Operator appear at a Town Board meeting to present the annual report and answer questions from the Town Board. The reporting period shall be from the date of the issuance of the first Operator's Mining License to August 31, and thereafter from September 1 to August 31.
- b. The annual report shall include the following information:
  - 1) An identification of the Operator and location of the Mining Site.
  - 2) A map or drawing accurately showing the area of excavation, the unclaimed area and the reclaimed area, including a calculation of the number of acres for each type.
  - 3) A description of activities, including ore extraction and waste material production and operations on the Mining Site for the previous calendar year, including the cubic yards each of material extracted, processed, and waste material produced.
  - 4) A description of activities and operations on the Mining Site, including ore extraction and waste material production or processing anticipated for the following calendar year.
  - 5) A written report demonstrating how the Operator has been in compliance with all terms and conditions of its Mining License and this Ordinance. The report shall include all groundwater, surface water and other monitoring

- 6) results, as well as a copy of all annual reports submitted to all other governmental or other regulatory authorities.
- 7) A summary of all areas of non-compliance, and a plan for bringing noncompliant areas into compliance.
- 8) A signed certification by the Operator to the effect that: "I certify that this information is true and accurate, and except as expressly set forth herein the metallic mineral mining site and operations described herein and for which the Town issued the mining license dated \_\_\_\_\_ complies with all conditions of the applicable Town license, the Ordinance, all other Town ordinances and codes, and all other governmental or other regulatory authority requirements, laws, regulations, and requirements and is in compliance with any applicable permits, licenses and approvals required for operation of the metallic mineral mining site and operations described herein and for which the Town issued the mining license dated \_\_\_\_\_."

3. Quarterly Inspection Summary. The Operator shall submit to the Town Clerk, within 30 days following the close of each calendar quarter, a report summarizing the results of the following inspections.

4. Daily Inspections. The Operator shall inspect any tailings ponds and any other waste lagoons on a daily basis for evidence and indications of any phenomenon, activity or process which might affect the integrity of any tailings pond or dike.

5. Monthly Inspections. The Operator shall designate one or more qualified senior personnel to inspect any tailings ponds and any other waste lagoons on a monthly basis and prepare, sign and date a report. If the person or persons making the monthly inspections is not a Wisconsin registered professional engineer, then the Operator shall also provide for quarterly inspections as required herein by a registered professional engineer.

6. Natural Event Inspections. The Operator shall inspect any tailings ponds and any other waste lagoons after any unusual natural occurrence, including, but not limited to, the following: earthquake, tornado, flood, storm event exceeding the 100-year storm threshold or any other natural event which the Operator should reasonably expect could affect the integrity of the tailings pond, dike, or other areas of the Mining Site.

7. Inspection Logs. All daily, monthly and quarterly inspection observations shall be recorded in a log and maintained on the premises of the Mining Site and be made available for inspection by Town officials during regular business hours. The Operator shall submit copies of inspection logs to the Town upon request.

#### **Sec. 61.09. Changes in operation.**

1. Expansion. Expansion of the Mining Site or any Mining Operation that is not specifically allowed by or is inconsistent with any limitation or parameters of the Mining License is prohibited and is a violation of this Ordinance. Performance of activities not described in, or activities not expressly allowed by, the Mining License application or the Mining License shall be considered an unlawful expansion and a violation of this Ordinance. The movement of any waste, ore or concentrate to a Mining Site from a location outside the boundary of that Mining Site shall be deemed an unlawful expansion of Mining Operation unless such movement is specifically and expressly authorized in a Mining License issued pursuant to this Ordinance.

2. Suspension or Termination of Mining.

- a. An Operator must provide notice to the Town as soon as possible of any temporary halt of mining operations lasting more than 180 days, including, but not limited to, a statement showing projected loss of employment. Notice shall include the reason for the temporary suspension as well as plans to ensure continued compliance of all applicable laws and regulations throughout the suspension period.
- b. The Operator must provide notice of its intent to permanently terminate any or all activity at the Mining Site no later than one year before the proposed Mining Operation, or any portion of the Mining Operation, is terminated. The

Operator must provide notice by the end of each calendar year of any significant change in the anticipated timing of each major phase of the Mining Operation as originally detailed in the plan of operation submitted as part of the

Mining License application pursuant to this Ordinance and explain any reasonably foreseeable changes to the overall Mining Operation lifetime based on such changes.

- c. Upon receipt of a notice of temporary halt in mining or upon a cessation lasting more than 180 days, whichever is sooner, the Town Board may require that the Operator take additional measures to ensure that public health, safety and welfare are protected during the temporary cessation of mining operations, including, but not limited to, a temporary cap on tailing facilities, additional security measures, additional erosion control measures, and other site stabilization measures.
  - d. A suspension longer than two years shall be considered a permanent abandonment and require the Operator to commence closure and reclamation. The Operator may request the Town Board re-evaluate this requirement based on exceptional circumstances. The Town Board shall not be obligated to grant the request for reevaluation. The Town Board's determination of the Operator's request for reevaluation is not subject to appeal or other additional administrative review.
  - e. Any action ordered by the Town Board pursuant to Section 61.09(2) shall not be deemed a Mining License Modification pursuant to Section 61.04(5).
3. Commencement of Reclamation. Reclamation of any mine shall begin within one year after cessation of mining activities, whether temporary or permanent, in accordance with the Reclamation Plan as set forth in Wis. Stat. Chapter 293.

### **ARTICLE III. INSPECTION AND ENFORCEMENT**

#### **Sec. 61.10. Inspection, enforcement, and penalties.**

##### 1. Inspection.

- a. Compliance Inspections. Upon issuance of a Mining License, the Operator is deemed as a condition of licensure to have consented to allow inspections of the mining site and all mining operations by the Town Board or its designee(s) for the purpose of determining compliance with the provisions of this Ordinance and the terms and conditions of the Mining License. Inspections may occur pursuant to this section upon showing of proper identification, with or without advance notice to the Operator.
- b. Records Review. All required records to demonstrate lawful operation of the Mining Operation shall be maintained by the Operator at the Mining Site and made available within a reasonable time to the Town Board or its designee(s) to assist the Town Board to determine compliance with the provisions of this Ordinance.
- c. Investigation of Complaints. The Operator shall provide access to the Mining Site to allow the Town Board or its designee(s) to inspect for the purpose of investigating any complaint against the Operator alleging a condition that negatively impacts the public health, safety or welfare.
- d. Retained Experts. If, as a result of any inspections or investigations, the Town Board determines that a Retained Expert should undertake any further inspections or investigations, the Town may hire a Retained Expert, the expense of which shall be paid by the Operator. If the Operator fails to provide access for the inspections or investigations, or provide payment of the Town's expenses, the Town may take enforcement action under Section 61.10(1).

##### 2. Violations. In addition to failure to comply with any provision of this Ordinance, the following are specific violations under this Ordinance:

- a. Engaging in any metallic mining or any activities associated with metallic mining, without a Mining License granted by the Town Board pursuant to this Ordinance.
- b. Failure to comply with the applicable minimum standards and other terms of this Ordinance, all other Town ordinances and codes, and all other governmental or other regulatory authority requirements, laws, regulations, and requirements, or failure to comply with any applicable permits, licenses and approvals required for Mining Operation.



- c. Making an incorrect or false statement in the information and documentation submitted during the Mining License application process or during inspection of the Mining Operation by the Town or its designees or other duly appointed representative.
  - d. Failure to timely file the annual operational report under Section 61.08 of this Ordinance.
  - e. Failure to comply with any conditions of approving the Mining License application, or any agreements entered into as a condition of approving the Mining License application.
  - f. Failure to provide or maintain any financial assurance required as a condition of approving the Mining License application.
  - g. Failure to take appropriate action in response to a notice of violation, citation, request for additional financial assurance or other order issued by the Town.
3. Remedies. The Town Board may take any appropriate action or proceeding against any person in violation of this Ordinance or in violation of the terms of the Mining License, including, but not limited to, the following:
- a. Issue a stop work order for all Mining Operations. Any Operator issued a stop work order shall be provided with a notice of violation under Section 61.10(4) by the Town Clerk within 10 days.
  - b. Issue a notice of violation and order that specifies the action to be taken to remedy a violation under Section 1.10(4).
  - c. Issue a citation in accordance with the Town's citation ordinance or pursuant to other Town authority.
  - d. Refer the matter to legal counsel for consideration and commencement of legal action, including, but not limited to, the assessment of forfeitures under Section 61.10(6) and injunctive relief.
  - e. Suspend or terminate the Mining License under Section 61.10(5).
4. Notice of Violation. The Town Board or its designee may issue a notice of violation and order for curing the violation upon a violation of any term of this Ordinance or upon a violation of any agreement entered into between the Town and the Operator for the Mining Operations pursuant to the following provisions.
- a. The Town shall serve a notice of violation upon the Operator within thirty days of the Town's obtaining knowledge of the violation. The notice of violation may include a proposed work plan or other remediating steps to cure the violation.
  - b. The Operator shall have thirty days from the Operator's receipt of the notice of violation and order to complete all necessary work to cure the violations to the Town's satisfaction.
  - c. Any person affected by a notice and order issued in connection with the enforcement of this Ordinance under Section 61.10(4) may request and shall be granted a hearing on the notice of violation and order before the Town Board, provided such person shall file with the Town Clerk a written petition requesting the hearing and setting forth the person's name, address, telephone number and a brief statement of the grounds for the hearing, the requested relief, or for the mitigation of the order. Such petition shall be filed within thirty days of the date the notice and order are served upon the Operator. Upon receipt of the petition for hearing, the Town Clerk shall set a time and place for a hearing before the Town Board and shall give the petitioner written notice thereof. In the event the petitioner is not the Operator, the Town shall provide notice of the hearing to the Operator.
  - d. After the hearing, the Town Board by a majority vote, shall sustain, modify or withdraw the notice under Section 61.10(3), or modify the order, depending on the Town Board's findings, as to whether the provisions of this Ordinance have been complied with. The petitioner shall be notified within ten days of the Town Board's issuance of its findings and any modification of the order. In the event the petitioner is not the Operator, the Town shall provide a copy of the Town Board's findings of fact and any modification of the Town's order to the Operator.

- e. The proceedings of the hearing, including the findings and decision of the Town Board and the reasons therefore, shall be summarized in writing and entered as a matter of public record in the office of the Town Clerk. Such record shall also include a copy of every notice and order issued in connection with the case.
5. Mining License Suspension or Revocation.
- a. After service of any notice of violation on an Operator and after any requested hearing has been held on such notice pursuant to Section 61.10(4), the Town Board may consider suspension or revocation of a Mining License for any violation of this Ordinance or the terms of the Mining License. A Mining License may also be revoked if it is determined that there has been an abandonment of mining as defined under Wis. Stat. § 293.61.
  - b. The Town Board shall provide the Operator with a hearing on any proposed Mining License suspension or revocation. The Town Clerk shall provide the Operator with notice of the hearing at least 15 days in advance. Following the hearing, if the Town Board determines there is reasonable cause to conclude that the Operator has failed to correct or cure a violation it may suspend or revoke the license.
  - c. Revocation of any Mining License awarded pursuant to this Ordinance shall terminate the Operator's right and authority to continue Mining Operations pursuant to this Ordinance but shall not affect the Operator's obligation to comply with any continuing obligations of the Operator under the terms of the Mining License or any agreement to which the Town is a party.
  - d. In the event of any violation that is not corrected pursuant to any conditions of correction established by the Town Board and to the satisfaction of the Town Board the Town Board shall, at one or more open meetings, establish and levy an appropriate forfeiture and order an appropriate compliance schedule consistent with the intent of this Ordinance, the violation of which shall constitute a separate violation of this Ordinance.
6. Penalties. Any person or Operator who violates this Ordinance or any of the provisions contained herein shall forfeit not less than \$100 nor more than \$10,000 for each violation. Each day of violation is a separate offense.
- a. The Town Board shall, promptly after verifying any violation of any provision of a Mining License or agreement to which the Town is a party, notify the Operator in writing of such violation and require the Operator to report to the Town Clerk within 10 days.
  - b. The Town shall be entitled to recover from the violator the reasonable and necessary expenses associated with prosecution of the violation.
  - c. The remedies provided herein shall not be exclusive of other remedies.
7. Non-Waiver. A failure by the Town to take action on any past violation(s) shall not constitute a waiver of the Town's right to take action on any present or future violation(s).

**Sec. 61.11. Severability.**

- 1. Should any section, clause, provision or portion of this Ordinance be adjudged unconstitutional, invalid, unlawful, or unenforceable by a final order of a court of competent jurisdiction, including, but not limited to, all applicable appeals, the remainder of this Ordinance shall remain in full force and effect.
- 2. If any provision of these Ordinances is invalid or unconstitutional or if the application of these Ordinances to any person or circumstance is found invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the provision or application of these Ordinances which can be given effect without the invalid or unconstitutional provision or application.
- 3. All ordinances and parts of ordinances in conflict herewith are hereby repealed.
- 4. These Ordinances shall be in full force and effect from and after their date of passage and notice to the public as required by law. (Adopted 8/26/18)