

ZONING ORDINANCE
for the
TOWN OF NEWTON
MANITOWOC COUNTY
WISCONSIN

SECTION 1.00 INTRODUCTION

- 1.01 Authority
This Ordinance is adopted under the authority granted by Sections 60.62, 61.35, 62.23(7), 87.30, 144.26 **823.08**, and Chapter 236 of the Wisconsin Statutes and amendments thereto.
- 1.02 Purpose
The purpose of this Ordinance is to promote the comfort, health, safety, morals, prosperity, aesthetics, and general welfare of the residents of the Town of Newton. The Ordinance is a comprehensive, unified set of regulations that govern the subdivision of land, the development of land, and the use of land.
- 1.03 Intent
It is the general intent of this Ordinance to regulate and restrict the use of all structures, lands, and waters; and to:
1. Regulate lot coverage and the size and location of all structures to prevent overcrowding and to provide adequate sunlight, air, sanitation, and drainage.
 2. Regulate population density and distribution to avoid sprawl or undue concentration and to facilitate the provision of adequate public service and utilities.
 3. Regulate parking, loading, and access to lessen congestion in, and promote the safety and efficiency of, streets and highways.
 4. Secure safety from fire, pollution, contamination and other dangers.
 5. Stabilize and protect existing and potential property values.
 6. Preserve and protect the beauty of the Town of Newton.
 7. Prevent and control erosion, sedimentation, and other pollution of the surface and subsurface waters.
 8. Further the maintenance of safe and healthful water conditions.
 9. Provide for and protect a variety of suitable commercial and industrial sites.
 10. Protect the traffic carrying capacity of existing and proposed arterial streets and highways.
 11. Implement those town, county, watershed, and regional comprehensive plans or components of such plans adopted by the Town of Newton.
 12. Provide for the administration and enforcement of this Ordinance, and to provide penalties for the violation of this Ordinance.

- 1.04 **Abrogation and Greater Restriction**
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.
- 1.05 **Interpretation**
In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Town and shall not be construed to be a limitation or repeal of any other power now possessed by the Town of Newton.
- 1.06 **Severability**
If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, except as directed by the court.
- 1.07 **Repeal**
All other ordinances or parts of ordinances of the Town inconsistent or conflicting with this Ordinance, to the extent of the inconsistency only, are hereby repealed.
- 1.08 **Title**
This Ordinance shall be known as, referred to, or cited as the "ZONING ORDINANCE FOR THE TOWN OF NEWTON."
- 1.09 **Definitions**
1. Accessory Building. 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.
 2. Accessory Use. A use subordinate in nature, extent or purpose to the principal use of the building or lot.
 3. Agricultural Use. Agricultural use means beekeeping; commercial feedlots; dairying; egg production; floriculture; fish or fur farming; forest and game management; grazing; livestock raising; orchards; plant greenhouses and nurseries; poultry raising; raising of grain, grass, mint and seed crops; raising of fruits, nuts and berries; sod farming; placing land in federal programs in return for payments in kind; owning land, at least 35 acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836; participating in the milk production termination program under 7 USC 1446 (d); and vegetable raising. [Section 91.01(1) Wis. Stat.].
 4. Agricultural Practice. Any activity associated with an agricultural use.
 5. Agricultural Product Processing. Creameries, and condensers; agricultural warehousing; contract sorting, grading, and packaging of fruits and vegetables; corn shelling, hay baling, and threshing services; grist mill services; horticultural services; and poultry hatching services.
 6. Alley. A way which affords only a secondary means of access to abutting property and which is not more than twenty-four (24) feet wide.
 7. Arterial Street. A public street or highway used or intended to be used primarily for fast or heavy through traffic. Arterial streets and highways shall include freeways and expressways as well as arterial streets, highways and parkways.
 8. Automobile Wrecking Yard. Any premises on which more than two automotive vehicles not in running, operating or licensed condition and not used for salvage purposes, are stored in the open.

9. Basement. A story partly underground which, if occupied for living purposes, shall be counted as a story for purposes of height measurement.
10. Bed and Breakfast. Any place of lodging that provides four or fewer rooms for rent to transient guests, is the owner's personal residence, is owner-occupied, and in which the only meal served to guests is breakfast.
11. Boarding House. A building other than a hotel where meals, and/or lodging and meals, are furnished for compensation for four (4) or more persons not members of a family.
12. Building. Any structure used, designed or intended for the protection, shelter, enclosure or support of persons, animals or property. When a building is divided into separate parts by unpierced walls extending from the ground up, each part shall be deemed a separate building.
13. 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. In the case of a house and detached garage on a lot, the accessory building is the garage.
14. Building, Front Line Of. A line parallel to the street intersecting the foremost point of the building, excluding uncovered steps.
15. Building, Height of. The vertical distance from the average curb 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, or the average height of the highest gable of a gambrel, hip or pitch roof.
16. Centerline. A line connecting the points on highways from which setback distances are measured, at any point on the highway.
17. Certified Survey Map (CSM). A map of a minor land division, prepared in accordance with Section 236.34, Wisconsin Statutes, and in full compliance with the applicable provisions of this Ordinance.
18. Commercial Agriculture. Commercial or industrial raising, propagation, boarding, or butchering of animals such as mink, rabbits, foxes, goats, and pigs; and the hatching, raising, fattening, or butchering of same in the Agricultural Districts. Examples include, but are not limited to: commercial hatcheries, commercial feedlots, commercial poultry operations, and fur farms.
19. Commercial Agricultural Support Uses. Includes the following uses:
 - a. Facilities used for the centralized bulk collection, storage and distribution of agricultural products to wholesale and retail markets.
 - b. Facilities used to provide veterinarian services for livestock.
 - c. The sale and service of machinery used in agricultural production
 - d. The storage and sale of seed, feed, fertilizer and other products essential to agricultural production.
 - e. Saw mills
 - f. Private utilities and energy producing facilities in conjunction with a farm operation and utilizing farm products or by-products
20. Comprehensive Land Use Plan. The adopted Town of Newton Year 2020 Land Use Plan, as amended.
21. Conditional Use. A use of land, water or building which is allowable only after the issuance of a special permit by the Plan Commission under conditions specified in this Chapter.

22. Day Care Center. A child care center that is licensed by the Wisconsin Department of Health and Social Services, which provides for compensation supervision and care and/or instruction for 4 or more children for periods of less than 24 hours per day at a location.
23. Density. Number of dwelling units per acre allowable under the applicable zoning district.
24. Driveway. A means of access to or from a property, site, or use; or a means of circulation within a parking area.
25. Dwelling Group. A group of two (2) or more multi-family dwellings occupying a lot in one (1) ownership with any two (2) or more dwellings having any yard or court in common.
26. Dwelling, Multiple. A building or portion thereof used or designated as a residence for three (3) or more families as separate housekeeping units, including apartments, attached townhouses and condominiums.
27. Dwelling, Single Family. A detached building designed, arranged or used for and occupied exclusively by one (1) family.
28. Dwelling, Two-Family. A building designed, arranged or used for and occupied exclusively by two (2) families living independently of each other.
29. Dwelling Unit. A building or portion thereof used exclusively for human habitation, including single-family, two-family and multi-family dwellings, but not including hotels, motels or lodging houses.
30. Essential Services. Facilities that are:
 - a. Owned or maintained by public utility companies or public agencies, and;
 - b. Located in public ways or in easements provided for the purpose, or on a customer's premises and not requiring a private right-of-way, and;
 - c. Reasonably necessary for the furnishing of adequate water, sewer, gas, electric, communication, or similar services to adjacent customers, and;
 - d. Not including any cross-country line or towers.
31. Family. One (1) or more persons immediately related by blood, marriage, adoption or guardianship and living as a single housekeeping unit in one (1) dwelling unit shall constitute a family. A family may include in addition thereto two (2) but not more than two (2) persons not related by blood, marriage, adoption or guardianship. A person shall be considered to be related for the purpose of this Section if dwelling for the purpose of adoption or for a foster care program.
32. Farm. A parcel of land used for purposes of General Farming, including attendant buildings.
33. Final Plat. The map or plat which is prepared for recordation by the County Register of Deeds.
34. Floodplain. The floodplain is the land which has been or may be hereafter covered by floodwater during the regional flood. The floodplain, for the purpose of this ordinance, includes the Floodway (FW) and the Flood Fringe (FF) Districts as shown on the Manitowoc County Shoreland-Floodplain Maps.
35. Frontage. All of the property abutting on one (1) side of a street measured along the street line.
36. Garage, Private. A structure primarily intended for and used for the enclosed storage or shelter of the private motor vehicles of the families resident upon the premises. Carports are considered garages.

37. Garage, Public. Any building or premises, other than a private or a storage garage, where motor-driven vehicles are equipped, repaired, serviced, hired, sold or stored.
38. Garage, Storage. Any building or premises used for the storage only of motor-driven vehicles, pursuant to previous arrangements and not to transients, and where no equipment, parts, fuel, grease or oil is sold and vehicles are not equipped, serviced, repaired, hired or sold. No commercial motor vehicle exceeding two (2) tons capacity shall be stored in any storage garage.
39. Generally Accepted Agricultural and Management Practices (GAAMPS). Agricultural practices that are widely used by farmers, promoted by agricultural institutions and comply with federal and state environmental, health and safety laws and regulations.
40. General Farming. Utilization of natural resources for the purpose of raising and selling basic food stuffs, but not including the extensive processing of raw goods.
41. Government and Cultural Uses. Governmental and cultural uses include facilities such as fire and police stations, highway storage garages, sewage treatment plants, parks, community centers, libraries, public emergency shelters, parks, playgrounds, and museums.
42. Greenhouse. A structure exclusively used for the cultivation of plants in which natural sunlight is allowed to enter through transparent material and temperature and humidity are controlled.
43. Greenhouse, Commercial. A structure from which plants, seedlings, seeds, trees, and those items related to cultivation are sold, traded or bartered to the public.
44. Highway. A street, road or public way primarily for purposes of vehicular traffic.
45. Highways, Classes.
Class 1 Highways. Town roads.
Class 2 Highways. County trunk highways.
Class 3 Highways. State trunk highways.
Class 4 Highways. Includes any highway or portion of a highway on which the frontage has been developed to the extent that there is less than three hundred (300) feet between principal structures and may be indicated as an unincorporated village or area.
Class 5 Highways. Expressways, freeways and divided highways.
46. Home Occupation. Any gainful occupation conducted by a resident occupant within the residence or an accessory building which is either:
 (a) the sale or offer for sale on premises of a product produced on premises; or
 (b) the sale or offer for sale off premises of a product; or
 (c) the provision of a service on premises or off premises, provided the use of the premises outside the residence or accessory building is restricted to occasional customer parking.

The Premises of a home occupation may include one unlighted sign not over three (3) square feet in area. A home occupation may include the employment of one (1) additional person other than the resident occupants. A home occupation shall not detract from the residential character of the neighborhood. Any outside display of a product offered for sale on premises shall be reasonable in location and size and maintained in a neat and orderly manner. Any other similar use which is not within the terms of the foregoing is not considered a home occupation under this ordinance and shall require a conditional use permit under the applicable portions of this ordinance.

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

48. Junk or Salvage Yard. An area consisting of buildings, structures, or premises where junk, waste, discarded or salvage materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including automobile wrecking yards, house wrecking and structural steel materials and equipment yards, but not including the purchase or storage of used furniture and household equipment or used cars in operable condition.
49. Kennel. The use of land, with related buildings or structures, for the breeding, rearing, grooming, training, selling, or boarding of more than 4 dogs or other domesticated animals.
50. Land Division or Division of Land. The act or process of dividing land into two or more lots or building sites. See also definition for Major Land Division and Minor Land Division.
51. Land Protection Criteria. Factors specifically identified by the Town as criteria to assist in protecting specific land and water resources. The land and water areas designated as protection areas to avoid development are generally mapped under the Land Use Plan. These areas include: wetlands, floodplains, shoreland buffers, woodlands 10 acres or greater, lands within 1,000 feet of active and potential farms, and land beyond 300 feet of public roadways. See also map and designation criteria for land protection criteria within the Land Use Plan.
52. Limits of Disturbance (LOD) Lines. The area specifically designated on a lot created within which future development activity (e.g., structures, roads, driveways, lawns, wells, sewage disposal, swimming pools, private gardens, etc.) shall be contained.
53. Loading Area. A completely off-street space or berth on the same lot for the loading or unloading of freight carriers having adequate ingress and egress to a public street or alley.
54. Lot. A parcel of land having frontage on a public street, occupied or intended to be occupied by a principal structure or use, and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area and other open space provisions of this Chapter.
55. Lot Area. The area contained within the property boundaries of a recorded lot.
56. Lot Corner. A parcel of land located at the intersection of two or more streets.
57. Lot, Depth of. Horizontal distance between the front and rear lot lines.
58. Lot Lines and Area. The peripheral boundaries of a parcel of land and the total area lying within such boundaries.
59. Lot Width. The distance between sideyard lines of the lot, measured at the minimum road setback lines.
60. Major Land Division. The creation of five or more lots or buildings sites which are forty (40) acres or less in size by successive divisions from the same parent tract (see definition), within a period of five (5) years.
61. Minor Land Division. The creation of less than five lots or buildings sites which are forty (40) acres or less by successive divisions from the same parent tract (see definition), within a period of five (5) years.
62. Manufactured Home. A structure certified and labeled as a manufactured home under 42 USC Sec. 5401-5426, which, when placed on the site:
 - a. Is set on an enclosed continuous foundation to ensure proper support for such structure;
 - b. Is installed in accordance with the manufacturer's instructions;
 - c. Is properly connected to utilities; and
 - d. Meets other applicable standards of this Chapter.

63. Minimum Sight Triangle at Intersections. A triangle formed by the centerlines of two intersiding rights of way and a third line connecting specified points on the centerlines so as to provide a full view zone at corners of highway or railway intersections.
64. Mobile Home. Every vehicle designed to be towed as a single unit or in sections upon a highway by a motor vehicle and equipped and used, or intended to be used, primarily for human habitation, with walls of rigid noncollapsible construction, except that excluded from this definition is every "manufactured home" as defined above.
65. Mobile Home Court. Any plot or plots of land designed, maintained, intended or used for the purpose of supplying a location or accommodations for more than two mobile homes on a year-round basis and shall include all buildings used or intended for use as part of the equipment thereof, whether or not a charge is made for the use of the mobile home court and its facilities. Mobile home courts shall not include automobile or mobile home sales lots at which unoccupied mobile homes are parked for purposes of inspection and sale.
66. Motel. A building or group of buildings containing rooms which are offered for compensation for the temporary accommodation of transients.
67. Nonconforming Building or Structure. Any building or structure which does not comply with all of the regulations of this Chapter or of any amendment hereto regulating any building or structure for the Zoning District in which such building or structure is located which lawfully was used or occupied at the effective date of this ordinance or amendments thereto.
68. Nonconforming Use. Any use of land, buildings or structures which does not comply with all of the regulations of this Chapter or of any amendment hereto governing use for the Zoning District in which such use is located and lawfully used at the effective date of this ordinance or amendments thereto.
69. Open Space. A tract of land used for agricultural, natural habitat, conservancy, trails and pathways and/or recreational purposes.
70. Open Space Preservation Area. The portion of a land division designated for permanent agricultural, conservation, or open space uses.
71. Ordinary High Water Mark. The average annual high-water level of a pond, stream, river, lake, flowage, or wetland referred to an established datum plane or where such elevation is not available, the elevation of the line up to which the presence and action of surface water is so frequent as to leave a distinct mark by erosion, change in, or destruction of, vegetation or other easily recognized topographic, geological or vegetative characteristic.
72. Parcel. See A lot" definition.
73. Parent Tract or Parcel. A contiguous parcel of land that is, or at any time since the original adoption date of this Ordinance was, in the same ownership. Contiguous parcels in the same ownership are considered to be one (1) parcel for purposes of this definition, even though the separate parcels may have separate tax identification numbers or were acquired at different times or from different persons. The presence of a road, drive, easement, river, stream, channel, ditch, etc. through a parcel does not destroy contiguity, or create multiple parcels, for purposes of this provision.
74. Parking Space. An off-street space available for the parking of a motor vehicle and which is exclusive of passageways and driveways, appurtenant thereto and giving access thereto, except as in Section 10-1-16(3)(c).

75. Planned Development Units. A group of structures designed to be maintained and operated as a unit in single ownership or control by an individual, partnership, corporation, cooperative group, or other entity, and which has certain facilities in common, such as yards and open spaces, recreation areas, garages and parking areas.
76. Plant Nursery. Any building or lot, or portion thereof, used for the cultivation or growing of plants and including all accessory buildings.
77. Plat. The map and related documents, which are intended to be recorded with and referenced, of a major land division, showing the division of land into lots, blocks, outlets, streets, or other required information.
78. Preliminary Plat. The map and related documents, which show the salient features of a proposed major land division submitted to the Town for purposes of preliminary consideration.
79. Professional Office. The office of a doctor, practitioner, dentist, minister, architect, landscape architect, professional engineer, lawyer, author, musician, or other recognized profession. When established in a residential district, a professional office shall be incidental to the residential occupation, not more than twenty-five (25%) percent of the floor area of only one (1) story of a dwelling unit shall be occupied by such office and only one (1) unlighted name plate, not exceeding one (1) square foot in area, containing the name and profession of the occupant of the premises shall be exhibited.
80. Recreation Area. An area, premises or parcel of land on which is provided recreation facilities open to the general public for a fee or without fee, or which is restricted to members when operated for a profit as a business. Recreation Areas may include necessary accessory or service buildings and uses such as a swimming pool or club, winter sports resorts, private parks or exhibits or similar uses.
81. Replat. The process of changing, or a map or plat which changes, the boundaries of a recorded plat or part thereof.
82. Right-of-Way Lines. Lines delineating the outer limits of land, property, or interest therein acquired for or devoted to a highway.
83. Roadside Stand. A structure not permanently fixed to the ground that is readily removable in its entirety, covered or uncovered, and solely for the sale of farm products. No such roadside stand shall be more than 300 square feet in ground area and there shall not be more than one roadside stand on any one premises.
84. Setback. The depth of the yard, measured horizontally on a lot from and at right angles to the front lot line or the right-of-way line of a street, road, highway or the waterline.
85. Setback Line. A line established adjacent to a highway, at a specified distance from the centerline thereof.
86. Shorelands. Those lands lying within one thousand (1000) feet from the high-water elevation of navigable lakes, ponds, and flowages or three hundred (300) feet from the high-water elevation of navigable streams or to the landward side of the floodplain, whichever is greater.
87. Sign. Any structure or natural object or part thereof or device attached thereto or painted or represented thereon, which is intended to attract attention to any object, product, place, activity, person, institution, organization or business, or which shall display or include any letter, word, model, banner, flag, pennant, insignia, device, or representation used as, or which is in the nature of an announcement, direction or advertisement. A "sign" includes a "billboard." A sign does not include the flag, pennant or insignia of any nation, state, city or other political unit, or

- a similar device of any political, educational, charitable, philanthropic, civic, professional, religious, or other similar organizational campaign, drive, movement or event.
88. Story. That portion of a building included between the surface of a floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it. A basement or cellar having one-half or more of its height above grade shall be deemed a story for purposes of height regulation.
89. Story, Half. The space under any roof except a flat roof, the wall plates on at least two opposite exterior walls of which are not more than two feet above the floor of such story.
90. Street. All property dedicated or intended for public or private street purposes or subject to public easements therefor and twenty-four (24) feet or more in width.
91. Structure. Anything constructed, erected or otherwise placed upon any premises, or to be moved from any premises, requiring a permanent location on or in the ground, including, but not limited to, all buildings, modular buildings, modular homes, trailers, towers, signs, satellite dishes and animal waste storage structures. Slabs and driveways shall not be interpreted as a structure.
92. Structure Accessory. Any detached structure, or portion thereof, clearly subordinate to, and used for a purpose customarily incidental to, the permitted use of a pre-existing, principal structure, and located on the same premises as said principal structure.
93. Structure Permanent. A structure placed on or in the ground or attached to another structure in a fixed position, and intended to remain in place for a period of more than nine months.
94. Structure Principal. The structure containing, or housing, the principal use of a premises.
95. Structure Temporary. 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.
96. Structural Alteration. Any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams, girders; or any changes in the roof and/or exterior walls in excess of \$2,000 in value (cost).
97. Subdivider. Any person, firm or corporation, or any agent thereof, dividing or proposing to divide land resulting in a major subdivision, minor land division or replat.
98. Trailer. A vehicular, portable structure built on a chassis which can be transported by any motor vehicle and is designated to be used as a temporary dwelling for travel, recreation and vacation use, which does not fall within the definition of a mobile home.
99. Use. The use of property is the purpose or activity for which the land or building thereon is designed, arranged or intended, or for which it is occupied or maintained, and shall include any manner of standards of this Chapter.
100. Use, Permitted. A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations and performance standards, if any, of such districts.
101. Use, Principal. The main use of land or buildings as distinguished from a subordinate or accessory use. A principal use may be "permitted" or "conditional."
- 101A. Variance. A variance is the authority to use property in a manner prohibited by this ordi-

nance or the relaxation of dimensional or performance standards of this ordinance.

102. Yard. An open space on the same lot with a building, unoccupied and unobstructed from the ground upward except as otherwise provided herein.
103. Yard, Front. A yard extending the full width of the lot between the front lot line and the nearest part of the main building, excluding uncovered steps.
104. Yard, Rear. A yard extending for full width of the lot, being the minimum horizontal distance between the nearest part of the main building, excluding uncovered steps, and the rear lot line.
105. Yard, Side. A yard extending from the front yard to the rear yard being the minimum horizontal distance between a building and the side lot line.
106. Wetlands. Those areas where water is at, near or above the land surface long enough to support aquatic or hydrophytic vegetation and which have soils indicative of wet conditions, including lands which are partially or wholly covered by marshland flora and generally covered with shallow standing water or lands which are wet and spongy due to high-water table.

SECTION 1.09(2A)

ADULT ORIENTED BUSINESS OVERLAY DISTRICT AND BUSINESS DESIGN REVIEW OVERLAY DISTRICT.

Section 1. Creation of Definition Section 1.09(2A) is hereby created as follows:

1.09 Definitions.

2A. Adult Oriented Business. Adult oriented business shall include, but is not limited to, an adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, sexual encounter center and any bar, dance hall, restaurant or other place of business which features dancers, go-go dancers, exotic dancers, strippers, male or female impersonators or similar entertainers or waiters or waitresses who engage in sexual conduct or the simulation of such conduct. Adult oriented business shall also include any premises to which public patrons or members are invited or admitted and which are so physically arranged so as to provide booths, cubicles, rooms, compartments or stalls separate from the common area of the premises for the purposes of viewing adult-oriented motion pictures or wherein an entertainer or waiter provides adult entertainment to a member of the public, a patron or a member, whether or not such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect.

SECTION 2.00 GENERAL ZONING PROCEDURES

2.01 Purpose

This Section is intended to provide a general description of the zoning process used for application for zoning permits and land division approvals that must go to the Plan Commission or Town Board for action. See section 4.00 and below for exceptions and clarifications.

2.02 General Zoning Process

This general process is given to aid the applicant through the zoning and land division permit and approval process. The processes, review standards, permits and duties of the participants are explained in more detail elsewhere in this ordinance.

1. Pre-application Consultation:

a. Land Divisions. Prior to filing an application for a minor or major land division approval, the Subdivider shall schedule and attend a pre-application meeting with the Plan Commission pursuant to Section 16.14, Pre-Application Meeting and Sketch Plan.

b. Other Permits and Approvals. It is recommended that prior to the filing of an application for a zoning, conditional use, sign, or other permit or approval under this Ordinance, the applicant should consult with the Plan Commission and/or Zoning Administrator in order to obtain their advice and assistance. This consultation is neither mandatory nor binding, but is intended to inform the applicant of the purpose and objectives of these regulations, and duly adopted implementation devices of the Town and to otherwise assist the applicant in planning their development. In so doing, both the applicant and Plan Commission may reach mutual conclusions regarding the general objectives of the proposed development. The Plan Commission may become familiar with possible effects of development on the neighborhood and community, and the applicant will gain a better understanding of the subsequently required procedures.

2. Application:

The applicant must obtain the appropriate forms from the Zoning Administrator and file the application and required information with the Zoning Administrator. Unless otherwise specified in this Ordinance, three (3) copies of the application should be filed with the Zoning Administrator 20 days prior to the meeting. All applications shall be done in a manner that is clearly reproducible with a photocopier on to 8.5 x 11 or 11 x 17 inch paper or smaller, except required scaled drawings. For additional application requirements for specific types of permits and approvals required, refer to:

- a. Section 6.00, Zoning and Building Permits;
- b. Section 7.00, Site Review;
- c. Section 8.00, Amendments to Zoning Ordinance;
- d. Section 9.00, Conditional Use Permit;
- e. Section 15.00, Signs; and
- f. Section 16.00, Land Divisions.

3. Application Review By the Zoning Administrator:

The Zoning Administrator shall determine whether the application is complete and fulfills the requirements of this Ordinance. The Zoning Administrator will determine what action the application requires and advise the applicant. If the Zoning Administrator determines that the application is not complete or does not fulfill the requirements of this Ordinance, the Zoning Administrator shall return the application to the applicant. Refer to Section 3.00 Zoning Administrator.

4. Zoning Administrator:

The Zoning Administrator issues all zoning permits.

The Zoning Administrator may deny or approve these permits directly:

- a. Residential Building Permits
- b. Temporary Sign Permits

The Zoning Administrator shall forward all other applications to the Plan Commission, except Variance requests which go to the Board of Appeals.

5. Plan Commission Action:

A. The Plan Commission may deny or approve these permits and direct the Zoning Administrator to issue:

- a. Sign Permits
- b. Conditional Use permits
- c. Commercial and Industrial Site Plans
- d. Land Divisions
- e. Plans and proposals as directed by Town Board. Refer to Section 4.00 Plan Commission

B. The Plan Commission may take several actions:

- a. Recommend approval to Town Board
- b. Table the action for further consideration.
- c. Recommend denial to Town Board
- d. Recommend approval with Conditions to Town Board
- e. Approve and direct the Zoning Administrator to issue a permit.

6. Schedule Meeting:

If the application requires review and action by the Plan Commission, Board of Appeals, or Town Board, the Zoning Administrator will send the application to the proper zoning body. The zoning body shall schedule a reasonable time and place for a public meeting to consider the application within 60 days after the acceptance of the complete application.

7. Presentation at Plan Commission meeting:

Applicants are encouraged to be present and explain their project at the meeting at which their application is scheduled for consideration. The applicant may appear in person or by agent. The applicant is encouraged to make a clear presentation and may use supporting material, such as: handouts, drawings, or photos.

8. Consideration:

The Plan Commission in addition to any other review criteria established by this Ordinance or other Town Ordinance will consider the information that has been presented to determine if the project:

- a. conforms with this Ordinance, the Comprehensive Land Use Plan, and all other applicable town plans and ordinances,
- b. promotes compatible development,
- c. stabilizes or enhances property values,
- d. fosters the attractiveness and functional utility of the Town,
- e. preserves the character and quality of the existing environment,
- f. maintains the integrity of those areas which have a discernible natural or historical character, and
- g. protects public investments and offers no apparent threat to public health and safety.

9. Additional Project Information:

The Plan Commission or Town Board may request information about the project such as: existing and proposed uses and structures, neighboring uses, site plans, and architectural plans for proposed structures; circulation issues such as driveway locations, highway access, parking; utility information such as drainage, sewerage, water system, site lighting; environmental impact study; and compliance with Manitowoc County Ordinances. If the project involves access to a public right-of-way, consent of agency responsible for the right-of-way. If the project involves increase use of a public utility, consent of agency responsible for the utility, such as sewer and water.

10. Additional Information:

The Plan Commission or Town Board may also request information about the impact of the project on the community, such as: increased traffic on public streets, increased school capacity, soil limitation, sewage disposal, storm water disposal, sediment control, fire protection requirements, architectural character, visual impact from public areas, and emission of: smoke, noise, dust, dirt, light, vibrations, and odorous or noxious gases.

11. Modifications/Conditions:

The Plan Commission or Town Board may suggest modifications or conditions that are necessary to fulfill the purpose and intent of the Ordinance. Modifications or conditions may include, but are not limited to: landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or parking requirements, and emissions control.

12. Notification:

The Plan Commission or Town Board shall review application(s) and in writing, notify the applicant of its action on the application within sixty (60) days of first consideration of the action before the Plan Commission, unless the time is extended by written agreement with the applicant or if otherwise specified in this Ordinance.

13. Review and Recommendations to Town Board:

The Plan Commission shall review and recommend to the Town Board for review and action all applications requiring Town Board action. These applications may include, but are not be limited to:
Zoning Ordinance changes and modifications.

Zoning District boundaries

Commercial and Industrial Site Plans

Planned Residential Development

14. Public Hearing:

Refer to Section 10.00 for public hearing requirements..

15. Town Board Action:

The Town Board shall review the application and public comment and approve or deny, upon what further conditions or requirements it adopts, and issue a written determination within 60 days of first consideration of the action before the Town Board, unless the time is extended by written agreement with the applicant. The Board will adopt findings as a basis for its action.

16. Effect of Denial:

A. Re-submittal: No application which has been denied shall be resubmitted for a period of 6 months from the date of denial, except on the grounds of new facts or proof of change of factors used as the basis for the Town Board decision.

B. Appeal: If an applicant is not satisfied with a Plan Commission or Town Board decision, he/she may appeal directly to the Zoning Board of Appeals.

17. Zoning Permit Issued:

If an application is approved by Plan Commission or Town Board, the Zoning Administrator shall be directed to issue a permit.

18. Final Submittal:

When an applicant receives approval subject to further conditions or requirements of the Plan Commission or Town Board, the applicant shall make such changes and submit plans to the Zoning Administrator. The Zoning Administrator shall review compliance with required changes, modifications, conditions, and this Ordinance.

19. Protest:

A protest against an amendment to the Ordinance or Official Map or to the regulations of this ordinance can be filed prior to or at the public hearing with the Town Clerk. The protest must be duly signed and acknowledged either by:

- a. the owners of 20% or more of the areas of the land included in such proposed change; or
- b. the owners of 20% or more of the area of land immediately adjacent extending 100 feet therefrom; or
- c. the owners of 20% or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land.

In the event of such protest, the amendment shall not become effective except by a favorable vote of three-fourths of the members of the Town Board voting on the change.

20. Action Delayed:

Notwithstanding the provisions hereof and unless otherwise required by statute or ordinance, the failure of the Town Board or Plan Commission to act within the time limits specified in this ordinance shall not affect the validity of the proceedings or action of the Town Board or Plan Commission.

SECTION 3.00 ZONING ADMINISTRATION

3.01 Purpose

The purpose is to establish the duties of the Zoning Administrator and Building Inspector.

3.02 Zoning Administrator

1. Designation:

The Zoning Administrator or a designee of the Zoning Administrator is hereby designated as the administrator and enforcement officer for the provisions of this Zoning Ordinance. The duty of the Zoning Administrator is to explain and administer this Zoning Ordinance and to issue all permits as required by this Zoning Ordinance.

2. Term:

The Zoning Administrator shall be appointed by the Town Chair, subject to approval of the Town Board. The Zoning Administrator shall serve at the pleasure of the Town Board and may be removed at any time without notice and without cause. The Zoning Administrator shall be compensated on the basis as approved by the Town Board.

3. Duties:

The provisions of this Chapter shall be administered and enforced by the Zoning Administrator or a designee who in addition thereto and in furtherance of said authority shall:

- a. Determine that all Building Permits, Sign Permits, Site Plans, (and their constituent plans) comply with all provisions of this Ordinance
- b. Forward all applications that require an interpretation of the Ordinance to Plan Commission.
- c. Maintain permanent and current records of this Ordinance, including but not limited to all maps, amendments, conditional uses, temporary uses, sign permits, site plans, occupancy permits, variances, appeals, interpretations, and applications therefor.
- d. Receive, file, and forward all applications for all procedures governed by this Chapter to the designated official bodies.
- e. Review all complaints made relating to the location of structures and the use of structures, lands, and waters, and give notice of all complaints to the Town Board.
- f. Make available to the public, to the fullest extent possible, all reports and documents concerning the Town's comprehensive plan and ordinances. In addition, information in the form of reports, bulletins, maps, and engineering data shall be readily available and widely distributed. The Town Board may set fees necessary to recover the cost of providing information to the public.

4. Permits Issued directly by the Zoning Administrator:

The Zoning Administrator may directly issue the following permits:

- a. Residential Building Permits
- b. Temporary Sign Permits
- c. Holding Tank Permits

5. Permits and Plans Reviewed and Recommended:

The Zoning Administrator will review and recommend to Plan Commission, Board of Appeals, or Town Board, the following:

- a. Commercial and Industrial Site Plans
- b. Sign Permits
- c. Conditional Use Permits
- d. Changes and Amendments to the Zoning Ordinances
- e. Changes to the Zoning District Boundaries

3.03 Building Inspector

1. Position:

The Town may establish by future resolution the position of Building Inspector. This ordinance pertains to the Building Inspector upon establishment.

2. Appointment:

The Town Board Chair may appoint a building inspector, subject to confirmation by the Town Board, who shall have the power and duty to enforce the provisions of this ordinance and all other ordinances, laws and orders of the State of Wisconsin which relate to building construction and plumbing and electrical installations. The Building Inspector may be an independent contractor with whom the Town contracts directly. A deputy building inspector or inspectors may be appointed by the Town Board Chair, subject to confirmation by Town Board, who shall act in the absence of the building inspector.

3. Term:

The Building Inspector and any deputy building inspector shall be appointed to serve at the pleasure of the Town Board and may be removed at any time without notice and without cause. The Building Inspector or any deputy building inspector shall be compensated on the basis as approved by the Town Board.

4. Duties:

The duty of the Building Inspector shall be to explain and administer this Ordinance under the direction of the Zoning Administrator. The Building Inspector shall further:

- a. Issue after on-site inspection, all permits as required by this Ordinance
- b. Maintain records of all permits issued.
- c. Investigate all Zoning Ordinance complaints.
- d. Give notice of Zoning Ordinance violations to the Zoning Administrator.
- e. Issue orders to comply with the Zoning Ordinance.
- f. Assist the Town Attorney in the prosecution of Ordinance violators.
- g. Enforce, with the aid of any law enforcement authority, the provisions of this Ordinance

5. Inspect:

The Building Inspector and any deputy building inspector may enter at any reasonable time any public or private land(s) or water(s) to make a zoning inspection.

SECTION 4.00 PLAN COMMISSION

4.01 Purpose

There is established a Town of Newton Plan Commission. This Plan Commission shall have the functions, powers, and duties as provided in Section 62.23 of the Wisconsin Statutes.

4.02 Membership

1. Members:

The Plan Commission shall consist of seven (7) members and one alternate citizen member. The seven members shall be the Town Board Chair, one Town Board Supervisor, and five citizen members.

2. Town Board Member:

The Town Board Supervisor member shall be elected annually by a majority vote of the Town Board during April.

3. Citizen Members Terms:

The Town Board Chair shall appoint the five citizen members and one alternate to the Plan Commission. The term of office shall be three (3) years, beginning on May 1 of each year, except the initial terms for two (2) of the citizen members shall be one (1) year, two (2) for 2 years, and one (1) for 3 years. The alternate shall be appointed for a three (3) year term. Each term shall begin May 1. All appointments to the Plan Commission shall be subject to review and approval of the Town Board. Citizen members shall be of recognized experience and qualifications. The Town Board Chair shall be the presiding officer of the Plan Commission. However, the Town Board Chair may designate another member of the Commission to preside. A member may be reappointed to the Plan Commission. Should a vacancy occur in the office of citizen member, the alternate shall succeed to the term.

4. Removal of Member:

Any member of the Plan Commission may be removed at any time by the Town Board without notice and without cause.

4.03 Duties

The Plan Commission shall have the following duties:

1. Planning:

The Plan Commission shall have the duties of making reports and recommendations as to the planning and development of the Town of Newton to: Town Board, public officials, agencies, public utility company(s), civic, educational, professional and other organizations and citizens.

2. Review and Recommend:

The Plan Commission shall review plans and applications submitted under this Ordinance.

a. The Plan Commission shall review and approve or deny:

1. Conditional Use Permits
2. Sign Permits
3. Land Divisions
4. Plans and Proposals as directed by Town Board

b. The Plan Commission shall review and recommend action to the Town Board:

1. Zoning Ordinance changes and modifications
2. Zoning district boundary change
3. Commercial and industrial site plans
4. Planned Residential Developments
5. Any other matters submitted for review and recommendation by the Town Board.

SECTION 5.00 FEES, PENALTIES AND VIOLATIONS

5.01 Fees

All persons, firms, or corporations performing work which, by this Ordinance, requires the issuance of a permit, review of plans, or Public Hearing shall pay a fee for such permit or hearing to the Town to help defray the cost of administration, investigation, advertising, and processing of such actions. All fees shall be established by a separate resolution of the Town Board and amended from time to time as deemed appropriate. Fee schedules are available from the Zoning Administrator.

1. Fee Required:

No permit shall be granted or issued until all fees required under this ordinance have been paid.

2. Permit Fees:

A fee shall be required for the following permits or approvals:

- A. Conditional Use Permit
- B. Building Permit
- C. Sign Permit
- D. Temporary Use Permit
- E. Holding Tanks
- F. Land Divisions

3. Zoning Ordinance Amendments:

A fee shall also be required for a zoning text or map amendment and a zoning appeal or variance, except that no fee shall be required for action initiated by the Town Board or the Town Plan Commission.

4. Third Party Consultant Fees:

In the event that the Town determines that it is necessary to consult with one or more third parties, such as planner, attorney, or engineer, in review and considering the application, all reasonable costs and expenses associated with such consultation shall be borne by the applicant.

5. Public Hearing:

A fee shall be required for all public hearings.

6. Advance Payment:

The applicant may be required to pay fees in advance of the specific activities provided in this section.

5.02 Double Fee

A double fee shall be paid by the applicant if work is started before a permit is issued. Such double fee shall not release the applicant from full compliance with this Ordinance nor from prosecution for violation of this Ordinance. Notwithstanding the foregoing, no double fee shall be charged if the zoning administrator determines unique circumstances justifying the commencement of work.

5.03 Violation

Any of the following shall be a violation of the Ordinance and shall be subject to enforcement remedies and penalties provided by this Ordinance and by State law.

1. To install, create, erect, or maintain any use or structure in a way that is inconsistent with any plan or permit governing such use or structure or the zoning requirements of lot on which the use or structure is located.
2. To install, create, erect or maintain any sign or structure requiring a permit without such a permit.
3. To fail to remove any sign or structure that is installed, created, erected or maintained in violation of this Ordinance or for which the permit is lapsed.
4. To fail to comply with the land division requirements of this Ordinance.
5. To continue any such violation. Each such day of a continued violation of this ordinance shall be considered a separate violation when applying the penalty portion of this Ordinance.

6. Each sign or structure installed, created, erected, or maintained in violation of this Ordinance shall be considered a separate violation when applying the penalty portion of this Ordinance.

5.04 Penalties

1. Penalties:

- a. Any person, firm, or corporation who fails to comply with the provisions of this Ordinance or order of the Town shall, upon conviction thereof, forfeit not less than \$10.00 nor more than \$200.00 and cost of prosecution for each violation and in default of such forfeiture and costs be imprisoned in the County Jail until payment thereof but not to exceed 30 days.
- b. Any permit issued in conflict with the provisions of this Ordinance shall be void.

2. Correction of Violation:

In addition to any other penalty imposed by this Subchapter for a violation of the provisions of this Chapter, the Town reserves and maintains the continued right to abate violations of this Chapter.

a. Hazardous Condition Caused by Violation of this Ordinance: If the Town Board determines that a violation of this Ordinance exists, and further determines that the nature of such violation poses a great and immediate danger to the public health, safety, peace, morals or decency, the Town Board shall cause the violation to be abated. Costs associated with said abatement shall be charged to the owner of the property on which said violation has occurred, according to paragraph (c) below. The Town Board or its designee is authorized to abate a violation of this ordinance.

b. Non-Hazardous Condition Caused by Violation of this Ordinance: If the Town Board determines that a violation of this Ordinance exists, and further determines that the nature of such violation is not such as to pose great and immediate danger to the public health, safety, peace, morals or decency, the Town Board shall serve written notice by registered mail on the current owner of the property (as indicated by current Town of Newton tax records) on which said violation is occurring to remove said violation within ten days. If such violation is not removed within such ten days, the Town Board shall cause the violation to be abated per Subsection (a), above. Costs associated with said abatement shall be charged to the owner of the property on which said violation has occurred.

c. Cost of Abatement: In addition to any other penalty imposed by this Subsection for a violation of the provisions of this Ordinance, the cost of abating a violation of this Ordinance shall be collected as a debt from the owner of the property on which said violation has occurred. An account of the expenses incurred by the Town to abate the violation shall be kept and such expenses shall be charged to and paid by the property owner. Notice of the bill for abatement of the violation shall be mailed to the last known address of said property owner by certified mail, and shall be payable within 30 calendar days from the receipt thereof. If such costs and expenses are incurred and remain unpaid after 30 days, the Town Treasurer shall enter such charges on the tax roll as a special tax.

5.05 Remedial Action

Whenever an order of the Zoning Administrator has not been complied with within thirty (30) days after written notice has been mailed to the owner, resident agent, or occupant of the premises, the Town Board, or the Town Attorney may institute appropriate legal action or proceedings to prohibit such owner, agent, or occupant from using such structure, land, or water.

SECTION 6.00 ZONING AND BUILDING PERMITS

6.01 Zoning and Building Permits

No person shall erect, add on to, alter, demolish, or move any structure in or into the Town of Newton without first obtaining a permit from the Zoning Administrator. This shall include any building or structure, and any enlargement, alteration, air conditioning, moving or demolition, or anything affecting the fire hazards or safety of any building or structure.

1. Permit Required:

The Zoning Administrator or the Building Inspector under the authority of the Zoning Administrator issues all zoning and building permits:

- a. Industrial/Commercial Building Permit - See Section 6.03 below
- b. Residential Building Permit - Section 6.04 below
- c. Sign Permit - See Section 15.00
- d. Conditional Use Permit - See Section 6.06

2. Term of Permit:

A permit shall expire if the project authorized in the permit is not completed within one (1) year from date of issuance of the permit, unless otherwise set forth in this ordinance.

3. Land Divisions:

Any proposed zoning or building permit requiring a land division in order to develop as proposed, shall apply for and submit such land division application for consideration pursuant to Section 16.00, Land Divisions.

6.02 Other Permits

It is the responsibility of the permit applicant to secure all other necessary permits required by any federal, state, or local agency. This includes, but is not limited to, a water use permit pursuant to Chapters 30 or 31 of the Wisconsin Statutes or a wetland fill permit pursuant to Section 404 of the Federal Water Pollution Control Act, and a Sanitary Permit from Manitowoc County Planning and Park Commission.

6.03 Industrial/Commercial Building

1. Industrial/Commercial Building Permit:

Required in zoning districts: B-1 Business District and I-1 Industrial District. No vacant land shall be developed or used and no building shall be erected or structurally altered, relocated, or used until a Building Permit has been issued by the Zoning Administrator.

2. Application:

Application(s) for a building permit shall be made in duplicate to the Zoning Administrator. Application will be made on forms furnished by the Town and shall include the following, where applicable:

- a. Name and address(es) of the applicant, owner of the site, architect, professional engineer, or contractor.
- b. Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; existing and proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
- c. Industrial or commercial building permit applications which will require creation of new lots or a replat must comply fully with the requirements of Section 16.00, Land Divisions.
- d. Submit a Site Plan pursuant to the requirements of Section 7.00, Site Review.
- e. Proposed sewage disposal plan, if municipal sewerage service is not available. This plan shall include a copy of the permit issued by Manitowoc County Planning and Park Commission for the installation of an on-site soil absorption sanitary sewage disposal system, or other appropriate means of waste disposal.
- f. Proposed water supply plan, if municipal water service is not available. This plan shall be in accordance with Section NR-112 of the Wisconsin Administrative Code and shall be approved by the Plan Commission. A separate well shall be required for each principal structure.
- g. Detailed plans and specifications.
- h. Additional information as may be required by the Town Plan Commission or Town Board.

3. Review and Approval:

The Plan Commission, shall review the application for the building permit for its completeness and conformation with this Ordinance. The building permit shall be granted or denied in writing by the Town Zoning Administrator within sixty (60) days of the first consideration. The permit shall be good for one (1) year and may be extended upon application and personal appearance, with plans for completion, before the Town Plan Commission.

6.04 Residential Building Permits

1. A Residential Building Permit required:

In all zoning districts no residential building shall be erected or structurally altered, relocated, or used until a building permit has been issued by the Zoning Administrator.

2. Application:

Applications for a building permit shall be made in duplicate to the Zoning Administrator. Application will be made on forms furnished by the Town and shall include the following, where applicable:

- a. Name and address(es) of the applicant, owner of the site, architect, professional engineer, or contractor.
- b. Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; and the zoning district within which the subject site lies.
- c. Residential building permit applications which will require the creation of new lots or a replat must comply fully with the requirements of Section 16.00, Land Divisions.
- d. Proposed sewage disposal plan, if municipal sewerage service is not available. This plan shall include a copy of the permit issued by the Manitowoc County Planning and Park Commission for the installation of an on-site soil absorption sanitary sewage disposal system, or other appropriate means of waste disposal.
- e. Proposed water supply plan, if municipal water service is not available. This plan shall be in accordance with the Wisconsin Administrative Code and shall be approved by the Plan Commission.
- f. Detailed Plans and Specifications
- g. Additional information as may be required by the Town Plan Commission or Town Board.
- h. Proposed Limits of Disturbance Lines.

3. Review and Approval:

The Zoning Administrator, shall review the building permit for its completeness and conformation with this ordinance. The building permit shall be granted or denied in writing by the Zoning Administrator within sixty (60) days. The permit shall be good for one (1) year and may be extended upon application to the Zoning Administrator. Zoning Administrator may request review by the Plan Commission. All incurred expenses will be the responsibility of the property owner.

6.05 Sign Permits

No person shall erect, alter, or relocate, within the Town of Newton, any type of sign without first complying with section 15.00.

6.06 Conditional Use Permit

The Plan Commission may authorize the Zoning Administrator to issue a conditional use permit for conditional uses after review and a public hearing, provided that such conditional uses and structures are in accordance with the purpose and intent of this Ordinance and are found to be not hazardous, harmful, offensive, or otherwise adverse to the environment or the value of the neighborhood or the community. See Section 9.00.

6.07 Display of Building Permit

All building permits issued under this Ordinance shall be posted in a prominent place on the premises prior to and during the period of construction or alteration.

SECTION 7.00 SITE REVIEW

7.01 Purpose

The purpose of promoting compatible development, stability of property values, insuring the attractiveness and functional utility of the community as a place to live and work, preserving the character and quality of the built environment by retaining the integrity of those areas which have a discernible character or are of special historic significance, protecting certain public investments in the area, and raising the level of community expectations for the quality of its environment. This Section requires review of all conditional use permits, and commercial and industrial site plans prior to issuing a building permit.

7.02 Site Plan Review

The Town Plan Commission shall review commercial, industrial, Planned Residential Development (PRD) Districts, and other site plans prior to the issuance of a building permit. The review will include: existing and proposed structures, neighboring uses, utilization of landscaping and open space, parking areas, driveway locations, loading and unloading, highway access, traffic generation and circulation, drainage, sewerage and water systems, and the proposed operation. The Plan Commission in addition to any other review criteria established by this Ordinance or other Town Ordinance will approve said site plans only after determining that:

1. The proposed use(s) conform(s) to the uses permitted in that zoning district.
2. The dimensional arrangement of buildings and structures conform to the required area, yard, setback, and height restrictions of this Ordinance.
3. The proposed use conforms to all use and design provisions and requirements (if any) as found in this Ordinance for the specified uses.
4. There is a proper relationship between the existing and proposed streets and highways within the vicinity of the project in order to assure the safety and convenience of pedestrian and vehicular traffic.
5. The proposed on-site buildings, structures, and entryways are situated and designed to minimize adverse effects upon owners and occupants of adjacent and surrounding properties. This is done by providing for adequate design of ingress/egress, interior/exterior traffic flow, storm water drainage, erosion, grading, lighting, parking, consideration of the character and aesthetics of the surrounding buildings and neighborhood, and other standards as set forth by this Ordinance or any other codes or laws.
6. Natural features of the landscape are retained where they can enhance the development on the site, or where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes or where they assist in preserving the general safety, health, welfare, and appearance of the neighborhood.
7. Adverse effects of the proposed development and activities upon adjoining residents or owners are minimized by appropriate screening, fencing, or landscaping, as provided or required in this Chapter.
8. Land, buildings, and structures are readily accessible to emergency vehicles and the handicapped.
9. The site plan is consistent with the intent and purpose of this Ordinance, which is to promote the public health, safety, and general welfare, to encourage the use of lands in accordance with their character and adaptability, to avoid the overcrowding of population, to lessen congestion on the public roads and streets, to reduce hazards of life and property, and to facilitate existing community development plans.
10. The site plan is consistent with the public goals, objectives, principles, standards, policies, development standards, environmental performance standards, and other design criteria set forth in the Town's adopted Zoning Ordinance.
11. The site plan is consistent with the spirit and intent of the Comprehensive Land Use Plan.

7.03 Plans and Written Submittals

The following is a description of the plans, documents, and written submittals required for the various permits by this Ordinance, unless waived by the Town Plan Commission or its designee. All plans and documents must be reproducible by photocopier, except required scaled drawing

1. Written Use Description: Description of the intended use described in reasonable detail, it may include the following:

- a. Zoning: existing zoning district(s) (and proposed zoning district(s) if different);
- b. Land Use Plan Designation: The designated type of use shown for the site on the Town land use plan map;
- c. Current Land Uses: present on the subject property;
- d. Proposed Land Uses: for the subject property;
- e. Projected Use: Projected number of residents, employees, and daily visitors;
- f. Proposed Development: The amount of dwelling units, floor area, impervious surface area, and landscape surface area, and resulting site density floor area ratio, impervious surface area ratio, and landscape surface area ratio;
- g. Operations: The operational considerations relating to hours of operation, projected normal and peak water usage, sanitary sewer or septic loading, and traffic generation;
- h. Operational Considerations: relating to potential nuisance creation pertaining to noncompliance with the performance standards addressed in this Ordinance, including, street access, traffic visibility, parking, loading, exterior storage, exterior lighting, vibration, noise, air pollution, odor, electromagnetic radiation, glare and heat, fire and explosion, toxic or noxious materials, waste materials, drainage, and hazardous materials. If no such nuisances will be created then the statement "The proposed development shall comply with all requirements of this Ordinance." shall be provided;
- i. Building Material: The exterior building and fencing materials;
- j. Expansion: Any possible future expansion and related implications
- k. Other Information: Any other information pertinent to adequate understanding by the Plan Commission of the intended use and its relation to nearby properties.

2. Location Map:

A map of the subject property showing all lands for which the use is proposed, and all other lands within 200 feet of the boundaries of the subject property. The Location map shall clearly indicate the current zoning of the subject property and adjacent properties and show any other jurisdiction(s) which maintains control over the property. The location map shall be at a scale which is not less than one inch equals 800 feet. An 11" x 17" map or sketch showing the subject property and illustrating its relationship to the nearest street intersection. (A photocopy of the pertinent section of the Town's Land Use Plan Map with the subject property clearly indicated shall suffice to meet this requirement.)

3. Conceptual or Sketch Plan:

A sketch plan or concept plan can be a freehand diagram over the property map showing loose and sketchy the general proposed development pattern for the site. Label the major features.

4. Scale Site Plan:

A site plan of the subject property as proposed for development drawn to scale with a reduction at 11" x 17" to include:

- a. A title block which indicates the name, address and phone/fax number(s) of the current property owner and/or agent(s) (developer, architect, engineer, planner) for project;
- b. The date of the original plan and the latest date of revision to the plan;
- c. A north arrow and a graphic scale. Said scale shall not be smaller than one inch equals 100 feet;
- d. A legal description of the subject property;
- e. All property lines and existing and proposed right-of-way lines with bearings and dimensions clearly labeled;
- f. All existing and proposed easement lines and dimensions with a key provided and explained on the margins of the plan as to ownership and purpose;
- g. All required building setback lines,
- h. All existing and proposed buildings, structures, and paved areas, including building entrances, walks, drives, decks, patios, fences, utility poles, drainage facilities, and walls;
- i. The location and dimension of all access point onto public streets;
- j. The location and dimension of all on-site parking (and off-site parking provision if they are to be employed), including a summary of the number of parking stalls provided
- k. The location and dimension of all loading and service areas on the subject property and labels indicating the dimension of such areas;
- l. The location of all outdoor storage areas and screening devices

- m. The location, type, height, size and lighting of all signage on the subject property;
- n. The location, height, design/type, illumination power and orientation of exterior lighting on the subject property
- o. The location and type of any permanently protected green space areas;
- p. The location of existing and proposed drainage facilities
- q. In the legend, data for the subject property:
 - 1. Lot Area;
 - 2. Floor Area;
 - 3. Floor Area Ratio;
 - 4. Impervious Surface Area;
 - 5. Impervious Surface Ratio to site; and
 - 6. Building Height.
- r. Limits of Disturbance Lines

5. Detailed Landscape Plan:

At the same scale as the site plan (and reduction at 11" x 17"), showing the location of all required buffer yards and landscaping areas, and existing and proposed landscape point fencing and berm options for meeting said requirements. The landscaping plan shall demonstrate complete compliance with the requirements of this Ordinance

- a. The individual plant locations, species, and size shall be shown
- b. Screening such as: fencing types and berm shall be shown by size and height.

6. Grading Plan:

At the same scale as the site plan (include a reduction at 11" x 17") showing existing and proposed grades, including retaining walls and related devices, and erosion control measures. It will include:

- a. Existing and proposed contours at a minimum of 2 foot contours.
- b. Existing and proposed spot elevations at corners of structures and significant changes in grade.
- c. Flow lines of all drainages.

7. Elevation Drawings:

Side views of proposed buildings, structures, or proposed remodeling of existing buildings showing finished exterior treatment shall also be submitted, with adequate labels provided to clearly depict exterior materials, texture, color and overall appearance. Perspective renderings of the proposed project and/or photo of similar structures may be submitted, but not in lieu of adequate drawing showing the actual intended appearance of the buildings.

8. Stormwater Management Plans:

At the same scale as the site plan (and reduction at 11" x 17"), prepare stormwater runoff and erosion control plans consistent with the standards set forth in Sections 14.08, 14.09 and 14.10.

SECTION 8.00 AMENDMENTS OF ZONING ORDINANCE

- 8.01 **Applicable Law**
This Section is to provide the procedure and requirements for the review and approval, or denial, of proposed amendments to the text or Official Zoning Map provisions of this Ordinance. The requirements of Wisconsin Statutes 62.23(7)(d) shall apply insofar as the provisions thereof are applicable to the Town of Newton. The Plan Commission shall review and recommend changes to the Town Board for final action.
- 8.02 **Initiation of Request for Amendment to this Ordinance**
Proceedings for amendment of this Ordinance may be initiated by any one of the following three methods:
- a. An application by any member of the general public;
 - b. A recommendation of the Town staff or Plan Commission; or
 - c. By action of the Town Board.
- 8.03 **Zoning Text Amendment Application**
All applications for proposed text amendments to this Ordinance, shall be made to the Zoning Administrator. The complete application shall be comprised of all of the following:
1. Existing Ordinance Text: A copy of the portion of the current ordinance which is proposed to be amended;
 2. Proposed Ordinance Text: A copy of the proposed amendment;
 3. Written Justifications: As an optional requirement, the applicant may wish to provide written justification for the proposed text amendment, consisting of the reasons why the applicant believes the proposed text amendment is in harmony with the recommendation of the Town of Newton Comprehensive Land Use Plan and the purpose of this Ordinance.
 4. Fee: Payment of the applicable fee.
- 8.04 **Review of Text Amendments by the Plan Commission**
The proposed text amendment shall be reviewed by the Plan Commission as follows:
1. Does the proposed text amendment further the purposes of this Ordinance?
 2. Which of the following factors has arisen that are not properly addressed in the current zoning text?:
 - a. The provisions of this Ordinance should be brought into conformity with the Comprehensive Land Use Plan;
 - b. A change has occurred in the land market, or other factors have arisen which require a new form of development, a new type of land use, or a new procedure to meet said change(s);
 - c. New methods of development or providing infrastructure make it necessary to alter this Chapter to meet these new factors;
 - d. Changing governmental finances require amending this Chapter in order to meet the needs of the government in terms of providing and affording public services.
 3. How does the proposed amendment maintain the desired overall consistency of land uses, land use intensities, and land use impacts within the pertinent zoning districts?
 4. Do the potential public benefits of the proposed text amendment outweigh the potential adverse impacts of the proposed text amendment?
 5. How does the proposed amendment maintain the vision, goals, objectives and policies of the Comprehensive Land Use Plan?
- 8.05 **Official Zoning Map Amendment Application**
All applications for proposed amendments to the Official Zoning Map, shall be made to the Town Zoning Administrator. The complete application shall be comprised of all of the following:
1. Map of Property:
A map of the subject property showing all lands for which the zoning is proposed to be amended, and all other lands within 200 feet of the boundaries of the subject property, together with the names and addresses of the owners of all lands on said map as the same appear on the current tax records of the Town of Newton. The map shall clearly indicate the current zoning of the subject property and all property on

the map. The map shall be at a scale, which is not less than one inch equals 800 feet. All lot dimensions of the subject property, graphics scale, and a north arrow shall be provided;

2. Location Map:

A map, such as the Land Use Plan Map, of the generalized location of the subject property in relation to the Town as a whole.

3. Written Justifications:

As an optional requirement, the applicant may wish to provide written justification for the proposed amendment consisting of the reasons why the applicant believes the proposed Official Map amendment is in harmony with the Town of Newton Comprehensive Land Use Plan and the purpose of this Ordinance.

4. Fee:

Payment of the applicable fee.

8.06 Review of Changes to the Official Zoning Map by the Plan Commission

The proposed amendment of the Official Zoning Map shall be reviewed by the Plan Commission as follows:

1. How does the proposed Official Zoning Map amendment further the purposes of this ordinance the applicable rules and regulations of the Wisconsin Department of Natural Resources (DNR) and the Federal Emergency Management Agency (FEMA)?

2. Which of the following factors has arisen that are not properly addressed on the current Official Zoning Map?

a. The designations of the Official Zoning Map should be brought into conformity with the Comprehensive Land Use Plan;

b. The area is developing in a manner and purpose different from that for which it is mapped which substantial evidence demonstrates is not intended by the existing zoning map;

c. Factors have changed, (such as the availability of new data, the presence of new roads or other infrastructure, additional development, annexation, or other zoning changes), making the subject property more appropriate for a different zoning district;

d. Growth patterns or rates have changed, thereby creating the need for an amendment to the Official Zoning Map.

3. How does the proposed amendment to the Official Zoning Map maintain the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property?

4. How does the proposed amendment maintain the vision, goals, objectives and policies of the Comprehensive Land Use Plan?

8.07 Plan Commission Recommendation

1. Recommendation:

The Plan Commission shall forward, within 60 days of receipt of the complete application, the report and final recommendation to Town Board. The Plan Commission shall state in the minutes or in the subsequently issued written report to the Town Board, its conclusion and any finding of facts supporting its conclusion.

2. Failure to Report:

If the Plan Commission fails to make a report within 60 days after the filing of complete application, then the Town Board shall hold a public hearing within 30 days after the expiration of the 60 day period. Failure to receive said written report from the Plan Commission shall not invalidate the proceedings or actions of the Town Board.

8.08 Public Hearing

The Plan Commission shall schedule a reasonable time and place for a public hearing on the application prior to the Plan Commission's adoption of a report or final recommendation to the Town Board.

8.09 Review and Action by Town Board

1. Action:

The Town Board may take action on the application after a public hearing, has been conducted pursuant to Section 8.08. The Town Board shall consider the Plan Commission's recommendation regarding the proposed amendment. The Town Board may request further information or additional reports from the Plan Commission or the applicant. The Town Board may approve the amendment as originally proposed, may approve the proposed amendment with modifications, may deny approval of the proposed amendment, or may continue the proceedings at its discretion or at the applicant's request.

2. Written Decision:

When the Town Board takes action on the application, it shall state in the minutes and/or in a subsequently issued written decision, its conclusion and any finding of facts supporting its conclusion. Any action to approve a proposed ordinance amendment requires a majority vote of the entire Town Board, except as set forth in Section 2.02(19). The Town Board's approval of the proposed ordinance amendment shall be considered the approval of a unique request, and shall not be construed as precedent for any other proposed amendments to provisions of this Ordinance.

8.10 Changes to A-3 Agriculture District

1. No Change in the A-3 Agricultural District shall be recommended unless the Plan Commission finds that:

- a. Adequate public facilities to accommodate development either exist or will be provided within a reasonable time.
- b. Provision of public facilities to accommodate development will not place an unreasonable burden on the ability of local units of government to provide them.
- c. The land proposed for rezoning is suitable for development and development will not result in undue water and air pollution, cause unreasonable soil erosion, or have an unreasonably adverse effect on rare or irreplaceable natural resources.
- d. The activity will not limit the surrounding lands potential for agricultural use.
- e. The activity will not conflict with agricultural operations on land subject to farmland preservation agreements.
- f. The activity will not conflict with agricultural operations on other properties.
- g. The rezoning will not adversely impact the management objectives and policies of the Planned Agricultural Preferred Land Use Management Area established by the Comprehensive Land Use Plan.

2. The Town Board shall notify the Wisconsin Department of Agriculture, Trade, and Consumer Protection (DATCP) of any change in the A-3 Agricultural District.

8.11 Fees

All fees shall be paid at the time of filing the application for an amendment. The fees shall be determined by resolution by the Town Board from time to time.

SECTION 9.00 CONDITIONAL USE PERMIT

9.01 Purpose

The purpose of this Section is to provide regulations that govern the procedure and requirements for the review and approval or denial of proposed conditional uses.

9.02 Conditional Use Permit Required

1. Conditional Use By Ordinance:

Conditional Uses include those listed in Sections 12.00.

2. Applicant's Burden of Proof:

An applicant for a Conditional Use shall demonstrate evidence, to the satisfaction of the Town, enabling the Town to find that the proposed Conditional Use will not create a substantial or undue adverse impact on nearby property, the environment, or on the public health, safety, or general welfare.

3. Not subject to Conditional Use:

Variance from the factual and specific requirements of this ordinance may not be changed by the Conditional Use process; such changes must be done by change of zoning ordinance, or Board of Appeals.

9.03 Conditional Use Application

Applications for a Conditional Use permit shall be made on forms provided by the Zoning Administrator. All materials, parts, and attachments submitted as part of the application shall be submitted in a form that is clearly reproducible with a photocopier.

The application shall contain or have attached thereto the following information unless otherwise directed by the Zoning Administrator:

1. General Information:

Name, address, and telephone number of the applicant and owner of the property, if different from the applicant; location of building, structure, or lot to which or upon which the conditional use will be placed.

2. Permission to Place or Conduct the Conditional Use:

Written consent of the owner or lessee of the building, structure, or land to which or upon which the conditional use will be placed.

3. Location Map:

A map of the subject property showing all lands for which the conditional use is proposed, and all other lands within 300 feet of the boundaries of the subject property. The Location map shall clearly indicate the current zoning of the subject property and adjacent properties. Show any other jurisdiction(s) that maintains control over the property.

4. Adjacent Property Owners:

The names and addresses of the owners of all surrounding lands, as the same appear on the current records of the real estate tax records of the Town of Newton.

5. Conditional Use Description:

A written use description of the proposed conditional use. See Section 16.00.

6. Site Plan:

A site plan of the subject property as proposed for development. See Section 7.00.

7. Other Required Permits:

Copies of any other permits required.

8. Additional information:

As may be required by the Plan Commission.

9. Elevation Drawing, as required:

If the Conditional Use requires the alteration of an existing structure or building a new structure, submit a scaled elevation.

10. Justification:

The applicant should provide written justification for the proposed conditional use consisting of the reasons why the applicant believes the proposed conditional use is appropriate, particularly as evidenced by compliance with the standards set forth in this Ordinance.

11. Length of Operation:

An estimate of the length of time that the conditional use will operate on this site.

12. Other:

Any other information in regard to the application as requested by the Zoning Administrator.

9.04 Fees

All fees shall be paid at the time of filing the application. Fees will be set by resolution of the Town Board from time to time.

9.05 Conditional Use Permit Procedure

1. Pre-application:

A pre-application meeting may be placed on the Plan Commission Agenda as a discussion only item by notifying the Zoning Administrator.

2. Plan Commission Review and Consideration:

The Plan Commission will review and consider the completed Conditional Use Permit application at the next available meeting. The Plan Commission shall consider the following:

- a. Is the requested conditional use in harmony with the goals, objectives, policies and recommendations of the Town Comprehensive Land Use Plan and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the Town?
- b. Does the proposed conditional use, in its proposed location and as depicted on the required site plan result in a substantial or undue adverse impact on nearby property, the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare?
- c. Does the proposed conditional use maintain the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property?
- d. Is the proposed conditional use located in an area that will be adequately served by, and will not impose an undue burden on, any of the improvements, facilities, utilities or services provided by public agencies serving the subject property?
- e. Do the potential public benefits of the proposed conditional use outweigh any and all potential adverse impacts of the proposed conditional use, after taking into consideration the applicant's proposal and any requirements recommended to offset such impacts?
- f. Will the operation of the conditional use cause noise, fumes, vibration, or storm water runoff more than would occur from the operation of any permitted use.

9.06 Public Hearing

1. Public Hearing:

All Conditional use permits require a public hearing. The Plan Commission shall schedule a public hearing upon receiving a completed application. Refer to Public Hearings Section 10.00.

2. Preliminary Findings:

Within 60 days after the public hearing (or within an extension of said period requested in writing by the applicant and granted by the Plan Commission), the Plan Commission shall make its preliminary findings.

The Plan Commission shall state in its minutes or a subsequent written decision its conclusion and any finding of facts supporting its conclusion.

9.07 Plan Commission Action

The Plan Commission may take final action on the application at the time of the public hearing or may continue the proceedings at its discretion or at the applicant's request. The Plan Commission may approve the conditional use as originally proposed, may approve the proposed conditional use with modifications, or may deny approval of the proposed conditional use.

The Plan Commission's approval of the proposed conditional use shall be considered the approval of a unique request, and shall not be construed as precedent for any other proposed conditional use.

9.08 Conditional Use Permit Issued

1. Permit Issued:

If the application is approved by the Plan Commission, the Zoning Administrator shall prepare a written conditional use permit incorporating all conditions adopted by the Plan Commission and shall issue the permit after verifying the applicant has taken all steps to meet the general and specific conditional use requirements in the permit for initiation of development activity on the subject property.

2. Effect of Denial:

No application which has been denied (either wholly or in part) shall be resubmitted for a period of 6 months from the date of denial, except on grounds of new evidence or proof of change of factors.

3. Termination of an Approved Conditional Use:

Any use not in compliance with the terms of this Ordinance or the conditions of a conditional use permit is a violation of this Ordinance and shall be subject to all applicable procedures and penalties. A conditional use may be revoked for such a violation by majority vote of the Plan Commission.

4. Time Limits on the Development of Conditional Use:

The start of construction of a conditional use shall be initiated within 180 days of approval by Plan Commission and shall be operational within 730 days of said approval. Failure to initiate development within this period shall automatically constitute a revocation of the conditional use. Prior to such a revocation, the applicant may request an extension of this period. Said request shall require approval by Plan Commission and shall be based upon a showing of acceptable justification as determined by Plan Commission.

5. Discontinuing an Approved Conditional Use:

If the authorized use fails to be in operation or use for 365 continuous days such failure shall automatically constitute a revocation of the conditional use. The burden of proof shall be on the property owner to conclusively demonstrate that the subject conditional use was operational during this period.

6. Change of Ownership:

All requirements of the approved conditional use shall be continued regardless of ownership of the subject property. Modification, alteration, or expansion of any conditional use, without approval by Plan Commission, shall be grounds for revocation of said conditional use approval

7. Notice to the Wisconsin DNR and Manitowoc County:

The Plan Commission shall transmit a copy of each application for a conditional use for uses in the Shoreland-Wetland, Floodway, Floodplain, or Flood fringe Overlay Zoning Districts to the Wisconsin Department of Natural Resources (DNR) and Manitowoc County for review and comment at least 10 days prior to any public hearings. Final action on the application shall not be taken for 30 days or until the DNR and Manitowoc County has made its recommendation, whichever comes first. A copy of all decisions relating to such conditional uses shall be transmitted to the DNR and Manitowoc County within 10 days of the date of such decision.

9.09 Modify or Revoke Conditional Use

Upon its own motion or other complaint, the Plan Commission may investigate a potential violation of a conditional use permit and may convene a Public Hearing, as set forth in Section 10.00, giving notice to the holder of the Conditional Use permit and advising the permit holder of the purpose of the hearing, which may be to modify, revoke, or reaffirm the Conditional Use Permit. Following the Public Hearing, the Plan Commission may act to modify, revoke, or reaffirm the Conditional Use permit and may direct the Zoning Administrator to take any necessary action accordingly.

SECTION 10.00 PUBLIC HEARING

10.01 Purpose

The purpose of the public hearing is to receive applicant and citizen input on the application for major change in the Ordinance, division of land, or appeal.

10.02 Notice of Public Hearing

Notice of any public hearing of the Town Board, Town Plan Commission, or Zoning Board of Appeals under this ordinance or Section 62.23(7)(d) or (e), Wis. Stat., shall be provided as follows:

1. Content of Public Notice:

Such notice shall state the date, time, and place of public hearing, the purpose for which the hearing is held and shall include, in the case of map change, a description of the area involved and in the case of text changes, a description of the proposed change, in sufficient detail for general public identification. Reference shall be made to the fact that detailed descriptions are available for public inspection from the Zoning Administrator.

2. Posting and Publication of Notice:

In all cases Notice shall be posted in at least 3 public places within the Town. When required by this ordinance or Wis. Statutes, Notice shall be published in the officially designated newspaper of the Town at least once each week for two (2) consecutive weeks and the hearing shall not be held until at least seven (7) days following the last publication.

3. Notice to Adjoining Municipality:

The Zoning Administrator shall also give at least ten (10) days prior written notice to the clerk of any municipality within one thousand (1,000) feet of any lands included in the petition.

4. Notice to Adjoining Land Owner and Parties of Interest:

The Zoning Administrator shall also give at least ten (10) days prior written notice to the owners of all lands lying within three hundred (300) feet of any land included in the petition. Failure to give notice to any property owner shall not invalidate the action taken.

5. Notice to Parties Interested in the Matter:

The Zoning Administrator shall also give at least ten (10) days prior written notice to any person who has filed a timely request for such notice in writing with the Zoning Administrator and who has provided an address for the notice. Failure to give notice to any such person shall not invalidate the action taken.

10.03 Hearing Body

The Town Board, Plan Commission and Board of Appeals may hold a Public Hearing, as defined in their duties, and are called Hearing Bodies for this Section of this Ordinance.

10.04 Schedule

1. Regularly Scheduled Meeting:

Any application to a Hearing Body that requires a public hearing shall be scheduled at a regular meeting within 45 days after acceptance of a written application for a public hearing and determination of the completeness of the application, except as provided in Section 10.04(2).

2. Special Public Hearing or Meeting:

The Hearing Body may schedule a Public Hearing at a special meeting at the request of the applicant or on its own motion. The applicant shall pay any additional costs incurred by such special meeting.

10.05 Fees

There is a fee for public hearings. The fee must be paid to the Zoning Administrator prior to scheduling of a public hearing.

10.06 Actions Requiring Public Hearings

1. Appeal before the Board of Appeals
2. Planned Residential Development
3. Amendments to the Zoning Ordinance Text and Official Zoning Map
4. Conditional Use Permit
5. Major Land Divisions

10.07 Attendance

The applicants will be expected to present their proposal followed by public comment. The applicants may appear in person or by agent.

10.08 Additional information

The Hearing Body may ask questions concerning the application. The public shall be provided with the opportunity to comment on the application in the manner determined by the chair of the Hearing Body. The Hearing Body may call any other person it deems necessary to provide information on the application.

10.09 Action

1. Consideration:

The Hearing Body will consider the information that has been presented to make its decision.

2. Action:

The Hearing Body may take final action on the application or may continue the proceedings at its discretion or at the applicant's request. Hearing Body may grant the application as originally proposed, may approve with conditions or, may deny approval of the application.

3. Written Decision:

When the Hearing Body takes action on the application, it shall state in the minutes and in a subsequently issued written decision, its conclusion and any finding of facts supporting its conclusion

10.10 Appeal

Any person or persons aggrieved by any decision of the Town's zoning bodies may appeal to the Board of Appeals. See Section 11.00.

SECTION 11.00 ZONING BOARD OF APPEALS

11.01 Purpose

There is established a Town of Newton Zoning Board of Appeals for the purposes of hearing appeals and applications and for granting variances and exceptions to the provisions of this Ordinance with all the authority set forth in Sec. 62.23 (7) (e) 7. Wisconsin Statutes.

11.02 Appellant

Appeals of the decision of the Town staff or any administrative official concerning the literal enforcement of this Ordinance may be made by any person aggrieved thereby or by any officer, department, board, or bureau of the Town. Such appeals shall be filed with the Zoning Administrator within thirty (30) days after the date of written notice of the decision or order of the Town Staff or administrative official. Applications may be made by the owner or lessee of the structure, land, or water affected and shall be filed with the Zoning Administrator.

11.03 Board of Appeals Membership

1. Terms:

The Board of Appeals shall consist of five (5) members appointed by the Town Board Chair, subject to confirmation by the Town Board, for three (3) years, except that of those first appointed one (1) shall serve for one (1) year, two (2) for two (2) years, and two (2) for three (3) years. The Town Board Chair shall designate one of the members Chair.

2. Alternate Member:

The Town Board Chair shall appoint an alternate who shall act with full power, only when a member of the Board of Appeals refuses to vote because of interest or when a member is absent.

3. Vacancies:

Any vacancy in the membership shall be filled for the unexpired term by appointment by the Town Board Chair subject to confirmation by the Town Board.

4. Removal:

Members may be removed by the Town Board Chair for cause upon written charges and after public hearing.

11.04 Powers

The Board of Appeals (Board) shall have the following powers:

1. Errors:

To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by any administrative official in enforcement.

2. Variances:

To authorize upon appeal in specific cases such 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, and the public safety, and welfare secured, and substantial justice done.

3. Substitutions:

To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses provided no structural alterations are to be made and the Plan Commission has made a review and recommendation. Whenever the Board permits such a substitution, the use may not thereafter be changed without application.

4. Permits:

The Board may reverse, 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 may issue or direct the issue of a permit.

5. Assistance:

The Board may request assistance from other town officers, departments, commissions, and boards.

6. Oaths:

The chairman may administer oaths and compel the attendance of witnesses.

7. Modification of Zoning Ordinance:

The Board is not authorized to modify the zoning ordinance

11.05 Rules and Procedures

1. Board Rules:

The Board of Appeals shall adopt rules for its government and procedure. Meetings of the Board of Appeals shall be held at the call of the Chair and at such other times as the Board of Appeals may determine. The Chair or in the Chair's absence, the acting Chair, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

2. Quorum and Vote Requirements:

Four members of the Board of Appeals shall constitute a quorum. The concurring vote of 4 members of the board shall be necessary to reverse any order appealed from or to decide in favor of the applicant or to effect any variation in the ordinance.

3. Reconsideration:

No matter shall be reconsidered within six (6) months of the Board of Appeals decision except upon motion to reconsider made by a member voting with the majority or as provided below.

4. Rehearing:

No rehearing shall be held except by the affirmative vote of four or more members of the Board of Appeals upon finding that substantial new evidence is submitted which could not reasonably have been presented at the previous hearing. Requests for rehearing shall be in writing and shall recite the reasons for the request and be accompanied by necessary data and diagrams. Rehearings shall be subject to the same requirements as original hearings.

11.06 Record

1. Minutes:

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 filed in the office of the Board of Appeals upon approval and shall be a public record. The grounds of every determination shall be stated and recorded.

2. Written Decision:

The Board of Appeals shall state in writing the grounds for any decision.

11.07 Application

Applications for appeal shall be delivered to the Zoning Administrator. The Zoning Administrator shall transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken. The application shall contain or have attached thereto the following information:

1. Applicant:

Name and address of the appellant or applicant and all abutting and opposite property owners of record.

2. Plat:
Plat of survey prepared by a registered land surveyor showing all of the information required under Section 6.00 for a Zoning Permit.

3. Zoning Application Information:
Information required by the Town Plan Commission, Town Board, or Zoning Board of Appeals, during the zoning application process.

4. Written Decision:
Copy of the Written Decision of the officer, department, board, bureau, or committee of the Town.

11.08 Public Notice

The Board of Appeals shall publish notice of the hearing, specifying the time, place, and subject matter as a Class 1 Notice, under Chapter 985 of the Wisconsin Statutes, together with notice in writing by first class mail, to the last known address of all persons owning property within 300 feet of the premises affected by such hearing, or such greater distance deemed appropriate by the Board of Appeals considering the nature of the matter.

11.09 Public Hearing

The Zoning Board of Appeals shall fix a reasonable time and place for the hearing, shall give public notice and shall give due notice to the parties in interest. At the hearing, any party may appear in person, by agent, or by attorney. Refer to Section 10.00.

11.10 Findings

No variance to the provisions of this ordinance shall be granted by the Board unless it finds among others, that all the following facts and conditions exist, and the grounds for such findings are set forth in the minutes of its proceedings.

1. Preservation of Intent:
No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located.

2. Exceptional Circumstances:
There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the property that do not apply generally to other properties in the same district, and the granting of the variance should not be of such general or recurrent nature as to suggest that the Zoning Ordinance should be changed.

3. Economic Hardship and Self-imposed Hardship Not Grounds for Variance:
No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.

4. Preservation of Property Rights:
The variance must be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.

5. Absence of Detriment:
No variance shall be granted that will create substantial detriment to adjacent property or that will materially impair or be contrary to the purpose and spirit of this Ordinance or the public interest.

6. Practical Difficulty or Unnecessary Hardship

a. Use Variance.

(1) There is no reasonable use of the property unless the variance is granted.

(2) There are conditions unique to the property which create the unnecessary hardship.

b. Area Variance.

(1) The zoning regulation is unnecessarily burdensome to the applicant.

(2) Factors of "unnecessarily burdensome" include considering the purpose of the zoning restriction, the effect of the zoning restriction on the property, the effect of the variance on the neighborhood and the larger public interest.

(3) There are conditions unique to the property which create the unnecessary hardship.

11.11 Decision

1. Time for Decision:

The Zoning Board of Appeals shall decide all appeals and applications within sixty (60) days after the public hearing unless extended by agreement with the appellant or on its own motion and shall transmit a signed copy of the Board's decision to the appellant or applicant, and Plan Commission.

2. Conditions:

Conditions may be placed upon any building or zoning permit ordered or authorized by this Board.

3. Time Limit:

Variations, substitutions, or use permits granted by the Board shall expire within six (6) months unless substantial work has commenced following such grant.

11.12 Review by Court of Record

Any person or persons aggrieved by any decision of the Zoning Board of Appeals may within 30 days after the filing of the decision in the office of the Board of Appeals, commence an action seeking the remedy available by certiorari, pursuant to Section 62.23(e)(10), Wis. Stat.

SECTION 12.00 ZONING DISTRICTS

12.01 Establishment

1. For the purpose of this Ordinance, the Town of Newton is hereby divided into the following Zoning Districts:
 - a. A-1 Agricultural/Rural Residential District
 - b. A-2 General Agricultural District
 - c. A-3 Farmland Preservation District
 - d. R-2 Residential District
 - e. LMSR Lake Michigan Shoreland Residential District
 - f. PRD Planned Residential Development
 - g. B-1 Business District
 - h. I-1 Industrial District
 - i. LR Established Lakeshore Residential
 - j. RCC Rural Character Conservation
 - k. Overlay Districts
2. Boundaries of these Districts are hereby established as shown on the map entitled "Zoning Map - Town of Newton, Manitowoc County, Wisconsin," which accompanies this Ordinance and is herein made a part of this Ordinance. Such boundaries shall be construed to follow: corporate limits; U.S. Public Land Survey lines; lot or property lines; centerlines of streets, highways, alleys, easements, and railroad rights-of-way or such lines extended; boundaries otherwise noted on the Zoning Map.
3. Vacation of public streets and roads shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts.
4. Overlay Districts provide regulations in addition to those of the underlying zoning district for certain land areas that warrant specific recognition and management. The provisions of an overlay district shall prevail over any conflicting provisions found in this Ordinance for the duration of the overlay district. All other provisions of this Ordinance shall remain in full force and effect within the overlay district. The following overlay districts are established by this Ordinance:

AOB - Adult Oriented Business Overlay District

BDR - Business Design Review Overlay District

a) AOB - ADULT ORIENTED BUSINESS OVERLAY DISTRICT: The intent of the AOB overlay district is to facilitate the proper review of a proposed development involving an adult oriented business as defined by this Ordinance, considering the direct and detrimental effect such business may have on the character of the Town's residential, commercial and agricultural districts. This Ordinance shall not impose a limitation on the content of any communication materials, including sexually oriented materials as protected by the United States and Wisconsin Constitutions. The following regulations shall apply to the AOB overlay district:

- i. An AOB overlay district shall only be established outside of the BDR - Business Design Review Overlay District.
- ii. No adult oriented business shall be located in the Town, except within an approved Adult Oriented Business Overlay District.
- iii. The provisions of Section 12.13 of the Town Zoning Ordinance shall apply.

b) BDR - BUSINESS DESIGN REVIEW OVERLAY DISTRICT: The intent of the BDR overlay district is to facilitate the proper review of a proposed development within the Interstate I-43 and County Road C corridor area that will be reflective of the norms and values of the community, while simultaneously creating quality land use development that will improve the Town of Newton's tax base. The BDR District is designed to promote high-value development while simultaneously curbing development which may have negative impacts on the community. The following regulations shall apply to the BDR overlay district:

- i. All developments in the BDR District shall be a conditional use and subject to a site plan review by the Town of Newton Plan Commission to ensure proposed operation on existing roads and traffic movement in terms of adequacy, safety, and efficiency. The provisions of Section 12.12 shall apply.
- ii. The Development in the BDR District shall enhance the effect of the proposed operation on the natural beauty, character, tax base, land value, and land uses in the area.
- iii. The Development in the BDR District shall be the most suitable ultimate land use for the area with particular consideration for future commercial use.
- iv. All Developments in the BDR District shall be subject to the BDR Design Standards found in this zoning ordinance.

12.02 Zoning Map

A certified copy of the Zoning Map shall be adopted and approved with the text as part of this Ordinance and shall bear upon its face the attestation of the Town Chairman and Zoning Administrator and shall be available to the public in the office of the Zoning Administrator. Amendments to the Zoning Map shall take effect upon adoption by the Town Board, and the filing of proof of posting or publication thereof in the office of the Town Clerk. It shall be the duty of the Zoning Administrator to enter all Zoning Map amendments upon the certified copy of the Zoning Map and certify the same.

12.03 A-1 Agricultural/Rural Residential District

This district is intended to allow for limited rural residential development on lands that are not suited for agricultural production or, due to the proposed location, would have limited impact on agricultural production. It is also intended to improve growth management related to residential development within the planned agricultural areas established by the Comprehensive Land Use Plan. Lots are limited in number, size and location to minimize the impacts associated with rural residential development within predominantly agricultural areas. Residents of this district may experience conditions associated with preferred agricultural land uses that are not necessarily compatible with rural residential use.

The following regulations shall apply in all A-1 Districts:

1. Applicability:

This district may be considered within Planned Agricultural Preferred Land Use Management Areas designated by the Comprehensive Land Use Plan.

2. Policy:

Land zoned A-1 Agricultural/Rural Residential shall be considered limited, nonagricultural within a predominantly agricultural area.

3. Permitted Principal Uses:

Same as A-2 General Agricultural District. [Section 12.04 (1)]

4. Permitted Accessory Uses:

Same as A-2 General Agricultural District. [Section 12.04 (2)]

5. Conditional Uses:

Same as A-2 General Agricultural District. [Section 12.04 (3)], except that Planned Residential Developments shall not be permitted.

6. Building Requirements:

- a. A Sanitary Permit from Manitowoc County Planning and Park Commission is required for any new dwelling.
- b. Town Building Permit required for any new construction after county permits have been acquired.

7. Yard-Area-Height Requirements

Same as A-2 General Agricultural District. [Section 12.04 (5)]

8. Development Requirements

- a. The maximum number of residential lots that may be created is one (1) lot per 35 acres, and shall be calculated based on the size of the parent parcel. Existing dwelling units shall count toward the maximum number of lots permitted. Each parcel of record would have the possibility of at least one A-3 lot upon Plan Committee review and Town Board approval.
- b. The maximum lot area is two (2) acres, with possible lot combinations for larger areas (e.g., substitute one six-acre lot for three, two acre lots). Acreage may be exceeded for existing homes and associated driveways that predate this provision if necessary to accommodate the home upon approval of the Plan Commission, but lot area around the home shall not exceed the maximum acreage allowed by this section.
- c. The location of lots shall be guided by the performance standards contained in Section 13.16, Natural Resource Protection.
- d. Lots created within the A-1 District shall not be further redivided so as to create additional lots.
- e. Creation of new A-3 District requires approval of a land division.

12.04 A-2 General Agricultural District

This district is to consist of primarily agricultural land, farmsteads, woodlands, and open spaces, at very low residential densities. This district allows for rural residential development, but with residential density limits and other requirements set in order to minimize conversion of town agricultural lands, maintain agricultural efficiency and productivity of Town agricultural areas, retain Town rural character, and keep public service costs low in agricultural areas. Residents of this district may experience conditions associated with preferred agricultural land uses that are not necessarily compatible with rural residential use. This district is generally limited to those areas zoned A-2 as of the original adoption date of the Comprehensive Land Use Plan (adopted November 8, 2000) and within Agricultural Transition Preferred Land Use Management Areas established by the Comprehensive Land Use Plan.

The following regulations apply to all A-2 Districts:

1. Permitted Principal Uses:

- a. Bee keeping
- b. Dairy Farming
- c. Farming
- d. Floriculture
- e. Forest and Game Management
- f. Grazing
- g. Livestock raising, except commercial feed lots
- h. Greenhouses
- i. Orchards
- j. Plant Nurseries
- k. Poultry raising, except commercial egg production
- l. Raising grain, grass, mint, and seed crops
- m. Raising tree fruits, nuts and berries
- n. Sod farming

- o. Essential Services
 - p. Vegetable raising
 - q. Viticulture
 - r. Single family dwelling
2. Permitted Accessory Uses:
- a. Home occupation
 - b. Hobby farming
 - c. Tree, fruit, fur, fish farming
 - d. Private garage
 - e. Roadside stands for the sale of farm products
 - f. Other customary accessory uses and buildings, provided such uses are clearly incidental to the principal use and do not include any activity commonly conducted as a business.
3. Conditional Uses:
- a. Auto wrecking yard, junk or salvage yard
 - b. Off site signs
 - c. Commercial agriculture
 - d. Veterinary services
 - e. Agricultural product processing
 - f. Parks and recreation areas
 - g. Commercial greenhouses
 - h. Kennels
 - i. Horse riding academies, boarding stables and equestrian trails
 - j. Commercial agricultural support uses
 - k. Airports, airstrips, and landing fields on sites twenty (20) acres or greater in size which are governmentally owned and operated, or used for farm-related operations.
 - l. Governmental and cultural uses
 - m. Public, parochial, and private elementary and secondary schools
 - n. Churches
 - o. Cemeteries
 - p. Utilities not requiring authorization under Sec. 196.491, Wis. Stat.
 - q. Mineral extraction as per Section 13.17
 - r. Wind and solar energy conversion systems as per Section 13.18
 - s. Planned Residential Developments in conformance with the requirements of Section 18.00.
4. Building Requirements:
- a. A Sanitary Permit from Manitowoc County Planning and Park Commission is required for any new dwelling.
 - b. Town Building Permit required for any new construction after county permits have been acquired.
5. Yard-Area-Height Requirements:
- a. Front yard set back shall be a minimum of 60 feet from the centerline of a town road and 100 feet from the centerline of a county highway or state highway.
 - b. Side yards shall have a width of 25 ft. or more from lot line.
 - c. Rear yards shall have a width of 25 ft. or more from lot.
 - d. Lot area shall not be less than 1 acre.
 - e. Lot area shall not have less than 150 ft. of public road frontage.
 - f. No building shall be erected to a height in excess of 35 ft.
6. Development Requirements:
- a. Maximum residential lot density:
 - i. 0-10 acres a maximum of 2 lots
 - ii. 10-35 acres a maximum of 3 lots
 - iii. 35 acres or more, a maximum of 4 lots
 - b. Any existing dwelling will be considered as occupying one permitted lot.

- c. All property recorded in the same ownership as of amendment date [_____, 2001] will be used to compute the total number of lots permitted.
- d. New residential structures must be located on separate lots and comply with the requirements of Section 16.00, Land Divisions.
- e. The maximum Limits of Disturbance (LOD) for residential and accessory uses, including private driveways, is two (2) acres. The location of the LOD shall be guided by the performance standards contained in Section 13.16, Natural Resource Protection.

12.05 A-3 Farmland Preservation District

This district is intended to protect the Town's agricultural industry from scattered nonagricultural development that may displace agricultural uses and is, therefore, not intended to accommodate future nonagricultural growth. It is also intended to meet the provisions of the Wisconsin Farmland Preservation Program, as specified in Ch. 91, Wis. Stats., and thereby establish eligibility for tax credits to farm owners as provided in s. 71.59, Wis. Stats. The primary purposes of this district are to: 1) Preserve productive agricultural land for food fiber production; 2) Preserve productive farms by preventing land use conflicts between incompatible uses and controlling public service cost; 3) Maintain a viable agricultural base to support agricultural processing and service industries; 4) Allow for farm expansion; 5) Retain the town's rural character which is characterized by contiguous cropped farmland, woodland and open space lands; and 6) Pace and shape urban growth.

The following regulations shall apply in all A-3 Districts:

1. Permitted Principal Uses:

- a. Beekeeping
- b. Dairying
- c. Farming
- d. Floriculture
- e. Forest and Game Management
- f. Grazing
- g. Greenhouses
- h. Livestock raising, except commercial feed lots
- i. Orchards
- j. Plant Nurseries
- k. Poultry raising, except commercial egg production
- l. Raising grain, grass, mint and seed crops
- m. Raising tree fruits, nuts and berries
- n. Sod Farming
- o. Essential Services
- p. Vegetable raising
- q. Viticulture
- r. Existing residences at the time of the amendment of this ordinance, located in areas subject to this section which do not conform to the requirements may continue in residential use and shall not be subject to any limitations imposed; such existing residences may be altered, repaired or rebuilt if destroyed but are subject to setback, width and other dimensional requirements.

2. Permitted Accessory Uses:

- a. Private garage
- b. Home occupation.
- c. Other customary accessory uses and buildings, provided such uses are clearly incidental to the principal use and do not include any activity commonly conducted as a business.
- d. Roadside stands for the sale of farm products.
- e. Temporary signs such as real estate for sale, for rent, bazaar, garage sale, political.

3. Conditional Uses:

Same as A-2 General Agricultural District [Section 12.04 (3)]. The Wisconsin Department of Agriculture, Trade and Consumer Protection, shall be notified of the approval of any conditional use. In considering

applications for conditional uses, the Plan Commission in addition to the review factors under Section 9.00 herein shall also consider the following relevant factors:

- a. The potential for conflict with agricultural use;
- b. The need of the proposed use for a location in an agricultural area;
- c. The availability of alternative locations;
- d. The productivity of the lands involved;
- e. The location of the proposed use so as to reduce to a minimum the amount of productive agricultural land converted; and
- f. The effect of the proposed use on water or air pollution, soil erosion and rare or irreplaceable natural resources.

4. Building Requirements:

- a. A Sanitary Permit from Manitowoc County Planning and Park Commission is required for any new dwelling.
- b. Town Building Permit required for any new construction after County permits have been acquired.

5. Yard-Area-Height Requirements:

- a. Front yard set back shall be a minimum of 60 feet from the centerline of a town road and 100 feet from the centerline of a county highway or state highway.
- b. Side yards shall have a width of 25 ft. or more from lot line.
- c. Rear yards shall have a width of 25 ft. or more from the lot line.
- d. Lot area shall not be less than 35 acres. Exceptions:
 - i. Parcels of less than thirty-five (35) acres which existed prior to April 20, 1972.
 - ii. Parcels of less than thirty-five (35) acres which are a result of a zoning district amendment to the Official Zoning Map of the Town of Newton. A-3 zoned lands transferred from a parcel of record after the adoption of these ordinance provisions shall not be used to create A-1 district lots or in the calculation of A-1 lots available.
- e. Lot area shall not have less than 150 ft. of public road frontage.
- f. No building shall be erected in excess of 35 ft. in height, except that farm structures or parts thereof not used for human occupation may be erected to heights exceeding the limitations of this district provided that such structures conform to the regulations of the Manitowoc County Airport Height Limitation Zoning Ordinance and do not present a hazard to aircraft in or adjacent to the county.

6. Farm Consolidation:

Notwithstanding any other provisions of this Ordinance to the contrary, a lot that contains farm residence(s) or structures which existed prior to the adoption of this Ordinance or amendments thereto, which is one (1) acre or more but less than 35 acres in size may be created in an A-3 agricultural district to accommodate farm consolidations and the resulting small lot is deemed to be a conforming lot for the purpose of this Ordinance.

12.06 R-2 Residential District

This district is intended to provide for preferred areas to accommodate residential growth in order to minimize impacts to agricultural resource lands, retain the Town's rural character, and maintain efficiency and provision of rural governmental services. Lands within this district include areas centered around existing town rural centers (e.g., Newton, Clover), near the City of Manitowoc, and other limited areas. This district may be considered within the Rural Center and Agricultural Transition Preferred Land Use Management Areas established by the Comprehensive Land Use Plan.

The following regulations shall apply in all R-2 Districts:

1. Permitted Principal Uses:
 - a. One Family Dwellings

- b. Churches and similar places of worship.
 - c. Convents and monasteries.
 - d. Public schools, parks, playgrounds and recreational areas
 - e. Private elementary and high schools.
 - f. Fire stations.
 - g. Public utilities.
 - h. Garden, nursery, and the production of vegetables, tree fruits, nuts, berries, and similar products.
2. Permitted Accessory Uses:
The following accessory uses are permitted if located on the same lot with a permitted use:
- a. Private garage.
 - b. Home occupation.
 - c. Other customary accessory uses and buildings, provided such uses are clearly incidental to the principal use and do not include any activity commonly conducted as a business. An accessory building shall not exceed one story, and shall not exceed 12 feet in height and 144 square feet in area.
3. Conditional Uses:
- a. Two family dwellings
 - i. Minimum lot area of one and one-half (1.5) acres.
 - b. Day Care Center
 - c. Bed and Breakfast
 - d. Horse and accessory private stables contained on a minimum lot size of five (5) acres and provided also that any stable or shelter is located at least one hundred (100) feet from any existing adjoining residences. The Plan Commission may permit a maximum of three (3) large domesticated animals on a five (5) acre parcel and one (1) additional domesticated animal for each additional two (2) acres.
 - e. Governmental and cultural sites
 - f. Rest and nursing homes
 - g. Professional office
 - h. Cemeteries
 - i. Boathouses less than five hundred and seventy-six (576) square feet in area and twelve (12) feet in height for equipment storage by resident occupants; provided that, they are located a minimum of ten (10) feet to any side lot line, do not extend beyond the average high water mark, and comply with Manitowoc County Shoreland-Floodplain zoning requirements.
 - j. Wind and solar energy conversion systems as per Section 13.18
 - k. Planned Residential Developments in conformance with the requirements of Section 18.00.
4. Building Requirements:
- a. A Sanitary Permit from Manitowoc County Planning and Park Commission is required for any new dwelling.
 - b. Town Building Permit required for any new construction after county permits have been acquired.
5. Yard-Area-Height Requirements:
- a. Front yard set back shall be a minimum of 60 feet from the centerline of a town road and 100 feet from the centerline of a county highway or state highway.
 - b. Side yards shall have a width of 25 ft. or more from lot line, except a permitted accessory building may be up to 10 ft. from the lot line.
 - c. Rear yards shall have a width of 25 ft. or more from lot line
 - d. Lot area shall not be less than 1 acre.
 - e. Lot area shall not have less than 150 feet of public road frontage.
 - f. No building shall be erected to a height in excess of 35 ft.
 - g. A copy of a Certified Survey of newly created building sites is required to receive a building permit.

12.07 LMSR Lake Michigan Shoreland Residential District

This district is intended to afford protection to natural areas, open spaces, unique habitats, environmentally sensitive areas (e.g., bluffs, shorelands), and scenic views associated with Town coastal areas east of CTHLS, while providing for single-family, residential opportunities within a highly desirable lakeshore environment. This district allows for residential development, but with residential density limits and other requirements to avoid or minimize loss of coastal habitats, interconnected open spaces, scenic views from CTHLS, and rural character. It also intended to manage growth in order to keep public service costs low and to protect public health, safety, and welfare within coastal areas.

The following regulations shall apply in all LMSR Districts:

1. Permitted Principal:
 - a. Single family dwelling, except no mobile homes.
 - b. Garden, nursery, and the production of vegetables, tree fruits, nuts, berries, and similar products.
2. Permitted Accessory Uses:
 - a. Private Garage
 - b. Home occupation
 - c. Other customary accessory uses and buildings, provided such uses are clearly incidental to the principal use and do not include any activity commonly conducted as a business. An accessory building shall not exceed one story, and shall not exceed 12 feet in height and 144 square feet in area.
3. Conditional Uses:
 - a. Recreational area
 - b. Public, parochial, and private elementary and secondary schools
 - c. Churches and similar places of worship.
 - d. Convents and monasteries.
 - e. Same as R-2 Residential District. [Section 12.06 (3)]
4. Building Requirements:
 - a. A Sanitary Permit from Manitowoc County Planning, and Park Commission is required for any new dwelling.
 - b. Town Building Permit required for any new construction after county permits have been acquired.
5. Yard - Area - Requirements:
 - a. Front yard set back shall be a minimum of 60 feet from the centerline of a town road and 100 feet from the centerline of a county highway or state highway.
 - b. Side yards shall have a width of 25 ft. or more from lot line, except a permitted accessory building may be up to 10 ft. from the lot line.
 - c. Rear yards shall have a width of 25 ft. or more from lot line.
 - d. Lot area shall not be less than five (5) acres, except as set forth in Section 12.07(6)(c)..
 - e. Lot area shall not be less than 150 ft. of public road frontage.
 - f. No building shall be erected to a height in excess of 35 ft.
 - g. A copy of a Certified Survey of newly created building sites is required to receive a building permit.
6. Development Requirements:
 - a. Maximum residential density shall be one (1) dwelling unit per five (5) acres, except that a fifty (50) percent density bonus may be achieved through approval of a "Conservation Land Division Layout Option" as set forth in Section 16.25, Conservation Design.

- b. The maximum Limits of Disturbance (LOD) for residential and accessory uses, including private driveways, is one (1) acre. The location of the LOD shall be guided by the performance standards contained in Section 13.16, Natural Resource Protection.
- c. Minimum lot area shall not be less than one (1) acre when utilizing the Conservation Land Division Layout Option as set forth in Section 16.25, Conservation Design.

12.08 B-1 Business District

This district is intended to provide for limited preferred areas of business development or redevelopment within town rural centers and along the I-43 Highway Corridor. It is also associated with preexisting, established businesses located in rural Town areas predominantly characterized by Agricultural and RCC Districts.

The following regulations shall apply in all B-1 Districts.

1. Permitted Uses:
All uses in this district are conditional uses.
2. Conditional Uses:
All uses in this district are conditional uses.
3. Building Requirements:
 - a. A Sanitary Permit from Manitowoc County Planning and Park Commission is required for any new dwelling or business with restrooms.
 - b. Town Building Permit required for any new construction after county permits have been acquired.
 - c. Check if State approved plans necessary for new business or addition to present business.
4. Yard-Area Requirements:
 - a. Front yard set back shall be a minimum of 60 feet from the centerline of a town road and 100 feet from the centerline of a county highway or state highway.
 - b. Side yards shall have a width of 25 ft. or more from lot line except where adjoining another district in which case the side yards shall be the same as required in the adjoining district.
 - c. Rear yards shall have a width of 25 ft. or more from lot line except where adjoining another district, in which case the rear yard shall be the same as required in the adjoining district.
 - d. Minimum lot area shall be governed by Wisconsin Administrative Code.
 - e. Lot area shall not have less than 150 ft. of public road frontage.
 - f. No building shall be erected to a height in excess of 35 ft.
 - g. A copy of Certified Survey for any newly created building sites is required to receive a building permit.
 - h. Adequate planting and landscape shall be provided to screen the use to adjacent districts.
5. Site Plan Approval:
No new construction, additions or alterations, etc. in the B-1 District, shall be commenced or permitted unless a site plan is submitted and approved. The site plan shall be submitted to the Zoning Administrator for review and approval in conformance with Section 7.00 herein. No permit shall be issued for such new construction or additions unless the site plan has been approved by the Plan Commission.

12.09 I-1 Industrial District

This district is intended to provide for manufacturing, warehousing, and other industrial operations, which on the basis of actual physical and operational characteristics, would not be detrimental to the surrounding area or to the community as a whole by reason of noise, dust, smoke, odor, traffic, physical appearance, degradation of groundwater or other nuisance factors; and to subject industrial operations to such regulatory controls as will reasonably insure compatibility in this respect.

The following regulations shall apply in all I-1 Districts.

1. Permitted Uses:
All uses in this district are conditional uses.
2. Conditional Uses:
All uses in this district are conditional uses.
3. Building Requirements:
 - a. Sanitary Permit from Manitowoc County Planning and Park Commission is required for any new buildings with restrooms.
 - b. Town Building Permit is required for any new construction after county permits have been acquired.
 - c. Any applicable State permits.
4. Yard - Area - Height Requirements:
 - a. Front yard setback shall be a minimum of 60 feet from the centerline of a town road and 100 feet from the centerline of a county highway or state highway.
 - b. Side yards shall have a width of 25 ft. or more from lot line.
 - c. Rear yards shall have a width of 25 ft. or more from lot line.
 - d. Minimum lot area shall be governed by Wisconsin Administrative Code, Chapter H-65.
 - e. Lot area shall not have less than 150 ft. of public road frontage.
 - f. No building shall be erected to a height in excess of 35 ft.
 - g. Adequate planting and landscaping shall be provided to screen off the use from adjacent districts.
 - h. A copy of Certified Survey of any newly created building sites is required to receive a building permit.
5. Site Plan Approval:
No new construction, additions or alterations, etc. in the I-1 District, shall be commenced or permitted unless a site plan is submitted and approved. The site plan shall be submitted to the Zoning Administrator for review and approval in conformance with Section 7.00 herein. No permit shall be issued for such new construction or additions unless the site plan has been approved by the Plan Commission.

12.10 LR Established Lakeshore Residential

This district is intended to allow for residential in fill and redevelopment consistent with established residential areas around English Lake and the south-shore of Carstens Lake. The shoreland areas within this district are highly developed and generally associated with small rural lots. Expansion of this designation onto neighboring rural lands or around other Town shoreland areas shall not be allowed.

The following regulations shall apply in all LR Districts:

The uses shall not involve dumping, filling, cultivation, mineral, soil or peat removal or any other use that would unreasonably disturb the natural fauna, flora, watercourses, water regimen or topography.

1. Permitted Uses:
 - a. Seasonal and single-family dwellings.
 - b. Grazing and the raising of crops
 - c. Harvesting of wild crops.
 - d. Hunting, fishing and trapping.

- e. Forestry.
 - f. Non-residential buildings and structures used for the raising of wildlife and fish and the practice of forestry.
 - g. Boat launching areas and boat liveries.
 - h. Public parks and recreational areas.
2. Conditional Uses:
- a. Camps and Campgrounds
 - b. Commercial recreational areas and customary accessory uses.
 - c. Sale of bait
 - d. Sportsmen's clubs and clubhouse
 - e. Accessory buildings used for purposes customarily incidental to the permitted principal and provided that the combined for coverage of the principal and accessory buildings do not exceed twenty (20) percent of the total lot area. An accessory building shall not exceed one story, and shall not exceed 12 feet in height and 144 square feet in area.
 - f. Removal of top soil, sand, gravel and stone.
 - g. Boathouses less than five hundred and seventy-six (576) square feet in area and twelve (12) feet in height for equipment storage by resident occupants; provided that, they are located a minimum of ten (10) feet to any side lot line, do not extend beyond the average high water mark, and comply with Manitowoc County Shoreland-Floodplain zoning requirements.
3. Building Requirements:
- a. A Sanitary Permit from Manitowoc County Park & Planning is required for any new dwelling.
 - b. Town Building Permit is required for any new construction after county permits have been acquired.
4. Yard- Area - Height Requirements:
- a. Front yard set back shall be a minimum of 60 feet from the centerline of a town road and 100 feet from the centerline of a county highway or state highway.
 - b. Side yards shall have a width of 25 ft., except a permitted accessory building may be up to 10 ft. from the lot line.
 - c. Rear yards shall have a width of 25 ft.
 - d. Lot area shall not be less than 1 acre.
 - e. Lot area shall not have less than 150 ft. of public road frontage.
 - f. A copy of a Certified Survey of any newly created building site is required to receive a building permit.

12.11 RCC Rural Character Conservation

This district is intended to promote conservation of Newton's natural features, unique landscapes, and open space corridors which contribute greatly to the Town's rural character and identity. It is also intended to appropriately site whatever development occurs in order to: 1) preserve natural features, 2) maintain a diversity of vegetative and biological communities, and 3) retain continuous tracts of undeveloped habitat and open spaces. The RCC district should be characterized by large tracts of predominantly undeveloped/uncultivated woodlands, wetlands, lake and stream shoreline areas, and other open spaces. Agricultural production should overall be a minor district land use in comparison to other open space uses, and most of the District should not be characterized by prime farmland soils.

The following regulations shall apply in all RCC Districts:

- 1. Permitted Principal Uses:
Same as A-2 General Agriculture District. [Section 12.04 (1)]
- 2. Permitted Accessory Uses:
Same as A-2 General Agriculture District. [Section 12.04 (2)]
- 3. Conditional Uses:
Same as A-2 General Agriculture District. [Section 12.04 (3)]

4. Building Requirements:
Same as A-2 General Agriculture District. [Section 12.04 (4)]
5. Yard-Area-Height Requirements:
Same as A-2 General Agriculture District. [Section 12.04 (5)]
6. Development Requirements:
 - a. Same as A-2 General Agriculture District, except that a fifty (50) percent density bonus may be achieved through approval of a "Conservation Land Division Layout Option" as set forth in Section 16.25, Conservation Design.
 - b. The maximum Limits of Disturbance (LOD) for residential and accessory uses, including private driveways, is one (1) acre. The location of the LOD shall be guided by the performance standards contained in Section 13.16, Natural Resource Protection.

12.12 BDR - Business Design Review Overlay District

This district is intended to provide locations to accommodate the development and expansion of retail and service businesses oriented toward providing products and services to the general public, and to provide development standards which facilitate and guide such development in accordance with commonly accepted land use, transportation, neighborhood compatibility, and public service standards. Suitable commercial land uses include retail sales, personal and professional services, and offices. The BDR District is designed to promote high-value commercial development while simultaneously curbing development which may have negative impacts on the community.

The following regulations shall apply in the BDR District:

1. Permitted Uses:
All uses in this district are conditional uses.
2. Conditional Uses:
All uses in this district are conditional uses.
3. Building Requirements:
 - a. A Sanitary Permit from Manitowoc County Planning and Park Commission is required for any new dwelling or business with restrooms.
 - b. Town Building Permit required for any new construction after county permits have been acquired.
 - c. Any applicable State of Wisconsin permits.
4. Yard-Area Requirements:
 - a. Front yard set back shall be a minimum of 60 feet from the centerline of a town road and 100 feet from the centerline of a county highway or state highway.
 - b. Side yards shall have a width of 25 feet or more from lot line except where adjoining another district in which case the side yards shall be the same as required in the adjoining district.
 - c. Rear yards shall have a depth of 25 feet or more from lot line except where adjoining another district, in which case the rear yard shall be the same as required in the adjoining district.
 - d. Minimum lot area shall be one acre or 43,560 square feet.
 - e. Lot area shall not have less than 150 feet of public road frontage.

- f. No building shall be erected to a height in excess of 45 feet.
- g. A copy of recorded Certified Survey for any newly created building sites is required to receive a building permit.
- h. Adequate planting and landscape shall be provided to screen the use to adjacent districts.
- i. Uses in this district are required to provide adequate off-street parking consistent with the needs of the use.

5. Site Plan Approval:

No new construction, additions, or alterations of a building, its footprint, landscaping or signage in the BDR District, shall be commenced or permitted unless a site plan and conditional use application are submitted and approved. The site plan shall be submitted to the Zoning Administrator for review and approval in conformance with Section 7.00 herein. No permit shall be issued for such new construction, additions or alterations unless the site plan has been approved by the Plan Commission.

6. Design Review Requirements:

Review Standards: The Town of Newton hereby establishes design review guidelines, rather than stringent regulations for the BDR District, in order to provide direction to developers while encouraging innovation and creativity. The Plan commission shall be responsible to determine whether proposed site plans and architectural designs adequately conform to the established guidelines. The design review guidelines consist of the following:

a. Site Design Guidelines: The design principles enumerated and illustrated in the document, *Town of Newton Site Design Guidelines*, are hereby adopted as provisions of this ordinance. Proposed development under the jurisdiction of this section shall comply with the design principles contained therein as applicable. Notwithstanding the foregoing, the Plan Commission may approve variations from the site design guidelines in order to facilitate development that is consistent with development in the B-1 Business District and in the I-1 Industrial District.

b. Plan Commission Discretion: The design principles adopted in the *Town of Newton Site Design Guidelines* may be varied from as determined appropriate by the Plan Commission in order to facilitate development that is consistent with other districts. Such areas have been designated as B-1 Business District and the I-1 Industrial District in the Town of Newton's Zoning Ordinances and Comprehensive Plan.

7. Amendment to Zoning Map: The town zoning map is hereby amended to include the Business Review District as shown on Map 1, Option 1, dated May 9, 2007 on file with the Town, a which is attached hereto.

Design
copy of

12.13 AOB - Adult Oriented Business Overlay District

The following regulations will apply in the AOB District:

- 1. An AOB overlay district shall not be established within 2,500 feet of a church or place of worship, school, public park, family day care home, licensed day care facility, a group day care center, or any institutional land use.
- 2. An AOB overlay district shall not be established within 2,500 feet of any residential land use.

3. An AOB overlay district shall not be established within 2,500 feet of an existing adult oriented business.
4. The exterior appearance of any premises containing an adult oriented business shall not detract from the operation of a neighboring business, shall be of neutral color tones, shall be maintained in good condition, and shall no contain stripes or geometric or other patterns.
5. An adult oriented business located within an AOB overlay district shall provide one parking space per every 300 square feet of gross floor area in the principal building(s) or one space per person at the maximum capacity of the establishment, whichever is greater.
6. The provisions of Section 15.14 shall apply.

SECTION 13.00 DEVELOPMENT STANDARDS

13.01 Street Access

A. Collector and minor residential streets may be required to connect with surrounding streets when necessary to permit the convenient movement of traffic between neighborhoods or to facilitate access to neighborhoods by emergency service vehicles or for other sufficient reasons. Connection may be denied where the effect would be to encourage the use of such streets by substantial through traffic.

B. Whenever connections to anticipated or proposed surrounding streets are required by this section, the street right-of-way shall be extended and the street developed to the property line or the subdivided property at the point where the connection to the anticipated proposed street is expected, unless prevented by topography or other physical conditions or unless, in the opinion of the Town Plan Commission, such extension is not necessary or desirable for the coordination of the layout of the subdivision or for the advantageous development of the adjacent tracts.

In addition, the Town may require temporary turnarounds to be constructed at the end of such streets pending their extension. Notwithstanding other provisions of this subsection, no temporary or permanent dead-end streets in excess of one thousand (1,000) feet may be created unless another practical alternative is not available.

C. Alleys shall be provided in commercial and industrial districts for off-street loading and service access unless otherwise required by the Town Plan Commission, but shall not be approved in residential districts. Dead-end or crooked alleys shall not be approved and an alley shall not connect to an arterial street.

D. Cul-de-sac streets designed to have one end permanently closed shall normally not exceed one thousand (1,000) feet in length. All cul-de-sac streets designed to have one end permanently closed shall terminate in a circular turnaround having a minimum right-of-way radius of sixty (60) feet and a minimum outside paved radius of thirty-seven and one half (37 ½) feet. Greater dimensions may be required when in the interest of the public the Town deems it necessary.

E. Reserve strips or "spite strips" shall not be allowed on any plat to control access to streets or alleys from abutting property except where control of such strips is placed with the Town under conditions approved by the Town Plan Commission.

F. Half-streets are streets which are only a portion of the required width and are usually platted along property lines. These half-streets shall be prohibited except where it is deemed essential for the reasonable development of the subdivision in conformity with the other requirements of these regulations

and where the Plan Commission finds it will be practical to require the dedication of the other half. When the adjoining property is subdivided, the other half of the street shall be platted within such tract.

13.02 Highway Construction Standards

All town highways are subject to the following specifications:

- a. The highway right-of-way shall have a width of 4 rods (66 feet).
- b. The roadway shall have a width of 34 feet unless ground or other conditions render that width impractical. In that case, the roadway shall be as close to 34 feet in width as practical. The hard surface area shall have a width of 22 feet. Each shoulder shall have a width of 6 feet.
- c. The road bed shall be constructed with a base layer of ten (10) inches of breaker run coarse stone, eight (8) inches of road gravel (3/4 inch crushed rock or gravel), and a top layer of three (3) inches of hard surface (hot mix blacktop or cold mix blacktop), 1 1/2 inches compacted first year, and 1 1/2 inches compacted the next year. The shoulder shall be porous gravel.
- d. Cross drains shall have a minimum size of 24 inches. The actual size shall be calculated and placed in such a manner so as not to obstruct the natural flow of water.
- e. Side ditch slopes shall be covered with black ground, seeded with perennial grass seed, and maintained in good growing condition. The back slope on the ditches shall be no greater than a 3 to 1 slope.
- f. A cul-de-sac shall have a right-of-way diameter of 120 feet and a blacktop surface diameter of 75 feet.
- g. The maximum centerline grade shall be 9%. A lesser street grade may be required by the Plan Commission to take into account exceptional topography.
- h. Center stripping shall be completed and glass beads added.
- i. The culvert for driveway access and driveways shall comply with existing ordinances, including Ordinance No. 111396. In addition all driveways which are finished in cement or concrete shall terminate at least six (6) feet from the blacktop surface of the roadway. The six (6) feet may be finished in blacktop if the property owner elects.

13.03 Road Alignment

A. When a continuous street centerline deflects at any one point by more than five percent (5%), a circular curve shall be introduced having a radius of curvature on such centerline of not less than the following:

1. Arterial streets and highways: five hundred (500) feet.
2. Collector streets: three hundred (300) feet.
3. Minor streets: one hundred (100) feet.

B. A tangent of at least one hundred (100) feet in length shall be provided between reverse curves on arterial and collector streets.

C. A minimum sight distance with clear visibility, measured along the center line, not less than the following:

1. Arterial streets and highways: five hundred (500) feet.
2. Collector streets: three hundred (300) feet.
3. Minor streets: one hundred (100) feet.

D. Public streets shall be a minimum width of 66 feet.

E. Private roads shall have a minimum driving surface of 14 feet.

13.04 Street Names

New street names may not duplicate the names of existing streets within Town boundaries, but streets that are continuations of existing and named streets shall bear the name of the existing street. Street signs shall be required at all intersections. Street sign location and design shall be recommended by the Town Plan Commission, and approved by the Town Board.

13.05 Intersection Design

- A. Streets shall intersect at right angles and not more than two (2) streets shall intersect at one point.
- B. Intersections shall be approached on all sides by grades not to exceed four percent (4%) for a distance of at least fifty (50) feet in length unless exceptional topography would prohibit these grades.
- C. The minimum turning radius at an intersection shall not be less than forty (40) feet.
- D. If a proposed street is to enter a Town, County or State arterial and it is deemed a hazardous entrance by the governing body having jurisdiction over the road, it will be the responsibility of the subdivider to correct the potential hazard through an agreement with the governing body or else relocate the proposed entrance to a more suitable location approved by the governing body.
- E. The following distances between intersections must be observed:
 - 1. Minor and collector streets shall not empty into State and federal highways at intervals less than one thousand three hundred (1,300) feet and into an arterial less than one thousand (1,000) feet.
 - 2. Minor and collector streets shall be in alignment with existing and planned streets entering the above highways from the opposite side.
- F. If the intersections on minor and collector streets are not in alignment, the distance between streets opening upon opposite sides of any existing or proposed streets must be at least one hundred fifty (150) feet measured along the intersecting centerline. Where the streets enter on the same side, the intersection distance measured from the centerline shall be at least three hundred (300) feet.

13.06 Traffic Visibility

No obstruction which would create a road hazard or impede road or ditch maintenance shall be permitted on or over any road right-of-way without permission of the Town Board, except for a mailbox which conforms to the rules and regulations of the U.S. Postal Service and a newspaper delivery box located within twelve inches below or either side of a mailbox.

13.07 Minimum Sight Triangle at Intersections

A. A full view zone shall be maintained at all highway intersections and all intersections of highways with railways. In addition to any other requirements of this Ordinance, no shrubs exceeding three (3) feet in height, nor anything that will obstruct the view, shall be erected on or be moved on to lands lying within the sight triangle as herein determined unless otherwise excepted by other provisions of this ordinance.

- (1) Where two highways or a highway and a railway intersect, the minimum sight triangle at the intersection shall be measured from the center of the intersection extending two hundred (200) feet along the centerline of the arterial highway or railway not controlled at the intersection, and one hundred (100) feet along the centerline of the intersecting highway which is controlled at the intersection by a stop or yield sign. The third side of the vision triangle will be a line connecting those points.

13.08 Structures Permitted Within Setback Lines and Within Minimum Sight Triangle

Notwithstanding any other provisions of this Ordinance, the following types of structures and plant materials may be placed between the setback lines and the highway, and within the minimum sight triangle at corners of intersections:

- (1) Open fences.
- (2) Telephone, telegraph and power transmission poles and lines may be constructed within the setback lines, and additions to and replacements of existing structures may be made, provided the owner will file with the Town of Newton 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 the owner's expense, when necessary for the improvement of the highway.
- (3) Underground structures not capable of being used as foundations for future prohibited overground structures.
- (4) Annual field crops under three (3) feet in height.

(5) Temporary non-illuminated signs consistent with this ordinance.

13.09 Determination of Center Line

The centerline of highways shall be determined as follows:

- (1) On highways where plans showing the centerline have been prepared, the location of the centerline shall be determined from the plans.
- (2) On existing highways where no plans have been prepared showing the centerline, the centerline shall be a line located midway between the edges of the paved surface or if unpaved, the center of the traveled way.
- (3) On divided highways each separate pavement shall have a separate centerline, the location of which shall be determined from the highway plan.

13.10 Loading Requirements

On every lot on which a business, trade, or industrial use is hereafter established, space with access to a public street or alley shall be provided as indicated below for the loading and unloading of vehicles off the public right-of-way.

- A. Retail business: One (1) space of at least ten (10) by twenty-five (25) feet for each twenty thousand (20,000) square feet of floor area or part thereof.
- B. Wholesale and industrial: One (1) space of at least ten (10) by fifty (50) feet for each ten thousand (10,000) square feet of floor area or part thereof.
- C. Bus and truck terminals: Sufficient space to accommodate the maximum number of buses or trucks to be stored or to be loaded or unloaded at the terminal at any one time.
- D. Each loading and unloading space shall have access to a public street or alley.
- E. At no time shall any part of a truck or van be allowed to extend into the right-of-way of a public road or street while the vehicle is being unloaded or loaded.

13.11 Driveways

All driveways installed, altered, changed, replaced, or extended after the effective date of this Ordinance shall meet the following requirements:

- A. Driveways in residential and agricultural districts shall be a minimum of fourteen(14) feet of driveable surface.
- B. Driveways intended for public use in all districts, except residential and agricultural districts shall be a minimum of twenty-four (24) feet of driveable surface.
- C. Islands between driveway openings shall be provided with a minimum of twenty-four (24) feet between all driveways and twelve (12) feet at all lot lines.
- D. Openings for vehicular ingress and egress shall not exceed twenty-four (24) feet at the street line and 30 feet at the roadway.
- E. Vehicular Entrances and Exits to: banks, and restaurants; motels, funeral homes, vehicular sales, service, washing and repair stations; garages or other retail or commercial establishments shall be not less than two hundred (200) feet from any pedestrian entrance or exit to a school, college, university, church, hospital, park, playground, library, public emergency shelter, or other place of public assembly.

13.12 Parking Spaces for Use by Disabled Persons.

- A. All open off-street parking areas shall provide for accessible parking spaces, in accordance with the following minimum standards or as otherwise required by applicable state or federal law, rule or regulation:

Total Number of Parking Spaces	Number of Physically Handicapped Accessible Spaces
1-25	1
26-50	2
51-75	3
76-100	4
101-150	5
151-200	6
201-300	7
301-400	8
401-500	9
501-1,000	2% of total spaces
1001 and over	20 plus 1 for each 100 over 1000

- B. All parking spaces provided for the use of physically disabled persons shall be located as close as possible to an entrance which allows such persons to enter and leave the parking area without assistance.
- C. All Parking spaces provided for the use of physically disabled persons shall be marked with a sign which includes the international symbol for barrier-free environments and a statement informing the public that the parking space is reserved for use by physically disabled persons. Such signs shall comply with the requirements of Wisconsin Statutes and applicable codes.

13.13 Right of Way Access

No direct private access shall be permitted to the existing or proposed rights-of-way of freeways, nor to any controlled access arterial street without permission of the highway agency that has access control jurisdiction. No direct public or private access shall be permitted to the existing or proposed rights-of-way of the following:

- A. Freeways, interstate highways, and their interchanges or turning lanes nor to intersecting or interchanging streets within one thousand five hundred (1,500) feet of the most remote end of the taper of the turning lanes.
- B. Arterial streets intersecting another arterial street within one hundred (100) feet of the intersection of the right-of-way lines.
- C. Local streets intersecting an arterial street within fifty (50) feet of the intersection of the right-of-way lines.
- D. Access barriers, such as curbing, fencing, ditching, landscaping, or other topographic barriers, shall be erected to prevent unauthorized vehicular ingress or egress to the above specified streets or highways.
- E. Temporary access to the above rights-of-way may be granted by the Town Plan Commission after review and recommendation by the highway agencies having jurisdiction. Such access permit shall be temporary, revocable, and subject to any conditions required and shall be issued for a period not to exceed twelve (12) months.

13.14 Grading

- A. Large scale grading for the purpose of creating lots of excessive slopes shall not be permitted.

- B. In order to protect adjacent property owners from possible damage due to changes in existing grades, no change in the existing topography within twenty (20) feet of the property line shall result in the slope to a ratio greater than three (3) horizontal to one (1) vertical. In no case shall any slope exceed the normal angle of slippage of the soil involved. The exception to this shall be where retaining walls are built with the written consent of the abutting property owner and with the approval of the Plan Commission.

13.15 Right-to-Farm

Intent:

The Comprehensive Land Use Plan contains the following stated goal: "Support and protect a farmer's right to continue and conduct normal and lawful agricultural management practices necessary for agricultural production." To help implement this goal and related Plan objectives, it is the intent of this section to conserve, protect, and encourage the continued use and improvement of agricultural land in the Town of Newton for the production of agricultural products. Additionally, this Right-to-Farm section is designed to preserve the right of farmers to produce, without unnecessary interference, agricultural products using generally accepted agricultural and management practices and to discourage the encroachment of non-agricultural land uses into rural areas.

1. Limitation of Private Action:

An agricultural use or agricultural practice may not be found to be a nuisance under Town Ordinances if all of the following apply:

- a. The agricultural use or agricultural practice alleged to be a nuisance is conducted on, or on a public right-of-way adjacent to, land that was in agricultural use without substantial interruption before the plaintiff began the use of the property that the plaintiff alleges was interfered with by the agricultural use or agricultural practice;
- b. The agricultural use or agricultural practice does not present a substantial threat to public health or safety; and
- c. The agricultural use is part of generally accepted agricultural and management practices.

2. Development Review:

In reviewing any permit requiring a land use change, rezoning, or land division approval, the decision-making body shall, to the maximum extent feasible, ensure that such change does not adversely affect any existing agricultural operation on land not subject to such approval, including access to active agricultural operations, especially within areas established by the Comprehensive Land Use Plan as Agricultural Management Area.

3. Agricultural Buffers:

- a. Intent. Reduce the potential for land use conflicts by providing separation between new residential home sites and existing farms.

- b. Designation. Agricultural buffers of a 1,000 feet are established around all town active farm operations which were in existence as of November 8, 2000. Such agricultural buffers shall also apply to any new farm sites which meet the definition of "active farm" within either the Agricultural or Rural Character Conservation Management Areas established by the Comprehensive Land Use Plan. For the purposes of this Section, "active farms" are those farms where agriculture use and production for income and as livelihood is the primary use of the property. Factors determining whether agriculture is the primary use include, but are not limited to: the ability to make a substantial living from the existing farm operation; the operation, maintenance, and investment of on-site farm support buildings and machinery; and management of the farm operation for sustained agricultural production. Examples of "active farms" in the Town include cattle management and sales involving 30-plus size herds and production and sale of milk products. The Town of Newton shall maintain a map of classified "active farms" sites and associated agricultural buffers. This map shall be advisory and used by the Town to provide guidance in determining the applicability of the standards of this section.

- c. Standards. The agricultural buffer area shall be measured from the outside boundary of areas which act as the farm service center in support of agricultural use and production. Such areas

include, but are not limited to: farm-related residences, barns and other associated farm buildings; feedlots; manure ponds; and agricultural product processing. The Town shall not issue any permit nor approve any land division which proposes siting a new residential dwelling unit or creation of a new lot within an agricultural buffer. New lots may be located within a 1,000 feet of an active farm; provided that, a Limits of Disturbance (LOD) area is shown on the face of the Certified Survey Map or Final Plat that is located outside of the agricultural buffer area.

d. Exceptions. Agricultural buffers shall not apply to any legal addition or improvement to an existing residential structure. Additionally, the decision-making body for the permit or land division approval request can use discretion to either waive or reduce the agricultural buffer requirement where any of the following circumstances apply:

- 0.1 The proposed residential use is associated directly with an active farm operation;
- 0.2 The proposed residential use is to be located on a pre-existing lot which does not have a suitable building site outside the agricultural buffer;
- 0.3 The lot is not located within the Agricultural Management Area established by the Comprehensive Land Use Plan;
- 0.4 The farm site is no longer considered an active farm; and/or
- 0.5 The active farm operation does not involve livestock and poultry raising, dairying, manure storage, crop processing, or other farming operations which have the current potential or likely future potential to create substantial nuisances associated with existing farm facilities and operations on the site.

13.16 Natural Resource Protection Standards

1. Intent:

The intent of these standards is to establish performance standards for natural resource protection to implement the goals, objectives, and policies of the Comprehensive Land Use Plan especially as they relate to the selected Plan land protection criteria and designated preferred land use management areas.

2. Environmental Performance Standards:

Proposed new lots and limits of disturbance (LOD) within any zoning district must consider ALL of the following performance standards:

- a. Avoid development of wetlands, floodplains and slopes 20 percent or steeper to the extent practicable. In addition, no development of a wetland or floodplain area shall be approved without a permit from Manitowoc County and the Wisconsin Department of Natural Resources, or a letter from such agencies indicating no permit is required for the proposed activity.
- b. Maintain open spaces and vegetative areas around town shoreland and wetland areas which at a minimum comply with Manitowoc County shoreland building setback and vegetative buffer requirements.
- c. New land divisions must demonstrate compliance with the Conservation Design standards set forth in Section 16.25 of this Ordinance.
- d. Maintain woodland areas of ten (10) acres or greater in size shown on maps adopted by the Town as contiguous tracts to the extent practicable.

3. Agricultural Performance Standards:

Proposed new lots and limits of disturbance (LOD) within existing or proposed A-1 or A-2 Districts which are located within the Planned Agricultural Preferred Land Use Management Area established by the Comprehensive Land Use Plan must consider ALL of the following performance standards:

- a. Avoids land that qualifies for rating as Class I, II or III in the U.S.D.A. Natural Resources Conservation Service Land Use Compatibility Classification within the Soil Survey of Calumet and Manitowoc Counties to the extent practicable. Where avoidance is not possible, priority shall be given to maximizing protection of lands rated as Class I and II.

- b. Maintains agricultural land and open spaces as large tracts with connections to similar areas on adjacent properties.
- c. Maintains a distance of 1,000 feet or more from active farms, unless exempted under Section 13.15 (4) herein.
- d. Directs development to locate within 300 feet of the centerline of an existing public road. The Plan Commission may waive this standard upon a finding that there are no available or suitable alternatives for development within 300 feet of the public road, or where locating more than 300 feet will provide for equal or greater protection of agricultural production on surrounding properties.
- e. Provides for future development to occur within areas already characterized by existing development patterns (e.g., triangular lots, three-cornered lots, narrow fields between residential uses, etc.) which preclude or significantly impact efficient farming operations.
- f. Avoids the creation of irregular lots which preclude or significantly impact continued farming operations on adjacent lands.
- g. Provides for future development to occur along the edges of tillable fields, either along an existing fence line or on non-tillable land where the disruption of farming practices will be minimized.
- h. Provides for transition areas such as woodlands and open spaces between the A-1 District and existing active farms and managed cropped farmland areas.
- i. Considers areas where existing topography can provide additional buffering benefits such as noise reduction, reducing glare, and retaining rural character.

13.17 Mineral Extraction

Mineral extraction operations including washing, crushing, or other processing of natural resources indigenous to Manitowoc County are conditional uses in the A-2, A-3, and I-1 Districts, subject to the following standards:

1. The application for the Conditional Use Permit shall include an adequate description of the operation (operations plan); a list of equipment, machinery, and structures to be used; a topographic map of the site showing existing contours with minimum vertical contour interval of five (5) feet, trees, and other appropriate landscaping, proposed excavations, and a restoration plan.
2. The restoration plan provided by the applicant shall contain proposed contours after filling, depth of the restored topsoil, type of fill, planting or reforestation, and restoration commencement and completion dates. The applicant shall furnish the necessary fees to provide for the Town's inspection and administrative costs and the necessary sureties which will enable the Town to perform the planned restoration of the site in the event of default by the applicant. The amount of such sureties shall be based upon cost estimates prepared by a State licensed Engineer, and the form and type of such sureties shall be approved by the Town Attorney, and all of such costs shall be borne by the applicant.
3. The Town Plan Commission shall particularly consider the effect of the proposed operation upon existing streets, neighboring development, proposed land use, drainage, water supply, soil erosion, natural beauty, character, and land value of the locality and shall also consider the practicality of the proposed restoration of the site.
4. Lot and Side Yard:
 - a. The minimum street yard (setback) shall be one hundred fifty (150) feet from an existing or planned public street right-of-way.
5. Public Safety:
 - a. Noise: The maximum level of noise permitted to be generated by mineral extraction operation shall be eighty five (85) decibels, as measured on the dB(A) scale, measured at the lot line.
 - b. Gate Required: All mineral extraction operations shall have a gate to the entrance of such area.
 - c. No operation shall reduce the current groundwater level more than five (5) feet.
6. Building Height:

No building, parts of a building shall exceed thirty-five (35) feet in height above the average gradient at the right-of-way line.

7. Water:

The washing of sand and gravel shall be prohibited in any operation where the quantity of water required will affect the supply of other uses in the area, or where disposal of the water will affect the supply of uses in the area, or will result in contamination, pollution, or excessive siltation.

13.18 Energy Conservation

1. Solar energy conversion systems used to produce electrical power or supplement heating systems are allowed in any zoning district, provided that the following standards are complied with:

a. Application: Applications for the erection of a solar energy conversion system shall be accompanied by a plat of survey for the property to be served showing the location of the conversion system and the means by which the energy will be provided to the structure or structures. The application shall include calculations showing that the structure is constructed to withstand any additional loading placed upon the structure by the installation of the solar energy conversion system. Copies of any solar access easements or agreements obtained by the applicant shall also be provided to the Town.

b. Construction: Solar energy conversion systems shall be constructed and installed in conformance with all applicable state and local building codes.

c. Location and height: Solar energy conversion systems shall meet all setback and yard requirements for the district in which they are located. Solar energy conversion systems shall conform to all height requirements of this Ordinance unless otherwise provided in the Conditional Use permit issued pursuant to this section.

13.19 Electric Utilities

Except as provided in Section 16.29 hereof, electric lines may be placed underground and the transformer junction box, pedestal, cabinet or similar equipment necessarily appurtenant to the underground utility may be placed above ground, provided, however, that the transformer junction box, pedestal, cabinet or similar equipment shall be placed on the lot for which the electric service is provided.

SECTION 14.00 ENVIRONMENTAL PERFORMANCE STANDARDS

This section sets the performance standards for all uses requiring a permit or approval under this Ordinance to limit, restrict, and prohibit the effects of those uses outside their premises or district. These standards do not apply to agricultural uses or practices. No person shall cause to occur any of the following activities:

14.01 Air Pollution

No activity shall emit any fly ash, dust, fumes, vapors, mists, or gases in such quantities so as to substantially contribute to exceeding County, State, or Federal air pollution standards.

14.02 Glare and Heat

No activity shall emit glare or heat that is visible or measurable outside its premise. All operations producing intense glare or heat shall be conducted within a completely enclosed building. Exposed sources of light shall be shielded so as not to be visible outside of their district.

14.03 Water Quality Protection

1. No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid material of such quantity, obnoxiousness, toxicity, or temperature which, as a result of a run off, seeping, percolating, or washing into surface or subsurface waters shall contaminate, pollute, or harm such waters or cause nuisances such as: objectionable shore deposits, floating of submerged debris, oil, scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.

2. In addition, no activity shall withdraw water or discharge liquid or solid material so as to exceed or contribute toward exceeding the minimum standard set forth in the Wisconsin Administrative Code.

14.04 Noise

1. No activity shall produce a sound level outside the district boundary that exceeds eighty five (85) decibels.

2. All noise shall be muffled or otherwise controlled so as not to become objectionable due to intermittence, duration, beat frequency, impulse character, or shrillness. No approved nonagricultural land use or development in the R-2, LMSR, PRD, B-1, LR, RCC, BDR or AOB zoning districts shall produce a sound level outside its lot lines that exceeds the following sound level measured by a sound meter and associated octave level filter:

Octave Band Frequency <u>cycles per second</u>	Sound Level <u>decibels</u>
0 to 75	72
75 to 150	67
150 to 300	59
300 to 600	52
600 to 1200	46
1200 to 2400	40
2400 to 4800	34
Above 4800	32

14.05 Odors

No activity shall emit any offensive, obnoxious, or unhealthful odor as to cause a nuisance to the public health and safety. The guide for determining odor measurement and control shall be Chapter 13, Air

Pollution Abatement Manual, 1960, prepared by the Manufacturing Chemist's Association, Inc., Washington, DC.

14.06 Vibrations

No activity in any district shall emit vibrations which are discernible without instruments outside premises.

14.07 Surface Drainage

1. No surface water may be channeled or directed into a sanitary sewer system.
2. All development shall conform to the natural drainage of the land and natural and preexisting man-made drainage ways shall remain undisturbed, to the extent practicable.
3. The drainage system of the development shall coordinate with and connect to the drainage systems or drainage way of the surrounding properties or streets, whenever practicable.
4. The damming, filling, relocation, or interference with the natural flow of surface water along any surface water drainage channel or natural water course shall not be permitted, except with approval of the Town.
5. To increase infiltration, reduce peak runoff and increase safety, surface drainages should be grassy parabolic swales.
6. No principal building shall be erected, structurally altered, or relocated on land which is not adequately drained, or which is subject to periodic flooding, or is so located that the lowest floor level is less than three feet above the anticipated seasonal ground water level.
7. The discharge of rain water conductors shall not be directed toward adjacent structures or create a nuisance. Conductors must not end closer than ten (10) feet to an adjacent property line.
8. No building other than bridge, dam, boathouse or revetment shall be erected, structurally altered or relocated so that the lowest form of the structure is less than three 3 feet above flood stage.

14.08 Stormwater Runoff Control

1. Year Storm:
The storage and controlled release of excess storm water shall be required in combination for all commercial and industrial developments and for residential subdivision. The controlled release of storm water run-off from all development described above should not exceed the peak discharge of storm water runoff as occurring under existing conditions based upon a ten (10) year storm event.
2. 100 Year Storm:
Where site detention is required for runoff control, the detention facilities shall safely pass by the run-off of a one hundred (100) year storm through an emergency surface outlet.
3. Downstream Improvements:
In the event the developer would choose to release more runoff than what would occur under the existing conditions, the developer will be required to provide adequate outlet facilities downstream to accommodate the increased rate of runoff.
4. Standards:
Runoff determination shall be done in conformance with Soil Conservation Services' Technical Release Manual 55 (JR55) as amended or supplemented from time to time.

14.09 Erosion Control

Erosion control shall be required for all business, industrial and residential districts. The planning process, specifications and construction techniques will be done in accordance with the "Wisconsin Construction Site Best Management Practices Handbook" prepared by the Wisconsin Department of Natural Resources.

1. Erosion Control Plans:

Erosion control plans shall be based on a detailed map of the area showing adjacent properties, and the identification of any structures or natural features on the site or adjacent land within two hundred fifty (250) feet. The plan shall include: a boundary line survey of the site, a location and description of the soil types which have been rated severe for erosion limitations, by the USDA Soil Conservation Service, and the elevation, dimension, location and extent of all proposed grading. It shall include the location and identification of any proposed additional structures or development on the site. It shall include plans and specifications for: drainage structures, retaining walls, cribbing, planting, anti-erosion devices or other protective devices whether temporary or permanent to be constructed in connection with or as a part of the proposed work. The plan will show the drainage area of the land tributary to the site, upstream culverts, and other restrictions which may control the quantity and rate of run-off. It will contain a statement explaining the estimated run-off used to determine the design characteristics of any drainage device. Upstream drainage shall be considered and explained if any adverse effect is possible. Plans for removal, re-contouring or other final disposition of sediment basins or other structural improvements or devices shall be included in the plan.

2. Factors which will be considered in reviewing land suitability, and run-off erosion control plans shall relate to the specific site conditions. The plan should reduce land grading and keep land disturbance to a minimum. Both surface run-off and storm water drainage systems should be integrated to accommodate the increased run-off incurred during land grading. Existing temporary and future protective vegetation should be emphasized. The plan shall coordinate grading operation and sedimentation control measures so as to minimize land exposure to erosion to the briefest time. Sediment basins below high sediment producing areas should be planned, installed and maintained as safety devices to catch and trap excessive sediment from tile development site. The plan should utilize available technologies to keep soil erosion to a minimum level.

14.10 Submittal Procedures

1. The preparation of surface water, erosion and sediment control plans shall be undertaken by a qualified individual and shall be submitted to the Zoning Administrator, who shall review and then transmit that information back to the Town Plan Commission and Town Board.

2. Upon consideration of the factors cited above, and consistent with the purposes of the chapter, conditions may be attached for the approval of erosion control and run-off as are deemed necessary. Among such conditions without limitation because of specific enumeration are:

- a. All activities on the site shall be conducted in logical sequence to minimize the area of unstable soils at any one time.
- b. Temporary cover during grading and development period may be prescribed. Unstabilized soil may not be left over the winter months. If construction is not anticipated to be completed prior to September 30, temporary annual seeding or sod must be installed prior to September 30 on all areas that have bare soil.
- c. Permanent grass and vegetative cover for the area.
- d. Stabilization by means of mulching, non-vegetative materials, jute mat, excelsior, etc.
- e. Sodding the area subject to erosion.
- f. Use of low growing plants, vines, shrubs, or other ground covers to stabilize sediment producing areas.
- g. Construction of structures that will stabilize the grade and water channels.
- h. Construction of sediment basins shall be designed and built to insure against failure of the structure resulting in loss of life or interruption of use or service of public utilities.
- i. Use of grass waterways or tile for safe disposal of runoff water.

- j. Utilization of existing topography and planning development to minimize erosion such as planning roadways parallel to contours.
- k. Leaving critical areas in an undisturbed condition or correction of critical areas that can cause erosion hazards.
- l. Constructing diversionary channels and terraces across the slopes.

14.11 Lighting.

1. Intent: No exterior lighting used for parking lots, recreational facilities, product display, or security shall be permitted to spill over an operators of motor vehicles, pedestrians, and uses of land in abutting lots or public rights-of-way. These requirements shall not apply to lighting placed in a public right-of-way for public safety.
2. Orientation: No exterior lighting fixture shall be oriented so that the lighting element (or a transparent shield) is visible from a property in an R-2, LMSR, PRD, B-1, LR, RCC, BDR or AOB district. Light rays (in all districts) shall not be directed into street rights-of-way or upward into the atmosphere. The use of shielded luminaries, or luminaries with cutoff optics, and careful fixture placement are examples of methods that can be used to comply with this requirement.
3. Minimum Lighting Standards: All areas designated on approved site plans for vehicular parking, loading, or circulation and used for any such purpose after sunset shall provide artificial illumination in such areas at a minimum intensity of 0.4 foot-candles, exclusive of approved anti-vandal lighting.
4. Intensity of Illumination: The intensity of illumination, measured at the property line, shall not exceed 0.5 foot candles, except in the I-1 zoning district. In the I-1 district, the intensity of illumination, measured at the property line, shall not exceed 1.0 foot candles.
5. Maximum Height: The maximum permitted height of a luminary in the R-2, LMSR, PRD, RCC and LR zoning districts is 12 feet. In the A-1, A-2, A-3, B-1, I-1, BDR and AOB districts, the maximum permitted height of a luminary is 20 feet.
6. Distracting Lighting: Flashing, flickering, or other lighting which may distract motorists is prohibited.
7. Exceptions: Exceptions to the specific lighting standards established in this section may be granted by the Plan Commission when a lighting plan is considered as part of a site plan. The intent of this section shall be upheld by an approved lighting plan.
8. Nonconforming Lighting: All lighting fixtures existing prior to the adoption of this Ordinance not meeting the above criteria shall be treated and regulated as legal nonconforming uses.

SECTION 15.00 SIGNS

15.01 Permit Required

No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without a sign permit, except as set forth in Section 15.04 and without being in conformity with the provisions of this Ordinance.

15.02 Sign Permit Application

Applications for a sign permit shall be made on forms provided by the Town Zoning Administrator and shall contain or have attached thereto the following information:

1. Location:

Name, address, and telephone number of the applicant; location of building, structure, or lot to which or upon which the sign is to be attached or erected.

2. Responsible Parties:

Name of person, firm, corporation, or association erecting the sign.

3. Consent:

Written consent of the owner or lessee of the building, structure, or land to which or upon which the sign is to be affixed.

4. Elevation:

A scaled elevation drawing of such sign indicating the dimensions, the materials to be used, the type of illumination, if any, and the method of construction and attachment.

5. Plan:

A scaled site plan drawing indicating the location and position of such sign in relation to nearby buildings or structures.

6. Other Permits:

Copies of any other permits required and issued for said sign.

7. Additional Information:

Additional information as may be required by the Town Plan Commission.

8. Surety:

An applicant, before the permit is granted, may be required to execute a surety bond in a sum to be fixed by the Town Board, and it shall be of a form and type approved by the Town Attorney, indemnifying the municipality against all loss, cost, damages, or expense incurred or sustained by or recovered against the municipality by reason of the erection, construction, or maintenance of such sign.

15.03 Sign Permit Review

A. Sign permit applications shall be filed with the Zoning Administrator within 20 days prior to the Town Plan Commission to allow review. The Plan Commission shall review the application and approve or deny, in writing, the application within 60 days of first consideration at a Plan Commission meeting, unless the time is extended by written agreement with the applicant.

B. A sign permit shall become null and void, if work authorized under the permit has not been completed within six (6) months of the date of issuance.

15.04 Signs allowed in All Districts Without a Permit

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

- A. Agricultural Signs pertaining to the sale of products on a farm and not exceeding thirty-two (32) square feet in area for any one (1) farm.
- B. Real Estate Signs not exceeding eight (8) square feet in area which advertise the sale, rental, or lease of the premises upon which said signs are temporarily located.
- C. Name, home occupation, and warning signs not exceeding three (3) square feet in area located on the premises.
- D. Bulletin boards for public, charitable or religious institutions not exceeding thirty-two (32) square feet in area located on the premises.
- E. Memorial signs, tablets, names of buildings, and date of erection when cut into any masonry surface or when constructed of metal and affixed flat against a structure.
- F. Official signs, such as traffic control, parking restrictions, information, and notices.
- G. Temporary signs or banners when authorized by the Plan Commission.

15.05 Signs Allowed in the Business and Industrial Districts with a Sign Permit

Signs are allowed in the Business and Industrial Districts upon the granting of a permit therefor for the purpose of advertising a business or activity located on the premises, subject to the following restrictions:

- A. Total Signage Square Feet: Each individual business is limited to 100 square feet of sign face which includes wall signs, projecting signs, and ground signs and excluded interior window signs and directional signs. Combinations of any of the above signs shall meet all the requirements for the individual business.
- B. Wall Signs: Wall Signs placed against the exterior walls of buildings shall not extend more than twelve (12) inches outside of a building's wall surface, and shall not exceed the height of the main building. Each business shall be permitted two square feet of signage for every linear foot of exposed wall length on that supporting wall, or fifty (50) square feet, whichever is less.
- C. Projecting signs fastened to, suspended from, or supported by structures shall not exceed fifty (50) square feet in area for any one premises; shall not extend more than six (6) feet into any required yard; shall not be less than ten (10) feet from all side lot lines; shall not exceed the height of the main building; and shall not be less than ten (10) feet above the sidewalk nor fifteen (15) feet above a driveway or an alley.
- D. Ground signs shall not exceed in 20 feet height. Each business ground sign is limited to 32 square feet of sign face on any one premise or 64 square feet if a double-faced sign.
- E. Window signs shall be placed only on the inside of commercial buildings and shall not exceed twenty-five percent (25%) of the glass area of the pane upon which the sign is displayed.
- F. Directional sign. (On-Premise): A sign under six (6) square feet which indicates only the name, logo (not to exceed one square foot), and/or direction of a pedestrian or traffic facility, or a particular building within a complex of structures, on the property on which said facility or building is located.

15.06 Signs Allowed in Agricultural Districts with a Sign Permit

The following signs are allowed in all Agricultural Districts subject to the granting of a permit therefor and are subject to the following regulations:

A. Business signs shall not exceed two (2) in number, indicating the business name and the direction and distance to a specific business, resort or commercial recreation facility located within ten (10) miles of the sign. No such signs shall exceed fifty (50) square feet of display area.

15.07 Signs Allowed in Residential Districts with a Sign Permit

The following signs are allowed in R-2 Residential District, LMSR Residential District, and PRD district, subject to the granting of a permit therefor and are subject to the following regulations:

A. Permanent subdivision identification signs: At any entrance to a residential subdivision there may be not more than two (2) signs identifying such subdivision. A single side of any such sign may not exceed sixteen (16) square feet, nor may the total surface area of all such signs at a single entrance exceed thirty-two (32) square feet.

15.08 Election Campaign Signs

Election campaign signs may be allowed in any district without a permit provided that permission shall be obtained from the property owner, renter or lessee; and provided that such sign shall not be erected prior to the election campaign period as defined in Sec 12.04, Wis. Stat., and removed within seven (7) days following the election.

15.09 Facing a Residential District

No sign except those permitted in Section 15.04 and 15.07 shall be permitted to face a residential district within one hundred (100) feet of such district boundary.

15.10 Color and Shape

Other than official signs authorized by the appropriate granting authority, no signs shall resemble, imitate, or approximate the shape, size, form, or color of railroad or traffic signs, signals, or devices. Signs shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals, or devices. No sign shall be erected, located, relocated, or maintained to prevent free ingress to or egress from any door, window, or fire escape, and no sign shall be attached to a standpipe or fire escape. No sign shall be placed to obstruct or interfere with traffic visibility.

15.11 Flashing Signs Prohibited other than official signs authorized by the appropriate granting authority of railroad or traffic control.

A. No sign shall contain, include or be illuminated by a flashing light.

B. No sign shall contain moving letters or parts.

15.12 Construction and Maintenance

A. Wind pressure and dead load requirements. All signs and other advertising structures shall be designed and constructed to withstand wind pressure of not less than forty (40) pounds per square foot of area; and shall be constructed to receive dead loads as required in the Town Building Code or other ordinance.

B. Protection of the public. The temporary occupancy of a sidewalk or street or other public property during construction, removal, repair, alteration or maintenance of a sign is permitted, provided the space occupied is roped off; fenced off, or otherwise adequately identified and separated from use by the general public.

C. Maintenance. The owner of any sign shall keep it in good maintenance and repair which includes restoring, repainting, or replacement of a worn or damaged legally existing sign to its original condition; and shall maintain the premises on which the sign is erected in a clean, sanitary, and inoffensive condition, free and clear of all obnoxious substances, rubbish, weeds, and grass.

D. Supporting members or braces of all signs shall be constructed of galvanized iron, properly treated steel, copper, brass, properly treated timbers, or other non-corrosive incombustible material. All projecting signs, if placed at a right or other angle to the wall or roof of any building, shall be attached, securely, by such non-corrosive metal bolts, anchors, cable, or other metal attachments as shall ensure permanent and safe construction and shall be maintained free from rust or other defects.

E. Location Prohibited. No signs or any part thereof or sign anchors, braces, or guide rods shall be attached, fastened, or anchored to any fire escape, fire ladder, or standpipe. No such sign or any part of any such sign or any anchor, brace, or guide rod shall be erected, located, installed, or maintained so as to hinder, impede, or prevent ingress or egress through any door, doorway, or window or so as to hinder or prevent the raising or placing of ladders against such building by any Fire Department or other emergency service provider.

15.13 Existing Signs

Signs lawfully existing at the time of the adoption or amendment of this Ordinance may be continued.

15.14 Signs Allowed in AOB Overlay District:

All signs in an AOB Overlay District shall comply with the following regulations:

- A. One (1) sign is permitted advertising the business which shall be on-premises or affixed to the building.
- B. No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk or public street in front of or adjacent to the building.
- C. No sign shall be placed in any window, except a one square foot sign may be placed on the door to state hours of operation and admittance to adults only.
- D. No sign shall contain any flashing lights, moving elements, or mechanically or electronically changing messages.
- E. No sign shall contain any depiction of the human form or any part thereof nor shall it contain sexually explicit language such as "Nude Dancing" or "Girls, Girls, Girls," etc.
- F. No adult oriented land use shall have any off-premises sign.
- G. All requirements of any sign for the underlying zoning of the district shall apply. In the event of a conflict with the provisions of this Section 15.14, the provisions of Section 15.14 shall control.
- H. No sign shall exceed sixty-four (64) square feet.

SECTION 16.00 LAND DIVISIONS

Article I - General Provisions

16.01 Applicability

The jurisdiction of this Ordinance shall apply to all land divisions in the Town of Newton, including, major land divisions, minor land divisions, replats, and other land divisions. This Ordinance is also applicable to condominium developments within the Town=s jurisdiction.

16.02 Purpose and Intent

The purpose and intent of this Section is to regulate and control the division of land in order to:

1. Promote the public health, safety and general welfare of the community.
2. Supplement county and state land division controls to implement the Comprehensive Land Use Plan.
3. Strengthen local control of land use decisions and maintain the ability and right to control town destiny.
4. Promote planned and orderly layout and appropriate use of land.
5. Obtain the wise use, conservation, and protection of the Town=s soil, water, wetland, woodland, farmland, and wildlife resources.
6. Conserve the value of prime agricultural soils.
7. Provide for the conservation of the Town=s agriculturally important lands by minimizing conflicting land uses.
8. Promote the rural and agricultural character, scenic vistas, and natural beauty of the Town.
9. Evaluate the further division of larger tracts into smaller parcels of land based on the agricultural economy and natural resources of the Town.
10. Facilitate the adequate provision of transportation, water, sewerage, health, education, recreation, and other public requirements.
11. Ensure that the design of the street system will not have a negative long-term effect on neighborhood quality, traffic flow and safety.
12. Ensure adequate legal descriptions and proper survey monumentation of subdivided land.
13. Realize goals, objectives, policies and development standards set forth in plans, codes and ordinances adopted by the Town.
14. Secure safety from fire, flooding, and other dangers.
15. Ensure that future development is consistent with the Comprehensive Land Use Plan, this Ordinance, and other plans and regulations adopted by the Town.
16. Avoid the inefficient and uneconomical extension of governmental services.

16.03 Policy

The uncontrolled development and division of land in the Town of Newton affects the public health, safety and general welfare. Uncontrolled division of land results in negative effects, including but not limited to: pollution of ground and surface waters; destruction of natural beauty, scenic vistas and wildlife habitat; impairment of the local tax base; increased costs and inefficiencies in governmental services; loss of agriculturally important lands; threatens a vibrant farm economy, and conflicting land uses. Therefore, it is in the best interest of the public to provide for the wise and proper division of land in the Town of Newton, to assure that land to be divided shall be of such character that it can be used safely without danger to public health, safety and general welfare and in a manner consistent with adopted Town plans.

16.04 Exemptions

The provisions of this Ordinance shall not apply to:

1. Creation or realignment of a public right-of-way by a public agency.
2. Divisions of land into lots, parcels or tracts each of which is forty (40) acres in size or greater.
3. Creation or realignment of an easement.
4. Adjustment of the boundary line or the transfer of land between two adjacent property owners that does not result in the creation of any additional lots or reduce any lot below the specified minimum lot size required by this Code or other applicable regulations.

5. Purchase, transfer, or development of space within an apartment building or an industrial or commercial building.
6. Carrying out an order of any court or dividing land as a result of an operation of law.
7. Creation of a lien, mortgage, deed of trust, or any other security instrument.
8. Creation of a security or unit of interest in any investment trust regulated under the laws of Wisconsin or any other interest in an investment entity.
9. Conveying an interest in oil, gas, minerals, or building materials, that is severed from the surface ownership of real property.
10. Leases not to exceed ten years.
11. Transfers of interest in land by will.

16.05 Compliance

No person, firm, or corporation shall divide any land located within the jurisdictional limits of this Ordinance which results in a Major Land Division, Minor Land Division, or a replat as defined herein; and no such division or replat shall be entitled to record; and no street shall be laid out or improvements made to land without compliance with the purpose, intent, and policy of this Ordinance and all other applicable federal, state, county, and town rules and regulations. For the purposes of this Section, a condominium development, or unit, and any associated limited common elements shall be deemed equivalent to a lot or parcel created by the act of land division. All approved certified survey maps and final plats shall be filed for recording with the Register of Deeds of Manitowoc County prior to transferring ownership of any parcels created by a land division.

16.06 Disclaimer

1. Multiple Jurisdictions:
All persons reviewing the provisions of this Ordinance should be aware that the Town is only one of a number of governmental bodies that may have jurisdiction over proposed land divisions or development. The Town cannot make any representations on behalf of any other government body. No land division may be made unless all required approvals have been given.
2. Binding Acts:
No action by any official, employee, agent or committee of the Town shall be construed or accepted as binding on the Town unless properly authorized by Town Board action.
3. Compliance Assurance:
This land division ordinance shall not be construed to impose any responsibility or liability on the Town that property transfers in the Town are in compliance with applicable ordinances, regulations, and rules. The Town assumes no responsibility for the suitability of any property which is subject to approval for division by the Town Board. All actions taken hereunder are for the convenience of the Town in order to determine compliance with this code and are not intended to be relied upon by the owner for any other purpose.

16.07 Land Suitability

1. No land shall be divided if the Town Board determines that it will materially interfere with existing agricultural uses or will conflict with other goals, objectives and policies as set forth in the Comprehensive Land Use Plan.
2. No land shall be subdivided which is held unsuitable for its proposed use by the Plan Commission for reason of flooding, inadequate drainage, adverse soil or rock formation, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities, impairment of wildlife habitat and scenic vistas, improper utilization of prime farm soils, undue costs and inefficiencies in the provision of governmental services, conflicting with the goal of preserving important agricultural lands for their highest and best use, ie. farming, or any other feature likely to be harmful to the health, safety or welfare of future residents of the proposed subdivision or of the Town. The Plan Commission may require the subdivider to furnish maps, data and other information as may be necessary to determine land suitability.

3. The Plan Commission in applying the provisions of this section, shall in writing recite the particular facts upon which it bases its conclusion that the land is not suitable for the proposed use and afford the subdivider an opportunity to present evidence regarding such unsuitability. Thereafter, the Plan Commission may affirm, modify, or withdraw its determination of unsuitability. The Town Board may affirm, modify, or override the Commission's recommendation. The Town Board shall recite findings for any decision to modify or override the Commission's recommendation.

16.08 Development Agreements

In connection with any land division approval, the Town Board shall be authorized to enter into a Development Agreement with the subdivider. Development Agreements may include provisions clarifying duties to construct specific improvements, the phasing of construction, the timing, location and financing of infrastructure, reimbursement for oversized infrastructure, vesting of property rights for periods of not more than 10 years, assurances that adequate public facilities (including roads, water, sewer, fire protection and emergency medical services) will be available as they are needed to serve the development, and mitigation of anticipated impacts of the development on the general public or the environment.

16.09 Cooperative Exercise.

Any city, village, town, county, or regional planning commission or committee may, pursuant to Wis. Stat. Section 66.0301, agree with any other city, village, town, county or regional planning commission or committee for the cooperative exercise of the authority to approve or review plats.

16.10 Dedication and Reservation of Land

If the tract of land being divided contains all, or in part, a street, highway, drainage way, or other public way which has been designated in the Comprehensive Land Use Plan, or official map, such public way shall be made a part of the plat and either dedicated or reserved by the subdivider in the locations and dimensions indicated on such plan or official map. All streets and other open ways to be dedicated to the Town shall be subject to acceptance by the town, and designed and constructed in accordance with this Ordinance and any other adopted plan or regulation.

16.11 Design Standards and Improvements

All land divisions shall be designed and any required or proposed improvements shall comply with the provisions of this Ordinance, Chapter 236 of the Wisconsin Statutes, the Chapter 12 - Subdivision Regulation for Manitowoc County, and any other applicable local, county, state or federal laws or regulations, as now exists or hereafter amended, which are hereby adopted and incorporated as part of this Ordinance by reference. No construction of any kind or installation of improvements may commence until the certified survey map or preliminary plat has been approved by all agencies and until all required plans for roads, drainage and erosion control, and lot grading have been reviewed and approved by the Plan Commission.

16.12 Inspection

The subdivider prior to commencement of any work within the land division, shall make arrangements with the Plan Commission to provide for adequate inspection. The Plan Commission or its agent shall inspect and approve all completed work prior to approval of the final plat or release of the sureties.

16.13 Fees

1. Application Review Fee:
All minor and major land division applications shall be accompanied by an application review fee established by the Board as set forth in the Town of Newton Fee Schedule.
2. Third Party Review Fees:
 - (a) **PURPOSE.** It is the purpose of this Section to provide for the Town of Newton to recoup third party fees and costs as defined herein.
 - (b) **APPLICABILITY.** This Section is applicable to a project as defined herein.
 - (c) **DEFINITIONS.**
 - (1) "Project" means any application for approval of a major land division or a minor land division (both of which include a condominium development) or development of a Planned Residential Development.
 - (2) "Third party services" includes professional services incurred by the Town of Newton for purposes of review, analysis, or opinion of a project and includes, but is not limited to, services of an engineer, surveyor, planner, attorney, planning agency, or other expert or professional consultant deemed necessary by the Town.
 - (3) "Third party fees and costs" means fees and costs incurred by the Town of Newton for third party services.
 - (d) **REVIEW FEE REQUIREMENT AND ADMINISTRATION.**
 - (1) Unless subject to the terms of paragraph (d) (3) following, every applicant for a project shall file as part of the application for the project a review fee to be applied toward third party fees and costs incurred by the Town of Newton related to the application. The review fee shall accompany the initial application. No application shall be deemed complete without payment of the review fee provided for herein. The review fee is in addition to any application fee for the project. The review fees shall be established and revised by resolution of the Town Board.
 - (2) In the event the third party fees and costs exceed the initial review fee, the applicant shall be required to pay additional amounts for review fees in such amounts and at such times as prescribed by the Town Board.
 - (3) Notwithstanding the provisions of paragraphs (1) and (2), the Town Plan Commission or Town Board may waive the payment of the fee or may determine an initial fee less than the amount prescribed based on a finding that it is likely the Town will (a) not incur any third party services for purposes of the project or (b) incur third party services or an amount less than the amount prescribed. Such finding shall not preclude requiring a fee or an additional fee in the future if the finding proves to be incorrect.
 - (4) Following completion of the third party services, the Town will refund to the applicant any review fees paid by the applicant in excess of the third party fees and costs.(e)
 - (5) No application shall be acted upon until payment of the review fees as required herein.
 - (e) **COLLECTION.** The Town shall have all remedies available under law and equity for the collection of third party fees and costs npaid by the applicant.

Article II - Land Division Application, Review and Action

16.14 Pre-application Meeting and Sketch Plan

1. Applicability:
Prior to filing an application for a minor or major land division approval, the subdivider shall schedule and attend a pre-application meeting with the Plan Commission for assistance and to become informed of the purposes, objectives, and requirements of this Ordinance, the Comprehensive Land Use Plan, and other adopted regulations and plans. In order to facilitate this consultation, the subdivider shall submit a Sketch Plan as a diagrammatic basis for informal discussions with the Plan Commission.
2. Scheduling of Meeting:
The subdivider shall contact the [Zoning Administrator, Town Clerk] to schedule a preapplication meeting with the plan commission to review the Sketch Plan. The subdivider shall submit ten (10) copies of the Sketch Plan to the [Zoning Administrator, Town Clerks] at least ten (10) days prior to the scheduled meeting. The subdivider is "strongly encouraged" to consult the Comprehensive Land Use Plan and the other provisions of this Ordinance prior to attending the pre-application meeting and preparing the Sketch Plan. The Plan Commission opinions presented during the pre-application meeting are informational only and do not represent a commitment on behalf of the Town of Newton regarding the approval of the major and minor land division.
3. Sketch Plan:
The Sketch Plan is a way of helping subdividers and officials develop a better understanding of the property and to help establish an overall design approach that is consistent with the intent of this Ordinance and the Comprehensive Land Use Plan.
 - a. The Sketch Plan is for informal discussion only. Submission of a Sketch Plan does not constitute formal filing of a minor or major land division with the Town of Newton, and shall not commence land division review or approval process.
 - b. To provide a full understanding of the site's potential and to facilitate the most effective exchange with the Plan Commission, the Sketch Plan should include the minimum information specified in Section 16.17.

16.15 Minor Land Divisions

1. Applicability:
Land divisions which create at least one but no more than four parcels or building sites any of which is forty (40) acres or less in size are considered minor land divisions requiring approval under this section.
2. Application:
The subdivider shall submit ten (10) copies of a Letter of Intent and the Certified Survey Map to the [Town Clerk, Zoning Administrator] along with the proper fees, at least twenty (20) days prior to the meeting at which consideration of the minor land division is desired. The minimum information requirements for the Letter of Intent and Certified Survey Map are specified in Sections 16.18 and 16.19.
3. Additional Information:
The subdivider shall also provide any additional information as specified in Section 2.02 (9,10) when requested by the Plan Commission to assist in the review of the proposed land division and any related improvements.
4. Review and Approval Procedure:
 - a. The Zoning Administrator shall review the minor land division application for completeness and schedule a meeting for the Plan Commission to consider the application as specified in Section 2.00.

- b. The Zoning Administrator shall transmit copies of the minor land division application deemed complete to the Manitowoc County Planning and Park Commission and any other reviewers the Zoning Administrator or Plan Commission considers necessary including, but not limited to: utility companies, school districts, neighboring municipalities, Wisconsin Department of Natural Resources, Wisconsin Department of Commerce, and Wisconsin Department of Transportation.
- c. The minor land use application shall be reviewed by the Plan Commission for conformance with this Ordinance, the Comprehensive Land Use Plan, and all other applicable town laws, ordinances, rules, regulations, and plans.
- d. The Plan Commission, within sixty (60) days of the date of filing of a complete application, shall approve, approve conditionally and thereby require submission of a corrected Certified Survey Map (CSM), or reject such CSM, unless the time is extended by agreement with the subdivider. If the CSM is rejected, the reason shall be stated in the minutes of the meeting and a written statement forwarded to the subdivider. If the CSM is approved or conditionally approved, the Town Board shall cause the Town Clerk to so certify on the face of the original map and return the CSM to the subdivider. One (1) copy of the minor land division application shall be filed in the Town records.

5. Recordation:

The subdivider shall file a copy of the certified survey map with the County Register of Deeds within thirty (30) days of approval by the Plan Commission, after the certificates of the Plan Commission, Manitowoc County (if required), and surveyor are placed upon the face of the certified survey map.

16.16 Major Land Division

1. Applicability:

Land divisions which create five (5) or more parcels or building sites which are forty (40) acres or less in size either through a single division or successive divisions, by either the same or subsequent owner(s), within a period of five years shall be considered a major land division requiring approval under this section.

2. Preliminary Application:

Prior to submittal of a Final Plat for approval, the subdivider shall submit ten (10) copies of a Letter of Intent and Preliminary Plat to the [Zoning Administrator, Town Clerk] along with the proper fees, at least twenty (20) days prior to the Plan Commission meeting at which review of the major land division is desired. The minimum information requirements for a major land division application are specified in Section 16.20.

3. Additional Information:

The subdivider shall also provide any additional information as specified in Section 2.02 (9,10) when requested by the Plan Commission to assist in review of the proposed land division and related improvements.

4. Preliminary Review and Approval Procedure:

- a. The Zoning Administrator shall review the application for completeness and schedule a public hearing before the Plan Commission as specified in Sections 2.00 and 10.00.
- b. The Zoning Administrator shall transmit copies of the major land division application deemed complete to the Manitowoc County Planning and Park Commission and any other reviewers the Zoning Administrator or Plan Commission considers necessary.
- c. The Plan Commission shall review the letter of intent, preliminary plat, and other supplementary information for conformance with this Ordinance, the Comprehensive

Land Use Plan, and all other applicable town laws, ordinances, rules, regulations, and plans.

- d. The Plan Commission, within ninety (90) days of the date of filing a complete major land division application, shall approve, approve conditionally, or reject such Plat unless the time is extended by agreement with the subdivider. One (1) copy of the Plat shall thereupon be returned to the subdivider with the date and action endorsed thereon; and if approved conditionally or rejected, the conditions or reasons for rejection shall be stated in the minutes of the meeting, and a letter setting forth the conditions of approval or the reasons for rejection shall accompany the Plat. One (1) copy of the Plat and letter shall be filed in the Town records. Failure of the Plan Commission to act within ninety (90) days or extension thereof, shall constitute approval.
- e. Approval or conditional approval of a preliminary plat shall not constitute automatic approval of the final plat, except that if the final plat is submitted within six (6) months of preliminary plat approval and conforms substantially to the preliminary plat layout (as indicated in Section 236.11(1)(b), Wisconsin Statutes), the final plat shall be entitled to approval with respect to such layout. The preliminary plat shall be deemed an expression of approval or conditional approval of the layout submitted as a guide to the preparation of the final plat, which will be subject to further consideration by the Town Board.
- f. If the subdivider desires to amend the preliminary plat as approved, the subdivider may resubmit the amended plat, which shall follow the same procedure, except for the fee, unless the amendment is, in the opinion of the Plan Commission, of such scope as to constitute a new plat, in which case it shall be refiled.

5. Final Plat Submittal:

- a. Application. The subdivider shall submit ten (10) copies of the Final Plat with the [Zoning Administrator, Town Clerk] along with the proper fees, at least twenty (20) days prior to the meeting of the Plan Commission at which action is desired. The minimum information requirements for a Final Plat are specified in Section 16.21.
- b. Objecting Agencies. If the land division results in a state subdivision, the subdivider shall submit the original plat to the Plat Review Section in accordance with s. 236.12(6), Wisconsin Department of Administration, which shall forward two copies to each of the agencies authorized to object under section 236.12 (2) of the Wisconsin Statutes. The Subdivider shall submit verification of receipt of the Final Plat from the Plat Review Section as part of the application, and is strongly encouraged to obtain approval from objecting agencies prior to the scheduled meeting before the Plan Commission for consideration of the Final Plat.
- c. Approving Authorities. If the plat requires County approval, or is located within the extraterritorial plat approval jurisdiction of a city or village, the Subdivider shall file submit two (2) copies of the Final Plat to these approving authorities. The Subdivider shall submit verification of receipt of the Final Plat from the other approving agency.

6. Final Plat Review and Action:

- a. Review.
 - i. The Zoning Administrator shall review the Final Plat for completeness and schedule a public meeting before the Plan Commission as specified in Section 2.00.
 - ii. The Plan Commission shall examine the final plat as to its conformance with the approved preliminary plat, any condition of approval of the preliminary

plat, this Ordinance, the Comprehensive Land Use Plan, and all other Town laws, ordinances, rules, regulations and plans which may affect the plat.

- b Partial Platting. The Final Plat may, if permitted by the Plan Commission, be platted as a Final Plat in phases with each phase constituting only that portion of the approved Preliminary Plat which the Subdivider proposes to record at that time. It is required that each such phase be platted as a Final Plat and be designated as a "phase" of the approved Preliminary Plat. Final Plats for only a portion of the Preliminary Plat shall extend approval for the remaining portion of the Preliminary Plat for six (6) months from the date of such Final Plat approval.
- c Action. The Plan Commission shall, within 60 days of the date of filing the original final plat deemed complete with the Zoning Administrator, approve or reject such plat unless the time is extended by agreement with the subdivider. If the Plat is rejected, the reasons shall be stated in the minutes of the meeting and a written statement of the reasons forwarded to the subdivider. The Plan Commission may not inscribe its approval on the final plat unless the Zoning Administrator certifies on the face of the Plat that copies were forwarded to objecting agencies as required pursuant to Section 16.16(5)(b), the date thereof, and that no objections were filed within twenty (20) days or, if filed, have been met.

7. Recordation:

- a. After the Final Plat has been approved by the Plan Commission and required improvements have either been installed and inspected and approved by the Town, or a contract and sureties insuring their timely installation has been approved by the Town and filed, the [Zoning Administrator, Town Clerk] shall cause the certificate inscribed upon the Plat attesting to such approval to be duly executed and the Plat returned to the subdivider for recording with the County Register of Deeds.
- b. The Register of Deeds cannot record the Plat unless it is offered within thirty (30) days from the date of last approval and within twenty-four (24) months of the first approval. The subdivider shall submit two (2) copies of the final plat to the Town Clerk for filing with the Town Board and Plan Commission.

8. Replats:

- a. Any replat of a recorded plat or part thereof shall be done in accordance with s. 236.36. Wis Stats. The subdivider or person wishing to replat, shall then proceed as specified in this Section 16.16.
- b. The [Town Clerk, Zoning Administrator] shall schedule a public hearing before the Plan Commission when a Preliminary Plat of a replat of land is filed, and shall mail notices of the proposed replat and public hearing to the owners of all properties within the limits of the exterior boundaries of the proposed replat and to the owners of all properties within two hundred (200) feet of the exterior boundaries of the proposed replat.

Article III - Required Information.

16.17 Sketch Plan

Minor and major land divisions require a pre-application meeting which include a Sketch Plan. The Sketch Plan shall contain the minimum information listed below:

1. Name and address of the legal owner or equitable owner of the subject property and the name and address of the subdivider if not the same party.
2. North arrow, dimensions in feet, and a graphic scale (not greater than 1 inch = 200 feet; however, dimensions on the plan need not be exact at this stage).
3. Locator map (may be on separate sheet) which clearly relates the proposed land division's location to nearby creeks and public roads to determine the location of the site.
4. Existing zoning on and adjacent to the proposed land division.

5. Approximate location of existing public and private streets, driveways, field roads, railroad tracks, on or adjacent to the proposed land division.
6. Proposed layout and approximate dimensions of new streets, lots, open spaces, and any other proposed developments.
7. The present and intended use of the land.
8. General location of the physical features found on and adjacent to the site including, but not limited to: agricultural fields, pastures, meadows, woodlands, water features (i.e., streams, creeks, water courses, lakes, ponds, wetlands), floodplains, steep slopes (20% or greater), structures (describe type), driveways, field roads, railroad tracks, trails, drainage ditches, water wells, sewerage systems, storage tanks, drywells, utilities, and other significant vegetation, features, or improvements.
9. Other contiguous owned lands.
10. Proposed location of buildings and major structures, parking areas, and other improvements if proposed or known.
11. General location and types of land uses within 200 feet of the proposed area to be divided.
12. General description of proposed method of water supply, sewage disposal and stormwater management.
13. Conceptual location of Limits of Disturbance (if applicable).

16.18 Letter of Intent.

Applications for minor and major land divisions require submission of a Letter of Intent. The Letter of Intent shall be on a form provided by the [Zoning Administrator, Town Clerk] and contain the following minimum information:

1. Name and address of the legal owner(s) of the subject property and the name and address of the subdivider if not the same party.
2. A statement signed by the subdivider authorizing a named person to act as the subdivider's agent (if applicable). If the subdivider signs said statement, the Town will deal exclusively with the designated agent regarding the land division, unless the statement clearly specifies otherwise.
3. The name and address of the surveyor who will be doing the work.
4. A legal description of the boundary of the proposed land division shown by a recorded document or signed purchase agreement.
5. The tax parcel of the property to be divided.
6. The present use of the land.
7. A statement that describes the use that is planned for each lot proposed within the land division.
8. Existing zoning on and adjacent to the proposed land division.
9. The estimated time table of development.
10. The proposed means of sewage disposal and water supply for the land division.
11. Names and mailing addresses of all property owners of record within three hundred (300) feet of the proposed land division.

16.19 Certified Survey Map

A Certified Survey Map (CSM) prepared by a registered land surveyor shall be required for all minor land divisions. The CSM shall comply in all respects with the requirements of Section 236.34 of the Wisconsin Statutes, the standards set forth in this Ordinance, and provisions set forth in Chapter 12 - Subdivision Regulations for Manitowoc County. The CSM shall show correctly, in addition to the information required by Section 236.34, the following minimum information:

1. Date of certified survey map and graphic scale.
2. Name and Address of the owner, subdivider and surveyor.
3. Location of existing buildings, driveways, watercourses, drainage ditches, wetlands, and other features pertinent to proper division.
4. Names, locations and widths of adjoining public roads, highways, parks, cemeteries, and subdivisions.
5. Approximate location of existing sewage disposal and water supply improvements, drainage facilities, utility lines, and other improvements.
6. Acreage included in each parcel excluding right-of-way.

7. Setbacks or vegetative buffers by any approving or reviewing agency.
8. The location of "Limits of Disturbance" (LOD) lines where required by this Ordinance.
9. Drainage and utility easements (if applicable).
10. Any other information required to be shown on the face of the CSM under this Ordinance.

16.20 Preliminary Plat

A preliminary plat is required for all major land divisions and shall be prepared based upon a survey by a registered land surveyor and the plat prepared on tracing cloth or paper of good quality at a scale of not more than one hundred (100) feet to the inch. The CSM shall show correctly, in addition to the information required by Section 236 of the Wisconsin Statutes and Chapter 12 - Subdivision Regulations for Manitowoc County, the following minimum information:

1. Title under which the proposed major land division is to be recorded.
2. Names and addresses of the owner, subdivider, and registered surveyor preparing the plat.
3. The date of preparation of the preliminary plat, an identified north arrow, scale of map, and clear indication of the map as a preliminary plat.
4. Location of subdivision by government lot, quarter-quarter section, section, township, range, county and state.
5. Corporate limits within the exterior boundaries of the plat or immediately adjacent thereto.
6. Small scale locator map which clearly relates the major land division's location to nearby creeks and public roads to determine the location of the site.
7. Entire area contiguous to the proposed plat owned or controlled by the subdivider, even though only a portion of said area is proposed for immediate development. The Plan Commission may waive this requirement where it is unnecessary to fulfill the purpose and intent of this Ordinance, and undue hardship would result from strict application.
8. The exact length and bearing of the exterior boundaries of the major land division.
9. The location and names of adjacent subdivisions, parks, schools, cemeteries, and owners of record of abutting unplatted land.
10. Location, right-of-way widths and names of all existing and proposed streets, alleys, or other public ways, easements, railroad and utility rights-of-way, and all section and quarter section lines within the exterior boundaries of the plat or immediately adjacent thereto.
11. Approximate location of existing sewage disposal and water supply improvements, drainage facilities, utility lines, and other improvements.
12. Approximate location of all existing property boundary lines, structures, drives, streams and watercourses, wetlands, rock outcrops, wooded areas, floodplains, steep slopes (20% or greater), railroad tracks, and other significant features within the tract being subdivided or immediately adjacent thereto.
13. Water elevations of adjoining lakes or streams at the date of the survey and approximate high and low water elevations of such lakes and streams.
14. Layout and width of all new streets, rights-of-way, alleys, driveways, crosswalks, and easements.
15. Proposed layout and approximate dimensions of all lots, blocks, opens spaces, and other development features.
16. The location of the Limits of Disturbance (LOD) lines where required.
17. Approximate radii of all curves and lengths of tangents.
18. Location and areas of any property proposed to be dedicated for public use or to be reserved by deed covenant for use of all property owners in the land division including any conditions of such dedication or reservation.
19. A description of the improvements including grading, paving, landscaping, and utility installation which the subdivider proposes to make, and the time he/she proposes to make them, and plans and profiles of all street work required or proposed to be done.
20. A brief description of any deed restrictions which are proposed for the plat.
21. Any proposed lake and/or stream access with a small drawing clearly indicating the location of the proposed land division in relation to the access.
22. The Plan Commission may require contours at vertical intervals of not more than two (2) feet where the slope of the ground surface is less than ten (10%) percent, and of not more than five

(5) feet where the slope of the ground surface is ten (10%) percent or more to assist in review of the proposed land division and related improvements.

23. The Plan Commission may request a proposed land division layout of all or part of contiguously-owned land even though division is not planned at this time.
24. Any environmentally sensitive area and associated required shoreland setback or buffer required by Manitowoc County shall be located and mapped on the dividing instrument. The Plan Commission may require a field delineation and survey of the boundary of floodplains, wetlands, navigable waters, and ordinary high water mark elevations by a qualified professional to assist in review of the proposed land division and related improvements and to guide future development.

16.21 Final Plat

A Final Plat prepared by a registered land surveyor is required for all major land divisions. It shall comply in all respects with the requirements of Section 236 of the Wisconsin Statutes. The Plat shall show correctly on its face, in addition to the information required by Section 236 of the Wisconsin Statutes, the following minimum information:

1. All information required under Section 16.20 for the Preliminary Plat.
2. Floodplain and shoreland boundaries and the contour line lying a vertical distance of two (2) feet above the elevation of the one hundred (100) year recurrence interval flood, or, where such data are not available, a vertical distance of two (2) feet above the elevation of the maximum flood of record.
3. Railroad rights-of-way within and abutting the Plat.
4. Setbacks or building lines required by any approving or reviewing agency.
5. Limits of Disturbance (LOD) lines where required by this Ordinance.
6. All lands reserved for future public acquisition or the common use of property owners within the plat. If property reserved for common use is located within the subdivision, provisions and plans for its use and maintenance shall be submitted with the Plat.
7. Drainage and utility easements.
8. Special restrictions required by the Town Board and other approving or objecting agencies relating to access control along public ways, shorelands or floodlands.
9. Where the Town finds that additional information relative to a particular issue presented by a proposed development is needed to review the Final Plat, it shall have the authority to request in writing such information from the subdivider.
 - a. Deed Restrictions. The Town Board may require that deed restrictions be filed with the Final Plat.
 - b. Survey Accuracy. A qualified person shall examine all Final Plats and field check the accuracy and closure of survey, proper kind and location of monuments and legibility and completeness of the drawing.
 - c. Surveying and Monumenting. All Final Plats shall meet all the surveying and monumenting requirements of Section 236.15 of the Wisconsin Statutes.
 - d. Relocate Quarter Section Corners. Where the Plat is located within a quarter section the corners of which have been relocated, monumented and coordinated by the County, the Plat shall be tied directly to one of the section or quarter corners so relocated, monumented and coordinated. The exact ground bearing and distance of such tie shall be determined by field measurements, and the material and Manitowoc County coordinates of the monument marking the relocated section or quarter corner to which the Plat is tied shall be indicated on the Plat. All distances and bearings shall be referenced to the Wisconsin Coordinate System, South Zone.
10. Certificates
All Final Plats shall provide all the certificates required by Section 236.21 of the Wisconsin Statutes; and, in addition, the surveyor shall certify that he has fully complied with all provisions of this Ordinance.

16.22 Required Supplemental Information.

1. Plat Notes:

a. The CSM or Plat shall bear a statement to the following effect for any lot(s) containing environmentally sensitive areas and/or located within Manitowoc County's shoreland zoning jurisdiction: "The (reference lots or tracts affected) contains environmentally sensitive area, or is located within shoreland-wetland overlay area and limitations on actions in or affecting such areas may exist. The Town of Newton and Manitowoc County should be contacted for further information on any limitations and standards that may apply regarding future development."

b. All land divisions located within areas established by the Comprehensive Land Use Plan as an Agricultural Management Area, or within 1,000 feet of such area, shall contain a notice on the Certified Survey Map or Final Plat that contains the following language:

You are hereby notified that this land division is located within, or within 1000 feet of, property designated by the Comprehensive Land Use Plan as an Agricultural Management Area. You may be subject to inconveniences or discomforts arising from agricultural-related operations, including but not limited to noise, odors, insects, fumes, dust, smoke, the operation of machinery of any kind during any 24 hour period (including aircraft), the storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides. The Town Board has determined that the use of real property for agricultural operations, particularly in these designated areas, is a high priority and favored use to the Town.

c. The CSM of Plat shall contain a statement regarding any lot(s) or the remainder parent parcel where development rights have been extinguished or reduced as part of approval of the land division.

d. If a lot within the land division is to be utilized for a permanent or temporary use not intended for human habitation and not requiring a sanitary permit from the Manitowoc County Parks and Planning Commission, the subdivider shall state such use on the face of the certified survey map. The lot shall be considered limited to that use.

e. Appropriate notes on how the conservation design measures in Section 16.25 apply to future development within the land division.

2. Testing:

The Plan Commission may require that borings and soundings to be made in designated areas to ascertain subsurface soil, rock and water conditions including the depth to bedrock and the depth to groundwater table. All land divisions not served by public sanitary sewer service, shall submit lot wastewater disposal capability information in compliance with the provisions of Wisconsin Administrative Code, Chapter COMM 85, and as required by Manitowoc County. The results of the tests shall be submitted with the Plat.

3. Construction Plans:

a. Street Plans and Profiles. Where new roads are proposed, the subdivider shall provide street plans and profiles showing existing ground surface, proposed and established street grades, including extensions for a reasonable distance beyond the limits of the proposed land division. Elevations, plans and profiles shall meet the approval of the Plan Commission.

b. Erosion Control Plans. All land disturbing activities related to the proposed land division shall control erosion and sedimentation and prepare an Erosion Control Plan as set forth in Section 14.00 herein. The Plan Commission may waive this provision if the total amount of land disturbing activities proposed is less than 10,000 square feet

and provided such disturbance does not involve disturbance of water courses, slopes of 12 percent or steeper, or environmentally sensitive areas.

- c. Stormwater Management. Any proposed land division that meets any one of the following criteria shall provide for stormwater management and prepare a Stormwater Management Plan as set forth in Section 14.00 herein.
 - i. Divides an existing parcel into 5 separate parcels of 5 acres each or less in total area within a common plan of development;
 - ii. Involves the construction of any new public or private roads;
 - iii. Results in the addition of impervious surfaces of 20,000 square feet or greater in total area, including small individual sites that are part of a common plan of development; or
 - iv. Other land development or disturbing activities that the Plan Commission determines may significantly increase downstream runoff volumes, flooding, soil erosion, water pollution or property damage, or significantly impact an environmentally sensitive area.
- d. Grading Plans. The Plan Commission may require a grading plan for lots or other areas within the proposed land division to be prepared and submitted for review and approval prior to the commencement of grading and construction. Grading, topsoil removal, mineral extraction, stream course changing, road cutting, waterway construction or enlargement, removal of stream or lake bed materials, excavation, channel clearing, ditching, drain tile laying, dredging, and lagooning, shall be so conducted as to prevent erosion and sedimentation and to least disturb the natural fauna, flora, watercourse, water regimen and topography. No such activities shall be permitted on lands to be dedicated or held for public acquisition without the written consent of the Plan Commission.
- e. Commencement of Construction. All plans and profiles as set forth above shall be prepared in accordance with the provisions of this Ordinance and any other appropriate ordinance or standards in force in the town. All elevations shall be based upon Mean Sea Level Datum, and shall be subject to review by the town engineer. No construction of any kind may commence until the certified survey map or preliminary plat has been approved by all agencies and until the above required plans have been approved by the Plan Commission.

4. Deed Restrictions, Protective Covenants, Conservation Easements, and Homeowners' Association:

The following documents shall be submitted with the Preliminary Plat as required:

- a. Declaration of Deed Restrictions and Protective Covenants. The Plan Commission shall require submission of a draft of declaration of deed restrictions and protection covenants whereby the Subdivider (as applicable) intends to regulate land use in the proposed land division and otherwise protect the proposed development.
- b. Conservation Easements. The Plan Commission shall, where natural resources are present, require submission of a draft of conservation easements whereby the Subdivider (as applicable) intends to regulate the protection of natural resource features in the proposed land division.
- c. Wisconsin Non-Profit Membership Corporation (Homeowners' Association). The Plan Commission shall require submission of a draft of the legal instruments and rules for any proposed Wisconsin non-profit membership corporation (homeowners' association), when the Subdivider (as applicable) proposes that property within a land

division would be either owned or maintained by such an organization of property owners pursuant to Wisconsin Statutes, Section 236.293, whereby the Subdivider (as applicable) intends to regulate land use in the proposed land division and otherwise protect the proposed development.

- d. Town Attorney Review. The Town Attorney shall review all draft declaration of deed restrictions and protective covenants, conservation easements, and homeowners' associations and shall approve said instruments as to form.

5. Affidavit:

The surveyor shall certify on the face of the CSM or plat that it is a correct representation of all existing land divisions and features and that he/she has fully complied with all the provisions of this Ordinance.

Article IV - Design Standards and Improvements

16.23. Agricultural or Open Space Only Lots.

The design standards and improvement requirements of this Ordinance may be waived by the Plan Commission for proposed new lots clearly noted on the Certified Survey Map and Final Plat for agricultural or open space uses only.

16.24 Lots and Blocks.

Lot and block layout shall recognize the capacity of the soil and water resources and shall be designed to least disturb the existing terrain, flora, fauna, and water regimen.

1. Lots:

The size, shape, and orientation of lots shall be appropriate for the location of the land division and for the type of development and use contemplated. The lots should be designed to provide an aesthetically pleasing building site and a proper architectural setting for the buildings contemplated.

- a. Lot Lines. Side lot lines shall normally be at right angles to straight street lines or radial to curved street lines on which the lots face. Lot lines shall not cross municipal boundaries.
- b. Double Frontage and Reverse Frontage Lots. Double frontage and reverse frontage lots shall be prohibited except where necessary to provide separation of residential development from through traffic or to overcome specific disadvantages of topography and orientation.
- c. Lot Access and Frontage. All lots intended to serve existing or future residential or business uses must front on a public street for the minimum distance required by the underlying Town zoning district unless otherwise allowed by this Ordinance. Additionally, lot creation within the jurisdictional shoreland area of Manitowoc County shall comply with County minimum lot width and frontage requirements for the applicable shoreland classification.
- d. Area and Dimensional Requirements. Area and dimensions of lots shall conform to the requirements of the underlying zoning district and the Manitowoc County Shoreland and Floodplain Regulations unless otherwise allowed by this Ordinance. Additionally, in areas not served by sewer, lots shall be of sufficient size to allow conformance with the requirements of the State Department of Commerce.
- e. Lot Depth. Excessive depth in relation to width shall be avoided, and a proportion of 2:1 shall be considered a desirable ratio under normal conditions. Depth of lots reserved or laid out for commercial or industrial use shall be adequate to provide for

off-street parking and loading required by the use and consistent with Sections 13.10 and 13.12.

- f. **Corner Lots.** Corner lots shall be designed with extra width to permit adequate building setback from both streets.
- g. **Lands Lying Between the Meander Line.** Lands lying between the meander line, established in accordance with Section 236.20 (2) (g) of the Wisconsin Statutes, and the water's edge, and any otherwise unplatted land which lie between a proposed land division and the water's edge shall be included as parts of lots, outlots, or public dedications in any plat abutting a lake or stream. This requirement applies not only to lands proposed to be subdivided but also to all lands under option to the subdivider or in which he/she holds any interest and which are contiguous to the lands proposed to be subdivided and which abut a lake or stream as provided in Section 236.16 (4) of the Wisconsin Statutes.

The widths, lengths and shapes of blocks shall be suited to the planned use of the land, zoning requirements, need for convenient access, control and safety of street traffic, and the limitations and opportunities of the topography.

- a. **Length.** Blocks in residential areas shall not generally be less than 600 feet nor more than 1500 feet in length unless otherwise dictated by exceptional topography or other limiting factors.
- b. **Width.** Blocks shall have sufficient width to provide for two (2) tiers of lots of appropriate depth, except where otherwise required to separate residential development from through traffic or where lots abut a lake or stream. Width of lots or parcels reserved or laid out for commercial or industrial use shall be adequate to provide for off-street service and parking required by the use contemplated and consistent with Sections 13.10 and 13.12 herein.
- c. **Pedestrian Pathways.** Pedestrian pathways, not less than ten (10) feet in width may be required between rear lot lines where deemed necessary by the Plan Commission to provide safe and convenient pedestrian circulation between individual lots, streams, lake shores, park lands, or other public areas, or may be required near the center and entirely across any block over 900 feet in length where deemed necessary by the Plan Commission to provide adequate pedestrian circulation or access to schools, shopping centers, churches, transportation and other community facilities.

16.25 Conservation Design.

- 1. Intent:
The Comprehensive Land Use Plan designates several preferred land use management areas where conservation of large contiguous tracts of productive farmland, interconnected natural areas and open spaces, and/or unique landscapes are key management objectives. Their location is depicted on the Year 2020 Preferred Land Use Map adopted as part of the Plan and includes the Agricultural (AMA), Rural Character Conservation (RCC) and Lake Michigan Shoreland Residential (LMSR) Preferred Land Use Management Areas. Additionally, the Plan identifies seven selected land protection criteria which should be afforded protection from development. This section is intended to ensure that conservation design principles are utilized when property is divided to implement the objectives and policies of the AMA, RCC and LMSR management areas, and the goals, objectives and policies related to the selected land protection criteria established by the Plan.
- 2. General Conservation Standards - Applicable to All Land Divisions:

- a. Proposed lot configurations must ensure that future lot development can be accommodated outside of wetlands, floodplains, slopes 20 percent or steeper, and consistent with shoreland protection regulations adopted by Manitowoc County.
 - b. Proposed lot configurations must consider the right-to-farm standards contained under Section 13.5.
3. Limits of Disturbance - Land Divisions in Select Areas:
 Land divisions proposed within the AMA, RCC and LMSR Preferred Land Use Management Areas shall consider the location of potential future development areas through the establishment of Limit of Disturbance (LOD) areas.
- a. General. The proposed LOD area shall be clearly delineated and noted on the Certified Survey Map, Preliminary Plat, and Final Plat. The LOD shall indicate the specific areas of the land division within which improvements related to the land division may be constructed and within which future development activity shall be contained on individual lots.
 - b. Size of LOD. The maximum size of a LOD is two (2) acres within the AMA and one (1) acre within the RCC and LMSR management areas. The Plan Commission may increase the allowed size of the LOD where it can be demonstrated by the subdivider that a larger area of disturbance is necessary to provide access (i.e., private driveway) to future building sites due to site specific conditions which prevent building close (i.e., 300 feet or less) to existing public roads and/or where locating more than 300 feet from the public road will better achieve the spirit and intent of the Comprehensive Land Use Plan. The Plan Commission may also consider larger LOD areas as part of a conditional use permit application.
 - c. LOD Dimensions. The LOD shall be of sufficient dimension to accommodate intended future principal and accessory uses (e.g., garage, decks, swimming pools, lawns, etc.), roads, driveways, and parking areas. Where a specific intended future use is not known, the LOD shall be of appropriate dimensions to accommodate allowed residential and accessory uses.
 - d. Location of LOD. The performance criteria for establishing and evaluating the location of the LOD shall be guided by the criteria set forth in (5) below.
 - e. Allowed Uses Outside of LOD. Areas outside of the designated LOD shall remain as open space and restricted to agricultural, natural habitat, conservancy, trails and pathways and/or recreational purposes. Disturbance or construction activity may occur outside the LOD with approval of the Plan Commission for the following limited purposes:
 - i. Nonresidential farm-related structures (e.g., barns);
 - ii. Hunting and wildlife observation structures which do not exceed 400 square feet and are not used for human habitation;
 - iii. Restoration or enhancement of previously disturbed or degraded areas;
 - iv. Utility installations (e.g., sewage disposal, electric, stormwater) when such installations cannot reasonably be contained within the LOD; or
 - v. Other uses deemed appropriate by the Plan Commission which are consistent with the intent of open space.
 - f. Alternative LOD Areas. The Plan Commission reserves the right to view alternative LOD areas and associated lot layouts, including consideration of potential LOD areas on other contiguous lands under the same ownership. Additionally, the Plan Commission may upon request consider and approve alternative LOD's.
4. Conservation Land Division Layout Option - Land Divisions in Select Areas:

Land divisions within the AMA, RCC and LMSR management areas established by the Comprehensive Land Use Plan are potentially eligible for additional residential density and/or waivers of the minimum public road frontage requirement of the underlying zoning district through approval of a Conservation Land Division Layout as specified below.

- a. Purpose. The Conservation Land Division Layout Option is intended to promote permanent protection of larger tracts of contiguous and interconnected farmland and open spaces for wildlife habitat, recreation, rural character and aesthetics, water quality protection, groundwater recharge, and/or farmland conservation.
- b. Eligibility. The land division must contain a minimum of twenty (20) acres and be located within the AMA, RCC and LMSR management areas.
- c. Development Area. The proposed development area shall be limited to no more than 30% of the land division and shall contain all lots intended for future development, roads, driveways, and parking areas.
- d. Open Space Preservation Area. A minimum of 70% of the land division shall be designed as permanent open space, not to be further subdivided. Open space areas shall be protected through a perpetual conservation easement held by the Town plus, either a homeowner's association established by the subdivider, or by a recognized land trust or conservancy.
- e. Maximum Number of Lots. The maximum number of lots allowed within the development area shall be the same as that allowed within the underlying zoning district, except that land divisions within the RCC and LMSR Preferred Land Use Management Areas shall be eligible for a fifty (50) percent density bonus.
- f. Design of Open Space Preservation Areas.
 - i. The open space shall be designed as a large, single contiguous and interconnected block with logical, straightforward boundaries. Long, thin strips of conservation land should be avoided unless the conservation feature is linear (streams, tree lines) or unless such configuration is necessary to connect with other features, or to create open space corridors or trails that will link to other parcels.
 - ii. Where the undivided open space is designated as separate, noncontiguous parcels, no parcel shall consist of less than three (3) acres in area nor have a length-to-width ratio in excess of 4:1, except in such areas that are specifically designed as upland buffers to wetlands and shoreland areas, trail links, or otherwise approved by the Plan Commission consistent with the intent of this section and the Comprehensive Land Use Plan.
 - iii. A minimum of twenty-five (25) percent of the open space area, shall include areas located outside of designated wetlands, lands that are generally inundated (under ponds, lakes, creeks, etc.), land within the one hundred (100) year floodplain, and County required shoreland setback and buffer areas, unless such areas comprise more than 50% of the property.
 - iv. Additional performance criteria for design of the Open Space Preservation Area are listed under subsection (5) below.

5. Conservation Design Performance and Evaluation Criteria:

The land division process should commence with the delineation of all potential open space, after which potential development areas are located, followed by access road alignments (if applicable), with lot lines being drawn in as the final step. Diversity and originality in lot layout is encouraged to achieve the best possible relationship between development and conservation

areas. The subdivider in layout of lots, limit of disturbance lines, and open space preservation areas should consider the below performance criteria. Additionally, the Plan Commission will evaluate how the proposed land division promotes conservation design based on these principles. The below performance criteria, however, are not listed in any priority order nor necessarily considered applicable or comprehensive to all sites.

- a. Protects floodplains, wetlands and steep slopes from clearing, grading, filling or construction (except as may be approved by the Town for essential infrastructure or recreation amenities).
- b. Protects shoreline buffer and bluff setback areas established by Manitowoc County.
- c. Preserves and maintains mature woodlands, existing agricultural lands, grasslands, meadows, and/or orchards, and creates transition areas to minimize conflicts between residential and agricultural uses. For example, locating houselots and driveways within wooded areas is generally recommended, with two exceptions. The first involves significant wildlife habitat or woodlands that raise an equal or greater preservation concern, as described in (e), (f), (i), (j) and (p) below. The second involves predominantly agricultural areas, where remnant tree groups provide the only natural areas for wildlife habitat.
- d. If development must be located on open fields or pastures because of greater constraints in all other parts of the site, dwellings should be sited on the least prime agricultural soils, or in locations at the far edge of a field, as seen from existing public roads. Other considerations include whether the development will be visually buffered from existing public roads, such as by planting a screen consisting of a variety of indigenous native trees, shrubs and wildflowers.
- e. Maintains or creates an upland buffer, especially dominated by native species, adjacent to wetlands and surface waters, including creeks, streams, springs, lakes and ponds (buffers of a 100 feet or more are preferred).
- f. Designs around existing hedgerows and treelines between fields or meadows and minimizes impacts on large woodlands (10 acres or greater), especially those containing many mature trees or a significant wildlife habitat. If woodland areas are proposed to be developed, they are generally smaller tracts (less than 10 acres) or have limited forest management potential. If the land division is associated with larger woodland tracts (both on and off subject property), special consideration has been given to location of lots and areas to be developed to ensure the majority of the larger woodland tract remains undeveloped, especially mature trees.
- g. Leaves scenic views and vistas unblocked or uninterrupted, particularly as seen from public thoroughfares. For example, in open agrarian landscapes, a deep "no-build, no-plant" buffer is recommended along the public thoroughfare where those views or vistas are prominent or locally significant. The concept of "foreground meadows," with homes facing the public thoroughfare across a broad grassy expanse is strongly preferred to mere buffer strips, with or without berms or vegetative screening. In wooded areas where the sense of enclosure is a feature that should be maintained, a deep "no-build, no-cut" buffer should be respected, to preserve existing vegetation.
- h. Avoids siting new construction on prominent hilltops or ridges, by taking advantage of lower topographic features.
- i. Protects documented wildlife habitat areas by the U.S. Fish and Wildlife Service or Wisconsin Department of Natural Resources (WDNR) for state or federal species listed as endangered, threatened or of special concern.

- j. Protects designated state natural areas or identified high quality natural communities by the WDNR.
- k. Designs around and preserves sites of historic, archaeological or cultural significance listed (or eligible to be listed) on national, state or county registers.
- l. Provides for shared accesses onto public roads to help protect rural roadside character and improves public safety and vehicular carrying capacity.
- m. Provides for native landscaped common areas such as community greens and along new roads with high aesthetic and/or wildlife habitat value.
- n. Provides for lot configurations that promote future development areas with views and/or access to open spaces.
- o. Provides for recreational opportunities (e.g., trails) associated with any common proposed open spaces.
- p. Provides open space that is reasonably contiguous. Fragmentation of open space should be minimized so that these resource areas are not divided into numerous small parcels located in various parts of the development. To the greatest extent practicable, open spaces are designed as interconnected blocks and large tracts abutting similar areas on adjacent lands.

16.26 Streets

The subdivider shall dedicate land for and improve streets as provided herein.

1. Street Arrangement in Areas with Official Map:
Streets shall conform to the town's official map, adopted town plans, or county jurisdictional highway plan.
2. Street Arrangement in Areas with No Official Map:
In areas for which an official map has not been completed, the street layout shall recognize the functional classification of various street types and shall be developed and located in proper relation to existing and proposed streets, with due regard to topographical conditions, natural features, utilities, land uses, Comprehensive Land Use Plan, and public convenience and safety.
3. Acceptance of a Public Road:
The Town of Newton shall not accept a road unless it is providing sole access to four (4) or more building sites and, thus, will not be responsible for maintenance of said street.
4. Lot Access:
All land divisions shall be designed so as to provide each lot with satisfactory access to a public street as provided herein.
5. Street Arrangement:
The following conditions shall apply for street arrangement in all proposed land divisions:
 - a. Arterial Street. Arterial streets shall be arranged so as to provide ready access to centers of employment, high density residential areas, centers of government activity, community shopping areas, community recreation and points beyond the boundaries of the community. They shall also be properly integrated with and related to the existing and proposed system of major streets and highways and shall be, insofar as practicable, continuous and in alignment with existing or planned streets with which they are to connect.
 - b. Collector Streets. Collector streets shall be arranged so as to provide ready collection

of traffic from residential areas and conveyance of this traffic or the major street and highway system and shall be properly related to special traffic generators such as schools, churches and shopping centers and other concentrations of population; and to the major streets into which they feed.

- c. Minor Streets. Minor streets shall be arranged to conform to the topography, to discourage use by through traffic, to permit the design of efficient storm and sanitary sewerage systems and to require the minimum street area necessary to provide safe and convenient access to abutting property.
- d. Proposed Streets. Proposed streets shall extend to the boundary lines of the tract being divided, unless prevented by topography or other physical conditions or unless, in the opinion of the Planning Commission, such extension is not necessary or desirable for the coordination of the layout of the subdivision or for the advantageous development of adjacent land tracts. Such streets shall terminate with a temporary turnaround of 120 feet right-of-way diameter and a roadway of not less than 90 feet in diameter.

6. Street Design and Construction Standards:

The minimum street and design standards shall comply with all of the following standards under Section 13.00, Development Standards:

- a. 13.01 Street Access
- b. 13.02 Highway Construction Standards
- c. 13.03 Road Alignment
- d. 13.04 Street Names
- e. 13.05 Intersection Design
- f. 13.06 Traffic Visibility
- g. 13.07 Minimum Sight Triangle at Intersections
- h. 13.08 Structures Permitted Within Lines and Within Minimum Sight Triangle
- i. 13.09 Determination of Center Line
- j. 13.10 Loading Requirements
- k. 13.11 Driveways
- l. 13.13 Right-of-Way Access

7. Stream or Lake Shores:

Stream or lake shores shall have sixty (60) feet of public access platted to the low water mark at intervals of no more than one-half mile or as agreed to or otherwise provided in Wis. Stat. Section 236.16(13).

8. Limited Access Highway and Railroad Right-of-Way Treatment:

- a. Residential Development. When residential lots within the proposed subdivision back upon right-of-way of an existing or proposed limited access highway or railroad, a planting strip at least 30 feet in depth shall be provided adjacent to the highway or railroad in addition to the normal lot depth. This strip shall be a part of the platted lots but shall have the following restriction lettered on the face of the plat: "This strip reserved for the planting of trees and shrubs; the building of structures hereon is prohibited."
- b. Commercial and Industrial Development. Commercial and industrial districts shall have provided on each side of the limited access highway or railroad, streets approximately parallel to and at a suitable distance from such highway or railroad for the appropriate use of the land between such streets and highway or railroad, but not less than 150 feet.
- c. Streets Parallel to a Limited Access Highway or railroad right-of-way, when intersecting a major street and highway or collector street which crosses the railroad or highway, shall be located at a minimum distance of 250 feet from the highway or railroad right-of-way. Such distance, where desirable and practicable, shall be determined with due consideration of the minimum distance required for the future

separation of grades by means of appropriate approach gradients.

- d. Minor Streets. Minor streets immediately adjacent and parallel to railroad rights-of-way shall be avoided, and location of minor streets immediately adjacent to arterial streets and highways and to railroad rights-of-way shall be avoided in residential areas.

9. Curb and Gutter:

In major land divisions the Plan Commission may require the subdivider to construct concrete curb and gutters on both sides of all streets within the land division in areas designated as Agricultural Transition, Rural Center, Commercial, and Industrial Management Areas by the Comprehensive Land Use Plan.

16.27 Pedestrian/Bicycle Facilities

1. To the maximum extent feasible, all land divisions shall provide pedestrian linkages, including bikeways, to parks, schools, adjacent developments, and existing and proposed public pedestrian/bicycle routes and trails as depicted on adopted town, county, state, and/or municipal trail plans.
2. The Plan Commission may require pedestrian/bicycle facilities be provided within land divisions designated as Agricultural Transition, Rural Center, Commercial, and Industrial Management Areas by the Comprehensive Land Use Plan.
3. All pedestrian and bicycle facilities to be constructed shall comply with AASHTO standards and any additional standards approved by the Plan Commission, upon the recommendation of the Town Engineer.

16.28 Water Supply and Sewage Disposal Utilities

1. General:

- a. No land division shall be approved by the Plan Commission unless or until a practical water supply and sanitary sewage disposal is available for the lots within that land division.
- b. Water supply and/or sewage disposal systems that are provided for all lots within a major land division by a community or centralized system, and efficient expansion of existing service areas, are encouraged.

2. Public Water Supply or Wastewater Treatment Facilities:

Where any point of the perimeter of a proposed land division is within one-half mile of a public water and/or sanitary sewer system and extension of such system is available to serve the proposed land division, the Plan Commission may require the subdivider to provide such service to all lots within the proposed subdivision. The Plan Commission may also require the installation of capped water and/or sanitary sewer mains and lot connections where town, county, or municipal plans indicate that the construction or extension of public sanitary sewer and/or water mains may serve a proposed land division within five (5) years.

3. Private Water Supply Facilities:

- a. Subdividers proposing land divisions that would not utilize existing centralized water treatment and distribution systems shall be required to provide evidence from a reputable laboratory that the water available to the proposed land division meets all applicable state and federal drinking water standards or that it can and will be subject to established water treatment methods that will allow it to meet such standards.
- b. Private water supply systems shall conform to applicable requirements contained in the County code and Wisconsin statutes and codes governing the construction of such systems.

4. Private Sewage Disposal Facilities:
Whenever on-lot sewage disposal systems are proposed, the subdivider shall either install such facilities or require by deed restrictions or otherwise in a manner satisfactory to the Plan Commission of sale of each lot within such land division that on-lot sewage disposal facilities be installed by the purchaser of the lot at the time that the principal building is constructed and before it be occupied. Such on-lot sewage disposal systems shall comply with the sewage disposal system requirements contained in the County code and Wisconsin statutes and codes governing the construction of such systems.

16.29 Other Utilities

1. The subdivider shall cause gas, electrical power, telephone, and cable television facilities to be installed, where available, in such a manner to make service available to each lot in the land division.
2. Telephone lines, electric lines, cable television lines, telecommunication lines and other similar utility services shall be placed underground unless the subdivider or utility can demonstrate that underground installation is not feasible. All electrical power, telephone, or cable services shall be buried in the same trench whenever possible. Transformer junction boxes, meter points, or similar equipment necessarily appurtenant to such underground utilities may be placed above ground.

- 16.29 (2) Telephone lines, electric lines, cable television lines, telecommunication lines, and other similar utility services which are not located above ground shall be buried in the same trench whenever possible. Transformer junction boxes, pedestals, cabinets, meter points, or similar equipment shall be placed on the lot for which the electric service is installed.

16.30 Utility and Drainage Easements

1. Utility Easements:

Utility easements shall be required where deemed necessary by those utility companies having installations in the land division. The Plan Commission may require utility easements of widths deemed adequate for the intended purpose on rear or side lot lines or across lots where necessary, or advisable for electric power and communication poles, wires, conduits; storm and sanitary sewers; and gas, water and other utility lines.

2. Drainage Easements:

If a land division is traversed by a water course such as a drainage way, channel or stream, an adequate drainage easement conforming substantially with the high water lines of the water course, or as deemed necessary by the Town or County Engineer, shall be required. Open lands and streets parallel to water courses may be required to assure safe conveyance of surface runoff and to minimize disruption of the water course by land development and land use activities.

SECTION 17.00 NONCONFORMING BUILDING OR STRUCTURE OR NONCONFORMING USE

17.01 Nonconforming Building or Structure or Nonconforming Use

A nonconforming building or structure or nonconforming use may be continued subject to the following regulations:

1. A nonconforming use may be extended throughout the building or structure, provided no structural alterations or changes are made therein except those required by law or ordinance or such as may be required for safety or such as may be necessary to secure the continued use of the building or structure during its natural lifetime.
2. Subject to approval of the Zoning Board of Appeals under Section 11.04, a nonconforming use may be changed to another non-conforming use of the same or greater restriction, but shall not thereafter be changed again to another non-conforming use.
3. No nonconforming use of a building or structure may be moved to any part of a parcel of land upon which same was conducted at the time of the adoption of this ordinance.
4. No nonconforming building or structure shall be enlarged or structurally altered during its lifetime by more than 50% of the _____ equalized assessed value of the existing building or structure except to make it a conforming building or structure or to comply with requirements of health and safety laws or ordinances.
5. Any nonconforming building or structure which has been destroyed or damaged by fire, explosion, act of God or by public enemy to the extent of 60% or more of its existing replacement cost at the time such destruction or damage occurred shall thereafter be made conforming with the provisions of this ordinance.
6. Any nonconforming building or structure or nonconforming use which has ceased by discontinuance or abandonment for a period of 12 months shall thereafter conform to the provisions of this ordinance.

SECTION 18.00 PLANNED RESIDENTIAL DEVELOPMENTS

- 18.01 Conditional Use. Planned Residential Developments are intended to encourage innovation land use planning and site design concepts which promote quality residential neighborhood designs and environmentally sensitive development. Planned Residential Developments may be established as a conditional use only after application is made by the property owners or authorized agent to the Planning Commission, and the public hearing and conditional use procedures of this ordinance are followed. Such conditional uses may be established within A-2, R-2, LMSR, and RCC zoning districts, subject to the provisions of this section. The applicant shall follow the PRD Application Guide as adopted by Town Board Resolution.
- 18.02 Land Uses. Land uses which may become permitted with the approval of a conditional use permit for a Planned Residential Development include single and multiple family cluster developments, garden apartments, row housing, group housing, condominiums and normally attendant accessory uses.
- 18.03 Minimum Standards. The underlying district regulations pertaining to minimum lot area, public road frontage, and minimum lot width may be varied in order to encourage greater application of the subdivision to amenities of the natural landscape. Variations if approved by the Plan Commission can be in any increment down to the following minimum standards:
- (1) Private lot areas shall be a minimum of one (1) acre, except that smaller lots may be considered where public water supply and wastewater treatment systems are provided to serve such lots.
 - (2) Common lot area. Common lot area, if provided, shall be adjacent to the private lot areas and shall be of such sizes that the combined land areas of private and common lot areas shall be no smaller than that of the minimum lot area of the underlying zoning district multiplied by the number of lots created within the subdivision.
 - (3) A site plan shall be submitted with the application and in addition to the minimal information under Section 7.00 herein shall include street design, number and general location of dwelling units, common structures and facilities, utilities, and other information that the Planning Commission may require to make a decision.

(4) The proper preservation, care and maintenance by the original and all subsequent owners, of exterior design, common structures, utilities, access and open space shall be assured by deed restrictions enforceable by the Town.

(5) All streets shall be hard surfaces (blacktop or concrete) and meet all town road and street requirements.

(6) All areas not hard surfaced, including road and street ditches shall be graded and seeded.

(7) Off-street parking areas and recreational areas shall be provided of sufficient size to accommodate the anticipated population. All parking areas shall be well graded and drained.

(8) All new lots created within this district must be included within a subdivision plat as defined in Chapter 236 of Wisconsin State Statutes and shall comply with Section 16.00, Land Divisions.

(9) An application for a Planned Residential Development shall contain a minimum of twenty (20) acres of land.

18.04 Yard Requirements:

(1) Front yard setback shall be a minimum of sixty (60) feet from the centerline of a town road and one hundred (100) feet from the centerline of a county highway or state highway.

(2) Side yards shall have a width of twenty-five (25) feet.

(3) Rear yards shall have a width of twenty-five (25) feet.

18.05 Developer's Agreement:

The Plan Commission may require a developer's agreement according to terms adopted by the Plan Commission considering the entire district proposal.

SECTION 19.00 LARGE WIND ENERGY SYSTEM

19.01 Title. This ordinance may be referred to as the Large Wind Energy Ordinance.

19.02 Authority. This ordinance is adopted pursuant to authority granted by Wis. Stat. secs. 60.62, 61.35 and 66.0401.

19.03 Purpose. The purpose of this ordinance is to establish regulations for large wind energy systems that comply with the requirements of Wis. Stat. sec. 66.0401.

19.04 Applicability. This ordinance applies to all lands within the boundaries of the Town of Newton, Manitowoc County, Wisconsin.

19.05 Definitions. In this ordinance:

"Administrator" means the Town Zoning Administrator or his or her designee.

"Board" means the town board of the Town of Newton, Manitowoc County, Wisconsin.

"Commission" or "Plan Commission" means the Town of Newton Plan Commission.

"Flicker" or "shadow flicker" means the effect that results when the shadow cast by the rotating blade of a wind energy system moves across a fixed point.

"Habitable building" means a structure used for residential, commercial, civic, religious, or any other purpose.

"Karst" means an area with surface and subsurface features that have developed as the result of the dissolution of dolomite, gypsum, limestone, or other soluble rock. Characteristic features present in karst topography include caves, closed depressions, disappearing streams, exposed bedrock, sinkholes, springs, and underground drainage through conduits enlarged by dissolution.

"Landowner" means the person that owns the property on which a large wind system is located.

"Large wind energy system" means a wind energy system that includes one or more large wind systems.

"Large wind system" means a wind tower and turbine that has a nameplate capacity of more than 100 kilowatts or a total height of more than 170 feet, or both.

"Met tower" means a tower, including any anchor, base, base plate, boom, cable, electrical or electronic equipment, guy wire, hardware, indicator, instrument, telemetry device, vane, or wiring, that is used to collect or transmit meteorological data, including wind speed and flow information, in order to monitor or characterize wind resources at or near a large wind energy system.

"Nonparticipating property" means real property on which either there is no large wind system or there is a large wind system that is in a different wind farm system than another large wind system.

"Owner" means the person that owns a large wind system, a wind farm system, or a large wind energy system.

"Participating property" means real property on which a large wind system is located and that is in the same wind farm system as another large wind system.

"Total height" means the vertical distance from ground level to the tip of a wind turbine blade when the tip is at its highest point.

"Town" means the Town of Newton, Manitowoc County, Wisconsin.

"Wind energy system" means equipment that converts and then stores or transfers energy from the wind into usable forms of energy and includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, turbine, vane, wire, or other component used in the system.

"Wind farm system" means a wind energy system that includes more than one wind tower.

"Wind Tower" means the monopole, freestanding, or guyed structure than supports a wind turbine generator.

19.06 Standards.

(1) Location.

(a) A large wind system may only be located in an area that is zoned A3 Farmland Preservation.

(b) A wind tower may not be located within one-quarter mile of any area that is zoned RCC Rural Character Conservation or within one-quarter mile of any state or county forest, lake access, or park.

(2) Set Backs. The wind tower in a large wind system and each wind tower in a wind farm system must be set back:

(a) at least 1.2 times the total height of the large wind system from the property line of a participating property.

(b) at least 1,000 feet from any occupied or habitable building not located on the property on which the tower is located.

(c) at least 1.2 times the total height of the large wind system or 500 feet, whichever is greater, from any public road or power line right-of-way.

(3) Spacing and Density. A wind tower must be separated from every other wind tower by a sufficient distance so that it does not interfere with the other wind tower.

(4) Structure. A wind tower must be of monopole construction to the extent practicable. If monopole construction is not practicable, a wind tower must be freestanding construction to the extent practicable. If monopole or freestanding construction is not practicable, a wind tower may be guyed.

(5) Height. The total height of a wind energy system must be 500 feet or less.

(6) Clearance. The vertical distance from ground level to the tip of a wind turbine blade when the blade is at its lowest point must be at least 75 feet.

(7) Access. A wind tower, including any climbing aids, must be secured against unauthorized access by means of a locked barrier or security fence.

(8) Electrical Wires. All electrical wires associated with a wind energy system, other than wires necessary to connect the wind turbine to its base and to overhead collection lines, must be located underground.

(9) Code Compliance. A large wind system and a large wind energy system must comply with the National Electrical Code, the National Electrical Safety Code, and all applicable state and federal codes and regulations.

(10) Lighting. A wind tower and turbine may not be artificially lighted unless such lighting is required by the Federal Aviation Administration. If lighting is required, the lighting must comply with FAA minimum requirements and, whenever possible, be at the lowest intensity allowed, avoid the use of strobe or other intermittent white lights, and use steady red lights. If more than one lighting alternative is available, the alternative that causes the least visual disturbance must be used.

(11) Equipment. Any electrical equipment associated with a wind energy system must be located under the sweep area of a blade assembly.

(12) Appearance, Color, and Finish. The exterior surface of any visible components of a wind energy system must be a nonreflective, neutral color. Wind towers and turbines in a wind farm system that are located within one mile of each other must be of uniform design, including tower type, color, number of blades, and direction of blade rotation.

(13) Signs. No wind turbine, tower, building, or other structure associated with a wind energy system may be used to advertise or promote any product or service. No word or graphic representation, other than appropriate warning signs and owner or landowner identification, may be placed on a wind turbine, tower, building, or other structure associated with a wind energy system so as to be visible from any public road.

(14) Noise. The noise generated by the operation of a large wind energy system may not exceed the ambient noise level by more than 5 dB(A) as measured at any point on property adjacent to the parcel on which the large wind energy system is located. The noise level generated by the operation of a large wind energy system will be determined during the investigation of a noise complaint by comparing the sound level measured when the wind generator blades are rotating to the sound level measured when the wind generator blades are stopped. Upon receipt of a noise complaint, the Town Zoning Administrator or designee may contact the Manitowoc County Sheriff's Department to arrange for the testing of the sound level.

(15) Flicker or Shadow Flicker. The owner of a large wind system must take such reasonable steps as are necessary to prevent, mitigate, and eliminate shadow flicker on any occupied structure on a nonparticipating property within 1,000 feet of the wind tower.

(16) 24 Hour Emergency Contact Information. The owner of a large wind system shall locate and maintain on each wind tower, visibly accessible from the ground, the 24 hour emergency telephone number of a contact person on behalf of the owner. The contact person shall have the immediate ability to adjust the sound level and the wind energy system for purposes of noise complaint investigation and sound level measurements.

- (1) A permit application must be on a form approved or provided by the Administrator.
- (2) The owner must provide a site plan under sec. 7.03(4), the information specified in sec. 9.03, and the following additional information:
 - (a) Name, corporate status, address, and telephone number of the person signing the application and certifying that the application is true and correct.
 - (b) Name, corporate status, address, and telephone number of the owner.
 - (c) Name, corporate status, address, and telephone number of the landowner.
 - (d) Legal description of the property and a description of a benchmark on the property, including its elevation expressed in feet and tenths of feet.
 - (e) Number, description, and design specifications of each large wind system and met tower, including the manufacturer, model, capacity, blade length, height, lighting, and total height of any large wind system.
 - (f) Blueprints or drawings that have been approved by a registered professional engineer showing a cross section, elevation, and diagram for any tower and tower foundation.
 - (g) Scale (diagram showing proposed location of above ground and underground electrical wiring, access routes, landscaping, and fencing).
 - (h) Statement describing any hazardous materials that will be used on the property and how those materials will be stored.
 - (i) Location of any overhead utility lines adjacent to the property.
 - (j) Existing buildings and structures within one-half mile of the property, including any church, hospital, public library, residence, and school.
 - (k) Karst features on or within one-half mile of the property as shown on a U.S. Geological Survey topographical map with a scale of 1 :24,000 or on maps maintained by the Manitowoc County Soil and Water Conservation Department.
 - (l) Any sewer service planning area and incorporated municipal boundary within one-half mile of the property.
 - (m) Copy of a Certificate of Authority and Environmental Assessment, if applicable, from the Wisconsin Public Service Commission.
 - (n) Statement that the owner will construct and install each large wind system and met tower in compliance with manufacturer's specifications, along with a copy of the manufacturer's specifications.
 - (o) Statement that the owner will construct and operate the large wind system, met tower, or wind farm system in compliance with all applicable local, state, and federal codes, laws, orders, regulations, and rules.
 - (p) Statement signed by the landowner acknowledging that the landowner is financially responsible if the owner fails to reclaim the site as required by sec. 19.10(4) and that any removal and reclamation costs incurred by the town will become a lien on the property and may be collected from the landowner in the same manner as property taxes.
 - (q) For each wind tower, the 24 hour emergency telephone number at which a person with authority can be reached in the event of an emergency.

(3) Conditional Use Permit. A conditional use permit is required for a wind farm system and for each large wind system that is not included in a conditional use permit issued for a wind farm system.

(4) Expiration. A permit issued pursuant to this ordinance expires if the wind energy system is not installed and functioning within 2 years from the date the permit is issued, but the Administrator may extend the permit in response to a written request made prior to its expiration if the Administrator determines that the request is reasonable under the circumstances.

(5) Fees. (a) The application for a conditional use permit for a large wind system that is not included in a wind farm system must be accompanied by the fee required for a conditional use permit. The application for a conditional use permit for a wind farm system must be accompanied by the fee required for a conditional use permit, plus a \$100 processing fee for each large wind system included in the wind farm system.

(b) The owner must provide a site plan and pay the fee for a site plan review.

(c) The owner must pay all fees required under sec. 5.00. In addition, the owner shall deposit \$15,000.00 at the time of filing the application to be applied against fees and costs of third party services. Third party services include professional services incurred by the Town of Newton for purposes of review, analysis, or opinion of the wind energy system, defense of any decision by the Town Board or Town decision maker pertaining to the wind energy system land use, development agreement, or the issuance of a permit, or any other similar matter arising out of the operation and administration of the Large Wind Energy System Ordinance. Third party services include, but are not limited to, services of an engineer, surveyor, planner, attorney, planning agency, or other expert or professional consultant deemed necessary by the Town. No application shall be deemed complete without payment of the deposit provided for herein. In the event fees and costs for third party services exceed the initial deposit, the owner shall pay additional amounts for such purposes at such times as prescribed by the town board. Following completion of the third party services, the Town will refund to the owner the balance of the deposit.

(6) Financial Assurance. (a) Proof of financial assurance is a condition precedent to the issuance of any conditional use or zoning permit under this ordinance.

(b) The owner must provide a letter of credit according to the following terms to guarantee the performance of the restoration requirement set forth in Section 19.10. The letter of credit shall be in an initial amount of not less than \$20,000.00 for a period of five (5) years. The letter of credit amount shall increase by \$5,000.00 every five (5) years and the owner shall provide to the Town a new letter of credit prior to the expiration of the then existing letter of credit in the new amount for a period of five (5) years. This obligation shall continue for a total period of fifty (50) years unless sooner released by the Town of Newton Town Board based on performance of the restoration requirements set forth in Section 19.10.

19.08 Conditional Use Permit Procedure.

(1) A person may submit an application to the Administrator for a conditional use permit for a large wind system or a wind farm system. The application must be on a form approved by the Administrator and must be accompanied by 10 copies of a scaled drawing, other descriptive information sufficient to enable the Board to determine whether the requirements of this ordinance will be satisfied, and such other information as may be specified on the application form. The Administrator will review the application materials for completeness and may request that the applicant provide additional information. When the Administrator determines that the application is complete, the Administrator will forward it to the Plan Commission.

(2) The Plan Commission will conduct a hearing on the application pursuant to secs. 9.06(1) and 10.02 - 10.08.

(3) The Plan Commission shall review the application and recommend action, including conditions in the permit, to the town board based on the criteria and factors in sec. 19.08(4).

(4) The Board will consider the recommendation of the Plan Commission. The Board will grant a conditional use permit if it determines that the requirements of this ordinance are met and that granting the permit will not unreasonably interfere with the orderly land use and development plans of the town. The Board may include conditions in the permit if those conditions preserve or protect the public health and safety; do not significantly increase the cost of the system or significantly decrease its efficiency; or allow for an alternative system of comparable cost and efficiency. The Board may consider the following factors when setting conditions.

- (a) Proposed ingress and egress.
- (b) Proximity to transmission lines to link the system to the electric power grid.
- (c) Number of wind turbines and their location.
- (d) Nature of land use on adjacent and nearby properties.
- (e) Location of other wind energy systems in the surrounding area.
- (f) Surrounding topography.
- (g) Proximity to residential structures, residential zoning districts, or areas identified for future residential use.
- (h) Design characteristics that may reduce or eliminate visual obtrusiveness.
- (i) Possible adverse effects on migratory birds, raptors, and other animals and wildlife.
- (j) Possible adverse effects of stray voltage, interference with broadcast signals, shadow effect, and noise.
- (k) Impact on the orderly development, property values, and esthetic conditions within the town.
- (l) Effect on public roads.
- (m) Any other factors that are relevant to the proposed system.

(5) The Board may waive or reduce the burden on the applicant of one or more of the factors in sub. (4) if it concludes that the purpose of this ordinance is met. The installation and continued operation of the large wind system or wind farm system are contingent upon compliance with any conditions that are set by the Board.

(6) The Board's decision, the reason for its decision, and any conditions will be recorded' in the Board's minutes. The Administrator will issue a conditional use permit or inform the applicant the conditional use permit has been denied.

(7) The Board's decision may be appealed to the Circuit Court.

(8) The Board shall require as a condition of any conditional use permit that the owner/permittee pay to the Town an amount annually to compensate the Town for the loss of any shared revenue from the State of Wisconsin for the location of the wind energy system. If, at the time the permit is issued, the Town is receiving shared revenue payments under state law, and if the shared revenue payments are thereafter revised or revoked, owner/permittee shall pay to the Town an amount equal to the amount of decrease in shared revenues received by the Town for the prior calendar year. The amount of decrease in shared revenues shall continue to be payable by the owner/permittee on an annual basis. The obligation shall terminate upon the termination and removal of the wind energy system.

19.09 Zoning Permit Procedure. A zoning permit may be issued according to sec. 2.02 (17).

19.10 Abandonment and Restoration. (1) A large wind system, met tower, or wind farm system that is out of service for a continuous 12-month period will be deemed to have been abandoned and the Administrator may issue a Notice of Abandonment to the owner. If, within 30 days of receipt of a Notice of Abandonment, the owner provides the Administrator with written information showing that the large wind system, met tower, or wind farm system has not been abandoned, the Administrator will withdraw the Notice.

(2) An owner may provide the Administrator with a written Notice of Termination of Operations if the operation of a large wind system, met tower, or wind farm system is terminated.

(3) A large wind system, met tower, or wind farm system must be removed within 3 months of receipt of Notice of Abandonment unless the Administrator withdraws the Notice or within 6 months of providing Notice of Termination of Operations. The owner must:

(a) remove all wind turbines, aboveground improvements, and

(b) remove all foundations, pads, and underground electrical wires and reclaim the site to a depth of 4 feet below the surface of the ground; and

(c) remove all hazardous material from the property and dispose of the hazardous material in accordance with federal and state law.

(4) If the owner fails to remove a large wind system, met tower, or wind farm system and reclaim the site, the town may remove or cause the removal of the large wind system, met tower, or wind farm system and the reclamation of the site. The town may recover the cost of removal and reclamation from any financial assurance provided by the owner pursuant to sec. 19.07(6)(b). Any removal or reclamation cost incurred by the town that is not recovered from the owner will become a lien on the property where the removal or reclamation takes place and may be collected from the landowner in the same manner as property taxes.

19.11 Signal Interference. The owner of a large wind system, met tower, or wind farm system must take such reasonable steps as are necessary to prevent, eliminate, or mitigate any interference with the transmission and reception of electromagnetic communications, such as microwave, radio, telephone, or television signals.

19.12 Violations. It is unlawful for any person to construct, install, maintain, modify, or operate a large wind system, met tower, or wind farm system that is not in compliance with this ordinance or with any condition contained in a conditional use or zoning permit issued pursuant to this ordinance.

19.13 Administration and Enforcement. (1) This ordinance shall be administered by the Administrator.

(2) The Administrator may enter any property for which a conditional use or zoning permit has been issued under this ordinance to conduct an inspection to determine whether the conditions stated in the permit have been met. The Sheriff or the Sheriff's designee may enter any property for which a zoning permit has been issued under this ordinance to conduct an inspection to determine whether there is any violation of sec. 19.06(14) and the town zoning ordinance.

(3) The Administrator may issue orders to abate any violation of this ordinance. The Sheriff or the Sheriff's designee may issue an order to abate a violation of sec. 19.06(14).

(4) The Administrator may issue a citation for any violation of this ordinance. The Sheriff or the Sheriff's designee may issue a citation for any violation of sec. 19.06(14).

(5) The Administrator or Sheriff may refer any violation of this ordinance to the town board or town legal counsel for enforcement and legal action.

(6) Nothing in this section shall be construed to prevent the town from using any other lawful means to enforce this ordinance.

(7) The permittee shall reimburse the town for all costs incurred in the enforcement of this ordinance including, but not limited to, any third party fees or costs for technical advice or analysis.

19.14 Penalties. (1) Any person who fails to comply with any provision of this ordinance or of a conditional use permit or a zoning permit issued pursuant to this ordinance shall, upon conviction thereof, forfeit at least \$500 but not more than \$1,000 for each offense together with the costs of prosecution for each violation. A separate offense shall be deemed committed on each day during which a violation occurs or continues.

(2) The failure of any employee, official, or officer of the town to perform any official duty imposed by this code will not subject the employee, official, or officer to the penalty imposed for violation of this code unless a penalty is specifically provided.

19.15 Relationship to Other Ordinances. This ordinance does not abrogate, annul, impair, interfere with, or repeal any existing ordinance. The terms of this ordinance take precedence over any conflicting town ordinance.

19.16 Severability. The provisions of this ordinance are severable, and the invalidity of any section, subdivision, paragraph, or other part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

SECTION 20.00 SMALL WIND ENERGY SYSTEM

20.01 Title. This ordinance may be referred to as the Small Wind Energy System Ordinance.

20.02 Authority. This ordinance is adopted pursuant to authority granted by Wis. Stat. secs. 60.62, 61.35, 62.23.

20.03 Purpose. The purpose of this ordinance is to establish regulations for small wind energy systems in order to protect the public health and safety.

20.04 Applicability. This ordinance applies to all lands within the boundaries of the Town of Newton, Manitowoc County, Wisconsin.

20.05 Definitions. In this ordinance:

- (1) "Administrator" means the Town Zoning Administrator or his or her designee.
- (2) "Habitable Building" means a structure used for residential, commercial, civic, religious, or any other purpose.
- (3) "Met tower" means a tower, including any anchor, base, base plate, boom, cable, electrical or electronic equipment, guy wire, hardware, indicator, instrument, telemetry device, vane, or wiring, that is used to collect or transmit meteorological data, including wind speed and wind flow information, in order to monitor or characterize wind resources at or near a small wind energy system.
- (4) "Owner" means the person that owns a small wind energy system or met tower and the property on which the small wind energy system or met tower is located.

(5) "Small wind energy system" means a wind energy system that has a nameplate capacity of 100 kilowatts or less, has a total height of 170 feet or less, and is primarily used to generate energy for use by its owner.

(6) "Total height" means the vertical distance from ground level to the tip of a wind generator blade when the tip is at its highest point.

(7) "Tower" means either the freestanding, guyed, or monopole structure that supports a wind generator or the freestanding, guyed, or monopole structure that is used as a met tower.

(8) "Town" means the Town of Newton, Manitowoc, Wisconsin.

(9) "Wind energy system" means equipment that converts and then stores or transfers energy from the wind into usable forms of energy and includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, turbine, vane, wire, or other component used in the system.

(10) "Wind generator" means the mechanical and electrical conversion components mounted at the top of a tower in a wind energy system

20.06 Standards. Small Wind Energy System.

A small wind energy system is a permitted use in any district subject to the following requirements:

(1) Set backs. A tower in a small wind energy system must be set back:

(a) at least 1.2 times its total height from the property line of the property on which it is located.

(b) at least 1.2 times its total height from any public road or power line right-of-way; and

(c) at least 1000 feet from any occupied OR habitable building not located on the property on which the tower is located.

(2) Noise. The noise generated by the operation of a small wind energy system may not exceed 5 dB(A) as measured at any point on property adjacent to the parcel on which the small wind energy system is located. The noise level generated by the operation of a small wind energy system will be determined during the investigation of a noise complaint by comparing the sound level measured when the wind generator blades are rotating to the sound level measured when the wind generator blades are stopped.

(3) Blade Clearance. The vertical distance from ground level to the tip of a wind generator blade when the blade is at its lowest point must be at least 30 feet.

(4) Access. All ground-mounted electrical and control equipment must be labeled and secured to prevent unauthorized access. A tower may not have step bolts or a ladder within 8 feet of the ground that is readily accessible to the public.

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

(6) Lighting. A wind tower and generator may be artificially lighted only if lighting is required by the Federal Aviation Administration.

(7) Appearance, Color, and Finish. The exterior surface of any visible component of a small wind energy system must be a non-reflective, neutral color.

(8) Signs. No sign, other than a warning sign or installer, owner, or manufacturer identification sign, may be placed on any component of a small wind energy system if the sign is visible from a public road.

(9) Code Compliance. A small wind energy system must comply with the National Electrical Code and all applicable state construction and electrical codes. The owner

the

wind must provide certification from a state licensed inspector showing that the small energy system complies with all applicable codes before placing the small wind energy system into operation.

(10) Signal Interference. The owner of a wind energy system must filter, ground, and shield a tower and take any other reasonable steps necessary to prevent, eliminate, or mitigate any interference with the transmission and reception of electromagnetic communications, such as microwave, radio, telephone, or television signals.

(11) Utility Interconnection. A small wind energy system that connects to the electric utility must comply with Wis. Admin. Code §§ PSC 119 "Rules for Interconnecting Distributed Generation Facilities. "

(12) Number of Towers. One (1) tower may be located on a parcel of real estate. A conditional use shall be required for locating more than one tower on a parcel of real estate. The procedure for a conditional use set forth in Section 19.08 of the Town Ordinances shall apply. As used herein, a parcel of real estate is one which has assigned an individual parcel number for property tax purposes.

20.07 Standards - Met Tower. A met tower is a permitted use in any district subject to the same standards as a small wind energy system set forth in sec. 20.06, except for the standards contained in subs. 20.06(2) and (3).

20.08 Zoning Permit. (1) Permit Requirement.

A zoning permit is required for the installation of a small wind energy system a met tower, and the owner must apply for a zoning permit and pay the fee for a permitted accessory use. The application will be processed following the procedures set forth in sec. 2.02(7).

(2) Site Plan Review. The owner must pay the fee for a site plan review, provide a site plan and information as specified in sub. 7.03 as required by the Town Board or Administrator, and provide the following additional information as part of the permit application:

(a) Location of any overhead utility lines on or adjacent to the property;

(b) Description and specifications of the components of the small wind energy system, met tower, or both, including the manufacturer, model, capacity, blade length, and total height of any small wind energy system; and

(c) Blueprints or drawings which have been approved by a registered professional engineer for any tower and tower foundation.

(3) If the permit application is denied, the Administrator will notify the owner in writing and provide a written statement of the reason why the application was denied. The owner may appeal the Administrator's decision to the Zoning Board of Appeals pursuant to sub. 11.07.

(4) Expiration. A pennit expires if the small wind energy system or met tower is not installed and functioning within 12 months from the date the permit is issued.

20.09 Abandonment. (1) A small wind energy system or met tower that is out-of-service for a continuous period of 12 months will be deemed abandoned and the Administrator may issue a Notice of Abandonment to the owner.

(2) If, within 30 days of receipt of a Notice of Abandonment, the owner provides the Administrator with information showing that the small wind energy system or met tower has not been abandoned, the Administrator will withdraw the Notice.

(3) Unless the Administrator withdraws the Notice of Abandonment, a small wind energy system or met tower must be removed within 90 days of the Notice of Abandonment and the site must be reclaimed to a depth of 4 feet. If the owner fails to remove a small wind energy system or met tower and reclaim the site, the county may remove or cause the removal of the small wind energy system or met tower and the reclamation of the site. The cost of removal and reclamation will become a lien upon the property and may be collected in the same manner as property taxes.

20.10 Violations. (1) It is unlawful for any person to construct, install, or operate a small wind energy system or met tower that is not in compliance with this ordinance or with any condition contained in a zoning permit issued pursuant to this ordinance. A small wind energy system or met tower that was installed prior to the effective date of this ordinance is exempt from the requirements of this ordinance.

(2) It is unlawful for a person to disobey; fail, neglect, or refuse to comply with; or otherwise resist an order issued pursuant to this ordinance.

(3) A separate offense is deemed committed on each day that a violation occurs or continues.

20.11 Enforcement. (1) The Administrator may enter any property for which a zoning permit has been issued under this ordinance to conduct an inspection to determine whether there is any violation of this ordinance or whether the conditions stated in the permit have been met. The Sheriff or the Sheriff's designee may enter any property for which a zoning permit has been issued under this ordinance to conduct an inspection to determine whether there is any violation of sec. 20.06(2).

(2) The Administrator may issue an order to abate any violation of this ordinance. The Sheriff or the Sheriff's designee may issue an order to abate a violation of sec. 20.06(2).

(3) The Administrator may issue a citation for any violation of this ordinance. The Sheriff or the Sheriff's designee may issue a citation for any violation of sec. 20.06(2).

(4) The Administrator or Sheriff may refer a violation of this ordinance to the town board or town legal counsel for enforcement and legal action.

(5) Nothing in this section may be construed to prevent the town from using any other lawful means to enforce this ordinance.

20.12 Penalties. (1) A person will, upon conviction for a violation of this ordinance, forfeit not less than \$100 nor more than \$1,000 for each offense, together with the costs of prosecution for each violation.

(2) The failure of any employee, official, or officer of the town to perform any official duty imposed by this code will not subject the employee, official, or officer to the penalty imposed for violation of this code unless a penalty is specifically provided. .

20.13 Relationship to Other Ordinances. This ordinance does not abrogate, annul, impair, interfere with, or repeal any existing ordinance.

20.14 Severability.

If any portion of this ordinance is found to be invalid or unconstitutional by a court of competent jurisdiction, such finding shall not affect the validity of the other provisions hereof which shall continue to be in full force and effect.

Adopted this 9th day of January, 2008.

TOWN OF NEWTON TOWN BOARD

BY: _____
Kevin Behnke, Chairman

John H. Karbon, Jr., Supervisor

Donald Schuette, Supervisor

ATTEST:

Barbara Pankratz, Town Clerk