

## **Chapter 17**

### **ZONING ORDINANCE**

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## 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of the town inconsistent or conflicting with this section, to the extent of the inconsistency only, are hereby repealed.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. 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.
2. 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.
3. 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.
4. 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.
5. Animal Units. Animal units shall be as defined in Wis. Admin. Code ch. NR 243 unless otherwise provided by this Chapter:

**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:	$\frac{5 \text{ animal units/acre} \times \text{acres}}{\text{Animal Equivalency Factor (AEF)}} = \text{Number of animals}$
Example #1 Determining how many 400-800 lb. heifers are permissible 40 acres:	$\frac{5 \text{ animal units/acre} \times 40 \text{ acres}}{.6 \text{ AEF}} = 333 \text{ (400-800 lb. heifers)}$
Example #2 Determining how many milking or dry cows are permissible on 40 acres:	$\frac{5 \text{ animal units/acre} \times 40 \text{ acres}}{1.4 \text{ AEF}} = 142 \text{ (milking or dry cows)}$

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.

6. 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.
7. Apartment house. A building containing accommodations for two (2) or more families living independently of each other.
8. 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.
9. 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.
10. 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.
11. 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.
12. Berms. A berm is an earthen wall or embankment.
13. 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.
14. 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.
15. Building permit. A permit that is required for construction of any building or structure for occupancy and is issued by the building inspector.

16. Building site area. The ground area of a building or buildings, together with all open spaces required by this chapter.
17. 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.
18. 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.
19. 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.
20. 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.
21. Collocation. Class 1 or Class 2 collocation or both.
22. 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.
23. Community and other living arrangements. Community and other living arrangements for adults will be defined in Wis. Stats. § 62.23(7)(i).
24. Composting. The temporary storage and recycling and sale of stored materials consisting solely of dirt and yard waste suitable for composting onsite.
25. 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. Ch. 62.23.
26. Condominium. Property subject to a condominium declaration established under section 703 Wisconsin Statutes.
27. Conforming building or structure. Any building or structure which complies with all the regulations of this Chapter.
28. Day care or child care facility. A facility that provides care or supervision for children under 12 years of age for less than 24 hours per day.
29. 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.
30. 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.

31. 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.
32. District. A designated area for which the regulations governing the use of the land and buildings are uniform.
33. 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.
34. Dog kennel, structure. The pen(s), run(s), and accessory structure(s) associated with land used for the harboring of dogs.
35. 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.
36. Driveway. A private road that gives access to private property from a public roadway.
37. 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.
38. 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.
39. Equipment compound. An area surrounding or adjacent to the base of an existing support structure within which is located mobile service facilities.
40. Fall zone. The area over which a mobile support structure is designed to collapse.
41. 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.
42. 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.
43. 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.
44. 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).
45. 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.

46. 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.

47. 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.

48. Frontage: The smallest dimensions of a lot abutting a public street measured along the street line.

49. 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.

50. 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.

51. Grading. The physical disturbance of the ground by the addition, removal, or re-distribution of soil.

52. Greenhouse. Commercial greenhouses means glassed enclosures used for horticulture for wholesale and retail use.

53. 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.

54. Habitable structure. Any structure, or portion of a structure, used or intended to be used for permanent or intermittent human occupancy.

55. Hearing notice. A publication or posting meeting the requirements WI Statutes Chapter 985.

56. 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)

57. 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)

58. Hotel. A building in which board and lodging are provided to the transient public for compensation.

59. Human habitation. The act of occupying a structure as a dwelling or sleeping place, whether intermittently or as a principal residence.

60. Interchange. A grade separated intersection with one or more turning lanes for travel between intersecting highways.

61. Land use. Any nonstructural use made of unimproved or improved real estate. Also see: "DEVELOPMENT".

62. 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.

63. 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.

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

65. 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.

66. 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.

67. 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.

68. 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.

69. 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.

70. 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.

71. 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.

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

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

74. 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.

75. 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.

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

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

78. 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.

79. 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.

80. 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.

81. 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.

82. 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.

83. 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.

84. Park. A pleasure ground set apart for recreation of the public to promote its health and enjoyment.

85. Park, amusement. An area publicly or privately owned containing amusement and recreational facilities and

devices, whether operated for profit or not.

86. 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.

87. Party walls. A wall on the boundary line of adjoining properties that is shared by two (2) owners or tenants.

88. Person. A person shall be any individual, group of individuals, corporation, partnership, association, municipality, state agency or similar entity.

89. 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.

90. Pond. A constructed depression area designed to permanently maintain water. "Large ponds" are a type of pond meeting one of the following criteria: 1) a normal water surface having an area of two (2) or more acres as calculated by a professional hydrologist or 2) having three (3) feet or more vertical feet between the natural ground surface and the normal water surface for more than twenty-five percent (25%) of the pond. Small ponds are any pond not meeting the definition of a "large pond".

91. 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).

92. Professional engineer. A person who is licensed as a Professional Engineer by the State of Wisconsin.

93. Professional geologist. A person who is licensed as a Professional Geologist by the State of Wisconsin.

94. Professional hydrologist. A person who is licensed as a Professional Hydrologist by the State of Wisconsin.

95. Professional office. The office of a doctor, practitioner, dentist, minister, architect, landscape architect, professional engineer, lawyer, author, musician or other recognized profession.

96. 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.

97. 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.

98. 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.

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

100. Riding stable. A building or premises used for the rent or lease of horses or animals for hire.

101. 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.

102. 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)

103. 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)

104. 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)

105. 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.

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

107. 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.

108. 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.

109. 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.

110. 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.

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

112. Special exception. See Conditional Use.

113. 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.

114. 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.

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

116. 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.

117. 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.

118. 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.

119. 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.

120. 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.

121. 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.

122. 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.

123. 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.

124. 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.

125. 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.

126. 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 to the use requirements of the district in which it is situated.

127. Use, principal. The main use of land or building as distinguished from a subordinate or accessory use.
128. 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.
129. Utility pole. A structure owned or operated by an alternative telecommunications utility as defined in Wis. Stats. § 196.01(1d); public utility as defined in Wis. Stats. § 196.01(5); telecommunications utility as defined in Wis. Stats. § 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. § 182.017(1g)(cq); for video service as defined in Wis. Stats. § 66.0420 (2)(y) for electricity or to provide light.
130. 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).]
131. Warehouse - mini. Units rented to store personal property, sporting equipment such as snowmobiles and boats and other similar non-hazardous materials.
132. Wind electrical generation towers (WEGT), private. Any WEGT to be primarily used to provide electricity to a structure at the site of generation.
133. 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.
134. 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.
135. 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.
136. 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. § 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. § 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 is on a parcel zoned agricultural and will be used to store tools or machinery used on the land.

c. An accessory building may only be erected prior to a principal structure if the principal structure is erected within 24 months after the accessory building is erected. A zoning permit for both the principal structure and the accessory 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 ½ the distance of the setback 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. Ch. 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.

**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.**

1. Ponds are permitted in all zoning district.
2. A zoning permit from the town is required prior to construction of any pond.
3. Notwithstanding section 17.21.2, 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. Ponds under eight hundred (800) square feet or less in surface area;
  - c. 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.
4. Ponds shall maintain a slope from the shoreline no greater than four (4) feet horizontal to one (1) foot vertical from two (2) feet above the normal water surface elevation to a water depth of six (6) feet when the pond is at its lowest level due either to seasonally fluctuating ground water levels, runoff or pumping for irrigation.
5. 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.
6. All ponds shall have a water inflow and outflow system to maintain the normal water surface elevation. For large 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. Large 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. Large pond plans shall bear the seal of the professional hydrologist, professional geologist and professional engineer with

their respective responsibilities identified on the plans. Outflows shall not flow directly onto adjacent parcels of property. 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.

7. All 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, geo web, landscaping bricks or other acceptable method.
8. The groundwater table in the surrounding area and adjacent to the pond or lake shall not be affected.
9. 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.
10. Introduction of fish, game or plant life shall meet all local, state and federal regulations.
11. 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.
12. Ponds with one acre of more total disturbed area require a Marathon County non-metallic mining reclamation permit prior to the issuance of a zoning permit.
13. 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.
14. No pond shall exceed forty percent (40%) of the total lot area or four (4) acres in area whichever is less.
15. 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.
16. Pond construction and material removed must be completed within a period of time not to exceed eighteen (18) months.
17. The volume of water pumped from any pond located in a residential district shall be limited to the amount that will be replaced by ground water flow within twenty-four (24) hours of when pumping ends.

#### **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.**

Small wind energy systems shall be permitted as provided in this Chapter subject to the following requirements:

1. Setbacks. A wind tower for a small wind system shall be set back a distance equal to its total height from:

a. Any public road right of way, unless written permission is granted by the governmental entity with jurisdiction over the road;

b. Any overhead utility lines, unless written permission is granted by the affected utility; and

c. All property lines, unless written permission is granted from the affected land owner or neighbor.

2. Access.

a. All ground mounted electrical and control equipment shall be labeled or secured to prevent unauthorized access.

b. The tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of 8 feet above the ground.

3. Electrical wires. All electrical wires associated with a small wind energy system, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires shall be located underground.

4. Lighting. A wind tower and generator shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration.

5. Appearance, color and finish. The wind generator and tower shall remain painted or finished the color or finish that was originally applied by the manufacturer, unless approved in the building permit.

6. Signs. All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a wind generator, tower, building or other structure associated with a small wind energy system visible from any public road shall be prohibited.

7. Code Compliance. A small wind energy system including tower shall comply with all applicable local, state and federal laws, including, but not limited to state construction and electrical codes and the National Electrical Code.

8. Met towers shall be permitted under the same standards, permit requirements, restoration requirements and permit procedures as a small wind energy system.

9. Abandonment.

a. A small wind energy system that is out-of-service for a continuous twelve (12)-month period will be deemed to have been abandoned. The zoning administrator may issue a Notice of Abandonment to the owner of a small wind energy system that is deemed to have been abandoned. The owner shall have the right to respond to the Notice of Abandonment within thirty (30) days from Notice receipt date. The zoning administrator shall withdraw the Notice of Abandonment and notify the owner that the Notice has been withdrawn if the owner provides information that demonstrates the small wind energy system has not been abandoned.

b. If the small wind energy system is determined to be abandoned, the owner of a small wind energy system shall remove the wind generator from the tower at the owner's sole expense within three (3) months of receipt of Notice of Abandonment. If the owner fails to remove the wind generator from the tower, the administrator may pursue a legal action to have the wind generator removed at the owner's expense.

**Sec. 17.24. 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 two 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.

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. Churches, cemeteries subject to WI Statutes Chapter 157, public and parochial schools, colleges and

universities;

- c. Greenhouses, non-commercial;
- d. Home occupations as defined in Section 17.08(55); and
- e. Home professional businesses as defined in Section 17.08(56).
- f. Parks and playgrounds, including swimming pools, golf courses, tennis courts, picnic grounds and bathing beaches.
- g. 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.
  - l. 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 12/52016)

(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 or camping trailers may be stored or parked indefinitely, provided the unit is stored in or behind a structure or is screened from the road with natural screening so that it is not visible from the right-of-way. Tents 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, provided that approval is granted by the Town Board or a duly appointed deputy, if the use is to exceed thirty (30) days.

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 or offal.

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. Ch. 254.

c. Dog kennels, for training, breeding or boarding, with more than four (4) dogs that are more than 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)

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. Forestry and forest products.

c. Governmental uses such as town halls, garages, solid waste transfer stations and recycling collection centers or depots.

d. Mini warehousing only in existing farm buildings.

e. 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.

f. Sawmills non-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 processing (temporary) and 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) persons 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)

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) year 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.

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. Processing concrete plant(Amended 2/6/2017);
- g. Blacktop mix plant (temporary). Patching and recycling of road surface during seasonal periods;
- h. 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;
- i. Day care or child care facilities;
- j. Drive-through restaurant;
- k. Drive-in theater;
- l. Farm equipment sales and service;
- m. Farm machinery sales and service;
- n. Feed and seed stores;
- o. Fishing bait stores;
- p. Government and cultural uses, such as fire and police stations, community centers, libraries, public emergency shelter, parks, playgrounds and museums;
- q. Hotel, motel;
- r. 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;
- s. Laundry, cleaning and dyeing establishment;
- t. Lumber yards;
- u. Manufacture, fabrication, packing, packaging and assembly of products from glass, leather, metals, paper, plastic, textiles and wood, confections, cosmetics, electrical appliances, electronic devises, instruments, jewelry, pharmaceuticals, tobacco, toiletries and foods except cabbage, fish and fish products, meat and meat products;
- v. Mobile homes sales and service;
- w. Newspaper office and press rooms;
- x. Pet stores;
- y. Recycling and composting facilities;
- z. Tavern, including outdoor and indoor sports facilities and entertainment facilities which are part of the

tavern's operations;

aa. Transportation, motor, taxi, limo and bus terminals as well as cartage express facilities;

ab. Warehousing, inside storage and mini warehousing, including inside storage of contractor's supplies and equipment; and

ac. Wholesale establishments.

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.

**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	1 Stall/150 square feet



Service Stores	
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

a. 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.

b. 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, festivals, 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 to the provisions of this chapter. However, 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.

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;
  - m. 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 regarding 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. §§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. §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. §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. Ch. 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. §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. §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. §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. §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.

4. 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.