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**TOWN OF OAKFIELD**  
**FOND DU LAC COUNTY, WISCONSIN**

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# TOWN OF OAKFIELD FOND DU LAC COUNTY, WISCONSIN ZONING ORDINANCE

## Section 1.0 Interpretation and Purposes

**1.1 Town Authority** The Town Board of the Town of Oakfield, Fond du Lac County, Wisconsin, having been granted village powers pursuant to Section 60.10 does ordain this Zoning Ordinance under the provisions of Section 62.23 (7);

- A. Promotes the health, safety, morals and general welfare; to regulate and restrict the height, number of stories and size of buildings and other structures, the size of yards, courts and other open spaces, the density of population, the location and use of buildings, structures and land for trade, industry, residence and other purposes; and for the said purpose to divide the Town of Oakfield, Fond du Lac County, Wisconsin, into districts of such number, shape, and area as are deemed best suited to carry out the said purposes; to provide a method for its administration and enforcement and to provide penalties for its violation.
- B. It is not intended by this ordinance to repeal, abrogate, annul, impair or interfere with any existing easement, covenants, or agreements between parties, or with any rules, regulations, or permits previously adopted or issued pursuant to laws; provided, however, that when this ordinance imposes a greater restriction upon the use of buildings or premises, or upon the height of a building or requires larger open spaces than are required by other rules, regulations or permits or by easements, covenants or agreements, the provisions of this ordinance shall govern.

**1.2 Statutory Authority** These regulations are adopted under the authority granted by 60.62, 61.35, 62.23, 66.0103, and Chapter 91, Wisconsin Statutes, and amendments thereto, and referred to, or cited as the ZONING ORDINANCE for the Town of Oakfield, Fond du Lac County, Wisconsin.

**1.3 Application** Unless otherwise provided by this Ordinance, after the effective date of this Ordinance, no structure, land or water shall be developed, and no structure or part thereof shall be relocated, erected, moved, reconstructed, enlarged, extended, converted or structurally altered without a Building Permit and without full compliance with this Ordinance and all other applicable Town, County and State regulations.

**1.4 Compliance** The Town Board or other owner or owners of property within the town who are affected by a particular regulation, Variance or Special Use under this Ordinance may sue to enforce, by injunctive order, compliance with this Ordinance.

### 1.5 This Zoning Ordinance shall apply to:

- A. The regulation and restriction of lot coverage, size and location of all structures, so as to prevent overcrowding and to provide adequate sunlight, air, sanitation and storm drainage.
- B. The size of yards and other open spaces.

- C. The density of population.
- D. The regulating of non-conforming uses.
- E. The location and use of buildings, structures and land for trade, industry, residence or other purposes, provided that there shall be no discrimination against temporary structures.
- F. Consistency with the Town of Oakfield Comprehensive Plan, or application of a revision to the Land Use Plan to meet consistency.

### **1.6 Purpose**

The purpose of this ordinance is to promote the public health, safety and general welfare of the town through provisions designed to:

- A. Encourage an appropriate use of the land.
- B. Conserve the value of land and buildings.
- C. Prevent the overcrowding of land and the congestion of streets by enforcing regulations that protect the traffic-carrying capacity, safety and efficiency of all existing and future town, county, and state roadways.
- D. Provide for adequate light and air.
- E. Secure safety from fire, flooding, pollution, contamination, panic, and other dangers.
- F. Avoid undue concentration of population.
- G. Stabilize and protect existing and potential property values.
- H. Encourage compatibility between different land uses and protect the scale and character of existing development from the encroachment of incompatible development.
- I. Promote the goals and objectives, consistency of the Land Use Plan, and any other aspects of the Town of Oakfield's Comprehensive Plan, and all amendments thereto.
- J. Further the wise use, conservation, protection, and proper development of the Town's natural resources.
- K. Preserve and protect the beauty and open space of the Town of Oakfield.
- L. Conserve and protect the agricultural lands in the Town.
- M. Protect and maintain safe and ample supply of groundwater.
- N. Provide for the timely consideration of development permit review applications.
- O. State the manner for the appeal of land-use decisions.

## **SECTION 2.0 GENERAL PROVISIONS (Except as otherwise provided)**

### **2.1 Establishment of Zoning Map**

The location and boundaries of the districts established shall be as shown on the map entitled the Official Zoning Map of the Town of Oakfield, Fond du Lac County, Wisconsin. The Official Zoning Map with all notations, dimensions, designations, references and other data shall accompany and is part of this ordinance, and upon adoption shall be signed and dated by the Town Board Chairman and attested to by the Town Clerk. Amendments to the Official Zoning Map are described in Section 23 of this ordinance. Any amendments to the zoning map will also be dated.

### **2.2 Interpretation of District Boundaries**

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

- A. Boundaries as indicated as approximately following the center lines of streets, streams, and highways shall be construed to follow such center lines.
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. Where boundaries do not follow property lines and distances are not specified on the Official Zoning Map, boundaries shall be determined by the use of an engineer's scale on the Official Zoning Map.
- D. Legal descriptions of property, when available, shall be controlling as to the zoning of any property, or the property proposed to be rezoned in accordance with the terms of the ordinance.

### **2.3 Application of Regulations**

The regulations set by this ordinance shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:

- A. No land, building, or structure shall hereafter be used or occupied, and no building, structure, or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all the regulations herein specified for the district in which it is located.
- B. No part of a yard, open space, or off-street parking space required about or in connection with any building or land use for the purpose of complying with this ordinance shall be included as part of a yard, open space, or off-street parking space similarly required for any other building.
- C. No lot area and building setback existing at the effective date of adoption of this ordinance shall be reduced below the minimum requirements set forth herein. Lot area and building setback created after the effective date of adoption of this ordinance shall meet the minimum requirements established by this ordinance.

- D. When three of the four lot lines abut a public street, front yard setbacks would apply on 2 of the 3 lot sides that abut streets, while the third side would constitute a side yard.
- E. The use and height of building hereafter erected, converted, enlarged or structurally altered and the use of any land shall be in compliance with the regulations established herein for the district in which said land or building is located.
- F. No alterations to any building, except uncovered steps or handicap ramps shall project into the front yard established at the time of the original construction of such building beyond a line connecting the nearest points on the setback lines of the adjacent buildings on each side of said building.
- G. Every part of a required yard shall be open to the sky unobstructed, except the accessory buildings in a rear yard, and the ordinary projections of sills, belt courses, cornices and ornamental features projecting not more than 24 inches, and/or up to 48 inches for solar heating systems.
- H. All dwellings shall conform to minimum floor size for the District and shall have a full basement.
- I. No lot area shall be so reduced that the yards and open spaces shall be smaller than is required by this ordinance, nor shall the density of population be increased in any manner except in conformity with the area regulations hereby established for the district in which a building or premises is located.
- J. No part of a yard or other open space provided about any building for the purpose of complying with the provisions of this ordinance shall be included as a part of a yard or other open space required for another building.
- K. Every building hereafter erected, converted, enlarged or structurally altered shall be located on a lot and in no case shall there be more than one main building on one lot.
- L. Nothing herein contained shall require any change in the plans, construction, size, or designated use of any building or part thereof the construction of which shall have been started prior to the effective date of this ordinance.
- M. All churches or other places of public gathering hereafter erected shall provide an accessible parking space of sufficient size to accommodate at least one car for every five seats provided.
- N. Any side yard, rear yard or court abutting a district boundary line shall have a minimum width and depth in the less restricted district equal to the average of the required minimum widths and depths for such yards and courts in the two districts which abut the district boundary line.
- O. No permits shall be issued for a lot that abuts a road that is not fully dedicated to the public or is not built to Town Standards.
- P. Notwithstanding anything to the contrary in this Ordinance, the Town reserves the right to require applicants who are seeking zoning amendments, variances or special uses to reimburse the Town for its reasonable, professional fees incurred in the review or administration of the relevant petition. The Town reserves the right to condition the

issuance of the permit, rezoning or other action on the reimbursement of the professional fees incurred by the Town.

- Q. No building, structure or use of land shall hereafter be initiated or altered except in conformity with the regulations specified by the district in which it is located. Uses not particularly specified in this Ordinance may, nonetheless, be permitted by the Town Board, only if such uses are substantially similar in character to the principal uses permitted in the district.
- R. In all residential zoning districts, all materials and equipment shall be stored within a completely enclosed building except for the following, which shall not be located within any front yard or street yard and shall be stored a minimum of 5 feet from all property lines: firewood, construction materials, landscaping materials and related equipment with on-site construction and off-street parking.
- S. In all residential zoning districts recreational equipment including, but not limited to, boats, snowmobiles, all terrain vehicles, travel trailers, pop-up campers and motor homes shall be permitted if said equipment is stored or parked a minimum of 5 feet from any property line and shall not be located within any front yard or any required street side yard unless screened from the street with a buffer with a minimum of 0.30 opacity. At no time shall a recreational vehicle be used for permanent living, sleeping, material storage or other purposes. No recreational vehicle shall be permanently connected to water, gas, electric, or sanitary sewer services.

## 2.4 Exceptions

The regulations contained herein relating to frontage on public roadways, heights of buildings, size of yards, and other open spaces shall be subject to the following exceptions.

- A. All lots shall have a minimum 50 foot frontage upon a public roadway or other officially approved means of access; however, in order to receive a building permit for construction of any principal structure, the lot must comply with the minimum lot width requirements specified for the applicable zoning district. No residence may be located a distance greater than 250 feet from the center of the public roadway without obtaining the prior approval from the Board of Appeals, the approval of which shall not be granted unless physical conditions necessitate.
- B. It is the policy of the Town to discourage flag lots. If a flag lot is authorized, the long strip for a flag lot shall abut the lot or fence line and have a minimum width of 30 feet.
- C. Churches, schools, hospitals, sanatoriums, and other public and quasi-public buildings may be erected to a height not exceeding 65 feet nor 5 stories, provided the front, side and rear yards required in the district in which such building is to be located are each increased at least 1 foot for each foot of additional building height above the height limit otherwise established for the district in which such building is to be located.
- D. Chimneys, cooling towers, elevator bulkheads, fire towers, silos, monuments, penthouses, scenery lofts, tanks, water towers, ornamental towers, spires, wireless, television or broadcasting towers, masts or aerials, telephone, telegraph and power poles and lines, microwave radio relay structures, and necessary mechanical appurtenances

are hereby excepted from the height regulations of this ordinance and may be erected in accordance with the other regulations or ordinances of the Town of Oakfield.

- E. Residences in the Residential and Agricultural Districts may be increased in height by not more than ten feet when all yards and other required open spaces are increased by one foot for each foot by which such building exceeds the height limit of the district in which it is located.
- F. Where a lot abuts on 2 or more streets having different average established grades, the higher of such grades shall control only for a depth of 120 feet from the line of the higher average established grade.
- G. Open or enclosed fire escapes and fire towers may project into a required yard not more than 5 feet provided they be so located as not to obstruct light and ventilation.
- H. No lot area shall be so reduced that the yards and open spaces shall be smaller than is required by this ordinance, nor shall the density of population be increased in any manner except in conformity with the area regulations hereby established for the district in which a building or premises is located.
- I. No part of a yard or other open space provided about any building for the purpose of complying with the provisions of this ordinance shall be included as a part of a yard or other open space required for another building.

## 2.5 Nonconforming Uses

### A. **Nonconforming Uses of Land (or Land with Minor structures Only)**

Where, on the effective date of adoption or amendment of this ordinance, a use of land exists that would not be permitted or permissible in the district in which it is located as adopted or amended, such use may be continued subject to the following restrictions:

1. Such use shall not be enlarged, increased, nor extended to occupy a greater area of the lot than was occupied at the effective date of adoption or amendment of this ordinance.
2. Such use shall not be moved in whole or in part to any other portion of the lot other than that portion occupied by such use at the effective date of adoption of this ordinance.
3. When such use of land is discontinued or abandoned for a period of more than 180 consecutive days for any reason whatever or when such use is replaced by a permitted or permissible use, a nonconforming use shall not thereafter be resumed.
4. No additional structure in connection with such use shall be erected.

### B. **Nonconforming Use of Structures**

Where, on the effective date of adoption or amendment of this ordinance, the use of an existing structure exists that would not be permitted or permissible in the district in which it is located as adopted or amended, , such use may be continued subject to the following restrictions:



1. Such use shall not be enlarged or extended to more than 50 percent of the floor area devoted to such use at the effective date of adoption or amendment of this ordinance.
2. When such use of a structure is discontinued or abandoned for a period of 12 consecutive months for any reason whatever, or when such use is replaced by a permitted or permissible use, the nonconforming use shall thereafter not be resumed and shall conform to this ordinance.

#### **C. Nonconforming Structures**

Where on the effective date of adoption or amendment of this ordinance, a structure exists which could not be erected in the district in which it is located as adopted or amended by reason of restriction on height, yards, its location on the lot or other requirements concerning the structure, such structure may continue in existence subject to the following restrictions:

1. Such structure shall not be altered in any manner which would increase the degree of nonconformity of structural conditions, height, or yard setback.
2. If the structure is destroyed due to violent wind, vandalism, fire, flood, ice, snow, mold, or infestation, the nonconforming structure may be restored to the size and use that it had immediately before the damage or destruction occurred or to a larger size if necessary for the structure to comply with applicable state or federal requirements.

#### **D. Nonconforming Characteristics of Use**

1. If characteristics of use such as lighting, parking or other matters pertaining to the use of land, structures and premises are made nonconforming by the provisions of this ordinance as adopted or amended, no change shall thereafter be made in such characteristics of use which increases the nonconformity; provided, however, that changes may be made which do not increase, or which decrease, such nonconformity.
2. If no structural alternations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or a more restricted classification. Whenever a nonconforming use has been changed to a more restricted nonconforming use or a conforming use, such use shall not thereafter be changed to a less restricted use.

#### **E. Nonconforming Lots of Record**

If a single lot or two or more lots or combination of lots and portions of lots with continuous frontage in single ownership are of record on the effective date of the originally adopted Zoning Ordinance being August 16, 1982, the lands involved shall be considered to be an individual parcel for the purpose of this ordinance, and such parcel shall be allowed for developmental use even though it does not meet the lot area and lot width requirements for the district in which it is located.

#### **F. Repairs and Maintenance**

Nothing in this ordinance shall be deemed to prevent normal maintenance or repair of any structure or to prevent restoring to a safe condition any structure declared to be unsafe.

**G. Changes to a Nonconforming Use or Structure**

Anyone wishing to change or enlarge a nonconforming use or structure shall obtain a variance from the Board of Appeals, as provided in Section 17 of this ordinance.

**2.6 County Shoreland-Floodplain Zoning Regulations**

In addition to the regulations established herein, no land, water, building or structure shall hereafter be used or occupied and no building, structure, or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with the regulation established in the Fond du Lac County Shoreland-Floodplain Zoning Ordinance, Fond du Lac County, Wisconsin adopted pursuant to the Wisconsin Statutes.

**2.7 Interpretation of Regulations**

In their interpretation and application, the provisions of this ordinance shall be considered minimum requirements. Where the provisions of this ordinance impose greater restrictions than any statute, other regulation, ordinance or covenant, the provisions of this ordinance shall prevail. Where the provisions of any statute, other regulation, ordinance or covenant impose greater restrictions than the provisions of this ordinance, the provisions of such statute, other regulation, ordinance or covenant shall prevail.

## Section 3.0 Glossary of Terms

### 3.1 General Terms

For the purposes of this ordinance, certain words and terms are defined as follows:

Words used in the present tense include the future; the singular number includes the plural number, and the plural number includes the singular number; the word "building" includes the word "structure"; the word "shall" is mandatory and not directory. Any words not herein defined shall be construed as defined in the state building code or State Administrative Code.

### 3.2 Definition of Terms

Words used in the present tense include the future; the singular number includes the plural number and the plural number includes the singular number, the word "building" includes the word "structure"; the word "shall" is mandatory and not directory. Any words not herein defined shall be construed as defined in the State building code. The definitions of terms throughout this ordinance shall be interpreted to have the following meanings (an asterisk\* designates the definition applies to livestock facility regulations in Section 24):

**\*Adjacent** means located on land parcels that touch each other, or on land parcels that are separated only by a river, stream, or transportation or utility right-of-way.

**Adult-oriented establishment** shall have the meaning given in the Town of Oakfield Adult Oriented Establishments Ordinance.

**Agriculture, Animal** means the use of land for animal feeding operations, including areas for the storage, treatment and disposal of manure and other related waste products.

**Agriculture, Crop** means the use of land for the production of row crops, field crops, tree crops, timber, bees, apiary productions, and fur-bearing mammals.

**Agricultural Use** Any of the following activities conducted for the purpose of producing an income or livelihood:

1. Crop or forage production.
2. Keeping livestock.
3. Beekeeping.
4. Nursery, sod, or Christmas tree production.
5. Floriculture.
6. Aquaculture.
7. Fur farming.
8. Forest management.
9. Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.
10. Any other use that DATCP, by rule, identifies as an agricultural use.

\***Animal Unit** has the meaning that was given in s. NR 243.03(3) as of April 27, 2004. Table 1, shown on this page contains equivalents for use in calculations associated with this ordinance. The current NR 243 rules should be consulted for any changes to these equivalents.

**TABLE 1**  
**Animal Unit Equivalent Factors**  
 (# animals X factor = A.U.)

<b>Dairy Cattle</b>	Milking and Dry Cows	1.4
	Heifers (800 lbs. to 1200 lbs.)	1.1
	Heifers (400 lbs. to 800 lbs.)	0.6
	Calves (up to 400 lbs.)	0.2
<b>Beef</b>	Steers or Cows (600 lbs. to market)	1.0
	Calves (under 600 lbs.)	0.5
	Bulls (each)	1.4
<b>Swine</b>	Pigs (55 lbs. to market)	0.4
	Pigs (up to 55 lbs.)	0.1
	Sows (each)	0.4
	Boars (each)	0.5
<b>Poultry</b>	Layers (each)	0.01
	Broilers (each)	0.005
	Broilers – continuous overflow watering	0.01
	Layers or Broilers - liquid manure system	0.033
	Ducks – wet lot (each)	0.2
	Ducks - dry lot (each)	0.01
	Turkeys (each)	0.018
<b>Sheep</b> (each)		0.1
<b>Goats</b> (each)		0.1

Source: DATCP 2006

**Automobile Wrecking Yard** Any premises on which two or more automotive vehicles, not in operating condition, are stored in the open.

**Base Farm Tract**

1. All land, whether one parcel or two or more contiguous parcels, that is in a farmland preservation zoning district and that is part of a single farm as of July 16, 2010, regardless of any subsequent changes in the size of the farm.
2. Any other tract that DATCP by rule defines as a base farm tract

**Bed and breakfast establishment** means a use involving lodging in a single-family dwelling that provides for overnight accommodations and a morning meal to transients for compensation.

**Board of Appeals** Means a body designated by the legislative body to hear appeals from land-use decisions (see section 17.0 of this ordinance).

**Building** Any structure for the shelter, support or enclosure of persons, animals, chattels or property of any kind. When separated by division walls without openings, each portion of such building, so separated shall be deemed a separate building.

**Building, Accessory** A building or portion of a building subordinate to the main building and used for a purpose customarily incidental to the permitted use of the main building or the use of the premises.

**Building, Height of** The vertical distance from the average ground level in front of the lot or the finished grade at the building line, whichever is higher, to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or to the average height of the highest gable of a gable, hip or pitch roof.

**Building, Main** A building constituting the principal use of a lot.

**Cemetery** A local community or private church managed site that is set apart for the burial or interment of the human dead or for the burial or internment of small domestic pets.

**Center Line** A line connecting points on highways from which setback lines shall be measured, at any point on the highway.

**Certified Survey Map (csm)** A map of a lot split prepared in accordance with Wis. Stat. § 236.34.

**Department** means the Department of Agriculture, Trade, and Consumer Protection

**Channel** A natural or artificial watercourse of perceptible extent, which contains a definite bed and banks to confine and allow continuous or periodic flow of water. Channel flow is that water which is flowing within the limits of the defined channel.

**Common Ownership** means ownership by the same person or persons, or a legal entity that is wholly owned by the same person or persons. "Common ownership" includes joint tenancy and tenancy in common. Solely for purposes of this definition, a parcel owned by one member of a married couple is deemed to be owned by the married couple.

**\*Complete Application for Local Approval** means an application that contains everything required under s.s. ATCP 51.30(1) to (4).

**Comprehensive Plan** is the adopted Oakfield Comprehensive Plan that was based on 66.1001 (1)(a) of the Wisconsin State Statutes.

**Contiguous** means adjacent to or sharing a common boundary. "Contiguous" land includes land that is separated only by a river, stream, section line, public road, private road, railroad, pipeline, transmission line, or transportation or transmission right-of-way. Parcels are not "contiguous" if they meet only at a single point.

**DATCP** An abbreviation for the Wisconsin Department of Agriculture, Trade, and Consumer Protection.

**Density** A number of housing units in a given land area.

**Dog Kennel** A place where more than two adult dogs are boarded for a fee on a recurrent basis, or a place where more than five dogs are kept for any purpose and meets the requirements of an accessory use as defined in the accessory use definition.

**Dwelling, One-Family** A detached building designed for or occupied exclusively by one family.

**Dwelling, Two-Family** A detached or semi-detached building designed for and occupied exclusively by two families.

**Dwelling Unit** A building or portion thereof which provides or is intended to provide living quarters exclusive for one family.

**\*Expanded livestock facility** means the entire livestock facility that is created by the expansion, after May 1, 2006. "Expanded livestock facility" includes all livestock structures in the expanded facility, regardless of whether those structures are new, existing or altered.

**\*Expansion** means an increase in the largest number of animal units kept at a livestock facility on at least 90 days in any 12-month period. The acquisition of an existing livestock facility, by the operator of an adjacent livestock facility, does not constitute an "expansion" unless that operator increases the largest number of animal units kept at the combined livestock facilities on at least 90 days in any 12-month period.

**Family** means one or more individuals, related or unrelated by blood, marriage, adoption, or guardianship (but not exceeding 4 unrelated persons), living together under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability.

**Farm:** means a parcel of land, or a collection of 2 or more contiguous parcels of land, which meets all of the following conditions:

1. All of the land is under common ownership.
2. More than half of the entire land area is assigned for property tax purposes to one or more of the following use classification as defined by the Wisconsin Department of Revenue pursuant to s. 70.32(2), Wis. Stats:
  - a. Agricultural land (class 4)
  - b. Agricultural forest (class 5m)
  - c. Productive forest (class 6)

**Farm Acreage.** means, for the purposes of 6.3, acreage that is part of a farm, except that farm acreage does not include any nonfarm residential acreage.

**Farmland Preservation Plan** means a plan for the preservation of farmland in a county, including an agricultural preservation plan under subchapter. IV of chapter 91, 2007 statutes.

**Farmland Preservation Zoning District** means a farmland preservation zoning district designated under s.91.38 (1) (c) in an ordinance described in s.91.32 (2).

**Farm Residence** means any of the following structures that is located on a farm:

1. A single-family or duplex residence that is the only residential structure on the farm or is occupied by any of the following:
  - a. An owner or operator of the farm.
  - b. A parent or child of an owner or operator of the farm.
  - c. An individual who earns more than 50 percent of his or her gross income from the farm.
2. A migrant labor camp that is certified under s. 103.92.

**Frontage** All the property abutting on one side of a road or street between two intersecting roads or streets or all of the property abutting on one side of a road or street between an intersecting road or street and the dead end of a road or street.

**Garage, Private** An accessory building or space for the storage of motor-driven vehicles.

**Garage, Public** Any building or premises, other than a private storage garage, where motor-driven vehicles are equipped, repaired, serviced, hired, sold or stored.

**Garage, Storage** Any building or premises used for the storage only of motor-driven vehicles or motor-driven machinery, pursuant to previous arrangements and not to transients, and where no equipment, parts, fuel, grease or oil is sold.

**Gross Income** The meaning given for Wisconsin adjusted gross income in s. 71.01 (13).

**Home Occupation** A gainful occupation conducted by members of the family only within their place of residence; provided that such occupation is accessory to and clearly incidental and subordinate to the principal use as a residence, that no article is sold or offered for sale on the premises except such as is produced by such occupation, that no stock in trade is kept or sold, or displayed on the premises, that no mechanical equipment is used other than such as is permissible for purely domestic purposes, and that signage be limited based on restrictions in Section 14 of this ordinance.

**Hotel** A building in which lodging, with or without meals, is offered to transient guests for compensation and in which there are more than 5 sleeping rooms with no cooking facilities in any individual room or apartment.

**Junk Yard** A lot, land, building, or structure, or part thereof used primarily for the collecting, storage, and/or sale of waste paper, rags, scrap metal, or discarded material or for the collecting, dismantling, storage, and salvaging of machinery or vehicles not in running condition and for sale or parts therefrom.

#### **Livestock**

1. For use in determining compliance with Wis. Stat. Chapter 91.01 Farmland Preservation, livestock means bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, camelids, ratites, and farm-raised fish.
2. For use in determining compliance with Wis. Stat. 51.01 Ag Siting Regulations, livestock means domestic animals traditionally used in Wisconsin in the production of food, fiber or other animal products. "Livestock" includes cattle, swine poultry, sheep and goats. "Livestock" does not include equine animals, bison, farm-raised deer, fish, captive game birds, ratites, camelids or mink.

**\*Livestock facility** means a feedlot, dairy farm or other operation where livestock are or will be fed, confined, maintained or stabled for a total of 45 days or more in any 12-month period. A "livestock facility" includes all of the tax parcels of land on which the facility is located, but does not include a pasture or winter grazing area. Related livestock facilities are collectively treated as a single "livestock facility" for purposes of this chapter, except that an operator may elect to treat a separate species facility as a separate "livestock facility."

**\*Livestock structure** means a building or other structure used to house or feed livestock, to confine livestock for milking, to confine livestock for feeding other than grazing, to store livestock feed, or to collect or store waste generated at a livestock facility. "Livestock structure" includes a barn, milking parlor, feed storage facility, feeding facility, animal lot or waste storage facility. "Livestock structure" does not include a pasture or winter grazing area, a fence surrounding a pasture or winter grazing area, a livestock watering or feeding facility in a pasture or winter grazing area, or a machine shed or like facility that is not used for livestock.

**\*Livestock Waste** means manure, milking center waste and other organic waste generated by a livestock facility.

**Lot, Corner** A lot located:

1. At the junction of and abutting 2 or more intersecting streets; or
2. At the junction of and abutting a street and the nearest shoreline of high-water line of a storm or floodwater runoff channel or basin; or
3. At the junction of and abutting 2 or more storm or flood water runoff channels or basin or
4. At and abutting the point of abrupt change of a single street where the interior angle is less than 135 degrees and the radius of the street is less than 100 feet.

**Lot Depth** The average distance from the front to the rear lot lines measured in the general direction of the side lot lines.

**Lot, Interior** A lot other than a corner lot.

**Lot Width** The width of a lot shall be considered to be the average distance between straight lines connecting front and rear lot lines at each side of the lot, measured as straight lines between the foremost points of the side lot lines in front (where they intersect with the street right-of-way) and the rear most points of the side lot lines in the rear, provided however that the width between the side lot lines at their foremost points in the front shall not be less than eighty (80%) percent of the required lot width except in the case of lots on the turning circle of a cul-de-sac, where the width shall not be less than sixty (60%) percent of the required lot width.

**Lot, Zoning Lot** A single property, parcel, unit, tract, plot or otherwise designated to be used, as a unit under single ownership or control, and which may be occupied by one or more structures and the accessory structures, or uses customarily incidental to it, including such open spaces as are arranged and designed to be used in connection with such structure. A "zoning lot" may or may not coincide with a lot of record.

**Manufactured Home** A dwelling structure or component thereof fabricated in an offsite manufacturing facility for installation or assembly at the building site which is certified and labeled as a manufactured home under 42 USC Sections 5401-5426, which, when placed on the site:

1. Is set on an enclosed continuous foundation in accordance with Sec. 70.43(i), Wis. Stats., and ILHR 21, Subchapters 111, IV, and V, Wis. Adm. Code, or is set on a comparable enclosed continuous foundation system approved by the Building Inspector, who may require a plan for such foundation to be certified by a registered architect or engineer to ensure proper support for such structure;
2. Is installed in accordance with the manufacturer's instructions;
3. Is properly connected to utilities; and
4. Meets other applicable standards of this Chapter.



**\*Manure** means excreta from livestock kept at a livestock facility. "Manure" includes livestock bedding, water, soil, hair, feathers, and other debris that becomes intermingled with livestock excreta in normal manure handling operations.

**Modular Home** A structure which is partially pre-assembled at a manufacturing plant and placed together on a lot or parcel as a dwelling unit or units. A modular home is also called prefabricated or precut homes. For the purpose of this Ordinance, modular homes must meet the requirements of all applicable State and Local Building Codes. A modular home is subject to COMM 20.13, Wis. Adm. Code.

**Navigable waters** has the meaning given in Chapter 30 of the Wisconsin Stats.

**\*New livestock facility** means a livestock facility that will be used as a livestock facility for the first time, or for the first time in at least 5 years. "New livestock facility" does not include an expanded livestock facility if any portion of that facility has been used as a livestock facility in the preceding 5 years.

**Non-conforming Use.** A building or premises lawfully used or occupied at the time of the passage of this ordinance or amendments thereto, which use or occupancy does not conform to the regulations of this ordinance.

**Nonfarm Residence** Means a one or two family residence other than a farm residence.

**Nonfarm Residential Acreage.** For purposes of section 6.3.2, the combined total acreage of all parcels on which nonfarm residences are located, all parcels on which the Town of Oakfield has approved nonfarm residences, all parcels that do not qualify as farms, and the parcel to which the Special Use permit application pertains.

**Non-Metallic Mining** Operations of activities at a nonmetallic mining site for the extraction from the earth of material consisting principally of naturally occurring, organic or non-organic, nonmetallic, nonrenewable material. Nonmetallic minerals include, but are not limited to stone, gravel, clay peat, talc or topsoil. Nonmetallic mining may involve the use of mining equipment or techniques to remove materials from the in-place non-metallic mineral deposit, including drilling and blasting, as well as associated activities such as topsoil removal, excavation, grading and dredging. Processing the material may include, but are not limited to stockpiling of materials, blending mineral aggregates or nonmetallic minerals with other mineral aggregates or nonmetallic minerals, crushing, screening, scalping, pulverizing, and de-watering

**\*Livestock Facility Operator** means a person who applies for or holds a local approval for a livestock facility.

**\*Operator** means a person who applies for or holds a local approval for a livestock facility.

**Owner** means a person who has an ownership interest in land.

**Permitted Use** A use which may be lawfully established in a particular district or districts, provided it conforms to all requirements, regulations and performance standards, if any, of such

districts.

**\*Person** means an individual, corporation, partnership, cooperative, Limited Liability Company, trust or other legal entity.

**\*Populate** means to add animal units for which a permit or other local approval is required.

**Prime farmland** means any of the following:

1. An area with a class I or class II land capability classification as identified by the natural Resources Conservation Service of the Federal Department of Agriculture.
2. Land, other than land described in par. (A) that is identified as prime farmland in the Fond du Lac County Farmland Preservation Plan.

**Professional Office** The office of a doctor, practitioner, dentist, minister, architect, landscape architect, professional engineer, lawyer, author, musician, beauty parlor or barbershop or other recognized profession. When established in the R-Residence or any of the Agricultural Districts, a professional office shall be incidental to the residential occupation, not more than 25% of the floor area of only 1 story of a dwelling unit shall be occupied by such office, except that a beauty parlor shall be limited to 2 licensed operators working at any one time, and a barbershop to 2 licensed barbers operating in not to exceed 2 barber chairs at any one time; and provided further that a beauty parlor or barbershop shall not occupy over 500 square feet of floor area, including lavatories and waiting room; and only 1 unlighted name plate, not exceeding 4 square feet in area, containing the name and profession of the occupant of the premises shall be exhibited.

**\*Property line** means a line that separates parcels of land owned by different persons.

**Protected farmland** means land that is any of the following:

1. Located in a farmland preservation zoning district certified under ch. 91, Wis. Stats.
2. Covered by a farmland preservation agreement under ch. 91, Wis. Stats.
3. Covered by an agricultural conservation easement under s. 93.73, Wis. Stats.
4. Otherwise legally protected from nonagricultural development

**Qualified nutrient management planner** means a person qualified under s. ATCP 50.48.

**\*Related livestock facilities** means livestock facilities that are owned or managed by the same person, and related to each other in at least one of the following ways:

1. They are located on the same tax parcel or adjacent tax parcels of land.  
NOTE: The mere acquisition of a neighboring livestock facility does not constitute an "expansion" unless more animal units are added to the combined facilities.
2. They use one or more of the same livestock structures to collect or store manure.
3. At least a portion of their manure is applied to the same land spreading acreage.

**Right-of-Way** The width between property lines of a street or highway easement.

**Roadside Stand** A structure not permanently fixed to the ground that is readily removable in its entirety covered or uncovered and not wholly enclosed, and used solely for the sale of farm products produced on the premises. No such roadside stand shall be more than 50 square feet in ground area and there shall not be more than one roadside stand on any one premise.

**\*Separate species facility** means a livestock facility that meets all of the following criteria:

1. It has only one of the following types of livestock, and that type of livestock is not kept on any other livestock facility to which the separate species facility is related (see definition of a "related livestock facility"): Cattle, Swine, Poultry, Sheep, and Goats.
2. It has no more than 500 animal units.
3. Its livestock housing and manure storage structures, if any, are separate from the livestock housing and manure storage structures used by livestock facilities to which it is related.
4. It meets one of the following criteria:
  - a. Its livestock housing and manure storage structures, if any, are located at least 750 feet from the nearest livestock housing or manure storage structure used by a livestock facility to which it is related.
  - b. It and the other livestock facilities to which it is related have a combined total of fewer than 1,000 animal units.

**Setback** means lines established along highways at specified distances from the center line, which permitted buildings or structures shall be set back of, or outside of, and within which they may not be placed except as hereinafter provided. "Within the setback lines" means between the setback line and the highway."

**Sign** Any structure or device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge, or insignia of any government or governmental agency, or any civic, charitable, religious, patriotic, fraternal or similar organization, or any sign indicating address. Each display surface of a sign shall be considered a sign. A sign also includes outdoor advertising attached to, made a part of, or placed in front, rear, sides, or top of any structure or on any land to announce the name or nature of a farm business including a roadside stand. Refer to Section 14 of the Town of Oakfield Zoning Ordinance for provisions regarding the regulation of such signage. Each display surface of a sign shall be considered a sign:

**Sign, Directional** A sign erected for the purpose of directing persons to a place of business, recreation, public building, school or church.

**Special Use** A use which is necessary or desirable for the public welfare, but which is potentially incompatible with the uses normally permitted in the Zoning District.

**Stable** "Stable" shall have the same meaning as "garage", one draft animal being considered the equivalent of one self-propelled vehicle.

**Stable, Commercial** means a building or land where horses are kept for remuneration, hire, sale, boarding, riding, or show.

**Street** All property dedicated or intended for public or private street purposes or subject to public easements therefore and 24 feet or more in width.

**Street Line** A dividing line between a lot, tract or parcel of land and a contiguous public right-of-way.

**Structural Alteration** Any change in the bearing walls, columns, beams, girders, or supporting members of a structure; any change or rearrangement in the floor area of a building, any

enlargement of a structure whether by extending horizontally or by increasing in height, and/or any movement of a structure from one location or position to another.

**Structure** Anything constructed or erected, the use of which requires a more or less permanent location on or in the ground. Includes but is not limited to objects such as buildings, factories, sheds, cabins, wells, septic tanks, and disposal fields.

**Temporary Structure** A structure which is built of such materials and in such a way that it would commonly be expected to have a relatively short useful life, or is built for a purpose that would commonly be expected to be relatively short-term and not to be habitable.

**Traffic Lane** A strip of roadway intended to accommodate a single line of moving vehicles.

**Variance** A relaxation of the terms of the ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship.

**\*Waste storage facility** means one or more waste storage structures. "Waste storage facility" includes stationary equipment and piping used to load or unload a waste storage structure if the equipment is specifically designed for that purpose and is an integral part of the facility. "Waste storage facility" does not include equipment used to apply waste to land.

**\*Waste storage structure** means a waste storage impoundment made by constructing embankments, excavating a pit or dugout, or fabricating a structure. "Waste storage structure" does not include equipment used to apply waste to land. For purposes of s.s. ATCP 51.12(2) and 51.14, "waste storage structure" does not include any of the following:

1. A structure used to collect and store waste under a livestock housing facility:
2. A manure digester consisting of a sealed structure in which manure is subjected to managed biological decomposition.

**Winter grazing area** means cropland or pasture where livestock feed on dormant vegetation or crop residue, with or without supplementary feed, during the period October 1 to April 30. "Winter grazing area" does not include any of the following:

1. An area, other than a pasture, where livestock are kept during the period from May 1 to September 30.
2. An area which at any time has an average of more than 4 livestock animal units per acre.
3. An area from which livestock have unrestricted access to navigable waters of the state, such that the livestock access prevents adequate vegetative cover on banks adjoining the water.
4. An area in which manure deposited by livestock causes nutrient levels to exceed standards in ATCP 51.16.

**\*WPDES permit** means a Wisconsin pollutant discharge elimination system permit issued by DNR under ch. NR 243.

**Yard** An open space, other than a court, on the same lot with a structure, lying between the structure and the nearest lot line, and is unoccupied and unobstructed from the surface of the ground upward except as may be specifically provided by the regulations and standards herein.

**Yard, Front** A yard extending the full width of a lot and situated between the front lot line and the nearest line of a structure located on said lot. Where a lot is located such that its rear and front lot lines each abut a street right-of-way line, both such yards shall be classified as front yards. Every yard of a corner lot facing a street right-of-way line shall be classified as a front yard.

**Yard, Rear** A yard extending the full width of a lot and situated between the rear lot line and the nearest line of a structure located on said lot.

**Yard, Side** A yard situated between the side lot line and the nearest line of a structure located on said lot and extending from the rear line of the front yard to the front line of the rear yard.

**Zoning Administrator** A local governmental official or designated agent which administers and enforces the Unified Development Ordinance and land development regulations, including the issuance of zoning permits.

**Zoning District** An area or areas within the corporate limits for which the regulations and requirements governing use, lot and bulk of buildings and premises are uniform.

## Section 4.0 Wireless Telecommunication Towers and Antennas

Wireless telecommunications towers and antennas may be installed, erected and maintained pursuant to the provisions of this section, except in the Farmland Preservation District, where a Special Use is required in section 6.3.3.

### 4.1 Purpose

The purpose of this Ordinance is to strike a balance between the federal interest concerning the construction, modification and placement of telecommunications towers and antennas for use in providing personal wireless services, and the legitimate interest of the Town in regulating local zoning. The goals of this Ordinance are to protect land uses from potential adverse impacts of towers and antennas; minimize the total number of towers throughout the community; encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers; encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques; consider the public health and safety of communication towers, and avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. In furtherance of these goals, the Town shall give due consideration to the Zoning Map, and existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

### 4.2 Definitions

As used in this Ordinance, the following terms shall have the meanings set forth herein:

- A. Alternative Tower Structure: Clock towers, bell steeples, light poles and similar mounting structures that camouflage or conceal the presence of antennas.
- B. Antenna: Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.
- C. Backhaul Network: The lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.
- D. Collocation: The provision of multiple antennas of more than one commercial wireless communication service provider or government entity on a single tower or structure.
- E. FAA: Federal Aviation Administration.
- F. FCC: Federal Communications Commission.
- G. Height: When referring to a tower or other structure, the distance measured from finished grade to the highest point on the tower or other structure, including the base pad.
- H. Preexisting Towers/Antennas: Any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of this Ordinance.

- I. **Tower:** Any structure that is designed and constructed for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

### 4.3 Applicability

- A. **New Towers and Antennas** All new towers or antennas in the Town of Oakfield shall be subject to these regulations, except as provided in Sections 4.3 (B) and (C).
- B. **Amateur Radio Station Operators/Receive Only Antennas** This Ordinance shall not govern any tower, or the installation of any antenna, that is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.
- C. **Preexisting Towers or Antennas** Preexisting towers and preexisting antennas shall not be required to meet the requirements of this Ordinance, other than the requirements of Section 4.5(B).

### 4.4 Permit Required

No tower or antenna shall be installed unless a permit is first obtained by the owner or his agent from the Building Inspector. The following shall be required as part of the application submittal:

- A. A scaled site plan clearly indicating the location, type and height of the proposed tower and appurtenant equipment, any proposed and existing structures, adjacent land uses and structures, adjacent roadways, on-site parking and driveways, tower and equipment setbacks from property lines, and other information deemed by the Building Inspector to be necessary to assess compliance with this Ordinance.
- B. The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties and un-platted residentially zoned properties.
- C. The separation distance from other towers, antennas or sites approved for towers or antennas, either within the jurisdiction of the Town, or within one mile of the border thereof, including specific information about the location, height, and design of each tower.
- D. Landscape plan showing specific plant materials.
- E. Method of fencing, including location, materials and finished color and, if applicable, vegetative screening.
- F. Description of compliance with Section 4.5.

## 4.5 General Requirements

In addition to compliance with all applicable regulations of this Ordinance, the following standards shall apply for the installation of any tower or antenna:

- A. **Building Codes: Safety Standards.** To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Building Inspector concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said 30 days shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- B. **State or Federal Requirements.** All towers and antennas shall meet or exceed current standards and regulations of the FAA, FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owner of a tower and antenna governed by this Ordinance shall bring such tower and antenna into compliance with such revised standards and regulations within 6 months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- C. **Collocation.** A proposed tower shall be structurally and electrically designed to accommodate the applicant's antenna and comparable antennas for additional users. Towers shall be designed to allow for future rearrangement of antennas and to accept antennas mounted at varying heights.
- D. **Height.** Antenna height shall not be restricted, provided such device is installed and maintained in accord with applicable state or local building codes, and in compliance with current standards of the FAA, FCC and any other agency of the state or federal government with the authority to regulate antennas.
- E. **Setbacks.** A tower shall be located not closer than a distance equal to 100% of the height of the tower from any adjoining lot line. Guy wires and appurtenant equipment and buildings shall comply with requirements of the underlying zoning district in which the tower is located.
- F. **Separation between Land Uses.** Tower separation shall be measured from the base of the tower to the lot line of the off-site use and/or designated area as specified herein. The minimum separation distance shall be 200 feet or 300% of the height of the tower, whichever is greater.
- G. **Aesthetics.** Towers shall maintain galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness. Where an antenna is installed on a structure other than a tower, the antenna and appurtenant equipment must be of a neutral color that is identical to, or closely compatible



with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

- H. **Signs.** No advertising material or signage other than warning or equipment information shall be allowed on any antenna or tower. This prohibition shall include the attachment to an antenna or tower of any flag, decorative sign, streamers, pennants, ribbons, spinners or waving, fluttering or revolving devices, but not including weather devices.
- I. **Lighting.** Towers shall not be artificially illuminated unless required by the FAA or any other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.
- J. **Fencing.** A tower shall be enclosed by security fencing not less than 6 feet in height and secured so that it is not accessible by the general public. Fence design, materials and colors shall reflect the character of the surrounding area.
- K. **Landscaping.** A buffer of plant materials to effectively screen the tower compound from public view and from adjacent properties shall be provided. The minimum buffer shall consist of a landscaped strip at least 5 feet in width outside the perimeter of the tower compound. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived. Existing mature tree growth and natural land forms shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.
- L. **Appurtenant Equipment and Buildings.** Antennas mounted on structures or rooftops: The equipment cabinet or structure used in association with an antenna may be located on a roof provided that such equipment or structure is placed as unobtrusively as possible. Equipment storage buildings or cabinets shall comply with all applicable building and zoning code requirements.

#### 4.6 Antennas Mounted on Utility Poles, Light Poles or Towers

- A. The equipment cabinet or structure used in association with an antenna shall be sited in accordance with the development standards of the underlying zoning district.
- B. Equipment cabinets or structures shall be screened from view by an evergreen hedge or other suitable vegetation, except where the use of non-vegetative screening would better reflect and complement the architectural character of the surrounding neighborhood.

#### 4.7 Permitted Uses

- A. **Antennas or Towers On Existing Structures:** An antenna or tower may be situated on the roof of a residential, commercial, industrial, professional, or institutional structure, provided that such device is installed and maintained in accord with applicable state or local building codes, and complies with current standards of the FAA, FCC and any other agency of the state or federal government with the authority to regulate antennas.
- B. **Antennas On Existing Towers:** The attachment of a new antenna on an existing tower may be allowed, to minimize adverse visual impacts associated with the proliferation and clustering of towers, provided that (1) A tower which is modified or reconstructed to

accommodate the collocation of an additional antenna shall be of the same type as the existing tower, unless reconstructed as a monopole; (2) An existing tower may be modified or rebuilt to accommodate the collocation of additional antenna and may be moved on-site within 50 feet of its existing location, but the relocation may only occur one time per communication tower; (3) After a tower is rebuilt to accommodate collocation, only one tower may remain on the site; and (4) The on-site relocation of a tower which comes within the separation distances to residential units or residentially zoned lands shall only be permitted when approved by the Town.

- C. **Cable Microcell Network:** The installation of a cable microcell network may be permitted through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

#### 4.8 Special Uses Antennas and Towers

- A. The installation of towers and antennas, including the placement of appurtenant equipment or buildings, may be allowed only by special use permit and only in non-residential zoning districts. Further, in the Farmland Preservation District, towers and antennas are allowed only if they meet the requirements of Wis. Stat., § 91.46(4).
- B. An application for a special use permit shall be subject to the procedures and requirements of Sections 14.0. In addition, a special use permit proposal shall include plans, specifications and other pertinent information and materials to demonstrate compliance with this Ordinance.

#### 4.9 Removal of Abandoned Antennas and Towers

- A. An antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within 90 days of receipt of notice from the Town notifying the owner of such abandonment.
- B. Failure to remove an abandoned antenna or tower within said 90 days shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

#### 4.10 Nonconforming Uses

- A. **Not Expansion of Nonconforming Use.** Towers that are constructed and antennas that are installed, in accordance with the provisions of this Ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.
- B. **Preexisting Towers.** Pre-existing towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this Ordinance.

**4.11 Separation between Towers**

A. **Separation distances** between towers shall be applicable for a proposed tower and any preexisting towers. The separation distance shall be measured by a straight line between the base of an existing tower and the base of a proposed tower.

New Tower Type	Existing Tower Type			
	Lattice	Guyed	Monopole 75' high or higher	Monopole less than 75 feet high
Lattice	5000	5000	1500	750
Guyed	5000	5000	1500	750
Monopole 75' high or higher	1500	1500	1500	750
Monopole less than 75' high	750	750	750	750

B. **Tower Height:** The following criteria shall apply in determining the maximum height of a tower: For one or more users, up to 195 feet.

C. **Availability of Suitable Existing Towers, Other Structures or Alternative Technology.** No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Town that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. Evidence submitted to the Town to determine that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

1. No existing towers or structures are located within the geographic area which meet the applicant's engineering requirements.
2. Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
3. Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.
4. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
5. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
6. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
7. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/ receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

## Section 5.0 Districts

### 5.1 Identification of Districts

For the purposes of this ordinance, the Town of Oakfield, Fond du Lac, County, Wisconsin is hereby divided into 5 districts as follows:

- ❑ **FLP** Farmland Preservation District
- ❑ **GA** General Agricultural District
- ❑ **CD** Conservancy District
- ❑ **R-1** Single-Family Residential District (With Public Sewer)
- ❑ **R-2** Single-Family Residential District (Without Public Sewer)
- ❑ **B** Business District
- ❑ **I** Industrial District

### 5.2 District Boundaries

- A. The boundaries, of the aforesaid districts are hereby established as shown on the map entitled "Zoning Map for the Town of Oakfield, Fond du Lac County, Wisconsin," which map is made a part of this ordinance and is on file in the office of the Clerk of the Town of Oakfield. All notations and references shown on the District Map are as much a part of this ordinance as though specifically described herein.
- B. The district boundaries, unless otherwise indicated, are street or highway center lines, old railroad right-of-way lines extended, lines parallel or perpendicular to such street, highway or railroad lines, the shore line of lakes or streams, lot or alley lines, section lines, quarter section lines, or quarter-quarter section lines, and when the designation on the district map indicates that the various districts are approximately bounded by any of the above lines, such lines shall be construed to be the district boundary line.
- C. District boundaries, not otherwise designated, shall be determined by the use of the scale shown on the Zoning Map.

## Section 6.0 FLP Farmland Preservation District

### 6.1 Purpose and Guiding Principles

The Purposes of the Farmland Preservation District:

1. Meet the requirements of the state runoff law for farms (NR 151, Wis. Adm. Code, ATCP 50)
2. Compliance with standards contained in Chapter 91, Wisconsin Statutes to permit eligible landowners to receive tax credits for farming and includes lands currently cropped or pastured on NRCS soil capability classes 1, 2 and 3 that generally correspond with the current Fond du Lac County Agricultural Preservation Plan
3. All uses and buildings in the FLP Farmland Preservation District are to be dedicated to agricultural uses and uses under s. 91.42, Wis. Stats.
4. In the interest of public health and safety, the Town of Oakfield has chosen to restrict the location of large-scale livestock operations (500+ animal units) to areas of lesser existing or planned population and residential growth as they may impose negative impacts as identified in chapter 24 of this ordinance. Whereas the Town desires to reduce the potential for negative impacts, while still allowing for economic opportunities associated with such uses, it has, for the purposes of this district, excluded large livestock operations (500+ animal units) unless sought through a Special Use process.
5. Consistency with the Town of Oakfield Comprehensive Plan and the Fond du Lac County Comprehensive Plan.
6. Implement and be consistent with the provisions of the Fond du Lac County Farmland Preservation Plan as adopted and updated every 10 years.
7. Preserve and promote a full range of agricultural uses, secure land for livestock production and other agricultural uses that may be more intensive than crop production, strengthen agriculture's contribution to an area's economic base (including new employment opportunities), support processing, value added, and other activities closely allied to the agricultural industry, and prevent conversion of land identified as a valuable agricultural resource to uses that are not consistent with agriculture.
8. Implement the Town of Oakfield's Comprehensive Plan that encourages larger livestock and other more intense agricultural uses in areas where conditions are best suited to these agricultural pursuits, and discouraging residential development in prime farmland to avoid potential land use conflict.
9. The Farmland Preservation District is generally compatible with the "Agriculture" land use designation of the Town of Oakfield Land Use Plan. Due to the more intensive nature of uses allowed, the Farmland Preservation District is not intended to be applied near moderately to densely-populated areas, and it is not intended to accommodate residential uses as principle uses.
10. Preserve productive agricultural land for food and fiber production.
11. Preserve productive farms by preventing land use conflicts between incompatible uses and controlling public service costs.
12. Maintain a viable agricultural base to support agricultural processing and service industries.
13. Prevent conflicts between incompatible uses.
14. Reduce costs of providing services to scattered non-farm uses.
15. Pace and shape growth.
16. Implement the provisions of the Fond du Lac County Farmland Preservation Plan as adopted and periodically revised.

## 6.2 Permitted Uses

The following uses are permitted by right in the Farmland Preservation District without any further notice to, or approval from the local unit of government:

1. Agricultural uses (as defined in 3.2) but not game farms, commercial fish waterfowl operations, or livestock facilities of 500 animal units or more.
2. Livestock facilities with less than 500 animal units
3. The Following Accessory Uses:
  - a. A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use. This includes:
    - i. A facility used to store or process raw agricultural commodities, all of which are produced on the farm.
    - ii. A facility used to keep livestock on the farm.
    - iii. A facility used to store or process inputs primarily for agricultural uses on the farm.
    - iv. A facility used to keep or service vehicles or equipment primarily employed in agricultural uses on the farm,
    - v. A solar energy facility that collects solar energy on the farm, and uses or transforms it to provide energy primarily for use on the farm. Solar energy systems will be subject to the provisions of the Town of Oakfield Solar Energy Systems Ordinance.
    - vi. A manure digester, bio-fuel facility, or other facility that produces energy primarily from materials grown or produced on the farm, primarily for use on the farm.
    - vii. A waste storage or processing facility used to store or process animal waste produced solely from livestock kept on the farm.
  - b. An activity or business operation that is an integral part of, or incidental to, an agricultural use.
  - c. A farm residence, including normal residential appurtenances.
  - d. A business, activity, or enterprise, whether or not associated with an agricultural use, which meets all of the following requirements:
    - i. It is conducted on the farm by the owner or operator of the farm
    - ii. It requires no buildings, structures, or improvements other than those described in par. (a) or (c)
    - iii. It employs no more than 4 full-time employees annually
    - iv. It does not impair or limit the current or future agricultural use of the farm or of other protected farmland.
  - e. Roadside stands for the sale of farm products produced on the farm, further defined in this section and subject to the conditions of paragraph “d” above.
4. Facilities, whether or not located on a farm, that have at least one of the following as a primary and not merely incidental purpose:
  - a. Providing agricultural supplies, agricultural equipment, agricultural inputs or agricultural services directly to farms, including farms in the Farmland Preservation District.
  - b. Storing, processing or handling raw agricultural commodities obtained directly from farms, including farms in the Farmland Preservation District.
  - c. Marketing livestock to or from farms, including farms in the Farmland Preservation District.
5. Undeveloped natural resource and open space areas
6. A transportation, utility, communication, or other use that is required under state or federal law to be located in a specific place or that is authorized to be located in a

specific place under a state or federal law that preempts the requirement of a Special Use permit for that use.

7. Other uses identified by DATCP rule.
8. Home occupation or professional offices, provided such use meets the requirements of paragraph d (i, ii, iii and iv) and is conducted by the resident only.

### 6.3 Special Uses

The following uses may be allowed in this district if reviewed and approved in accordance with standards in this ordinance (see Section 15 for special use regulations):

1. **Livestock facilities** equal to or more than 500 animal units, also subject to Section 24.0, Article 2 (B) of the Livestock Facility Siting Regulations in this ordinance.
2. **Nonfarm Residences** A proposed new nonfarm residence or a proposal to convert a farm residence to a nonfarm residence through a change in occupancy is a Special Use in the Farmland Preservation District provided all of the following apply:
  - a. The ratio of nonfarm residential acreage to farm acreage on the base farm tract on which the residence is or will be located will not be greater than 1 acre to 20 acres after the residence is constructed or converted to a nonfarm residence.
  - b. There will not be more than 4 dwelling units in nonfarm residences, nor, for a new nonfarm residence, more than 5 dwelling units in residences of any kind, on the base farm tract after the residence is constructed or converted to a nonfarm residence.
  - c. The location and size of the proposed nonfarm residential parcel, and, for a new nonfarm residence, the location of the nonfarm residence on that nonfarm residential parcel, will not do any of the following:
    - I. Convert prime farmland from agricultural use or convert land previously used as cropland, other than a woodlot, from agricultural use if on the farm there is a reasonable alternative location or size for a nonfarm residential parcel or nonfarm residence.
    - II. Significantly impair or limit the current or future agricultural use of other protected farmland.
3. **Transportation, communications, pipeline, electric transmission, utility, or drainage uses** if all the following apply:
  - a. The use and its location are consistent with the purposes of the district.
  - b. The use and its location are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
  - c. The use is reasonably designed to minimize conversion of land, at and around the site of the use, from agricultural use or open space use.
  - d. The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
  - e. Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.
4. **Governmental, institutional, religious, or nonprofit community uses** if all of the following apply:
  - a. The use and its location are consistent with the purposes of the farmland preservation zoning district.
  - b. The use and its location are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
  - c. The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.

- d. The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
- e. Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.
5. **Temporary Non-Metallic Mineral Extraction or Batch Plant Operations for asphalt or concrete mixing**, based on the following conditions:
  - a. Such non-metallic mineral extraction or batch plant operations shall not take place for more than 24 months.
  - b. The land upon which a temporary non-metallic mineral extraction or batch plant operation is located must be restored to agricultural production within the following two years
  - c. The non-metallic mineral extraction operation must meet Wis Stats. 91.46(6).
  - d. Batch plant operations for asphalt or concrete mixing must meet Wis. Stat., § 91.46(1) and either Wis. Stat., § 91.46(4) or (5).
6. **Slaughtering livestock**, including livestock from farms in the farmland preservation zoning district, except for a farmer's own personal use (which is permitted without a special use permit).
7. **Processing agricultural by-products or wastes** received directly from farms, including farms in the farmland preservation zoning district.
8. **Game farms and hunting preserves**, including skeet and trap ranges, subject to s.91.01(1)(d) or s.91.46(5), Wis Stats.
9. **Ponds** constructed for the purpose of commercial fish or waterfowl operations.

#### 6.4 Non-conforming Uses

See section 2.5 regarding non-conforming regulations of this ordinance.

**6.5 Rezoning of land out of a farmland preservation zoning district.** (From sec. 91.48 Wis. Stats) The Town of Oakfield may rezone land out of the Farmland Preservation District without having the rezoning certified under s. 91.48, if all of the following findings are made:

- A. The land is better suited for a use not allowed in the farmland preservation zoning district.
- B. The rezoning is consistent with any applicable comprehensive plan.
- C. The rezoning is substantially consistent with the county certified farmland preservation plan.
- D. The rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
- E.

#### 6.6 Farmland Preservation Reporting

By March 1 of each year, the Town of Oakfield will provide to DATCP and Fond du Lac County a report of the number of acres that the Town rezoned out of the farmland preservation zoning district the previous year and a map that clearly shows the location of those acres.

#### 6.7 Minimum Lot, Height, and Yard Requirements



- A. **Minimum Lot Size** The following conditions apply toward the minimum lot sizes for a farm or nonfarm residence:
1. For a permitted use, the owner must have at least 10 acres.
  2. By special use, the creation of a separate parcel for a new nonfarm residence or the conversion of a farm residence to a nonfarm residence must be at least 60,000 square feet.
- B. **Yards** The minimum side and rear yards for all structures shall be 25 feet from the nearest lot lines.
- C. **Road (front yard)Setback**
1. 30 feet on interior roads of a platted subdivision.
  2. 50 feet on a private road, but no less than 75 feet from the centerline.
  3. 100 feet from the centerline of a Town, County or State Road, and not less than 60 feet from the nearest right-of-way line on all other public roads.
- D. **Occupancy** Residential occupancy per dwelling unit shall be limited to one (1) family and not more than two (2) roomers or boarders.
- E. **Location** Dwellings shall be located so as to abut a public highway and have a minimum of fifty (50) feet of frontage thereon.
- F. **Minimum lot size, height and yard requirements for Special Uses other than nonfarm residences** The minimum lot size, height, and yard requirements for special uses other than nonfarm residences shall be as specified in the special use permit, but in no case shall be less than 50 feet from a lot line and shall be set back at least the distance specified in Section 13 of this ordinance.

## Section 7.0 (GA) General Agricultural

### 7.1 Purpose

To establish and preserve predominantly agricultural operations, typically including a farm residence and outbuildings. A person or persons who want to create a new residential non-farm use will be required to rezone land to a residential zoning classification (no conversion fee required).

### 7.2 Permitted Uses and Structures

1. Agricultural uses (as defined in 3.2), excluding livestock facilities of 500 animal units or more.
2. Any of the following Accessory Uses.
  - a. A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use. This includes:
    - i. A facility used to store or process raw agricultural commodities, all of which are produced on the farm.
    - ii. A facility used to keep livestock on the farm.
    - iii. A facility used to store or process inputs primarily for agricultural uses on the farm.
    - iv. A facility used to keep or service vehicles or equipment primarily employed in agricultural uses on the farm,
    - v. A wind turbine or solar energy facility that collects wind or solar energy on the farm, and uses or transforms it to provide energy primarily for use on the farm. Solar energy systems will be subject to the provisions of the Town of Oakfield Solar Energy Systems Ordinance.
    - vi. A manure digester, bio-fuel facility, or other facility that produces energy primarily from materials grown or produced on the farm, primarily for use on the farm.
    - vii. A waste storage or processing facility used to store or process animal waste produced solely from livestock kept on the farm.
  - b. An activity or business operation that is an integral part of, or incidental to, an agricultural use.
  - c. A farm residence, including normal residential appurtenances.
  - d. A business, activity, or enterprise, whether or not associated with an agricultural use, which meets all of the following requirements:
    - i. It is conducted by the owner or operator of a farm
    - ii. It requires no buildings, structures, or improvements other than those described in par. (a) or (c)
    - iii. It employs no more than 4 full-time employees annually
    - iv. It does not impair or limit the current or future agricultural use of the farm or of other protected farmland.
3. Roadside stands for the sale of farm products produced on the farm, further defined in this section and subject to the conditions of paragraph "a" above.
4. A transportation, utility, communication, or other use that is required under state or federal law to be located in a specific place or that is authorized to be located in a specific place under a state or federal law that preempts the requirement of a Special use permit for that use.
5. Cemeteries, both public and private
6. Roadside stand (as defined in 3.2)
7. Home occupation, provided the definition of a home occupation in section 3 is met.

### 7.3 Special Uses

The following uses may be allowed in this district if reviewed and approved in accordance with standards in this ordinance (see Section 15 for special use regulations):

1. Transportation, communications, pipeline, electric transmission, utility, or drainage uses
2. Governmental, institutional, religious, or nonprofit community uses, other than uses
3. Oil and gas exploration or production that is licensed by the department of natural resources under sub ch. II of ch. 295

### 7.4 Non-conforming Uses

See section 2.5 regarding non-conforming regulations of this ordinance.

### 7.5 Minimum Lot, Height, and Yard Requirements

- A. **Minimum Lot Size** The following conditions apply toward the minimum lot sizes:
1. For a permitted use, the owner of a farm must have at least 10 acres. [for all permitted uses]
  2. A farm residence is not required to have a minimum amount of land because it is accessory to the farm operation.
- B. **Yards** The minimum side and rear yards for all structures shall be 25 feet from the nearest lot lines.
- C. **Road (front yard)Setback**
1. 30 feet on interior roads of a platted subdivision.
  2. 50 feet on a private road, but no less than 75 feet from the centerline.
  3. 100 feet from the centerline of a Town, County or State Road, and not less than 60 feet from the nearest right-of-way line on all other public roads (Town, County and State).
- D. **Occupancy** Residential occupancy per dwelling unit shall be limited to one (1) family and not more than two (2) roomers or boarders.
- E. **Location** Dwellings shall be located so as to abut a public highway and have a minimum of fifty (50) feet of frontage thereon.
- F. **Minimum lot size, height and yard requirements for Special Uses** The minimum lot size, height, and yard requirements for special uses shall be as specified in the special use permit, but in no case shall there be less than 50 feet from a lot line and shall be set back at least the distance specified in Section 13 of this ordinance.

## 8.0 (CD) Conservancy District

### 8.1 Purpose

The purpose of this district is to provide designated areas in the Town where the enhancement and preservation of significant natural resource areas will be maintained. This district will contain designated wetland areas, wildlife habitat areas in the form of food and cover; and other low-lying land areas that make up the Horicon National Wildlife Preserve or other areas of the town that may want to be preserved in their natural state.

### 8.2 Permitted Principal Uses and Structures

- A. Grazing and the raising of crops, harvesting of wild crops, hunting, fishing and trapping and forestry
- B. Non-residential buildings and structures used for the raising of wildlife and fish and the practice of forestry
- C. Undeveloped natural resources, open space areas, and publicly owned parks and recreational areas

### 8.3 Permitted Accessory Uses

Uses customary and incidental to the permitted principal uses and structures

### 8.4 Minimum Lot Size, Height, and Yard Requirements

- A. **Minimum lot area:** 10 acres
- B. **Road (front yard) Setback**
  - 1. 30 feet on interior roads of a platted subdivision.
  - 2. 50 feet on a private road, but no less than 75 feet from the centerline.
  - 3. 100 feet from the centerline of a Town, County or State Road, and not less than 60 feet from the nearest right-of-way line on all other public roads (Town, County and State).
- C. **Frontage:** Structures shall be located so as to abut a public highway and have a minimum of fifty (50) feet of frontage thereon.
- D. **Side Yards** The minimum side yard for all structures shall be 25 feet from the nearest lot line.
- E. **Rear Yards:** Minimum rear yard for all structures shall be 50 feet from the nearest lot line.
- F. **Maximum height:** Any structure shall not exceeding 35 feet

## **Section 9.0 R-1 Single-Family Residential District (With Public Sewer)**

### **9.1 Purpose**

The purpose of this District is to provide the opportunity for construction and maintenance of single-family detached dwelling units in the area of the Town that has public sewer.

### **9.2 Permitted Uses**

The following uses of land are permitted in the R-1 District:

- A. Single-family detached dwellings, excluding all mobile homes; for purposes of this Chapter. Modular homes are included in the definition of single-family dwelling.
- B. Manufactured single-family homes complying with all of the following requirements and limitations:
  - 1. The home shall be a double wide of at least twenty-four (24) feet in width and forty-two (42) feet in length.
  - 2. Application must be made by the owner of the manufactured home for a permit to construct a full basement upon which the manufactured home must be placed upon.
  - 3. Is installed in accordance with the manufacturer's instructions.
  - 4. Is properly connected to utilities; including a permit for electrical service.
  - 5. Meets other applicable standards of this Ordinance.
  - 6. The home shall be covered by a roof pitched at a minimum slope of three inches to twelve inches (3/12), which is permanently covered with non-reflective material.
  - 7. The home shall have a pitched roof, overhanging eaves and such other design features required of all new single-family dwellings located within the Town of Oakfield.
- C. Public parks and playgrounds.
- D. Conversion of any existing building to a permitted use.
- E. Community living arrangements and day care centers which have a capacity for eight (8) or fewer persons.
- F. Foster family care.
- G. Home occupations and professional home offices.
- H. Uses customarily incident to any of the above uses, provided that no such use generates traffic or noise that would create public or private nuisance.

### 9.3 Special Uses

The following are permitted as Special Uses within the R-1 District:

- A. Community living arrangements and day care centers which have a capacity for nine (9) or more persons.
- B. Utilities (electric substations, telephone switching stations, gas regulators, etc.).
- C. Bed and breakfast inns.
- D. Churches and public buildings, except public buildings housing uses incompatible with the characteristics of the district, such as sewage systems and incinerators.
- E. Public utility structures, except those incompatible with the characteristics of the district.
- F. Planned residential developments.
- G. Barbering and beauty culture.
- H. Nursery Schools.

### 9.4 Area, Height and Yard Requirements

- A. **Minimum Area and Width for Dwellings Served By Public Sanitary Sewer.** The minimum lot area for one-family units shall be at least eight thousand (8,000) square feet and the minimum lot width of fifty (50) feet at the right of way line and 75 feet at the building line.
- B. **Occupancy.** Residential occupancy per dwelling unit shall be limited to one (1) family and not more than two (2) roomers or boarders.
- C. **Ground Floor Area. The minimum ground floor area per dwelling unit shall be one thousand eight (1,008) square feet for one-story, nine hundred (900) square feet for split level, and eight hundred (800) square feet for two-story plus dwellings; one-half (½) vertical measurement of story must be above ground level.**
- D. **Height.** Not to exceed thirty-five (35) feet nor two and one-half (2-1/2) stories, measured from the foundation to the peak of the roof.
- E. **Side Yard.** The minimum side yard for all structures shall be 10 feet from the nearest lot lines. On riparian lots, rear and side yards shall comply with applicable County ordinances and State laws
- F. **Rear Yard.** The minimum rear yard for all structures shall be 10 feet from the nearest lot lines. On riparian lots, rear and side yards shall comply with applicable County ordinances and State laws
- G. **Road (front yard)Setback**
  - 1. 30 feet on interior roads of a platted subdivision.

2. 50 feet on a private road, but no less than 75 feet from the centerline.
3. 100 feet from the centerline of a Town, County or State Road, and not less than 60 feet from the nearest right-of-way line on all other public roads (Town, County and State).

### **9.5 Substandard Lots.**

**A. Special Minimum Requirements.** A substandard lot which is at least eight thousand (8,000) square feet in area and is at least fifty (50) feet in width at the right-of way and building line may be used as a building site for a single family dwelling if it meets the following requirements:

1. Such use is permitted in the zoning district.
2. The lot is of record in the County Register of Deeds office prior to 1963.
3. The lot is in separate ownership from abutting lands. If abutting lands and the substandard lot are owned by the same owner, the substandard lot shall not be sold or used without full compliance with the terms of this Chapter.
4. The lot is served by a sanitary sewer, or has a sanitary permit granted by the County Sanitarian.

**B. Side Yards.** Ten (10) feet

**C. Rear Yard.** Twenty-five (25) feet. On riparian lots, rear yards shall comply with applicable County ordinances and State laws.

**D. Road (front yard) Setback.** Twenty (20) feet from Oak Center Road Right-of-way line.

## **Section 10.0 R-2 Single-Family Residential District (Without Public Sewer)**

### **10.1 Purpose**

The purpose of the R-2 District is to provide the opportunity for construction and maintenance of single-family detached dwelling units without public sewer.

### **10.2 Permitted Uses**

The following uses of land are permitted in the R-2 District:

- A. Single-family detached dwellings. For purposes of this Chapter, modular homes are included in the definition of single-family dwelling.
- B. Manufactured single-family homes, subject to requirements as specified in section 9.2 B.
- C. Public parks and playgrounds.
- D. Conversion of any existing building to a permitted use.
- E. Community living arrangements and day care centers which have a capacity for eight (8) or fewer persons.
- F. Foster family care.
- G. Home occupations and professional home offices.
- H. Uses customarily incident to any of the above uses, provided that no such use generates traffic or noise that would create public or private nuisance.

### **10.3 Special Uses**

The following are permitted as Special Uses within the R-2 District:

- A. Community living arrangements and day care centers which have a capacity for nine (9) or more persons.
- B. Utilities (electric substations, telephone switching stations, gas regulators, etc.).
- C. Bed and breakfast inns.
- D. Churches and public buildings, except public buildings housing uses incompatible with the characteristics of the district, such as sewage systems and incinerators.
- E. Public utility structures, except those incompatible with the characteristics of the district.
- F. Planned residential developments.
- G. Golf courses and private clubs.



- H. Barbering and beauty culture.
- I. Nursery Schools.

#### 10.4 Area, Height and Yard Requirements.

##### A. Minimum Area and Width for Dwellings not Served by Public Sanitary Sewer.

1. The minimum lot area for one-family units shall be sixty thousand (60,000) square feet and the minimum lot width One-Hundred Twenty (120) feet at the building line; on riparian lots, seventy-five (75) feet at the water's edge.
2. Where soil conditions are such as to require larger lot sizes for subdivisions of land under the provisions of H82.20 and/or H85, Wisconsin Administrative Code, or the Sanitary Ordinance of Fond du Lac County, then such larger lot sizes shall be considered as required by the zoning ordinance.
3. The Building Inspector shall require a sanitary permit issued by the County Sanitarian under the County Sanitary Ordinance.

B. **Occupancy.** Residential occupancy per dwelling unit shall be limited to one (1) family and not more than two (2) roomers or boarders.

C. **Location.** Dwellings shall be located so as to abut a public highway and have a minimum of fifty (50) feet at the building line.

D. **Ground Floor Area.** The minimum ground floor area per dwelling unit shall be one thousand eight (1,008) square feet for one-story, nine hundred (900) square feet for split level, and eight hundred (800) square feet for two-story plus dwellings; one-half ( $\frac{1}{2}$ ) vertical measurement of story must be above ground level.

E. **Height.** Not to exceed thirty-five (35) feet nor two and one-half (2-1/2) stories, measured from the foundation to the peak of the roof.

F. **Side Yard.** The minimum side yard for all structures shall be 25 feet from the nearest lot lines. On riparian lots, rear and side yards shall comply with applicable County ordinances and State laws

G. **Rear Yard.** The minimum rear yard for all structures shall be 25 feet from the nearest lot lines. On riparian lots, rear and side yards shall comply with applicable County ordinances and State laws

##### H. Road (front yard)Setback

1. 30 feet on interior roads of a platted subdivision.
2. 50 feet on a private road, but no less than 75 feet from the centerline.
3. 100 feet from the centerline of the road, and not less than 60 feet from the nearest right-of-way line on all other public roads (Town, County and State).

## Section 11.0 Business District

### 11.1 Permitted Uses

The Business District is intended to provide space for those retail, business, service business and office uses serving the area. Within the Business District, the following uses are permitted:

- A. Housing units that are in the structure occupied by the business.
- B. Retail stores and shops.
- C. Banks, post office, medical or dental clinics; business or professional offices.
- D. Service-type business, such as barbershop, beauty parlor, laundromat, music, dancing, art or photography studio, servicing or repair of home appliances or farm equipment and similar uses.
- E. Adult-oriented establishments, subject to the Town's Ordinance Regulating Adult-Oriented Establishments.

### 11.2 Special Uses

The following are permitted as Special Uses within the Business District:

- A. Automobile service stations and public garages; new or used car sales areas; new or used farm equipment sales areas; but not including the storage of wrecked vehicles or wrecked farm equipment.
- B. Motel or multiple dwelling units
- C. Clubs, lodges, public meeting halls, theaters, bowling alley, similar places of assembly or recreation.
- D. Farm implement sales.
- E. Feedmill.

### 11.3 Regulations and Standards

- A. **Height of Buildings:** Not to exceed sixty (60) feet.
- B. **Side Yard.**
  - 1. For buildings not over one and one-half (1-1/2) stories in height, the sum of the width of the required side yards shall not be less than twenty-five (25) feet and no single side yard shall be less than ten (10) feet.
  - 2. For buildings from one and one-half (1-1/2) to two and one-half (2-1/2) stories in height, the sum of the width of the required side yard shall not be less than thirty (30) feet and no single side yard shall be less than twelve (12) feet.
- C. **Rear Yard.** Minimum setback of twenty-five (25) feet. On riparian lots, rear yards shall comply with applicable County ordinances and State laws.

**D. Road (front yard)Setback**

1. 30 feet on interior roads of a platted subdivision.
2. 50 feet from a Town Road, but no less than 75 feet from the centerline.
3. 60 feet from a County or State Road, but no less than 100 feet from the centerline.

**E. Minimum Lot Size.**

1. 60,000 sq. ft. on unsewered lots.
2. 15,000 sq. ft. with publicly sewerred lots.

**F. Minimum Width:** Fifty (50) feet at the right of way line and 75 feet at the building line.**G. Apartments within a business.** When apartment units or residence are a part of the business structure, there shall be additional square footage sufficient to qualify as the same under the requirements for residences in the Residential Districts.**H. Off-Street Parking Space:** The following off-street parking spaces shall be provided:

1. One off-street parking space per dwelling unit or lodging unit on the same lot or tract of land of such dwelling unit or lodging unit served.
2. One off-street parking space per person normally employed on the lot or tract of land.
3. One off-street parking space for each, 100 square feet of retail sales floor area of the establishment being served.

## **Section 12.0 I-Industrial District**

### **12.1 Permitted Uses**

In the I-Industrial District no building or premises shall be used and no building shall hereafter be erected or structurally altered, unless otherwise provided in this ordinance, except for 1 or more of the following uses:

- A. Any use permitted in the Business, but not including religious, educational and institutional uses or residential uses other than the dwelling of a watchman or caretaker employed on the premises, the residence of a farmer engaged in general farming on the premises or dormitories and bunkhouses for the accommodation of seasonal workers employed in the harvesting processing or manufacture of food and food products.
- B. Cleaning, dyeing and pressing establishments and laundries, except bag cleaning.
- C. General farming.
- D. Knitting mills and the manufacture of products from finished fabrics.
- E. Laboratories.
- F. Manufacture of goods from leather, but not tanning or hides, or manufacture of leather.
- G. Manufacturing of products not otherwise prohibited.
- H. Printing and publishing.
- I. Processing, packing and manufacture of food, except meat and meat products, fish and fish products, sauerkraut and cabbage by-products or the vining of peas.
- J. Repair, service and assembly of motor-propelled or non-motor-propelled vehicles, including the repair, and storage of automotive accessories, except the wrecking of motor-propelled vehicles; black-smithing, tin-smithing and welding shop.
- K. Storage and warehousing of fuel and materials and the storage of wrecked and dismantled vehicles, junk, explosives, or inflammable gases or liquids.
- L. Wholesale business.
- M. Any other uses similar in character to or customarily established in connection with the foregoing.
- N. Blacksmith shops, machine shops, welding shops, sheet metal shops.

### **12.2 Regulations and Standards**

- A. Minimum Lot Size - 60,000 square feet in area.
- B. Maximum Coverage - The amount of the total lot area which may be covered by all principal and accessory building shall not exceed 50%.

### 12.3 Required Yards and Open Spaces

On every lot in the I-Industrial District, yards shall be required as follows:

- A. Front Yard - Depth of the front yard setback shall be 60 feet from the right-of-way line. If the building is to be constructed in an established block where there are existing buildings, the yard depth shall be the average of the yard depths of buildings existing on the block face where the building is to be located, but not less than 15 feet from the right-of-way.
- B. Side-Yard - Width shall be 10 feet or greater, no accessory building shall project into the required side yard space.
- C. Road Setback
  - 1. 30 feet on interior roads of a platted subdivision.
  - 2. 50 feet on a private road, but no less than 75 feet from the centerline.
  - 3. 100 feet from the centerline of a Town, County or State Road, and not less than 60 feet from the nearest right-of-way line on all other public roads (Town, County and State).
- D. Minimum Lot Size.
  - 1. 60,000 sq. ft. on unsewered lots.
  - 2. 15,000 sq. ft. with publicly sewerred lots.
- E. Minimum lot width Fifty (50) feet at the right-of-way line and Seventy-five (75) feet at the building line.
- F. Where a lot abuts a lot in an R-Residential District there shall be provided along such lot line a suitable buffer of plant materials, fencing or a combination of both, to shield the residential area from the industrial area. Where the transition from the I-Industrial District to the R-Residential District is a public street, the front yard in the I-Industrial District shall be suitably landscaped.
- G. Any permitted use shall be so constructed and operated as to create no nuisance with respect to noise, vibration, emission of smoke or particulate matter, glare and heat or could create fire or explosive hazards.

### 12.4 Off-Street Parking Space

Off-street parking shall be provided as follows:

- A. One off-street parking space per person normally employed on the lot or tract of land.
- B. One off-street parking space for each truck or other vehicle incidental to the use of such lot or tract of land.
- C. Signs - Signs are permitted as an accessory use to the principal use of the premises.

- D. The gross area of signs per establishment shall not exceed 2 times the lineal feet of frontage of the Zoning lot on which such signs are located.
- E. No signs affixed to a structure shall project more than 3 feet beyond the limits of such structure and shall not project across lot lines.
- F. On lots not served by public sewer, sufficient lot area shall be provided so that the requirements of Fond du Lac County Sanitary Code and all provisions of the Administrative Code relating to the use and occupancy of the building are complied with.

## 12.5 Special Uses

- A. Automobile wrecking yard or junk yard, in the Industrial District only.
- B. Sanitary landfill.
- C. Value-added agricultural uses such as canneries, cheese factories, condenseries, creameries, pea viners and such other establishments for the processing, packing or manufacture of the agricultural products as may have a nuisance factor not separable therefrom, such as the emission or effluence of noxious or odorous wastes or by-products.

### D. Non Metallic Mining

#### 1. General Provisions

- a. The operation complies with Subchapter I of Wis. Stat. Ch. 295 and rules promulgated under that subchapter, with applicable provisions of the local ordinance under Wis. Stat. Ch. 295.13 or 295.14, and with any applicable requirements of the Wisconsin Department of Transportation concerning the restoration of nonmetallic mining sites.
- b. The operation and its location are reasonable and appropriate and are specifically approved under state or federal law.
- c. The operation is reasonably designed to minimize the conversion of land around the extraction site from agricultural use or open space use.
- d. The operation does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
- e. When extraction is completed, the owner **must** restore the land based on the Fond du Lac County "Non-Metallic Reclamation Ordinance (consistent with s.s. 295.13) adopted on July 19, 2007.

#### 2. Application

Non-metallic mining may include washing, crushing, quarrying, borrow pits, or other processing or removal of mineral resources, the erection of buildings and the installation of necessary machinery used in the said extraction and processing, and the preparation of hot black top mix or ready-mix concrete, and the operation of lime kilns; provided that:

- a. An application for a permit shall be submitted by the owner and shall include an adequate description of the operation; a plan of the site showing proposed and existing roads and drives, the sources, quantity and disposition of water to be used, if any; estimated dates for the completion of the extraction and commencement and completion dates for the reclamation; a reclamation plan, and such other information as may be necessary to determine the nature of the operation and the effect on the surrounding area.

- b. Application for a permit for mineral extraction operations proposed to be located within 600 feet of a residential district, a residential subdivision or a city or village limits line, or within 300 feet of any building occupied for residential purposes; or for a hot blacktop mix or a ready-mix concrete plant, shall not be granted except on approval of the Town Board given after the public hearing has been held.
- c. The permit shall be for a period of time as stated in the application or as modified by the Plan Commission (and where Town Board approval is required, approved by the Town Board). Modification of the application or reclamation plan may be permitted through appeal, or additional conditions may be required. The Plan Commission and the Town Board, where such approval is required, shall consider the effect of the proposed operation and the proposed reclamation upon existing and future conditions, including streets, neighboring land development, land use drainage, water supply, water pollution, air pollution, soil erosion, natural beauty and land value of the locality. The application and/or reclamation plan may be approved, approved conditionally, or rejected.
- d. No permit shall be granted for a period of time exceeding 4 years, unless approved by the Town Board. A renewal may be granted upon application provided that the applicant has fully complied with the terms of this ordinance and the permit issued hereunder. The Plan Commission may require a public hearing prior to such renewal.
- e. An initial permit application shall be accompanied by a filing fee of \$1,000, and a renewal application shall be accompanied by a filing fee of \$750. The entity applying for a nonmetallic mining permit application shall also pay any legal fees the town may incur relative to the application process.
- f. All existing mineral extraction operation lawfully operated and existing shall be considered non-conforming uses and may be continued provided that they have been worked prior to the date of the adoption of this provision of this ordinance.

## Summary of Area Regulations

**Table 1 Area Regulations for all Zoning Categories**

Zoning Category	Front-Yard Setback*	Lot Width	Side-Yard Setback	Rear-Yard Setback	Frontage Width	Minimum Area Req.
FLP: Farmland Preservation Agricultural/General Agriculture	30' platted R. 50' Private R. 60' Town R. 60' State R.	50'	25'	25'	50**	10 acres to farm 60,000 sq. ft. per residence
GA: General Agricultural	30' platted R. 50' Private R. 60' Town R. 60' State R.	50'	25'	25'	50**	10 acres to farm 60,000 sq. ft. per residence
CD Conservancy	30' platted R. 50' Private R. 60' Town R. 60' State R.	50'	25'	25'	50**	10 acres
R-1 Single Family (with public sewer) **	30' platted R. 50' Private R. 60' Town R. 60' State R.	50' at ROW line 75' at building line	15'	25'	50**	8,000 sq. ft.
R-2: Single Family (w/o public sewer)	30' platted R. 50' Private R. 60' Town R. 60' State R.	50' at ROW line 75' at building line	25'	25'	50**	60,000 sq. ft.
C: Business	30' platted R. 50' Town R. 60' State R.	50' at ROW line 75' at building line	10'	25'	50**	60,000 sq. ft. unsewered 15,000 sq. ft. sewer
I: Industrial	30' platted R. 50' Town R. 60' State R.	50' at ROW line 75' at building line	10'	25'	50**	60,000 sq. ft. unsewered 15,000 sq. ft. sewer

\*30 feet on interior roads of a platted subdivision, 50 feet on a private road, but no less than 75 feet from the centerline, 100 feet from the centerline of the road, and not less than 60 feet from the nearest right-of-way line on all other public roads (Town, County and State) . More detail on Road setbacks in Section 13.

\*\*Setbacks in R-1 for substandard lots are not reflected in this table (See Section 9.5).

[Revisions

needed?]



## Section 13.0 Highway Setback Lines

**13.1** In order to promote and enhance the public safety, general welfare and convenience, it is necessary that a building setback be established from all publicly dedicated right-of-ways.

**13.2** Where a highway is located on a village boundary, this section is not intended to be effective on the side within the village, nor the side within another town where the highway is located on a town boundary.

### 13.3 Classes of Highways and Center Lines

Highways are classified and the position of the center line shall be determined as follows:

#### A. Class 1 Highways

1. Town roads not otherwise classified that have not been improved in accordance with engineering surveys and plans accepted by the County or Town Board. The center line is the midway point between the edges of the road surface.
2. Town roads not otherwise classified that have been improved in accordance with engineering surveys and plans accepted by the County or Town Board. The center line is at the center of the surfacing or pavement, or, if there be none, the center of graded roadbed.
3. Roads and streets in platted subdivisions not otherwise classified. The center line is the midpoint between the edges of the road surface.
4. Private roads. The center line is at the mid-point between the edges of the road surface.

#### B. Class 2 Highways

1. County trunk highways that have not been improved in accordance with engineering surveys or plans accepted by the County Board or their agent, the County Highway Committee. The center line is at the midway point between fences or other markers indicating the boundary on opposite sides thereof.
2. County trunk highways that have been improved according to engineering surveys and plans accepted by the County Board or their agent, the County Highway Committee. The centerline is at the center of the surfacing or pavement, or if there be none, the center of the graded roadbed.

#### C. Class 3 Highways

1. State Trunk Highways, except as hereinafter provided, that have been approved according to surveys and plans of the State Highway Commission or plans accepted by the County Board, and United States highways. The center line is the center of the roadbed, or the center of the surfacing or pavement of the adjacent lane if the highway is to be paved as a double-divided road.

### 13.4 Structures Prohibited Within Setback Lines

No new building, new sign or other structure or part thereof shall be placed between the setback lines established, by this ordinance and the highway, except as provided by this ordinance, and no building, sign or structure or part thereof existing within such setback lines on the effective date of this ordinance shall be altered, enlarged or added to in any way that increases or prolongs the permanency thereof, or be reconstructed in its original existing location after having been destroyed by fire, storm or other catastrophe to the extent of 50% or more of its current value as determined by the local assessor.

### 13.5 Structures Permitted Within Setback Lines

The following kinds of structures may be placed between the setback line and the highway:

- A. Open fences.
- B. Telephone, telegraph and power transmission poles and lines and micro-wave radio relay structures may be constructed within the setback lines, and additions to and replacements of existing structures may be made, provided the owner file with the Town Board an agreement in writing to the effect that the owner will remove all new construction, additions and replacements erected after the adoption of this ordinance at his expense, when necessary for the improvement of the highway.
- C. Underground structures not capable of being used as foundations for future prohibited overground structures.
- D. Access or service highways constructed according to plans as approved by the Plan Commission. In giving such approval, the Plan Commission shall give due consideration to highway safety and maximum sight distances.
- E. This section shall not be interpreted so as to prohibit the planting and harvesting of field crops, shrubbery or trees; provided, however, that no building or structure, trees or shrubbery, shall be so located, maintained or permitted to grow so that the view across the sectors at the intersections shall be obstructed.
- F. Setback Distances: Except as otherwise provided, the distances from the center-line to the setback line applicable to the various classifications of highways as defined in Paragraph 13.3 of this section, shall be as provided by the following paragraphs of this subsection, respectively.
- G. Whenever a highway is improved to a classification requiring a greater setback distance than that required by this ordinance prior to such improvement, the setback distance shall be that applicable to the latter classification.
- H. In cases where the provisions of this section may be interpreted to provide for different setback distances, the greater setback distance shall prevail.

### 13.6 Setback Distances

- A. **Class I (Town Highway)** 50 feet from the right-of-way line, except in a platted subdivision with interior roads where the setback distance shall be 30 feet from the right-

of-way lines as shown on the recorded plat; also excepting lots abutting on private roads where the setback distance shall be 50 feet from right-of-way line but not less than 75 feet from the center line of said road as shown on the instrument creating said road or road easement.

- B. **Class 2 (County Highway) and Class 3 (State Highway)** 100 feet; provided, however, that in no case shall the distance of setback line outside of and from the nearest point in the boundary line of the highway, be less than 60 feet for Class 2 and Class 3 highways.
- C. At Ordinary Highway Intersections. At grade intersections of highways with highways, except those roads and streets in platted subdivisions which do not intersect Class 2 Highways or Class 3 Highways, there shall be vision clearance triangles in each sector of such intersections. Each such vision clearance triangle shall be established by a supplementary setback line, which shall be a straight line connecting points on the setback lines along the intersecting highways and 50 feet back from the intersection of such setback lines.
- D. At Highway Intersections with Transitional Widening. At intersections provided with transitional widening of pavement or surfacing, such transitional widening shall be considered as additional width, and the setback line on the side, which is widened, shall be increased by an amount equal to the width of the additional pavement.
- E. At Highway intersections with Curve Connections. At intersections where the intersecting highways are connected with pavement or surfacing constructed on a curve, the setback distance along the curve shall be measured from the center of the curved section.

## Section 14.0 Signs and Billboards

**14.1** The purpose of this article is to establish minimum standards to safeguard life and property and promote public welfare and community aesthetics by regulating the appearance, construction, location and maintenance of all signs and billboards. The provisions herein shall be binding upon every owner of a building, every lessee and every person in charge or responsible for who causes the construction, repair, relocation or alteration of any outdoor sign and other advertising structures in the Town with the exception of painting, posting and general maintenance. The following definitions apply to this article:

- A. **Billboard.** A sign that advertises goods, products or facilities or services not necessarily on the premises where the sign is located or directs persons to a different location from where the sign is located.
- B. **Directory Sign.** Any sign on which the names and locations of occupants or the use of a building is given. This shall include offices and church directors. Directory signs shall be encouraged for use when advertising of multiple-occupied commercial and industrial buildings.
- C. **Identification Sign.** Any sign that carries only the name of the firm, major enterprise, institution or principal products offered for sale on the premises or a combination of these.
- D. **Home Occupation Sign.** A sign associated with a conforming home occupation.
- E. **Off-Premise Sign.** Any sign, device, or display that advertises goods other than that commonly available or services other than that commonly performed on the premises on which the sign is located.
- F. **Sign.** A sign shall include anything that promotes, calls attention to, or invites patronage to a business, location or product.
- G. **Temporary Sign.** Any sign that is erected or displayed for a limited period of time not to exceed 28 consecutive days or which is displayed only during regular business hours and removed for storage at other times. A temporary sign shall not exceed 8 square feet in area. Examples of temporary signs include banners and decorative-type displays. For purposes of this article, a portable sign is not a temporary sign.

**14.2** No sign or billboard shall be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a sign permit and without being in conformity of the provisions of this article. "Altered" shall be defined as any modification in the size, height, dimensions, location or mounting of a sign other than routine maintenance. The application for a sign permit shall contain the following information about the sign: dimensions, display surface, materials, illumination, wiring, height above grade, distance from lot lines, and the person, firm or corporation erecting or altering the sign. A permit is not required for a copy change when no change in business name is involved. A permit fee shall be determined by the Town Board and shall be paid to the Town Clerk for each sign application.

**14.3** The following signs do not require a permit, provided that they are not located over a public road right-of-way or in, on or over public water:

- A. Warning signs not to exceed four square feet located on the premises.
- B. Official signs, such as traffic control, parking restriction, information and notices, rummage or garage sales signs not to exceed 8 square feet in area, but use of this type of sign shall be limited to 72 hours per sale.
- C. Flags and insignia of any government.
- D. Legal notices, identification information or directional signs erected by governmental bodies.
- E. Signs directing and guiding traffic and parking on private property.
- F. Political message signs during an election campaign, not exceeding 8 square feet per lot, posted on private property.
- G. House numbers or signs identifying parks or country clubs or official bulletin boards.
- H. Real estate signs not to exceed 8 square feet in area that advertise the sale, rental or lease of the premises upon which signs are temporarily located. Such signs shall be removed fifteen (15) days after the sale, rental or lease has been accomplished.
- I. Bulletin boards for public, charitable or religious institutions not to exceed 8 square feet in area located on the premises.
- J. Home occupation sign, provided such sign is non-illuminated and does not exceed 8 square feet in area to advertise the name of a legally permitted home occupation.

**14.4** The following signs are permitted in all commercial and industrial districts, subject to the following restrictions:

- A. Wall signs placed against the exterior walls of buildings shall not extend more than 6 inches outside of the wall surface; shall not exceed 300 square feet in area for any one business and shall not exceed 20 feet in height above the street grade. Wall signs may only advertise on-site businesses.
- B. Ground signs shall not exceed ten feet in height above the street grade; shall meet all yard requirements for the district in which it is located and only one sign for each street frontage shall be permitted. Such signs shall not exceed 32 square feet in total area.
- C. No sign shall be permitted to face a Residential District within 100 feet.
- D. Business and industrial signs may be internally lighted by a hooded reflector, provided that such lighting shall be arranged to prevent glare and that no sign shall be lighted by a lighting of intermittent or varying intensity. Animated signs, signs having moving parts, or signs which may be mistaken for traffic signal devices are prohibited.

- E. No sign or advertising device shall be erected or maintained at the intersection of the streets in such a manner as to obstruct a clear vision of the intersection.

**14.5** The following signs are prohibited:

- A. Signs that substantially resemble, imitate, or approximate railroad or traffic signs.
- B. Signs that have any flashing, rotating or brilliant intermittent parts or lights or bare reflecting-type bulbs.
- C. Signs that create a hazard to vehicular traffic or a nuisance to adjoining residential property.
- D. Signs on public rights-of-way, except for public entity signs for traffic control, parking and directional signs as authorized by this Ordinance.

**14.6** All signs shall be removed by the owner or lessee of the premises upon which the sign is located if in the judgment of the Town such sign is so old, dilapidated or has become so out of repair as to be dangerous or unsafe. If the owner or lessee fails to remove it, the Town may remove the sign at the cost of the owner, following adequate notice. The cost to remove the sign may be placed on the owner's tax bill as a special charge.

**14.7** Portable signs shall be limited in use to fifteen days at a time following approval by the Town; provided, however, that such signs shall not be displayed more frequently than 4 times per calendar year at any one location and not more than fifteen days each time. The maximum size of a portable sign shall be 10 square feet on each face, back-to-back. Portable signs shall not be located in any public rights-of-way.

**14.8** A sign loses its non-conforming status if one or more of the following occurs:

- A. If the sign is damaged by fire, flood, explosion, or earthquake, war, riot or Act of God, the sign may be reconstructed and used as before if it is reconstructed within three months after such calamity, the sign is relocated.
- B. The sign fails to conform to the Town requirements regarding maintenance and repair, abandonment or dangerous or defective signs.
- C. Nothing in this Article shall relieve the owner or lessee of a legal non-conforming sign from the provisions of this Ordinance regarding safety, maintenance and repair of signs.

## Section 15.0 Special Uses

### 15.1 Authority

The Town Board, by an affirmative two-thirds (2/3) vote of the entire Board, may by resolution, approve the issuance of a Special Use permit for uses listed as Special Uses in this ordinance.

### 15.2 Purpose

Special Uses are those uses having some uniqueness or unusual impact which requires a careful review of their location, design and configuration to determine against fixed standards, the desirability of permitting their establishment on any given site. The Special Use permit is a flexible means of permitting certain exceptions to the districts established and the rules and regulations adopted herein, in cases where the public benefit of such uses outweighs the potential harm, and under such conditions imposed as are necessary to protect the public health, safety and welfare and individual property rights.

### 15.3 Special Use Procedure

The following procedure shall be followed to obtain a Special Use permit:

- A. **Application** An owner or owner's designated agent shall complete and file a Special Use application form with the Zoning Administrator accompanied by a nonrefundable application fee which may be amended from time to time, as established by the Town Board by resolution, to cover costs of public notice and administrative review. Ten copies of a scaleable development plan will be required with the written application.
- B. **Public hearing** After receiving the request, the Zoning Administrator shall refer the matter to the Plan Commission, which shall hold a public hearing advertised by a Class 1 notice.
- C. **Action by Plan Commission** The Plan Commission shall, within thirty (30) days of the public hearing, make a report and recommendation of approval or denial of the Special Use permit with any conditions it may deem appropriate to the Town Board. In making its decision, the Commission shall keep a written record of findings relative to the standards for considering the Special Use application, as listed in 15.7.
- D. **Action by Town Board** The Town Board shall, within thirty (30) days of Plan Commission action, act to approve or deny the Special Use permit by resolution. No Special Use Permit shall be issued unless the Town Board shall find that the special use is consistent with the spirit, purpose and intent of this ordinance, will not substantially and permanently injure the appropriate use of neighboring property, and will serve the public convenience and welfare and that such building or use shall comply with all other regulations in the district in which it is proposed to be located.

### 15.4 Application Requirements

The applicant shall provide the following information on the Special Use application form, which is available from the Town Zoning Administrator:

- A. Applicant and property owner's name, address, and telephone number.
- B. Parcel information, including tax key number, legal description, street address, if any, dimensions and existing zoning and land use designations.

- C. Description of Special Use being requested.
- D. Written justification for the Special Use being requested and supporting documentation describing how the applicant believes that the request conforms to the standards for Special Uses listed in subsection.
- E. Filing fee

*Note: When applying for a nonfarm residential Special Use permit in a certified farmland preservation district, the petitioner should be aware of the following:*

1. *Based on the 60,000 sq. ft residential lot size in the farmland preservation zoning district and on the 1:20 ratio of nonfarm acreage to farm acreage, a base farm tract will be 27.5 acres or larger in order to allow one (1) nonfarm residential Special Use Permit.*
2. *The maximum amount of nonfarm residential acreage cannot exceed the amount determined by the following formula: Nonfarm Residential acreage = Total Base Farm Tract acreage divided by 27.5.*
3. *The amount of nonfarm acreage available for lot creation will be determined by the Zoning Administrator prior to accepting a conditional use application.*
4. *The list of nonfarm residential acreages counted toward the ratio calculation should also include any existing nonfarm residences that do not have a Special Use permit or that are not part of the application for the Special Use permit.*

### **15.5 Development Plan Requirements**

Submission of a Special Use permit request will need to include a development plan that has the following information:

- A. North arrows, date of preparation, and scale on 8½" x 11" size paper
- B. Name(s) of all adjacent or surrounding streets and right-of-way width(s)
- C. Recorded property lines and their dimensions
- D. All existing and proposed buildings and structures accessory to the principal use, including the use of each building or structure, dimensions and their locations on the parcel
- E. Dimensions of existing and proposed yard setbacks for buildings and structures
- F. Dimensions of existing and proposed parking, loading, and unloading areas, and size of existing and proposed driveways
- G. The location of proposed and existing signage
- H. The location, height and materials of all proposed and existing fences or retaining walls
- I. Preliminary stormwater and erosion control plan
- J. Other additional information that may be deemed appropriate by the Zoning Administrator.



## 15.6 Conditions, Guarantees and Validity Period

The following conditions, guarantees and validity period may be imposed upon the granting of a Special Use permit:

- A. Prior to the granting of any Special Use permit, the Plan Commission may recommend and the Town Board may place such conditions and restrictions upon the establishment, location, construction, maintenance and method or hours of operation as deemed necessary for the protection of the public interest and to secure compliance with the standards specified in 15-7. In all cases in which Special Uses are subject to conditions, the Plan Commission may recommend and the Town Board may require evidence and guarantees as it may deem necessary (as proof that the stipulated conditions are being and will be complied with).
- B. Special Use permits shall be issued permanently or for a specified period of time as may be specified by the Town Board upon recommendation of the Plan Commission and shall be an obligation of any party to whom a property may be transferred or assigned.
- C. A Special Use permit shall expire if the use is discontinued for a period of twelve (12) consecutive months. If a building permit has not been obtained or the Special Use has not been established within twelve (12) months of the issuance of the Special Use permit, the Special Use permit expires.
- D. Any party who has been issued a Special Use Permit by the Town shall notify the Town, in writing, that they are seeking a continuance or extension of any Special Use Permit that has an expiration date as established by Town Board. Such notification shall be submitted to the Zoning Administer thirty (30) days prior to the Special Use Permit expiration date.
- E. A Special Use permit shall become effective upon approval by the Town Board. A record of the Special Use permit shall be maintained in the Town Hall.
- F. A Special Use permit may be revoked by the Town Board for failure to comply with all provisions of such permit, provided that thirty (30) days notice has been given by first class mail to the operator or owner of such use of the intent to revoke.

## 15.7 Standards

No application for a special use shall be recommended by the Plan Commission and granted by the Town Board unless the following conditions are present (see the Farmland Preservation Zoning District for additional conditions in that district):

- A. That the establishment, maintenance or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
- B. That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the special use and the proposed use is compatible with the uses of adjacent land.

- C. That the establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- D. That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.
- E. 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.
- F. That the special use shall, except for yard requirements, conform to all applicable regulations of the district in which it is located.
- G. That the proposed use does not violate floodplain regulations governing the site.
- H. That adequate measures have been or will be taken to prevent or control water pollution, including sedimentation, erosion and runoff.
- I. That the proposed use is reasonably necessary for the public convenience at that location.
- J. That in the case of an existing non-conforming use, the proposed use will make the existing non-conforming use more compatible with its surroundings

**15.8 Special Uses by Zoning Category** (may be other Special uses listed in the individual zoning districts)

- A. **Special Uses in All Districts** (except the Farmland Preservation District-see the Farmland Preservation District for Special Uses that only apply to that District):
  1. Electric and/or gas substations, public waterworks and appurtenant structures, telephone exchanges, police stations, fire stations, and governmental administration building.
  2. Topsoil removal.
  3. Personal storage facilities for indoor storage of items entirely within partitioned buildings having an individual access to each partitioned area. Such storage areas may be available on either a condominium or rental basis. These facilities are also known as “mini-warehouses.”
  4. Municipal sewage disposal plants, subject to the provision that they shall be located not less than one thousand (1,000) feet from the nearest dwelling, shall be properly and adequately screened and buffered from the highway and adjacent property, and shall be so constructed and operated that there shall be no offensive odors or noise, and that there is adequate provision for the effluent and for the disposal of all sludge and residues, and that the area shall be completely enclosed with an adequate chain link type of fencing in addition to shrubbery screening; and that the foregoing provisions and all the provisions required by state law or Administrative Code are maintained during the operation thereof.

## **Section 16.0 Plan Commission**

### **16.1 Plan Commission**

The Plan Commission has the responsibility for recommending land use changes consistent with the regulations in this ordinance and correctly interpreting the goals, objectives and intent of the Town of Oakfield's Comprehensive Plan.

### **16.2 Membership and Terms of Office**

The Plan Commission consists of five (5) members consisting of Town elected or appointed officials, except that at least three (3) must be citizen members who are not otherwise Town officials, and up to two (2) alternates. The Town Board Chairperson shall appoint the members of the Plan Commission and designate a Plan Commission Chairperson during the month of April to fill any expiring term (All appointments are subject to the advisory approval of the Town Board.) In a year in which any Town Board member is elected at the spring election, any appointment or designation by the Town Chairperson shall be made after the election of the Town Board. Any citizen appointed to the Plan Commission shall take and file the oath of office within five (5) days of notice of appointment, as provided under Secs. 19.01 and 60.31, WI Stats.

### **16.3 Term of office**

The term of office for the Plan Commission Chairperson and each Commission member shall be for a period of three years, ending on April 30, or until a successor is appointed.

### **16.4 General and Miscellaneous Powers**

The Plan Commission shall:

- A. Be governed by the provisions of Section 62.23(7) of the Wisconsin Statutes, the Zoning Ordinance of the Town of Oakfield and function and duty as set forth herein; The Plan Commission's function and duty herein established shall not be changed or waived without the affirmative vote of the Town Board.
- B. Initiate, hear, review and offer its recommendations to the Town Board on applications for amendments to this chapter.
- C. Prepare and recommend to the Town Board for adoption of a Comprehensive Plan for the Town, and from time to time to recommend amendments as it may deem appropriate.
- D. Be enabled to promote Town planning.
- E. Hear, review and offer its recommendations to the Town Board on applications for Special Use permits, subdivisions, street vacations and name changes, and other matters.
- F. Make reports and recommendations (per sec. 62.23(4)) relating to the plan and development of the town to the Town Board other public bodies, citizens, public utilities and organizations.

- G. Recommend to the Town Board programs for public improvements and the financing of such improvements.
- H. Receive from public officials, within reasonable time, requested available information required for the Commission to do its work.
- I. For itself, its members and employees, in the performance of their duties, enter upon land, make examinations and surveys, and place and maintain necessary monuments and marks thereon. Entry shall not be made upon private land, except to the extent that the private land is held open to the general public, without the permission of the landowner or tenant. If such permission has been refused, entry shall be made under the authority of an inspection warrant issued for cause under sec. 66.0119, Wis. Stats., or other court-issued warrant.

### **16.5 Town Comprehensive Planning Authority and Requirements**

- A. The Plan Commission, under sec. 62.23(2), recommended adoption of the Town of Oakfield Comprehensive Plan. On July 21, 2008, the Town Board adopted said Plan, along with accompanying maps, tables and descriptive and explanatory matter, which includes the nine (9) elements specified under the comprehensive planning law, sec. 66.1001 (2), Wis. Stats.
- B. The Plan Commission will be responsible for reviewing and updating the Comprehensive Plan on a periodic basis to maintain relevancy to land use issues that may occur over time.
- C. The Plan Commission will determine if every petitioned land use change applied for through the provisions of this ordinance is consistent with the adopted Comprehensive Plan.

## **Section 17.0 Zoning Board of Appeals**

### **17.1 Board of Appeals Authority**

Under the provisions of Section 62.23 (7) (e) Wisconsin Statutes, there is hereby established a Board of Appeals to provide a means for equitable interpretation and variance from this ordinance.

### **17.2 Organization of Board of Appeals**

The Board of Appeals shall consist of five citizen members and two alternates appointed by the Town Chairman and subject to confirmation of the Town Board for terms of 3 years. The members of the Board of Appeals shall serve at such compensation to be fixed by resolution. The Board of Appeals shall elect a chairman and a recording secretary. Vacancies shall be filled for the unexpired terms of members whose terms become vacant.

### **17.3 Power of the Board of Appeals**

The Board of Appeals shall have the following powers:

- A. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination by an administrative official in the enforcement of this ordinance or of any ordinance adopted pursuant thereto.
- B. To authorize, upon appeal in specific cases, a variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions a literal enforcement of the provisions of the ordinance will result in practical difficulty or unnecessary hardship so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.
- C. To hear and decide if a nonconforming use may be changed or enlarged.
- D. Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer of the Town affected by any decision of the Building Inspector. Such appeal shall be taken within 20 days of filing with the Zoning Administrator and with the Board of Appeals a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the appeal action was taken.
- E. The Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and give public notice thereof by a Class I notice under Chapter 985, Wisconsin Statutes, in an official paper or a paper of general circulation, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.
- F. When a Zoning line divides a parcel, the Board of Appeals is authorize to move such line to the nearest property line.
- G. To authorize upon appeal in specific cases, a variance from the standards of the ordinance as will not be contrary to the public interest. Variances for uses shall not be granted by the Board of Appeals.

**17.4 Meetings of the Board of Appeals**

The Board of Appeals shall adopt rules in accordance with the provisions of this section. Meetings of the Board of Appeals shall be held at the call of the chairman and at such other times as the Board of Appeals may determine. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Appeals shall be open to the public. The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Appeals and shall be a public record. The Chairman shall notify the Town Clerk and Town Board of all decisions and resolutions.

**17.5 Requirements of a Variance**

In general the power to authorize a variance from the requirements of the ordinance shall be sparingly exercised and only under peculiar and exceptional circumstances. No variance shall be granted for actions which require an amendment to this ordinance. Variances shall only be granted when the Board of Appeals finds that:

- A. The variance is not contrary to the public interest and that such variance will be in general harmony with the purposes and intent of this ordinance.
- B. Special circumstances and conditions exist which are peculiar to the land, structure or building involved and which are not generally applicable to other lands, structures, or buildings in the same district.
- C. The variance will not permit the establishment of a use which is not permitted in the district.
- D. The hardship results from the strict application of this ordinance and is not the result of self-created or self-imposed circumstances.
- E. Greater profitability, lack of knowledge of restrictions and other variances granted under similar circumstances are not being considered as sufficient cause for a variance.
- F. Nonconforming uses of neighboring lands, structures or buildings in the same district, and permitted or nonconforming uses of lands, structures or buildings in other districts are not being considered as grounds for issuance of a variance.
- G. That the variance is compatible with adjacent existing uses and structures or uses and structures likely to develop which are permitted in the district.
- H. That adequate measures are taken to provide for drainage.
- I. That ingress and egress to the property is provided in such a manner as to minimize traffic hazards and congestion.
- J. That adequate parking and loading areas are provided.

**17.6 Application Process**

An application to the Board of Appeals must be submitted on a form provided by the Town or its representative and pay a processing fee as identified on the form.

**17.7 Withdrawal**

If the applicant elects to withdraw the appeal any time before final determination is made by the Board of Appeals, this fact shall be noted on the application, with the signature of the applicant, attesting withdrawal. Copies of the withdrawn application shall be returned to the secretary for the files of the Board of Appeals, to the Zoning Administrator and to the applicant.

**17.8 Additional Information**

If the appeal is not withdrawn, the Board of Appeals may request the applicant to provide such additional information as may be needed to determine the case and shall instruct the secretary to proceed with public notice of a hearing of the case.

**17.9 Amendments**

Amendment of an appeal by the applicant may be permitted at any time prior to or during the public hearing, provided that no such amendment shall be such as to make the case substantially different from its description in the notice of public hearing. If the amendment is requested by the applicant after public notice of the hearing has been given, and such amendment is at variance with the information set forth in the public notice the applicant shall pay an additional fee to cover the cost of amending the public notice. If the amended notice can be published within the time frame specified for the public hearing, the hearing on the amended appeal may be held on that date, otherwise the Chairman of the Board of Appeals shall announce that the hearing originally scheduled on the case will be deferred to a future meeting, before which appropriate public notice will be given, and will state the reasons for the deferral.

**17.10 Public Hearing**

Upon filing with the Board of Appeals of an appeal or an application for a variance, the Zoning Administrator shall fix a reasonable time (not more than 60 days from the filing date) for a public hearing. A Class 1 notice pursuant to Chapter 985 Wisconsin Statutes shall be published in the official newspaper of the Town of Oakfield specifying the date, time and place of the hearing and the matters to come before the Board of Appeals. The Zoning Administrator shall also mail a notice at least 10 days before the hearing to the owner's of property contiguous to the property, subject to the proposed variance of appeal. The owners shall be determined by the ownership indicated in the real estate records at the Fond du Lac County Treasurer's office. Any defect in providing this notice shall not affect the proceedings of the Board of Appeals.

**17.11 Additional Information**

If the appeal is not withdrawn, the Board of Appeals may request the applicant to provide such additional information as may be needed to determine the case and shall instruct the secretary to proceed with public notice of a hearing of the case.

**17.12 Conditions of the Application**

Reasonable special conditions and safeguards for the protection of the public health, safety, and welfare may be imposed by the Board of Appeals if it grants the application for a variance. The written application for a variance must demonstrate:

- A. That special conditions exist which are peculiar to the land or structure involved which are not applicable to other lands or structures in the same district.
- B. That literal enforcement of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other lands or structures in the same district under the terms of this ordinance.

- C. That the special conditions and circumstances do not result from the actions of the applicant.
- D. That the granting of the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands or structures in the same districts.
- E. No non-conforming use of neighboring lands or structures in the same district, and no permitted use of land or structures in other districts shall be considered grounds for the issuance of a variance.
- F. No residence may be located a distance greater than 250 feet from the center of the public roadway without obtaining the prior approval from the Board of Appeals, the approval of which shall not be granted unless physical conditions necessitate.
- G. The application is in proper form and a fee has been paid. The Board of Appeals shall hold a public hearing on such matter. Reasonable special conditions and safeguards for the protection of the public health, safety, and welfare may be imposed by the Board of Appeals if it grants the application for variance.

### **17.13 Appeal of Board Decisions**

Any person or persons, jointly or severally aggrieved by any decision of the Board of Appeals, or any taxpayer, or any officer, department, Town Board, or town representative may appeal the decision of the Board of Appeals within 30 days after the filing of the decision in the office of the Board of Appeals in accordance with Section 62.23(7) Wis. Stat.

### **17.14 Exercise of Power**

- A. In exercising the above mentioned powers such Board of Appeals may, in conformity with the provisions of such section, reverse or affirm, wholly or partly, or may modify the order, requirement, decision 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 officer from whom the appeal is taken, and may issue or direct the issue of a permit.
- B. The concurring vote of 4 members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in such ordinance. The grounds of every such determination shall be stated.
- C. No non-conforming use of neighboring lands or structures in the same district, and no permitted use of land or structures in other districts shall be considered grounds for the issuance of a variance.
- D. Nothing herein contained shall be construed to give or grant to the Board of Appeals the power or authority to alter or change the zoning ordinance or the District Map. Such power and authority is reserved to the Town Board.



## Section 18.0 Natural Features Protection Requirements

### 18.1 Purpose

These requirements are intended to preserve important geological features, protect against soil erosion and groundwater contamination, preserve the natural beauty of the Town, and protect wild flora and fauna. These requirements shall be in effect in all zoning districts. They shall be applied independently of other applicable requirements contained in this Ordinance. Whenever other requirements of this Ordinance conflict with the requirements of this Article, the more stringent requirement shall govern. The location of the natural features protection areas subject to the requirement of this Article shall be determined by reference to the Town of Oakfield Comprehensive Plan and its Land Use Plan, adopted on July 21, 2008. The provisions of said Comprehensive Plan are hereby incorporated by reference.

### 18.2 Escarpments

The purposes of these regulations are to promote safe conditions by preventing the placement of roads on highly inclined surfaces and to preserve escarpments as landmark features that contribute to the scenic diversity and attractiveness of the Town. For the purposes of this Ordinance, “escarpments” is defined as a discontinuous bedrock-controlled, geomorphologic feature composed of any and all outcrops that form a rock ridge or series of ridges at the bedrock surface along the western edge of the Silurian (Niagaran) outcrop belt. Escarpments are subject to the following requirements:

- A. No roads or driveways shall be placed on slopes of 30-39% unless the roads or driveways are placed parallel to the escarpment face. No roads or driveways shall be placed on slopes of 40% or greater.
- B. The clearing of trees located within escarpment protection areas shall be permitted for:
  - 1. Accessory building footprints.
  - 2. Sites for wastewater disposal systems.
  - 3. Driveways.
  - 4. The area on a lot extending not more than 25 feet from the exterior walls of principal buildings and 15 feet from accessory buildings. In the area on a lot lying between 25 feet and 100 feet from the exterior walls of principal buildings, selective clearing is permitted provided that (i) no more than 30% of this area on the lot shall be cleared; (ii) the clearing of the 30% described above shall not result in strips of cleared openings of more than 30 feet in any 100 foot wide strip nor create a cleared opening strip greater than 30 feet wide; and (iii) in the remaining 70% of this area, cutting and pruning shall leave sufficient cover to screen vehicles, dwellings and other structures.

### 18.3 Additional Escarpment Conditions

In addition to the provisions described in section 18.2, the following additional use and development restrictions shall apply:

- A. Between CTH “B” and 300 feet from the base of the escarpment, in the area southwest of the Village of Oakfield: existing uses are allowed with limited additional accessory

uses. Replacement of an existing residence with a new residence generally located in the same area may be considered, subject to filing a Special Use Permit pursuant to Section 15 of this ordinance.

- B. 150 feet - 300 feet from the base of the escarpment: no new development is allowed. Agricultural uses are allowed.
- C. 150 feet from the base and crest of the escarpment: no new development, quarrying or agricultural uses allowed.
- D. 150 feet to 300 feet from the crest of the escarpment: no new development is allowed. Agricultural uses are allowed. Shallow quarrying (not greater than five feet) is allowed only in the Shallow Quarry Overlay Zone as illustrated on the Land Use Plan in the Comprehensive Plan adopted July 21, 2008, subject to the provisions of Section 12.5 (D).
- E. Between 300 feet from the crest of the escarpment and Highland Road: existing uses are allowed with limited additional accessory uses. Agricultural uses are allowed but not to the extent that a farm greater than 500 animal units is established (see chapter 24) on the escarpment. Shallow and deep quarrying (greater than 5 feet) is allowed, subject to the provisions of Section 12.5 (D). Any new development requires a special use permit pursuant to Section 12.5 (D) of this ordinance.

#### **18.4 Woodlands**

Areas or stands of trees whose total combined canopy covers an area of one acre or more and at least 50% of which is composed of canopies of trees having a diameter at breast (DBH) of at least 10 inches; or any grove consisting of 15 or more individual trees having a DBH of at least 12 inches whose combined canopies cover at least 50% of the area encompassed by the grove. No trees grown for commercial purposes shall be considered a woodland for purposes of this section. The following rules shall apply to land that meets the woodlands definition:

- A. A clearing of trees shall be permitted for building footprints, driveways and sites for onsite sewage disposal systems. Building footprints may be cleared a distance of 25 feet from the exterior walls of principal buildings and 15 feet from accessory buildings. Selective pruning of remaining trees shall be permitted, provided that 70% of the original canopy is left intact.
- B. Selective pruning of woodlands shall be permitted, provided that 70% of the original canopy is left intact.
- C. Clear cutting on contiguous land under single ownership shall be permitted, provided that the clear-cut area not exceed 10 acres or 30% of the woodlands in any 10 year period. An area clear-cut for commercial purposes shall not be converted or developed for another use within 7 years from the date clear cutting was completed; and
- D. Other sound forestry practice techniques as defined in Chapter 46 of the Wisconsin Administrative Code, as amended, or as recommended by a qualified forester are permitted if designed to protect or enhance the woodlands. Exceptions to these

restrictions may be granted upon a showing of special needs or circumstances of the landowner.

## **18.5 Wetlands**

It is the intent of the Town to maintain safe and healthful conditions, prevent water pollution, protect wildlife habitat, preserve cover and natural beauty and control building and development in a manner that minimizes adverse impacts upon the wetland. For the purposes of this subsection, "wetlands" are identified in the Wisconsin Department of Natural Resources' Wetland Inventory Map. The following rules shall apply to wetlands:

- A. If the proposed activity is located in a wetland that is regulated by the Fond du Lac County Shoreland Zoning Ordinance, a zoning permit or special use permit must be obtained from the County. A separate Town wetland permit is not required.
- B. If the proposed use is located in a wetland that is not regulated under the Fond du Lac County Shoreland Zoning Ordinance, a special use permit from the Town is required. The person issuing the building permit may issue a permit if the proposed use does not involve an earth disturbance exceeding 5,000 square feet in area. A special use permit is required if the earth disturbance exceeds 5,000 square feet in area.
- C. All roads in or through wetlands shall be designed and constructed to minimize the adverse impact upon the natural functions of the wetland.
- D. Any filling, flooding, draining, dredging, ditching, tiling or excavating that is to be done for the proposed project must be necessary for the proposed project. Any filling, excavating, ditching or draining that is to be done must be done in a manner designed to minimize the flooding and other adverse impacts upon the natural functions of the wetlands.
- E. A wetland shall not be rezoned if the proposed rezoning may result in a significant adverse impact upon storm and floodwater storage capacity, filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters, fish spawning, breeding or feeding grounds, wildlife habitat and wildlife.

## **Section 19.0 Enforcement**

**19.1** It shall be the duty of the Town Board to enforce the provisions of this ordinance. The Town Board may authorize a surveyor to prepare a record of all buildings, structures and mobile homes situated within the setback lines as established by this ordinances, or any amendments thereto, which shall include the distances of such buildings, mobile homes or structures from the center line of the adjacent highway, their size, type of construction and use, the quarter section in which they are situated, the names and addresses of the owner and occupant of the premises and the date on which the record is made. Such record shall be kept current and shall show any such buildings, structures or mobile homes that may be removed or damaged to the extent that their reconstruction will be contrary to this ordinance.

**19.2** No building or structure shall hereafter be created, moved or structurally altered, except as hereinafter provided, until a permit therefore shall have been applied for and issued. No permit shall be issued until the Building Inspector has satisfactory proof that the premises are in full compliance with the Fond du Lac County Subdivision, Shoreland Zoning, and Flood Plain Zoning Ordinances, and that a Fond du Lac County Sanitary Permit for the installation of a private sewage system to serve the premises has been issued, except that lots served by public sewer shall not require a sewer permit.

**19.3** All applications for a land use permit shall be accompanied by plans in duplicate, drawn to scale, showing the location, actual shape and dimensions of the lot to be built upon, the exact size and location on the lot of the proposed or existing building and accessory buildings the lines within which the building shall be erected, altered or moved, the existing and/or intended use of each building or part of a building, the number of families the building is intended to accommodate, and such other information with regard to the lot and neighboring lots or buildings as may be necessary to determine and provide for the enforcement of this ordinance.

**19.4** All dimensions shown relating to the location and size of the lot shall be based upon an actual survey. The lot and the location of the building thereon shall be staked out on the ground before construction is started.

## **20.0 Certificate of Compliance**

**20.1** No vacant land shall be occupied or used, and no building hereafter erected, altered or moved shall be occupied until the certificate of compliance shall have been issued by the Building Inspector. Such certificate shall show that the building or premises or part thereof and, the proposed use thereof are in conformity with the provisions of this ordinance. Such certificate shall be issued only when the building or premises and the proposed use thereof conform to all the requirements of this ordinance.

**20.2** Under such rules and regulations as may be established by the Town Board, the Building Inspector may issue a temporary certificate of compliance for part of a dwelling.

**20.3** Upon written request from the owner, the Building Inspector shall issue a certificate of compliance for any building or premises existing at the time of the adoption of this ordinance, certifying after inspection, the extent and kind of use made of the building or premises and whether or not such use conforms to the provisions of the ordinance.

## **Section 21.0 Fees**

### **21.1 Building Permit**

A fee in an amount determined by the Town is required to be paid by the applicant for a building permit, and a certificate of occupancy where no building permit is required. The fee shall be paid to the Town Treasurer.

### **21.2 Plan Commission**

A fee in an amount to be determined by the Town Board is required for any petition for the amendment of this zoning ordinance, which fee shall be paid to the Town Treasurer and receipt filed with the amendment petition. This provision shall not apply to amendments initiated by the Town Board.

### **21.3 Fee for Board of Appeals**

A fee in an amount determined by the Town Board is required to be paid by the applicant for each application or appeal to the Board of Appeals, which fee shall be paid to the Town Treasurer and receipt therefore filed with the application. This fee shall not be required of any township officers acting in his official capacity.

## **Section 22.0 Violations and Penalties**

**22.1** Any building, structure hereafter erected, enlarged, altered, repaired or moved or any use hereafter established in violation of any of the provisions of this ordinance shall be deemed an unlawful building, structure, or use. The Building Inspector shall promptly report all such violations to the Town Board, which shall instruct the attorney for the town to bring an action to enjoin the erection, enlargement, alteration, repair or moving of such building, structure or the establishment of such use, or to cause such building, structure, or use to be removed.

**22.2** At the discretion of the court, such person, firm or corporation may also be required, upon conviction, to forfeit not less than \$10 nor more than \$200 for each offense, together with the costs of prosecution and attorney's fees, and in default of payment of such forfeiture and costs of prosecution, may be imprisoned in the county jail of Fond du Lac County until said forfeiture and costs are paid, but not to exceed 30 days for each violation. Each day that a violation continues to exist shall constitute a separate offense.

## Section 23.0 Changes and Amendments

### 23.1 Power of Amendment

The Town Board may, from time to time on its own motion or on petition, amend, supplement or change this ordinance, including the Official Zoning Map.

### 23.2 Process for Application by Property Owner or Option Holder

- A. An owner or owner's designated agent wishing to rezone his or her property shall meet or contact the Town Chairperson or designated Zoning Administrator to discuss the proposed rezoning. If the owner or owner's designated agent wishes to pursue a rezoning, they shall obtain, complete and file a rezoning application form with the Town Clerk accompanied by a nonrefundable fee which may be amended from time to time, as established by the Town Board by resolution, to cover costs of public notice and administrative review. The application form shall contain, at a minimum, the following information:
1. Applicant and property owner's name, address and telephone (cell) number.
  2. Parcel information, including parcel number, legal description, street address, if any, dimensions and existing zoning, land use, and Land Use Plan designation.
  3. Present zoning district and use of the property.
  4. Proposed zoning district and description of proposed land use and/or structures.
  5. Justification for rezoning.
  6. Map of area, drawn to scale, outlining the parcel(s) requested for rezoning, identifying all adjacent streets, properties, existing zoning and present uses on all adjacent properties.
- B. **Notification to Adjoining Property Owners and Municipalities** As a matter of practice, an earnest effort will be made to send, by regular mail, a copy of the notice for public hearing to the applicant or petitioner or their agent, and to the property owners (as recorded in the Fond du Lac County Register of Deeds Office) of all lands located within 500 feet of any part of the parcel or parcels included in a zoning amendment petition, Special Use permit application, variance petition, or appeal. The failure to mail a notice to the above parties or the failure of such notice to reach any of the above parties does not invalidate any public hearing or any decision of the Plan Commission and/or Town Board or Board of Appeals.

### 23.3 Public Hearing and Notice

- A. **Required Hearing** No amendment of this ordinance shall become effective until it is forwarded to the Plan Commission for review and recommendation. Once the Plan Commission forwards their recommendation to the Town Board, a public hearing is scheduled to allow parties in interest and citizens to be heard. If the Plan Commission does not provide a recommendation within 60 days, the Town Board may proceed to hold a public hearing without the recommendation.
- B. **Notice of Hearing** A Class 2 notice in accordance with Chapter 985 of the Wisconsin Statutes shall be published in the Town of Oakfield's official newspaper once during each of the two weeks prior to the Town Board hearing.
- C. **Notification to Adjoining Municipality** At least 10 days before the public hearing, a written notice of such hearing shall also be given to the clerk of any municipality whose

boundaries are within 1,000 feet of any lands included in the proposed amendment. Failure to give such notice shall not invalidate such amendment.

#### **23.4 Plan Commission Findings of Fact**

The Plan Commission shall include a “findings of fact” in their recommendation to rezone land out of the Farmland Preservation District. If a petitioner is rezoning lands out of the Farmland Preservation District, the Plan Commission must find all of the following, after public hearing:

- A. The land is better suited for a use not allowed in the farmland preservation zoning district.
- B. The rezoning is consistent with any applicable comprehensive plan.
- C. The rezoning is substantially consistent with the county certified farmland preservation plan.
- D. The rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.

#### **23.5 Town Board Findings of Fact**

Upon consideration of the Plan Commission’s recommendations and “findings of fact”, the Town Board must make a motion to either send the rezoning back to the Plan Commission for further consideration, approve the rezoning, or deny the rezoning. The Town Board has the option of revising the Plan Commission’s “finding of fact” in their motion. The Town Board’s decision to grant a rezoning out of Farmland Preservation District shall also include “findings of fact” based on 91.48(1) of the Wisconsin State Statutes as referenced in 23.4, A through D.

#### **23.6 Findings of Fact in Rezoning Application**

The applicant who desires to rezone land from a Farmland Preservation District to another Zoning District will be responsible for documenting how 91.48(1) of the Wisconsin State Statutes will be met. Such documentation must be submitted as part of the rezoning application before the Town of Oakfield’s Zoning Administrator will accept the petition as complete. In addition, the Town will enforce the “findings of fact” according to the Enforcement, Violations and Penalties sections of this ordinance.

#### **23.7 Final Approval by Town Board**

- A. An amendment shall become effective upon a majority vote of the members of the Town Board voting on the proposed change.

#### **23.8 Notification of Amendment to the Zoning Text**

- A. This zoning ordinance must be certified in accordance with Ch. 91.38 Wis. Stats. in order for owners of farms in the Town of Oakfield to claim tax credits under the Farmland Preservation Program.
- B. An amendment to a certified farmland preservation zoning ordinance is automatically considered to be certified as part of the ordinance, except for the amendments described in Ch. 91.36(8)(b) Wis. Stats.

## Section 24.0 State Livestock Facility Siting Regulations

The Town Board of the Town of Oakfield, deeming it necessary to promote the public health, safety and welfare, does ordain as follows:

### 24.1 Purpose, Authority, and Abrogation

- A. **Purpose.** The purpose of this Ordinance is to incorporate and apply the livestock facility siting law requirements found in Wis. Stats. 93.90 and ATCP 51 of the Wisconsin Administrative Code and to prohibit the siting of new livestock facilities (with an excess of 500 animal units) and the expansion of existing livestock facilities by more than 20% (and over 500 animal units) in any other zoning district other than the Farmland Preservation Zoning Districts within the Town of Oakfield.
- B. **Authority.** This Ordinance is adopted pursuant to the Town's zoning powers found in Wis. Stats. 60.62, 62.23(7) and 93.90, together with the administrative provisions set forth in ATCP 51 of the Wisconsin Administrative Code, inclusive of all future amendments to any provisions of these statutes and administrative rules.
- C. **Abrogation and Greater Restrictions.** It is not intended by this Ordinance to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations or permits previously adopted or issued pursuant to law. However, wherever this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.

### 24.2 Local Livestock Regulation

- A. **Incorporation of State Law.** Pursuant to the provisions of Wis. Stats. 93.90, the Town of Oakfield does hereby adopt and incorporate into its existing Zoning Ordinance the provisions of Wis. Stats. 93.90 and ATCP 51 of the Wisconsin Administrative Code, inclusive of all future amendments to any provisions of Wis. Stats. 93.90 and ATCP 51 of the Wisconsin Administrative Code. The Town of Oakfield's Zoning Ordinance hereby reflects the provisions of Wis. Stats. 93.90 and ATCP 51 of the Wisconsin Administrative code as if said statutory and administrative provisions were set forth in their entirety within the text of the Town's Zoning Ordinance.
- B. **Additional Town Requirements** The Oakfield Town Board considers the following more stringent local standards as necessary to protect the public health, safety, welfare or convenience, based on reasonable and scientifically defensible findings of fact:
  1. Bedrock on top of the Niagara Escarpment consists of light grey dolomite limestone with occasional horizontal fractures and occasional stylolites. Because animal waste can rapidly infiltrate into the ground water table due to the fractured limestone (karst) underlying a shallow top-soil, the Town of Oakfield will not allow Agricultural Siting operations or the spreading of liquid manure on the Niagara Escarpment .
  2. The Town of Oakfield will not allow Agricultural Siting operations or the spreading of liquid manure within one-half mile of known municipal wells operated by the Village of Oakfield. The reasoning for this prohibition is that intensive agricultural siting operations within one-half mile of the Village limits could potentially contaminate Village wells that are present in this geographic area and thus cause negative impacts on the health, welfare and safety of village residents.
  3. Elsewhere in the Town of Oakfield, the Town will review, on a case by case basis, the merits of an Agricultural Siting Operations or the spreading of liquid manure when



such operations are within 75 feet of a shallow water table (many depths range from 0 to 11.4 inches), or are located within proximity of a number of wetlands or DNR and U.S. Fish and Wildlife lands that need to be protected from erosion and surface or groundwater contamination. Pollutants that reach these waters may also contaminate the groundwater that is consumed by local residents that may have shallow wells (public health).

4. Concentrated farm operations of greater than 500 animal units will result in a higher level of traffic moving raw materials into and finished products out of such large farm operations. More traffic generated by a large farm operation increases the likelihood of accidents and the endangerment of local residents and operators of trucks or farm equipment traveling on the same roadways within the Town of Oakfield (public safety).
5. It has been found that underground electrical wiring associated with wind turbines can act as a conduit for liquid manure to more quickly reach the groundwater tables. In such situations, the Town restricts the spreading of liquid manure within 50 feet of the location of the underground electrical wiring entry point.

### **24.3 Definitions**

Specific definitions as listed in ATCP 51 are found in Section 3 of this ordinance.

### **24.4 Conditional Use Permit Required**

- A. **General** A conditional use permit issued by the Town of Oakfield is required for new or expanded livestock facilities based on Table 2 on page 20 and identified in the Farmland Preservation Zoning category.
- B. **Conditional Use Permit for Existing Livestock Facilities** A conditional use permit is required for the expansion of a pre-existing or previously approved livestock facility if the number of animal units kept at the expanded livestock facility will exceed all of the following:
  1. The applicable size threshold for a conditional use permit.
  2. The maximum number previously approved or, if no maximum number was previously approved, a number that is 20% higher than the number that existed on May 1, 2006 or on the effective date of the conditional use permit requirement, whichever date is later.
  3. A conditional use permit is not required for livestock facility that existed before May 1, 2006 or before the effective date of the conditional use permit requirement in this ordinance, except as provided in paragraph A.
  4. A conditional use permit is not required for livestock facility that was previously issued a conditional use permit, or other local approval, except as provided in paragraph A. A prior approval for the construction of a livestock facility implies approval for the maximum number of animal units that the approved livestock facility was reasonably designed to house, except as otherwise clearly provided in the approval. Prior approval of a single livestock structure, such as a waste storage structure, does not constitute prior approval of an entire livestock facility.

### **24.5 Setbacks and Separations**

#### **A. Public road right-of-way**

1. Except as provided for waste storage structures, livestock structures must be located at least 100 feet from public road right-of-way if the livestock facility will have fewer than

1,000 animal units, and at least 150 feet from a public road right-of-way if the livestock facility will have 1,000 or more animal units.

2. The setback requirement does not prevent the use or expansion of a livestock structure that was located within the setback area prior to the effective date of the setback requirement, except that a structure may not be expanded closer to the public road right-of-way

### B. Waste Storage Structure

A new waste storage structure may not be located any closer than 350 feet from a property line, or any closer than 350 feet of the nearest point of any public road right-of-way. A single new waste storage structure may be constructed closer to the property line or public road if a new structure is:

1. Located on the same tax parcel as a waste storage structure in existence before May 1, 2006.
2. No larger than the existing structure.
3. No further than 50 ft. from the existing structure.
4. No closer to the road or property line than the existing structure.

This setback requirement does not apply to existing waste storage structures, except that an existing structure within 350 feet of a property line or road may not expand toward that property line or road.

### C. Well Separation Distances

1. **Based on NR 811.16** Wells (4) Well sites (d), (d) a well shall be one-thousand (1,000) feet, from a manure stack, livestock structure, or storage structures, regardless of whether the livestock facility operator owns the land on which the well or wells are located. The only exception is if a hydrogeologic investigation indicates lesser separation distances would provide adequate protection of a well from contamination.
2. **Based on NR 812.08** Well, reservoir and spring location, paragraph 4, states “relation to contamination sources”. Minimum separating distances between any new potable or nonpotable well, reservoir or spring and existing sources of contamination; or between new sources of contamination and existing potable or nonpotable wells, reservoirs or springs shall be maintained as described in this subsection. The minimum separating distances of this subsection do not apply to dewatering wells approved under s. NR 812.09 (4) are as follows:
  - a. Greater separation distances may be required for wells requiring plan approval under s. NR 812.09. Separation distance requirements to possible sources of contamination will not be waived because of property lines. The following setbacks apply to livestock siting applications:
    - i. Twenty-five feet between a well or reservoir and a:
    - ii. Buried gravity manure sewer;
    - iii. Liquid-tight barn gutter;
    - iv. Animal barn pen with concrete floor;
    - v. Buried pressurized sewer pipe conveying manure provided that the pipe meets ASTM specification D-2241, with standard dimension ratio of 21 or less or pressure pipe meeting the requirements of s. NR 110.13 (6) (f) or 811.62
  - b. Fifty-feet between a well or reservoir and a Manure loading area.
  - c. One hundred feet between a well or reservoir and a:
    - i. Liquid-tight, fabricated manure or silage storage structure, in ground or at ground surface;
    - ii. Dry fertilizer or pesticide storage building or area when

- iii. more than 100 pounds of either or both materials are stored;
  - iv. Stormwater infiltration basin;
  - v. Uncovered storage of silage on the ground surface;
  - vi. Water-tight silage storage trench or pit; or
  - vii. Lift station.
- d. One hundred fifty feet between a well or reservoir and a temporary manure stack.
- e. Two hundred fifty feet between a well or reservoir and a:
- i. Manure stack.
  - ii. Earthen or excavated manure storage structure.

**Note:** Variances from the separating distances may be granted as specified in s. NR 812.43 for earthen storage and manure stacks constructed and maintained to the specifications of Soil Conservation Standards No. 425 or 312, respectively.

#### **24.6 Conditional Use Permit Application**

A livestock operator must complete the application form and worksheets prescribed by ATCP 51, including any authorized local modifications. The application form and worksheets demonstrate compliance with standards in ATCP 51 and this ordinance. The operator must file four duplicate copies of the application form, including worksheets, maps and documents (other than engineering design specifications) included in the application.

#### **24.7 Conditional Use Permit Application Fee**

A non-refundable application fee of \$1,000.00, payable to the Town of Oakfield, shall accompany an application for the purpose of offsetting the Town of Oakfield costs to review and process the application.

#### **24.8 Application Procedure**

- A. Pursuant to ATCP 51.30 (5), within 45 days after the Town of Oakfield receives an application, it shall notify the applicant whether the application is complete. If the application is not complete, the notice shall describe the additional information needed. Within 14 days after the applicant provides all of the required information, the Town of Oakfield shall notify the applicant that the application is complete. This notice does not constitute an approval of the proposed livestock facility.
- B. Pursuant to ATCP 51.30 (6), within 14 days after the Town of Oakfield notifies an applicant that the application is complete, the Town of Oakfield shall notify adjacent landowners of the application. The Town of Oakfield shall use the approved notice form in ATCP 51, and mail by first class mail a written notice to each adjacent landowner.
- C. Upon determination of completeness the Town of Oakfield clerk shall give notice of a public hearing to receive information from the applicant and receive public input on the application. Public notice shall be a class 2 notice the last of which is at least a week before the date of the public hearing. The public hearing may be continued, but final decision shall be made within the time limits described in the next paragraph.

- D. Pursuant to ATCP 51.32, a Town of Oakfield shall grant or deny an application within 90 days after the Town of Oakfield gives notice that the application is complete under paragraph 2 above. The Town of Oakfield may extend this time limit for good cause, including any of the following:
  - a. The Town of Oakfield needs additional information to act on the application.
  - b. The applicant materially modifies the application or agrees to an extension.
- E. The Town of Oakfield shall give written notice of any extension. The notice shall specify the reason for the extension, and the extended deadline date by which the Town of Oakfield will act on the application.

#### **24.9 Criteria for Issuance of a Conditional Use Permit**

- A. A conditional use permit shall be issued if the application for the proposed livestock facility:
  - 1. Complies with this ordinance, and
  - 2. Is complete, and
  - 3. Contains sufficient credible information to show, in the absence of clear and convincing information to the contrary, that the proposed livestock facility meets the standards specified in this ordinance, specifically Article 6 above.
- B. A conditional use permit shall be denied if any of the following apply:
  - 1. The application, on its face, fails to meet the standard for approval in the previous paragraph,
  - 2. The Town of Oakfield finds, based on other clear and convincing information in the record that the proposed livestock facility does not comply with applicable standards in this ordinance.
  - 3. Other grounds authorized by s. 93.90, Stats., that warrant disapproving the proposed livestock facility.

#### **24.10 Record of Decision**

- A. The Town of Oakfield must issue its decision in writing. The decision must be based on written findings of fact supported by evidence in the record. Findings may be based in part on the presumptions created by ATCP 51.
- B. If the Town of Oakfield approves the application, it must give the applicant a duplicate copy of the approved application, marked "approved." The duplicate copy must include worksheets, maps and other documents (other than engineering specifications) included in the application.
- C. The Town of Oakfield Clerk, as required by ATCP 51.36 within 30 days of the Town of Oakfield decision on the application, shall do all of the following:
  - 1. Give the Department of Agriculture, Trade and Consumer Protection written notice of the Town of Oakfield decision.
  - 2. File with the Department a copy of the final application granted or denied, if the Town of Oakfield has granted or denied an application under this ordinance. (The copy shall include all of the worksheets, maps and other attachments included in the application, except that it is not required to include the engineering design specifications.)

### **24.11 Transferability of Conditional Use Permit**

- A. A conditional use permit and the privileges granted by a conditional use permit would run with the land approved under the Conditional use permit and remain in effect, despite a change in ownership of the livestock facility, as long as the new operator does not violate the terms of the local approval. An applicant may record with the register of deeds, at the applicant's expense, the duplicate copy of the approved application.
- B. The Town of Oakfield requests that upon change of ownership of the livestock facility, the new owner of the facility shall file information with the Town of Oakfield clerk providing pertinent information, including but not limited to such information as the name and address of the new owner and date of transfer of ownership.

### **24.12 Expiration of Conditional Use Permit**

- A. A conditional use permit remains in effect regardless of the amount of time that elapses before the livestock operator exercises the authority granted under conditional use permit, and regardless of whether the livestock operator exercises the full authority granted by the approval.
- B. However, the Town of Oakfield may treat a conditional use permit as lapsed and withdraw the conditional use permit if the permit holder fails to do all of the following within 2 years after issuance of conditional use permit:
  - 1. Begin populating the new or expanded livestock facility.
  - 2. Begin constructing all of the new or expanded livestock housing or waste storage structures proposed in the application for local approval.

### **24.13 Conditional Use Permit Terms and Modifications**

A conditional use permit and the privileges granted by a conditional use permit issued under this ordinance is conditioned on the livestock operator's compliance with the standards in this ordinance, and with commitments made in the application for a conditional use permit. The operator may make reasonable changes that maintain compliance with the standards in this ordinance, and the Town of Oakfield shall not withhold authorization for those changes. A violation of the conditional use permit or a failure to comply with the commitments made in the application may result in suspension and/or termination of the conditional use permit as provided in Article 13 of this ordinance

### **24.14 Compliance Monitoring**

The Town of Oakfield shall monitor compliance with the ordinance as follows:

- A. Upon notice to the livestock facility owner request the right of the Town of Oakfield Livestock Facility Siting Administrator, under Article 5 of this ordinance, to personally view the permitted premises at a reasonable time and date to insure that all commitments of the application as approved are being complied with.
- B. If the livestock facility owner refuses the Town of Oakfield Zoning Administrator the right to view the permitted premises, the Administrator may request the assistance of the Sheriff or a deputy Sheriff to obtain an inspection warrant from the circuit court to inspect the permitted premises for the purpose of protection of the public health and safety under Sec. 66.0119 of Wis. Statutes.
- C. If a permitted premises is found not to be in compliance with the commitments made in the

approved application, the Zoning Administrator shall issue a written notice to the livestock facility owner stating the conditions of non-compliance and directing that compliance of the commitments of the approved application and conditional use permit be complied with in a reasonable amount of time stated in this written notice.

- D. If non-compliance of the conditional use permit conditions as described in the written notice given by the Administrator continue past the stated reasonable time to comply, the Administrator may take further action as provided in this ordinance, including but not limited to issuance of a citation or seeking of injunctive relief.
- E. If the livestock facility owner disputes that the conditions of the permit have not been complied with, the livestock facility owner may request a hearing in writing within five days of receipt of the notice of non-compliance. The Town of Oakfield shall schedule a hearing within five days to determine if the conditions of the conditional use permit have been complied with or whether non-compliance of the commitments of the approved application and local approval exists.

#### **24.15 Penalties**

- A. Any person who violates any of the provisions of this ordinance, or who fails, neglects or refuses to comply with the provisions of this ordinance, or who knowingly makes any material false statement or knowing omission in any document required to be submitted under the provisions hereof, shall be subject to the following penalties:
  - 1. Upon conviction by a court of law, pay a forfeiture of not less than \$500 nor more than \$1,000 plus the applicable surcharges assessments and costs for each violation.
  - 2. Each day a violation exists or continues shall be considered a separate offense under this ordinance.
- B. The Town of Oakfield may also seek injunctive relief from a court of record to enjoin further violations.
- C. The Town of Oakfield may suspend or revoke the local approval of a conditional use permit under this ordinance after due notice to the livestock facility owner and a public hearing to determine whether the conditional use permit should be suspended or revoked.
- D. The Town of Oakfield shall exercise sound judgment in deciding whether to suspend or revoke a conditional use permit. The Town of Oakfield shall consider extenuating circumstances, such as adverse weather conditions, that may affect an operator's ability to comply.
- E. In addition to any other penalty imposed by this ordinance, the cost of abatement of any public nuisance on the permitted premises by the Town of Oakfield may be collected under this ordinance or Sec. 823.06 of Wis. Statutes against the owner of the real estate upon which the public nuisance exists. Such costs of abatement may be recovered against the real estate as a special charge under Sec. 66.0627 of Wis. Statutes unless paid earlier.

#### **24.16 Appeals**

- A. In addition to other appeal rights provided by law, Sec. 93.90 (5), Stats, provides that any "aggrieved person" may request review by the Livestock Facility Siting Review Board of any

decision by the Town of Oakfield in connection with a permit application based on the following scenarios:

1. An "aggrieved person" may challenge the decision on the grounds that the (Town of Oakfield) incorrectly applied the standards under this ordinance or violated sec. 93.30, Stats.
2. An "aggrieved person" under this Article as defined in Sec. 93.90 (5) of Wis. Statutes means a person who applied to the Town of Oakfield for approval of a livestock siting or expansion, a person who lives within 2 miles of the livestock facility that is proposed to be sited or expanded, or a person who owns land within 2 miles of a livestock facility that is proposed to be sited or expanded.
3. An "aggrieved person" may request review of any decision of the Livestock Facility Siting Administrator decision or action by the Town of Oakfield. Any appeal brought under this Article must be requested with 30 days of the Town of Oakfield approval or disapproval or within 30 days after the decision on appeal before the Town of Oakfield.

B. Any appeal to the State Livestock Facility Siting Review Board shall comply with Sec. 93.90 of Wis. Statutes and administrative rules of said board.

### **Section 25.0 Severability of This Ordinance**

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to that end, the provisions of this ordinance are severable.

### **Section 26.0 Validity and Conflicts**

Should any section, clause or provisions of this ordinance be declared by courts to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid. All ordinances or parts of ordinances in conflict with any of the provisions of this ordinance are hereby repealed.

## **Section 27.0 Effective Date and Repeal of Previous Zoning Ordinance**

**27.1** This ordinance shall be in force from and after its passage, approval, publication and recording according to law.

**27.2** The Previous Zoning Ordinance is hereby repealed on the date on which this ordinance becomes effective.

TOWN OF OAKFIELD

*Russ Ratkowski*

Russ Ratkowski, Town Chairperson

Attest:

*Alex Strupp*

Alex Strupp, Town Clerk

Passed and Adopted: September 22, 2014