

## ZONING AND LAND DIVISION ORDINANCE

TOWN OF NEWTON  
MANITOWOC COUNTY, WI

DATCP CERTIFICATION OCTOBER 26, 2015  
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# **ZONING AND LAND DIVISION ORDINANCE**

FOR THE TOWN OF NEWTON  
MANITOWOC COUNTY, WI

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## **APPENDICES**

**APPENDIX A** Department of Agriculture, Trade and Consumer Protection Zoning Ordinance Certification

**APPENDIX B** Amendment Record

## **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.
13. Qualify landowners for farmland preservation tax credits.

### **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 AND LAND DIVISION ORDINANCE FOR THE TOWN OF NEWTON."

## **1.09 Definitions**

Definitions for specific land uses are within Section 14.02 through 14.07. Also consult Chapter 20 for definitions related to the A-3 Farmland Preservation Zoning District.

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. **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.
4. **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.
5. **Basement:** A story partly underground which, if occupied for living purposes, shall be counted as a story for purposes of height measurement.
6. **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.
7. **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.
8. **Building, Front Line of:** A line parallel to the street intersecting the foremost point of the building, excluding uncovered steps.
9. **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.
10. **Centerline:** A line connecting the points on highways from which setback distances are measured, at any point on the highway.

11. **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.
12. **Comprehensive Plan:** The adopted Town of Newton Year 2040 Land Use Plan, as amended.
13. **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.
14. **Density:** Number of dwelling units per acre allowable under the applicable zoning district.
15. **Driveway:** A private means of access to or from a property, site, or use; or a means of circulation within a parking area.
16. **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.
17. **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.
  - a. **Accessory Dwelling Unit (ADU):** A smaller, independent residential dwelling unit co-located on a site with a principal structure. An ADU may be attached or detached from the principal structure and may contain up to one (1) additional dwelling units.
18. **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.
19. **Final Plat:** The map or plat which is prepared for recordation by the County Register of Deeds.
20. **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.
21. **Frontage:** All of the property abutting on one (1) side of a street measured along the street line.
22. **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.
23. **Highway:** A street, road or public way primarily for purposes of vehicular traffic.
24. **Highways. Classes:**
  - a. Class 1 Highways: Town roads
  - b. Class 2 Highways: County trunk highways
  - c. Class 3 Highways: State trunk highways
  - d. 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.
  - e. Class 5 Highways: Expressways, freeways and divided highways
25. **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.
26. **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.

27. Reserved:
28. 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.
29. 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.
30. Lot Area: The area contained within the property boundaries of a recorded lot.
31. Lot, Corner: A parcel of land located at the intersection of two or more streets.
32. Lot, Depth of: Horizontal distance between the front and rear lot lines.
33. Lot Lines and Area: The peripheral boundaries of a parcel of land and the total area lying within such boundaries.
34. Lot Width: The distance between sideway lines of the lot, measured at the minimum road setback lines.
35. 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.
36. 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.
37. 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.
38. Minimum Sight Triangle at Intersections: A triangle formed by the centerlines of two intersecting 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.
39. 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 non-collapsible construction, except that excluded from this definition is every manufactured home as defined above.
40. 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.
41. 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.
42. Open Space: A tract of land used for agricultural, natural habitat, conservancy, trails and pathways and/or recreational purposes.
  - a. Nonparticipation Dwelling Unit: A dwelling unit which is located on a lot which abuts a lot on which a commercial structure is located or proposed to be located.
43. Open Space Preservation Area: The portion of a land division designated for permanent agricultural, conservation, or open space uses.
44. 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.

45. **Parcel:** See "lot" definition.
46. **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.
47. **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).
48. **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.
49. **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.
50. **Replat:** The process of changing, or a map or plat which changes, the boundaries of a recorded plat or part thereof.
51. **Right-of-Way Lines:** Lines delineating the outer limits of land, property, or interest therein acquired for or devoted to a highway.
52. **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.
53. **Setback Line:** A line established adjacent to a highway, at a specified distance from the centerline thereof.
54. **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.
55. **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.
56. **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.
57. **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.
58. **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.
59. **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, driveways, and fences shall not be interpreted as structures.

60. **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.

61. **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.

a. **Structure Commercial:** A structure other than a dwelling unit.

62. **Structure Principal:** The structure containing, or housing, the principal use of a premises.

63. **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. Short-term here shall be interpreted as a period of less than nine (9) months from location until removal from property. A "portable" structure shall only be interpreted as a temporary structure if it is less than 144 square feet in area and is removed from the site within this nine-month period, otherwise it shall qualify as a permanent structure and all relevant regulations for those structures shall apply.

64. **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).

65. **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.

66. **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.

67. **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.

68. **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.

69. **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.

70. **Vacation Rental:** A tourist rooming house, being all lodging places and tourist cabins and cottages, other than hotels and motels, in which sleeping accommodations are offered for pay to tourists or transients. It does not include private boarding or rooming houses not accommodating tourists or transients, or bed and breakfast establishments regulated under Wis Stats ch. DHS 197.

71. **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.

72. **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.

73. **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.

74. **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.

## **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 18.14, 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 11x 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 17.00, Signs; and
  - f. Section 18.00, 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:
  - i. Sign Permits
  - ii. Conditional Use permits
  - iii. Commercial and Industrial Site Plans
  - iv. Land Divisions
  - v. Plans and proposals as directed by Town Board. Refer to Section 4.00 Plan Commission
- b. The Plan Commission may take several actions:
  - i. Recommend approval to Town Board
  - ii. Table the action for further consideration.
  - iii. Recommend denial to Town Board
  - iv. Recommend approval with Conditions to Town Board
  - v. 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 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:
  - a. Zoning Ordinance changes and modifications.
  - b. Zoning District boundaries
  - c. Commercial and Industrial Site Plans
  - d. 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 there from; 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.

## **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, variances, appeals, interpretations, and applications therefore.
  - d. Receive, file, and forward all applications for all procedures governed by this Chapter to the designated official bodies.
  - e. Review all zoning-related 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
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. Give notice of Zoning Ordinance violations to the Zoning Administrator.
  - d. Issue orders to comply with the Zoning Ordinance.
  - e. Assist the Town Attorney in the prosecution of Ordinance violators.
  - f. 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.

## **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 Town Plan Commission shall consist of seven (7) members of which one may be a Town Board member and six (6) citizen members, who are not otherwise Town officials, and who shall be persons of recognized experience and qualifications. An alternate citizen member can be appointed to fill meeting vacancies of other members. The Town Board Chairperson shall appoint the members of the Plan Commission and designate a Plan Commission Chairperson during the Month of April to fill any expiring term. The Town Board Chairperson may appoint himself or herself or another town board member to the Plan Commission and may designate himself or herself or the other Town Board member, or a citizen member as Chairperson of the Plan Commission. (All appointments are subject to the approval of the Town Board.) In a year in which any Town Board member is elected at the spring election, any appointment or designation by the Town Chairperson shall be made after the election and qualification of the Town Board member elected. Any citizen appointed to the Plan Commission shall take and file the oath of office within (5) days of notice of appointment, as provided under secs.19.01 and 60.31, Wis. Stats.
2. Citizen Members Terms: The term of office for the Plan Commission Chairperson and each Commission member shall be for a period of 3 years, ending on April 30, or until a successor is appointed and qualified. Exceptions are as follows:
  - Initial Terms: If the initial appointments to the Plan Commission are made during April, the six citizen members shall be appointed for staggered terms as follows: two (2) persons for a term that expires in one (1) year; two (2) persons for a term that expires in two (2) years; and two (2) persons for a term that expires in three (3) years.
  - If the initial appointments are made after April, the first citizens appointed to the Plan Commission shall be appointed for staggered terms as follows; two (2) persons for a term that expires in one (1) year from the previous April 30; two (2) persons for terms that expire two (2) years from the previous April 30; two (2) persons for a term that expires three (3) years from the previous April 30.
3. 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 may designate another member of the Commission to preside Chair. 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:
    - i. Conditional Use Permits
    - ii. Sign Permits

- iii. Land Divisions
- iv. Plans and Proposals as directed by Town Board

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

- i. Zoning Ordinance changes and modifications
- ii. Zoning district boundary change
- iii. Commercial and industrial site plans
- iv. Planned Residential Developments
- v. Amendments to the Town of Newton Comprehensive Plan
- vi. Any other matters submitted for review and recommendation by the Town Board.

## **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 may be required for the following permits or approvals:
  - a. Conditional Use Permit
  - b. Building Permit
  - c. Sign Permit
  - d. Temporary Use Permit
  - e. 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 as part of the permit/application fee.
6. Advance Payment: The applicant shall 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 \$50.00 or more than \$500.00 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. Each day a violation continues to occur shall be considered a separate offense.
  - 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.

## **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 17.00
  - 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 18.00, 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, I-1 Industrial District and the A-3 Farmland Preservation District (if a qualifying agriculture-related use). 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 18.00, 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. A Development Impact Analysis for proposed buildings greater than 20,000 square feet in floor area. The development impact analysis shall include:
  - i. A traffic study for the proposed building(s) use(s) including the average daily and peak am/pm trips generated for weekdays and weekends on surrounding streets.
  - ii. A utility/facility study detailing the anticipated municipal water/sewer usage (where applicable).
  - iii. A job creation estimate including the projected number of jobs the land use(s) are anticipated to create including wage ranges.
- i. 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 on a lot 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 18.00, 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.
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 17.00.

## **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.

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## **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.

### **7.02 Site Plan Review**

This Section requires review of all conditional use permits, planned residential developments, commercial and industrial site plans by the Town Plan Commission prior to issuing 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 Town Comprehensive 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: Those present on the subject property;
  - d. Proposed Land Uses: Those proposed 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: Those 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:
  - i. Lot Area;
  - ii. Floor Area;
  - iii. Floor Area Ratio;
  - iv. Impervious Surface Area;
  - v. Impervious Surface Ratio to site; and
  - vi. Building Height.

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 16.07, 16.08 and 16.09.

## **7.04 Business Design Standards/ Site Design Guidelines**

The Town of Newton hereby establishes design review guidelines within the B-1 Business, I-1 Industrial and A-3 (if an agricultural-related use) Zoning Districts, rather than stringent regulations for all development. These standards are established 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:

1. 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 on of this section shall comply with the design principles contained therein as applicable.
2. 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 surroundings.

## **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:

1. An application by any member of the general public;
2. A recommendation of the Town staff or Plan Commission; or
3. 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 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 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 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 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 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 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 the change is in accordance with Chapter 20, Sections 20.02 and 20.03.
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.

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## **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.

In this sub-section, the following terms apply:

“Conditional Use” means a use allowed under a conditional use permit, special exception, or other special zoning permission issued by the town but does not include a variance.

“Substantial evidence” means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.

### **9.02 Conditional Use Permit Required**

1. Conditional Use by Ordinance: Conditional Uses include those listed in Section 14.00 and where indicated for specific circumstances in other sections within this Ordinance.
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.
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 Conditional Uses in A-3 Farmland Preservation Zoning**

Conditional uses shall be reviewed in full accordance with Chapter 20 of this ordinance.

## **9.05 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.

## **9.06 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 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.

If an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in the ordinance or those imposed by the Plan Commission, the Town shall grant the conditional use permit. Any condition imposed must be related to the purpose of this ordinance and be based on substantial evidence.

## **9.07 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.

## **9.08 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 requirements and conditions described, must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration or renewal. The applicant must demonstrate that the application and all requirements and conditions established by the Town relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence.

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.

## **9.09 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 agreed to meet the general and specific conditional use requirements in the permit for initiation of development activity on the subject property. The requirements and conditions described, must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration or renewal. The applicant must demonstrate that the application and all requirements and conditions established by the Town relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence. The Town's decision to approve or deny the permit must be supported by substantial evidence. Furthermore, if an applicant for a conditional use permit agrees to meet all of the requirements and conditions specified by the Plan Commission, the Town shall grant the conditional use permit. Any condition imposed must be related to the purpose of the ordinance and based on substantial evidence.
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. The basis for permit termination must be supported by substantial evidence.
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 (substantial evidence) 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.

The requirements and conditions described must be reasonable and, to the extent practical, measurable and may include conditions such as the permit's duration or renewal. The applicant must demonstrate that the application and all requirements and conditions established by the Town relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence.

## **9.10 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. The basis for permit termination or revocation must be supported by substantial evidence.

## **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 as a Class 2 Notice, at least once each week for two (2) consecutive weeks (except notice for the Zoning Board of Appeals, which shall be a Class 1 Notice) 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.

## **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, and 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.
    - i. There is no reasonable use of the property unless the variance is granted.
    - ii. There are conditions unique to the property which create the unnecessary hardship.
  - b. Area Variance.
    - i. The zoning regulation is unnecessarily burdensome to the applicant.
    - ii. 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.
    - iii. 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: Variances, 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.

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## **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 (see Chapter 20)
  - d. RCC Rural Character Conservation
  - e. R-2 Residential District
  - f. LMSR Lake Michigan Shoreland Residential District
  - g. LR Established Lakeshore Residential
  - h. B-1 Business District
  - i. I-1 Industrial District
  - j. PRD Planned Residential Development District
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. Lots shall be limited to one zoning district per lot. A request to create split-zoning of land shall not be approved.

### **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 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 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.

### **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 Plan (adopted November 8, 2000) and within Agricultural Transition Preferred Land Use Management Areas established by the Comprehensive Plan.

## **12.05 A-3 Farmland Preservation District (see Chapter 20)**

This district is intended to protect the Town's agricultural industry. 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 A-3 Farmland Preservation District is administered through Chapter 20 of this ordinance.

## **12.06 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.

## **12.07 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 Plan.

## **12.08 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 CTH LS, 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 CTH LS, and rural character. It is also intended to manage growth in order to keep public service costs low and to protect public health, safety, and welfare within coastal areas.

## **12.09 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.

## **12.10 PRD Planned Residential Development District**

This district is intended to encourage innovative land use planning and site design concepts which promote quality residential neighborhood designs and environmentally sensitive development through flexible regulations. The applicant shall follow the PRD Application Guide as adopted by Town Board Resolution.

## **12.11 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 1-43 Highway Corridor. It is also associated with preexisting, established businesses located in rural Town areas predominantly characterized by Agricultural and RCC Districts. Select low-impact agricultural uses are permitted in addition to allowed commercial uses.

## **12.12 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.

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## 13.00 ZONING DISTRICT REGULATIONS

### 13.01 Development Requirements Overview

The following table included the basic regulations for each zoning district. Additional requirements are included in Section 13.02 where indicated in the table by a numbered note.

Zoning District		Max Residential Density	Lot Size			Setbacks <sup>(2)</sup>		Max Building Height	Site Plan Required <sup>(4)</sup>
			Min Area	Max Area	Min Width <sup>(1)</sup>	Front: 60Ft/100 Ft <sup>(3)</sup>	Min Side		
A-1	Agricultural / Rural Residential	1 Lot/35 Acres <sup>(5)</sup>	1 Acre	5 Acres * <sup>(6)</sup>	150 Ft	25 Ft	25 Ft	35 Ft	
A-2	General Agricultural	1-10 Acres: 2 Lots <sup>(6)(7)</sup> 10-35 Acres: 3 Lots <sup>(6)(7)</sup> 35+ Acres: 4 Lots <sup>(6)(7)</sup>	1 Acre		150 Ft	25 Ft	25 Ft	35 Ft	
A-3	Farmland Preservation (see Chapter 20)	See Note <sup>(8)</sup>		5 Acres <sup>(9)</sup>		150 Ft	25 Ft	25 Ft	35 Ft <sup>(10)</sup>
RCC <sup>(18)</sup>	Rural Character Conservation	1-10 Acres: 2 Lots <sup>(7)</sup> 10-35 Acres: 3 Lots <sup>(7)</sup> 35+ Acres: 4 Lots <sup>(7)</sup>  (+50 % Density Bonus for Conservation) <sup>(11)</sup>	1 Acre		150 Ft	25 Ft	25 Ft	35 Ft	
R-2	Residential		Single-Family: 1 Acre  Two-Family: 1.5 Acres	2 Acres * <sup>(12)</sup>	150 Ft	25 Ft Accessory: 10 Ft	25 Ft	35 Ft	
LMSR	Lake Michigan Shoreland Residential	1 Lot / 5 Acres  (+50 % Density Bonus for Conservation) <sup>(11)</sup>	5 Acres (Conservation 1 Acre) <sup>(12)</sup>		150 Ft	25 Ft Accessory: 10 Ft	25 Ft	35 Ft	
LR	Established Lakeshore Residential		1 Acre	2 Acres * <sup>(12)</sup>	150 Ft	25 Ft Accessory: 10 Ft	25 Ft	35 Ft	
PRD	Planned <sup>(14)</sup> Residential Development		1 Acre			25 Ft	25 Ft		
B-1	Business		Wis Admin Code <sup>(15)</sup>		150 Ft	25 Ft <sup>(16)</sup>	25 Ft <sup>(16)</sup>	35 Ft	
I-1	Industrial		Wis Admin Code <sup>(15)</sup>		150 Ft	25 Ft	25 Ft	35 Ft	

\* = For Residential Purposes Only

## **13.02 Development Requirement Overview Additional Requirements**

The requirements in this section apply where indicated by notes in Section 13.01.

1. All lots shall have continuous frontage on or along a public road, meeting or exceeding the minimum width of lot dimensional requirements for the zoning district.
2. Setbacks: Minimum setbacks shall apply to all structures as defined in Section 1.09 (60 through 64). For the purpose of this section, however, signs shall be set back a minimum of five (5) feet from any property or right-of-way line.
3. Front Setbacks: Front yard setback shall be a minimum of 60 feet from the centerline of CI town road and 100 feet from the centerline of a county highway or state highway.
4. Site Plan Approval: No new construction, additions or alterations, etc. shall be commenced or permitted within the B-1 or I-1 Districts unless a site plan is submitted and approved. The site plan shall be submitted to the Zoning Administrator 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.
5. A-1 District Residential Density and Lot Location:
  - a. The maximum number of residential lots shall be calculated based on the size of the parent parcel as of June 1, 2001.
  - b. Each parcel of record would have the possibility of at least one residential lot (zoned A-1) through land division upon Plan Committee review and Town Board approval, however, existing dwelling units shall count toward the maximum number of lots permitted.
  - c. The maximum lot area may be exceeded where lot combinations are used. For example, a LOS-acre parcel with no home may be eligible for 3 residential lots (105/35=3). These 3 lots are limited to 2 acres in size each, but could be considered for combination not to exceed six (6) acres in total (One 6-acre lot or one 4-acre and one 2-acre lot might be substituted). 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.
  - d. Residential lots created within the A-1 District shall not be further redivided as to create additional lots.
  - e. Lots may be transferred to any lot/parcel within the parent parcel, but shall be guided by the performance standards contained in Section 15.16, Natural Resource Protection, and Plan Committee review and Town Board approval.
6. A-2 District Residential:
  - a. Existing Dwellings will be considered as occupying one permitted lot. All property recorded in the same ownership as of amendment date [June 13, 2001] will be used to compute the total number of lots permitted. New residential structures must be located on separate lots and comply with the requirements of Section 18.00, Land Divisions.
  - b. No Major Subdivisions (as defined in Section 18.16(1)) shall be permitted within the A-2 District
7. Lots by Conditional Use: In order to achieve the maximum possible allowable residential lots within the A-2 and RCC Zoning Districts, a conditional use permit is required as follows based on the original parcel size:
  - a. 1-10 Acre Parcel: 1 lot is permitted, 1 lot is possible via conditional use permit
  - b. 10-35 Acre Parcel: 1 lot is permitted, 2 lots are possible via conditional use permit
  - c. 35+ Acre Parcel: 2 lots are permitted, 2 lots are possible via conditional use permit
8. A-3 District Residential: (See Chapter 20)
9. A-3 District Minimum Lot Area: (See Chapter 20)

10. A-3 District Exceptions to Maximum Building Height: (see Chapter 20)
11. LMSR and RCC Districts Density Bonus: Within the LMSR and RCC Districts, a density bonus of fifty (50) percent may be achieved through approval of a "Conservation Land Division Layout Option" as set forth in Section 1B.26, Conservation Design.
12. LMSR Minimum Lot Area: Minimum lot area shall not be less than one (1) acre when utilizing the "Conservation Land Division Layout Option" as set forth in Section 1B.2.6, Conservation Design.
13. LMSR Maximum Lot Area: Maximum lot area shall be two (2) acres when utilizing the "Conservation Land Division Layout Option" as set forth in Section 18.26, Conservation Design.
14. Planned Residential Developments: See Section 13.04 for additional requirements.
15. B-1 and I-1 Districts Lot Area: Minimum lot area shall be governed by Wisconsin Administrative Code.
16. B-1 and I-1 Districts Lot Setbacks: Side and rear 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. For all side and rear setbacks, adequate planting and landscaping shall be provided to screen the use to adjacent non-business districts.
17. Commercial Structure Setbacks: Notwithstanding anything herein to the contrary, in the interest of public health and safety, all commercial structures shall comply with the following setback distances:
  - a. Side Yard and Back Yard Setback. All side yard and back yard setbacks shall be a minimum of twenty-five (25') feet from the lot line. If the commercial structure is greater than 25' in height, the side yard and back yard setbacks shall be 1.1 times the height of the structure from any nonparticipating dwelling unit.
  - b. Front Yard Setback -Town Road. The front yard setback from a town road shall be a minimum of sixty (60') feet from the road right-of-way. If the commercial structure is greater than 60' in height, the front yard setback shall be 1.1 times the height of the structure from the road right-of-way.
  - c. Front Yard Setback -County or State Highway. The front yard setback from a county highway or state highway shall be a minimum of one hundred (100) feet from the highway right-of-way. If the commercial structure is greater than 100' in height, the front yard setback shall be 1.1 times the height of the structure from the highway right-of-way.
18. Rural Character Conservation: Zoning into this district requires submission of a land survey document such as a Certified Survey Map or Certificate of Survey which shall include a note and indication on map of extent for Limit of Disturbance.

### **13.03 Building Requirements**

1. A Sanitary Permit from Manitowoc County Planning and Park Commission is required for any new dwelling,
2. Town Building Permit required for any new construction after county permits have been acquired.
3. A copy of a Certified Survey of newly created building sites is required to receive a building permit within all zoning districts.
4. No Town Building Permit shall be issued for land which abuts a public road dedicated to only a portion of its proposed width and located on that site thereof from which the required dedication has not been secured.
5. No Town Building permit shall be issued for land that does not meet all dimensional standards and access requirements of the district in which it is located.

### **13.04 Planned Residential Development (PRD) District 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. A Development Impact Analysis shall be submitted with the application following the requirements of Section 18.18.
5. 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.
6. All streets shall be hard surfaces (blacktop or concrete) and meet all town road and street requirements.
7. All areas not hard surfaced, including road and street ditches shall be graded and seeded.
8. 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.
9. 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 18.00, Land Divisions.
10. An application for a PRD shall contain a minimum of twenty (20) acres of land.
11. The Plan Commission may require a Developer's Agreement according to terms adopted by the Plan Commission considering the entire district proposal.

## 14.00 ZONING DISTRICTS PERMITTED AND CONDITIONAL USES

### 14.01 Land Use Table

The following table includes the permitted and conditional uses for each zoning district. Permitted uses are indicated with a "P", permitted accessory uses with a "A", and conditional uses with a "C". More information including land use definitions, and in some instances specific standards and exceptions, are included in Sections 14.02 through 14.07. Please note that Land Uses within the A-3 Farmland Preservation District must comply with Chapter 20 of this ordinance.

	Zoning Districts (see Chapter 20 for A-3 Farmland Preservation)									
	Definitions, Standards, & Exceptions References	Agricultural / Rural Residential	General Agricultural	Rural Character Conservation	Residential	Lake Michigan Shoreland Residential	Established Lakeshore Residential	Planned Residential Development	Business	Industrial
Land Uses		A-1	A-2	RCC	R-2	LMSR	LR	PRD	B-1	I-1
AGRICULTURAL/OPEN SPACE LAND USES	14.02									
Agriculture – Commercial	(1)	C	C	C						
Agriculture – General	(2)	P	P	P	C					
Agricultural Product Processing	(3)	C	C	C						
Airport Fields used for Farm-Related And Cultural Uses (20 Acres or Greater)	(4)	C	C	C						
Animal Boarding or Breeding-Commercial	(5)	C	C	C	C	C	C			
Commercial Agricultural Support Uses	(6)	C	C	C						
Customary Agricultural Accessory Uses and Structures	(7)	A	A	A						
Greenhouses	(8)	P	P	P	C	C	C		C	C
Greenhouses-Commercial	(9)	C	C	C					C	C
Roadside Stands for the Sale of Farm Products	(10)	A	A	A	A	A	A		A	A
Veterinary Services	(11)	C	C	C					C	C
RESIDENTIAL LAND USES	14.03									
Boathouses	(1)				C	C	C	C		
Customary Residential Accessory Uses and Structures	(2)	A	A	A	A	A	A	A		
Dwelling – Single Family	(3)	P	P	P	P	P	P	P		
Dwelling – Two Family	(4)	C	C	C	C	C	C	C		
Dwelling – Multi-Family	(5)	C	C	C	C	C	C	C		
Dwelling – Accessory Unit (ADU)	(6)	C	C	C	C	C	C	C		

	Definitions, Standards, & Exceptions References	Zoning Districts (see Chapter 20 for A-3 Farmland Preservation)								
		Agricultural / Rural Residential	General Agricultural	Rural Character Conservation	Residential	Lake Michigan Shoreland Residential	Established Lakeshore Residential	Planned Residential Development	Business	Industrial
Land Uses		A-1	A-2	RCC	R-2	LMSR	LR	PRD	B-1	I-1
RESIDENTIAL LAND USES(Continued)	14.03									
Home Occupation	(7)	C	C	C	C	C		C		
Horses and Accessory Private Stables	(8)	C	C	C	C	C		C		
Small Wind Energy Systems	(9)	P	P	P	P	P	P	P	P	P
Vacation Home Rental	(10)	C	C	C	C	C	C	C	C	
COMMERCIAL LAND USES	14.04									
Bed and Breakfast	(2)	C	C	C	C	C				
Day Care Center	(3)				C	C		C		
Entertainment and Service – Indoor Commercial	(4)								C	
Indoor Lodging – Commercial	(5)								C	
Indoor Retail Sales Activity as an Accessory Use to Industrial, Storage, or Wholesaling	(6)									C
In-Vehicle Sales and Service	(7)								C	
Maintenance Service - Indoor	(8)								C	
Maintenance Service – Outdoor	(9)								C	
Mini Warehouse	(11)	C	C						C	C
Outdoor Display and Sales – Short Term	(12)	C	C	C					C	C
Outdoor Display and Sale – Long Term	(10)	C	C	C					C	C
Personal or Professional Service	(12)				C	C		C	C	
Professional Offices	(13)				C	C		C	C	
Resort Establishment	(14)								C	
Retail Sales and Service - Indoor	(15)								C	
Retail Sales and Service – Indoor Medium	(16)								C	
Retail Sales and Service – Indoor Large	(17)								C	
Storage or Wholesaling – Indoor	(18)	C	C						C	C
Storage or Wholesaling – Outdoor	(19)	C	C						C	C

		Zoning Districts (see Chapter 20 for A-3 Farmland Preservation)									
		Definitions, Standards, & Exceptions References	Agricultural / Rural Residential	General Agricultural	Rural Character Conservation	Residential	Lake Michigan Shoreland Residential	Established Lakeshore Residential	Planned Residential Development	Business	Industrial
Land Uses		A-1	A-2	RCC	R-2	LMSR	LR	PRD	B-1	I-1	
INDUSTRIAL LAND USES	14.05										
Adult-Oriented Establishment	(1a)									C	
Auto Wrecking Yard, Junk or Salvage Yard	(1)	C	C	C						C	
Non Metallic Mining	(2)	C	C	C						C	
Light Industry Accessory Activity as an Accessory Use to Retail Sales or Service	(3)								C	C	
Industrial – Light	(4)								C	C	
Industrial – Heavy	(5)									C	
Contractor Shop (Non-Agricultural)	(6)								C	C	
PARK / RECREATION LAND USES	14.06										
Boat Launching Areas and Boat Liveries	(1)						P				
Camps and Campgrounds	(2)		C				C				
Horse Riding Academies, Boarding Stables, and Equestrian Trails	(3)	C	C	C		C	C				
Recreation Areas – Passive	(4)	C	C	C	P	P	P	P	P	P	
Recreation Areas - Active	(5)			C	C	C	C	C	C	C	
PUBLIC / INSTITUTIONAL / UTILITY LAND USES	14.07										
Airport Fields	(1)	C	C	C							
Cemeteries	(2)	C	C	C	C	C					
Churches and Similar Places of Worship	(3)	C	C	C	C	C		C			
Community Living Facilities	(4)				C			C			
Convents and Monasteries	(5)				C	C					
Essential Services	(6)	P	P	P	P	P	P	P	P	P	
Governmental and Cultural Uses	(7)	C	C	C	C	C	C	C	C	C	
Rest and Nursing Homes	(8)				C	C			C		
Solar Energy Systems, Mid- and Large-Scale	(9)	C	C					C	C		

## **14.02 Agricultural / Open Space Land Use Definitions, Standards and Exceptions**

1. Agriculture – Commercial includes: Commercial or industrial raising, propagation, boarding or butchering of animas 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.
2. Agriculture - General includes: beekeeping; dairying; floriculture; fish or fur farming; forest and game management; equestrian activities/facilities, grazing; livestock raising; orchards; plant greenhouses and nurseries; poultry raising; raising of grain, grass, mint and seed crops; raising of fruits, vegetables, nuts and berries; wineries with retail alcohol beverage licenses of Class A or B, and sod farming. This land use is allowable by conditional use only within the R-2 Residential District and livestock is limited to 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.
3. Agricultural Product Processing includes: 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.
4. Airport Fields: Twenty (20) acres or greater in area for agricultural use.
5. Animal Boarding or Breeding -Commercial: 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.
6. Commercial Agricultural Support Uses includes the following:
  - 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
7. Customary Agricultural Accessory Uses and Structures: Any building, structure, improvement, or business operation that is an integral part of, or is incidental to, the permitted pre-existing principal agricultural use.
8. Greenhouses: Structures exclusively used for the cultivation of plants in which natural sunlight is allowed to enter through transparent material and temperature and humidity are controlled.
9. Greenhouses -Commercial: Structures from which plants, seedlings, seeds, trees, and those items related to cultivation are sold, traded or bartered to the public.
10. Roadside Stands for the Sale of Farm Products: 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 anyone premises. Any roadside stand shall conform to setback, sign and other provisions of this ordinance.
11. Veterinary Services: Includes businesses and services primarily dedicated to the care of livestock and horses. Veterinary clinics are among those described in Section 14.04(12).
12. Outdoor Display and Sale – Short-Term: Includes businesses that are limited-term or seasonal in nature. Examples may include tree lots, food trucks, etc.

### **14.03 Residential Land Use Definitions, Standards, and Exceptions**

1. **Boathouses**: Shall be less than 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 from any side lot line, do not extend beyond the average high water mark, and comply with Manitowoc County Shoreland-Floodplain Zoning requirements.
2. **Customary Residential Accessory Uses and Structures**: Land uses and structures clearly incidental to the primary permitted residential use such uses as garages, swimming pools, carports, storage sheds, and decks. Within the R-2, LSMR, and LR Zoning Districts, an accessory building shall not exceed one story, or twelve (12) feet in height and 144 square feet in area, excluding private garages.
3. **Dwelling -Single Family**: A detached building designed, arranged or used for and occupied exclusively by one (1) family.  
Manufactured homes as defined in Section 1.09(37) are permitted only in the A-1 and A-2 Zoning Districts by Conditional Use.
4. **Dwelling -Two Family**: A building designed, arranged or used for and occupied exclusively by, two (2) families living independently of each other.
5. **Dwelling -Multi-Family**: A building designed, arranged or used for and occupied by three (3) or more families living independently of each other, which may include apartments, condominiums, garden apartments, row housing, and similar units.
6. **Dwelling – Accessory Dwelling Unit**: A building or portion thereof, whether attached or detached from the principal structure on the lot, that is designed, arranged or used for and occupied as an independent living space smaller than and subordinate to the primary dwelling on a lot.
7. **Home Occupation**: Any gainful occupation conducted by the resident occupants which is the sale or offer for sale of a service or product produced on premises. A home occupation shall not detract from the residential character of the neighborhood and shall be limited to:
  - a. The employment of one (1) additional person other than the resident occupants.
  - b. No more than twenty-five percent (25%) of the floor area of the principal building, and shall not utilize any secondary buildings or structures.
  - c. The generation of no more than ten (10) automobile trips per day including any non-resident employee, client, or customer. A "trip" includes those originating from, or destined for, the home occupation.
  - d. Uses that do not produce excessive noise or odors.
  - e. Neat and orderly arrangement of any product displayed outdoors. This display shall be reasonable in location and size.
  - f. One (1) unlighted sign not over three (3) square feet in area.Any home occupation that does not meet the above standards shall be considered through a conditional use permit according to Section 9.00 of this ordinance.
8. **Horses 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.
9. **Small Wind Energy Systems**: Refer to Chapter 21.
10. **Vacation Home Rentals**:

- (1) The applicant for a conditional use permit for a vacation home rental must include a site diagram, drawn to scale, showing the location and dimensions of the following:
  - (a) The structure used to provide sleeping accommodations;
  - (b) All accessory structures;
  - (c) Any private on-site waste water treatment system;
  - (d) Each parking space; and
  - (e) The on-premises sign.
- (2) The application for a conditional use permit must specify:
  - (a) The number of bedrooms in the unit;
  - (b) The maximum number of overnight occupants who will be permitted to stay in the unit; and
  - (c) The number of parking spaces provided.
- (3) The application for a conditional use permit must include a report showing that a compliance inspection has been conducted for any private on-site wastewater treatment system (POWTS) and that the system meets all state and local requirements.
- (4) The board of adjustment may impose conditions intended to reduce the impact of the proposed use on neighboring properties and nearby bodies of water. The conditions may include, but are not limited to, the installation of a fence or vegetative screening along a property line, the maintenance of native vegetation as a buffer along the shoreline, or the imposition of specified quiet hours.
- (5) An on-premises sign must be posted in a conspicuous place near the entrance to the property. The sign must have an area of at least 3 square feet. The sign must be visible from and legible without the need to come on to the property.
- (6) The on-premises sign must include the following information:
  - (a) The property's advertised name, if any;
  - (b) The property's address;
  - (c) The name, address, and telephone number of the owner; and
  - (d) The name, address, and telephone number of the owner's agent or the local contact responsible for managing the property, if any.
- (7) The owner of a vacation home rental must keep a register detailing the use of the premises. The register must include, at a minimum, the name, address, and telephone number of each guest using the property and the license number of each vehicle that is parked on the property. A copy of the register must be made available to the department upon request.
- (8) Only 1 structure on a parcel may be used to provide sleeping accommodations for a vacation home rental. Accessory buildings and accessory dwelling units (ADUs) may not be used to provide sleeping accommodations as regulated under this section.
- (9) Occupancy is limited to no more than 2 persons per bedroom, plus 2 additional persons, per structure, and may not exceed a total of 12 persons.
- (10) It is unlawful for any person to use or allow another person to use a camper, motor home, recreation vehicle, trailer, or any other means to provide overnight accommodations outside of the principal structure on the premises of a vacation home rental.
- (11) The owner must provide sufficient off-street parking for all day-time visitors. The owner must provide off-street parking on the parcel for each vehicle that is parked overnight. The maximum number of vehicles that may be parked on the property overnight is 6.

- (12) A vacation home rental is subject to the licensing requirements contained in Wis. Admin. Code ch. DHS 195 and the county's Public Health Ordinance.
- (13) Any prior nonconforming structure or use of a property for the purpose of providing a vacation home rental that is altered, changed, increased, replaced, or extended after the effective date this ordinance must comply with the requirements contained in this ordinance.

#### **14.04 Commercial Land Use Definitions, Standards, and Exceptions**

1. Reserved:
2. Bed and Breakfast: Land uses which provide lodging facilities that are operator-occupied residences providing accommodations for a charge to the public with no more than five guest rooms for rent, provide meals only to renters of the place, and are clearly residential structures in design, scale, and appearance. Such land uses may provide indoor recreational facilities for the exclusive use of their customers.
3. 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.
4. Entertainment and Service - Indoor Commercial: Land uses which provide entertainment services entirely within an enclosed building. Such activities often have operating hours that extend significantly later than most other commercial land uses. Examples of such land uses include restaurants, taverns, theaters, health or fitness centers, and all forms of training studios (dance, art, martial arts, etc.) bowling alleys, arcades, roller rinks, and pool halls. Such land uses do not include adult-oriented establishments. See the definition of an adult-oriented establishment for applicable regulations.
5. Indoor Lodging - Commercial: Land uses which provide overnight housing in individual rooms or suites of rooms, each room or suite having a private bathroom. Such land uses may provide in-room or in-suite kitchens, and may also provide indoor recreational facilities for the exclusive use of their customers. Restaurant, arcades, fitness centers, and other on-site facilities available to non-lodgers are not considered accessory uses and therefore require review as a separate land use.
6. Indoor Retail Sales Activity as an Accessory Use to Industrial, Storage, or Wholesaling: Land uses that include any retail sales conducted exclusively indoors which is clearly incidental to an industrial facility or indoor storage and wholesaling facility, on the same site.
7. In-Vehicle Sales and Service: Land uses which perform sales and/or services to persons in vehicles, or to vehicles which may be occupied at the time of such activity. Such land uses often have traffic volumes which exhibit their highest levels concurrent with peak traffic flows on adjacent roads. Examples of such land uses include drive-in, drive-up, and drive-through facilities, vehicular fuel stations, and all forms of car washes.
8. Maintenance Service - Indoor: Land uses which perform maintenance services (including repair) and contain all operations (except loading) entirely within an enclosed building.
9. Maintenance Service - Outdoor: Land uses which perform maintenance services, including repair, and have all, or any portion, of their operations located outside of an enclosed building.
10. Outdoor Display and Sale - Long Term: Land uses which conduct sales or display merchandise or equipment on a long term basis outside of an enclosed building as a principal accessory use of the lot. Examples of such land uses would include vehicle and equipment sales and rental, manufactured housing sales, monument sales, and garden centers. Such land uses do not include the storage or display of inoperative vehicles or equipment, or other materials typically associated with a junk or salvage yard or other permanent outdoor land uses specifically defined by the this Ordinance.
11. Personal Storage or Mini Warehousing: Land uses oriented to the indoor or outdoor storage of personal items entirely within partitioned buildings having an individual access to each partitioned area. Such storage areas may be available on either a condominium or rental basis. Also known as "mini-warehouses."

12. **Personal or Professional Service:** Land uses that are exclusively indoors whose primary function is the provision of services directly to an individual on a walk-in or on-appointment basis. Examples of such land uses include, but are not limited to, professional services, insurance services, realty offices, financial services, medical offices and clinics, veterinary clinics, barber shops, beauty shops, and related land uses.
13. **Professional Offices:** Offices of engineers, architects, lawyers, consultants, and similar professions including related administrative functions not dependent on walk-in traffic or appointments from the general public.
14. **Resort Establishment:** Land uses which provide overnight housing in individual rooms, suites of rooms, cabins, or cottages. Such land uses may also provide indoor and outdoor recreational facilities for the exclusive use of their customers. Restaurants, arcades, fitness centers, and other on-site facilities available to non-lodgers are not considered accessory uses and therefore require review as a separate land use.
15. **Retail Sales and Service -Indoor Small:** Land uses which conduct or display sales or rental merchandise or equipment, or non-personal or non-professional services, entirely within an enclosed building with a footprint smaller than 20,000 square feet. This includes general merchandise stores, grocery stores, sporting goods stores, antique stores, gift shops, Laundromats, artisan and artist studios, bakeries, and the like. Artisan craft production such as consumer ceramics, custom woodworking, or other production activities directly associated with retail sales are regulated as "Light Industry Accessory Activity as an Accessory Use to Retail Sales or Service."
16. **Retail Sales and Service -Indoor Medium:** Land uses which conduct or display sales or rental merchandise or equipment, or non-personal or non-professional services, entirely within an enclosed building with a footprint of 20,000 square feet to less than 50,000 square feet.
17. **Retail Sales and Service -Indoor Large:** Land uses which conduct or display sales or rental merchandise or equipment, or non-personal or non-professional services, entirely within an enclosed building with a footprint of 50,000 square feet or greater.
18. **Storage or Wholesaling -Indoor:** Land uses primarily oriented to the receiving, holding, and shipping of materials for a single business or a single group of businesses. With the exception of loading and parking facilities, such land uses are contained entirely within an enclosed building. Examples of this land use include conventional warehouse facilities, long-term indoor storage facilities, and joint warehouse and storage facilities. Does not include uses described in the "personal storage facility" land use category. Retail outlets associated with this principal use shall be considered an accessory use.
19. **Storage or Wholesaling-Outdoor:** Land uses primarily oriented to the receiving, holding, and shipping of materials for a single business or a single group of businesses. Such a land use, in which any activity beyond loading and parking is located outdoors, is considered an outdoor storage and wholesaling land use. Examples of this land use include equipment yards, lumber yards, coal yards, landscaping materials yard, tank farms, construction materials yards, and shipping materials yards. Such land uses do not include the storage of inoperative vehicles or equipment, or other materials typically associated with a junkyard or salvage yard. Contractors' storage yards are considered accessory in the "contractor shop" land use category. Retail outlets associated with this principal use shall be considered an accessory use.

#### **14.05 Industrial Land Use Definitions, Standards, and Exceptions**

1. **Auto Wrecking Yard, Junk or Salvage Yard:**
  - a. **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.
  - b. **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.

1(a) Adult-Oriented Establishment: includes, 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 establishment 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.

No adult-oriented establishment shall be established outside of the Industrial District.

2. Non Metallic Mining: Operations include washing, crushing, or other processing of natural resources indigenous to Manitowoc County. Mineral extraction is subject to the following standards:

- a. 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.
- b. 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.
- c. 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.
- d. Lot and Side Yard: The minimum street yard (setback) shall be one hundred fifty (150) feet from an existing or planned public street right-of-way.
- e. Public Safety:
  - i. 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.
  - ii. Gate Required: All mineral extraction operations shall have a gate to the entrance of such area.
  - iii. No operation shall reduce the current groundwater level more than five (5) feet.
- f. 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.
- g. 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.

3. Light Industry Accessory Activity as an Accessory Use to Retail Sales or Service: Land uses that include any light industrial activity conducted exclusively indoors which is clearly incidental to indoor sales or service, on the same site.

4. Industrial-Light: Land uses which operations (with the exception of loading operations): (1) are conducted entirely within an enclosed building; (2) are not potentially associated with nuisances such as odor, noise, heat, vibration, and radiation which are detectable at the property line; (3) do not pose a significant safety

hazard (such as danger of explosion); and (4) comply with all of the applicable performance standards. Light industrial land uses may conduct retail sales activity as an accessory use.

5. **Industrial-Heavy**: Land uses which meet one or more of the following criteria: 1) are not conducted entirely within an enclosed building; 2) are potentially associated with nuisances such as odor, noise, heat, vibration, and radiation which are detectable at the property line; and 3) pose a significant safety hazard (such as danger of explosion). Examples of heavy industrial land uses include meat product producers; alcoholic beverage producers; paper, pulp or paperboard producers; chemical and allied product producers (except drug producers) including poison or fertilizer producers; petroleum and coal product producers; asphalt, concrete or cement producers; tanneries; stone, clay or glass product producers; primary metal producers; heavy machinery producers; electrical distribution equipment producers; electrical industrial apparatus producers; transportation vehicle producers; commercial sanitary sewage treatment plants; railroad switching yards; and recycling facilities not involving the on-site storage of salvage materials.
6. **Contractor Shop**: Land uses that include businesses engaged in contract services or labor, such as contractors involved with landscaping; building construction or carpentry; and electrical, plumbing, or heating systems. Often involves accessory equipment storage yards and rental of equipment commonly used by contractors. Retail outlets associated with this principal use shall be considered an accessory use.

#### **14.06 Park / Recreation Land Use Definitions, Standards, and Exceptions**

1. **Boat Launching Areas and Boat Liveries**: Land uses including a dock or basin providing secure moorings for watercraft or the rental of watercraft. This use may also include boat repair, chartering, supply, fueling, boat ramps, and other facilities.
2. **Camps and Campgrounds**: Land uses designed, maintained, intended or used for the purpose of providing camping sites for nonpermanent overnight use to accommodate not more than one (1) recreational vehicle (RV), motor home, pick-up coach, travel trailer, camping trailer, park model, or tent per site. This use also includes facilities for use by campers including restrooms/showers, active and passive recreation areas, office/convenience store buildings, and necessary accessory uses. Any public or private parcel of land containing two (2) or more recreational vehicles used for habitation and occupied twenty-four (24) hours or longer shall be deemed a campground or camping resort. In any residential zone each home or cottage owner shall be permitted only one recreational vehicle to be parked on his premises for storage purposes only. These units are not to be rented, leased, or used for habitation purposes at any time.
3. **Horse Riding Academies, Boarding Stables, and Equestrian Trails**: Public and private facilities related to the training, boarding, care, and riding of horses.
4. **Recreation Areas -Passive**: Land uses that include recreational uses located on public or private property which involves passive recreational activities that are open to the public or to customers, patrons, or members. Passive uses include arboretums, natural areas, wildlife areas, hiking trails, bike trails, ski trails, open grassed areas not associated with any particular active recreational land use, picnic areas, picnic shelters, gardens, fishing areas, and similar land uses.
5. **Recreation Areas -Active**: Land uses that include recreational uses located on public or private property which involves active recreational activities that are open to the public or to customers, patrons, or members. Active uses include playcourts (such as tennis courts and basketball courts), playfields (such as ball diamonds, football fields, and soccer fields), tot lots, outdoor swimming pools, swimming beach areas, fitness courses, golf courses, sportsmen's clubs, and similar land uses.

#### **14.07 Public / Institutional / Utility Land Use Definitions, Standards, and Exceptions**

1. **Airport Fields**: Government owned and operated facilities twenty (20) acres or greater in area including: landing strips, control towers, hangars, aircraft maintenance and refueling facilities, and accommodations for passengers and cargo.
2. **Cemeteries**: Places designated for burial of the dead.
3. **Churches and Similar Places of Worship**: Facilities principally used for people to gather together for public worship, religious training, or other religious activities. This use does not include home meetings or other religious activities conducted in a privately occupied residence.
4. **Community living Facilities**: Land uses which serve the function as a transitional residential setting which provides guidance, supervision, training, and other assistance to ambulatory or mobile adults with a mild or

moderate developmental disability with the goal of eventually moving these persons to more independent living arrangements. Community living arrangements do not include day care centers, nursing homes, general hospitals, special hospitals, prisons, or jails.

5. **Convents and Monasteries:** The living quarters or dwelling units for a religious order or for the congregation of persons under religious vows.
6. **Essential Services include 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.
7. **Governmental and Cultural Uses:** include facilities such as fire and police stations, highway storage garages, sewage treatment plants and other utilities, hospitals, schools, community centers, libraries, public emergency shelters, and museums.
8. **Rest and Nursing Homes:** A facility that provides living quarters and care for the elderly or the chronically ill. The outward appearance of these facilities shall be residential in nature and be compatible with the surrounding neighborhood to the greatest degree possible.
9. **Solar Energy Conversion Systems:** See Section 23 of this ordinance.

#### **14.08 BDR-Business Design Review Overlay District**

This overlay 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 Overlay District is designed to promote high-value commercial development while simultaneously curbing development which may have negative impacts on the town. The BDR Overlay District includes standards that may supersede the requirements identified in the base zoning district. The most restrictive zoning standards apply within the BDR Overlay district.

The following regulations shall apply in the BDR District.

1. **Permitted Uses:** All uses in this district are conditional uses. Permitted uses in the base zoning district do not apply.
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 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 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 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 one acre or 43,560 square feet.
  - 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 45 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.
- i. Uses in this district are required to provide off-street parking.

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 Sections 7.00 and 9.00 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 Design Standards/Site Design Guidelines-2018*, 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.
- b. Plan Commission Discretion: The design principles adopted in the *Town of Newton Design Standards/Site Guidelines-2018*, may be varied from as determined appropriate by the Plan Commission in order to facilitate development that is consistent with other districts.

## **15.00 DEVELOPMENT STANDARDS**

### **15.01 Street Access**

1. 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.
2. 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.
3. 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.
4. 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.
5. 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 (372) feet. Greater dimensions may be required when in the interest of the public the Town deems it necessary.
6. 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.
7. 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.

### **15.02 Highway Construction Standards**

All town highways are subject to the following specifications:

1. The highway right-of-way shall have a width of 4 rods (66 feet).
2. 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.
3. 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 2 inches compacted first year, and 12 inches compacted the next year. The shoulder shall be porous gravel.
4. 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.
5. 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.
6. A cul-de-sac shall have a right-of-way diameter of 120 feet and a blacktop surface diameter of 75 feet.

7. The maximum centerline grade shall be 9%. A lesser street grade may be required by the Plan Commission to take into account exceptional topography.
8. Center stripping shall be completed and glass beads added.
9. 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.

### **15.03 Road Alignment**

1. When a continuous street centerline deflects at anyone 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:
  - a. Arterial streets and highways: five hundred (SOD) feet.
  - b. Collector streets: three hundred (300) feet.
  - c. Minor streets: one hundred (100) feet.
2. A tangent of at least one hundred (100) feet in length shall be provided between reverse curves on arterial and collector streets.
3. A minimum sight distance with clear visibility, measured along the center line, not less than the following:
  - a. Arterial streets and highways: five hundred (SOD) feet.
  - b. Collector streets: three hundred (300) feet.
  - c. Minor streets: one hundred (100) feet.
4. Public streets shall be a minimum width of 66 feet.
5. Private roads shall have a minimum driving surface of 14 feet.

### **15.04 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.

### **15.05 Intersection Design**

1. Streets shall intersect at right angles and not more than two (2) streets shall intersect at one point.
2. 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.
3. The minimum turning radius at an intersection shall not be less than forty (40) feet.
4. 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.
5. The following distances between intersections must be observed:
  - a. 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.
  - b. Minor and collector streets shall be in alignment with existing and planned streets entering the above highways from the opposite side.
6. 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.

## **15.06 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.

## **15.07 Minimum Sight Triangle at Intersections**

1. 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, trees, crops, or other vegetation 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.
2. 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.

## **15.08 Structures Permitted Within Setback Lines**

Notwithstanding any other provisions of this Ordinance, the following types of structures may be placed between the setback lines and the highway:

1. 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.
2. Underground structures not capable of being used as foundations for future prohibited overground structures.

## **15.09 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.

## **15.10 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.

1. 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.
2. 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.

3. 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.
4. Each loading and unloading space shall have access to a public street or alley.
5. 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.

## **15.11 Driveways and Private Roads**

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

1. Driveways and private roads in residential and agricultural districts shall be a minimum of fourteen (14) feet of drivable surface.
2. Driveways and private roads intended for public use in all districts, except residential and agricultural districts shall be a minimum of twenty-four (24) feet of drivable surface.
3. Islands between openings to public roads shall be provided with a minimum of twenty-four (24) feet between all accesses and twelve (12) feet at all lot lines.
4. Openings for vehicular ingress and egress shall not exceed twenty-four (24) feet at the street line and 30 feet at the roadway.
5. 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.

## **15.12 Parking Requirements**

1. Adequate off-street parking facilities shall be provided for all uses which generate vehicular traffic and all required parking spaces shall have adequate access to a public road or street. When a particular use is not listed, the parking requirement shall be that of the most similar use. When two or more uses are combined, the total parking requirement shall be equal to the sum of the spaces required for each use, unless it is demonstrated by the applicant to the satisfaction of the Plan Commission that the combined uses result in a reduction of necessary parking spaces.
2. Parking access aisles shall have the following minimum widths:
  - a. Two-way aisles:
    - i. Perpendicular parking: 24 feet
    - ii. Angled or parallel parking: 18 feet
  - b. One-way aisles:
    - i. Perpendicular parking: 20 feet
    - ii. 60° angled parking: 18 feet
    - iii. 45° angled parking: 13 feet
    - iv. 30° angled parking: 11 feet
    - v. Parallel parking: 12 feet
    - vi. If the degree of angle of parking provided is not listed, the aisle width required shall be the next largest angle of parking shown above.
  - c. All required parking spaces shall have minimum area of 162 square feet with a minimum width of nine (9) feet and a minimum length of 18 feet.
  - d. Parking that meets the number, location, and configuration required by the Americans with Disabilities Act (ADA) Standards for Accessible Design shall also be provided (Section 15.13). These spaces count toward the number otherwise required for each use.

3. Parking requirements for specific uses are as follows:

a. Agricultural/Open Space Uses

- i. Agricultural Product Processing: One (1) parking space per employee on the largest work shift or one (1) space for every 200 square feet of product display area, depending on the specific land use type.
- ii. Commercial Agricultural Support Uses: One (1) parking space per employee on the largest work shift or one (1) space for every 200 square feet of product display area, depending on the specific land use type.
- iii. Greenhouses -Commercial: One (1) space per 2,000 square feet of sales or display area.
- iv. Animal Boarding or Breeding -Commercial: One (1) parking space per every 1,000 square feet of gross floor area.

b. Residential Land Uses

- i. Dwelling -Multi-Family: Two (2) parking spaces per dwelling unit.

c. Commercial Land Uses

- i. Reserved
- ii. Bed and Breakfast: One (1) parking space per bedroom.
- iii. Day Care Center: One (1) parking space per every six (6) person capacity of the center, plus one (1) space for each employee on the largest working shift.
- iv. Entertainment and Service -Indoor Commercial: One (1) parking space per every three (3) patron seats or one (1) space per three (1) persons at the maximum capacity of the establishment, whichever is greater.
- v. Indoor Lodging -Commercial: One (1) parking space per room or suite, plus one (1) space for every employee on the largest working shift.
- vi. In-Vehicle Sales and Service: One (1) parking space per 150 square feet of gross floor area in the principal building(s).
- vii. Maintenance Service -Indoor: One (1) parking space per 300 square feet of gross floor area in the principal building(s).
- viii. Maintenance Service -Outdoor: One (1) parking space per 300 square feet of gross floor area in the principal building(s), plus adequate parking for the storage of vehicles awaiting service or pick-up.
- ix. Outdoor Display and Sale -Long Term: One (1) space per 2,000 square feet of outdoor sales or display area.
- x. Personal Storage: One (1) parking space for each employee on the largest work shift.
- xi. Personal or Professional Service: One (1) parking space per 300 square feet of gross floor area in the principal building(s).
- xii. Professional Offices: One (1) parking space per 300 square feet of gross floor area in the principal building(s).
- xiii. Resort Establishment: One (1) parking space per room, suite, cabin, or cottage, plus one (1) space for every employee on the largest working shift.
- xiv. Retail Sales and Service -Indoor: One (1) parking space per 300 square feet of gross floor area in the principal building(s).
- xv. Storage or Wholesaling -Indoor: One (1) parking space per 2,000 square feet of gross floor area in the principal building(s).
- xvi. Storage or Wholesaling -Outdoor: One (1) parking space for every 10,000 square feet of gross storage area, plus one (1) space per each employee on the largest work shift.

- d. Industrial Land Uses
  - i. Adult-Oriented Establishment: One (1) parking space per every 300 square feet of gross floor area in the principal building(s) or one (1) space per person at the maximum capacity of the establishment, whichever is greater.
  - ii. Auto Wrecking Yard, Junk or Salvage Yard: One (1) parking space for every 20,000 square feet of gross storage area, plus one (1) space for each employee on the largest work shift.
  - iii. Industrial: One (1) parking space per each employee on the largest work shift.
  - iv. Contractor Shop: One (1) parking space per each employee on the largest work shift.
- e. Park/Recreation Land Uses
  - i. Boat Launching Areas and Boat Liveries: One (1) parking space for every two slips or berths plus one (1) space per each employee on the largest work shift. Facilities that include a boat ramp should provide an additional 15 parking spaces per launching lane.
  - ii. Camps and Campgrounds: One and one half (1.5) parking spaces per camping site plus one (1) space per employee on the largest work shift. Each recreational vehicle camping area shall provide sufficient parking and maneuvering space so that the parking, loading or maneuvering of recreational vehicles, incidental to parking shall not necessitate the use of any public street, sidewalk or right-of-way or any private grounds not part of the recreational vehicle parking area.
  - iii. Recreation Areas: One (1) parking space per four (4) expected patrons at maximum capacity. Additional paved, graveled, or grassed area for overflow parking may be provided for occasional outdoor assembly land uses (i.e., special events) located on outdoor public recreation sites.
- f. Public/Institutional/Utility Land Uses
  - i. Airport Fields: One (1) parking space per three expected patrons at maximum capacity.
  - ii. Churches and Similar Places of Worship: One (1) space per five (5) seats at the maximum capacity.
  - iii. Community Living Facilities: 1-8 residents: three (3) total spaces; 9-15 residents: four (4) total spaces; 16+ residents: five (5) total spaces.
  - iv. Convents and Monasteries: One (1) space per six (6) residents, plus one (1) space per employee on the largest work shift, plus one (1) space per five (5) chapel seats if the public may attend.
  - v. Community or Recreation Center: One (1) space per 250 square feet of gross floor area, or one (1) space per four (4) patrons to the maximum capacity, whichever is greater.
  - vi. Funeral Home: One (1) space per three (3) patron seats at the maximum capacity.
  - vii. Hospital or Clinic: Two (2) spaces per three (3) patient beds, plus one (1) space per staff doctor and each other employee on the largest work shift.
  - viii. Library or Museum: One (1) space per 250 square feet of gross floor area or one (1) space per four (4) seats to the maximum capacity, whichever is greater.
  - ix. Rest and Nursing Homes: One (1) space per six (6) patient beds, plus one (1) space per employee on the largest work shift.
  - x. School -Elementary and Middle: One (1) space per teacher and per staff member, plus one (1) space per two (2) classrooms.
  - xi. School -Senior High: One (1) space per teacher and staff member, plus one (1) space per five (5) non-bused students.
  - xii. School -College or Trade: One (1) space per staff member on the largest work shift, plus one (1) space per two (2) students of the largest class attendance period.

### **15.13 Parking Spaces for Use by Disabled Persons**

1. 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 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total spaces
1,001 and over	20 plus 1 for each 100 over 1000

2. 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.
3. 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.

### **15.14 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:

1. 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.
2. Arterial streets intersecting another arterial street within one hundred (100) feet of the intersection of the right-of-way lines.
3. Local streets intersecting an arterial street within fifty (50) feet of the intersection of the right-of-way lines.
4. 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.
5. 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.

### **15.15 Grading**

1. Large scale grading for the purpose of creating lots of excessive slopes shall not be permitted.
2. 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.

## 15.16 Right-to-Farm

**Intent:** The Comprehensive 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 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 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 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 3D-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.
  - 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:
    - i. The proposed residential use is associated directly with an active farm operation;
    - ii. 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;
    - iii. The lot is not located within the Agricultural Management Area established by the Comprehensive Plan;

- iv. The farm site is no longer considered an active farm; and/or
- v. 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.

## **15.17 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 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 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 18.26 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 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 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 15.15 (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.

## **15.18 Manmade Ponds**

Manmade pond means a pond created or constructed by human activity, such as excavating gravel, sand, stone, or topsoil from a property, but does not include a family swimming pool and manure storage pit. Manmade ponds are considered an “accessory use” requiring a conditional use permit in all town zoning districts.

1. **Purpose:** The intent of these standards are to establish setbacks and slope requirements for ponds to protect the health, safety and general welfare of the public.
2. **Applicability:** These standards apply to all land within the Town of Newton. Land within the Manitowoc County Shoreland Zoning area are subject to County review and permit requirements in addition to these standards. Where this ordinance is more restrictive, the provisions of this ordinance shall govern.
3. **Setbacks and Standards:**
  - a. The minimum setback from a side or rear lot line to the beginning slope of a manmade pond is 50 feet.
  - b. The manmade pond setback from a public roadway increases two (2) times for every foot of pond depth plus the normal roadway set back distance for the zoning district. (Example: a 20 foot deep pond would need to be 140 feet from a county trunk road centerline - 2 times 20' plus 100' centerline setback)
  - c. The minimum setback from an existing or proposed soil absorption on-site sanitary waste disposal system to the beginning slope of an existing or proposed manmade pond is 50 feet.
  - d. The minimum setback from an existing or proposed holding tank sanitary waste disposal system to the beginning slope of an existing or proposed manmade pond is 50 feet.
  - e. The side slope of a manmade pond must provide no greater than a 1 foot vertical change for every 3-feet of horizontal change and this ratio must be maintained until the slope extends 6 vertical feet below the high water mark.
4. **Normal Pond Maintenance:** Normal maintenance and repairs may be made to an existing manmade pond, but a zoning permit is required for any activity that increases the surface area of a manmade pond to more than 10 percent of its original size.
5. **Excavation Permit:** A “Pond Excavation Permit” is required from the Town Zoning Administrator prior to any excavation. The applicant must provide a scaled site plan or map that allows for adequate review and measurements.

## **15.19 Recreation Vehicles for Temporary or Recreational Human Habitation**

1. A recreation vehicle other than a park trailer, a transporting device for a recreation vehicle; or a recreation vehicle on a transporting device may be parked or stored on its owner's property as an accessory use.
2. A recreation vehicle or a transporting device for a recreation vehicle may not have its wheels removed, except for repairs, or be altered in any way that would make it unable to be readily removed from the property. The recreational vehicle shall remain “road ready” at all times (temporary repair periods the exception)
3. A recreation vehicle may not be used to provide permanent habitation in any district.
4. A recreation vehicle cannot be rented or leased to a second or third party for use on the recreation vehicle owner's property in the Town of Newton.

## **16.00 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:

### **16.01 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.

### **16.02 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.

### **16.03 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.

### **16.04 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, or RCC, 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 (Cycles per Second)	Sound Level (Decibels)
0 to 75	72
75 to 100	67
150 to 300	59
300 to 600	52
600 to 1,200	46
1,200 to 2,400	40
2,400 to 4,800	34
Above 4,800	32

### **16.05 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.

## **16.06 Vibrations**

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

## **16.07 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.

## **16.08 Stormwater Runoff Control**

1. Year Storm: The storage and controlled release of excess storm water shall be required in combination for all commercial, industrial, agriculture-related use developments and for residential subdivisions. 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.

## **16.09 Erosion Control**

Erosion control shall be required for all business, industrial, agriculture-related uses 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.

## **16.10 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 matte, 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.

## **16.11 Lighting**

1. Intent: No exterior lighting used for parking lots, recreational facilities, product display, or security shall be permitted to spillover 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, PRO, B-1, LR, or RCC district. Light rays (in all districts) shall not be directed into street rights-of-way or upward into the atmosphere. The use of shielded luminaires or luminaires 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 shall be supported by a photometric study and reviewed by the Plan Commission. The study shall project illumination at the property line which shall not exceed 0.5 foot candles, except in the commercial, industrial and agricultural zoning districts where light intensity shall not exceed 1.0 foot candles beyond the property line.
5. **Maximum Height:** The maximum permitted height of a luminary in the R-2, LMSR, PRO, RCC and LR zoning districts is 12 feet. In the A-1, A-2, A-3, B-1, and I-1 districts, the maximum permitted height of a luminary is 36 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.

## **17.00 SIGNS**

### **17.01 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 17.04 and without being in conformity with the provisions of this Ordinance.

### **17.02 Setbacks**

All signs (including all components) shall be set back a minimum of five (5) feet from any property or right-of-way line. No sign (including all components) shall be erected within the vision triangle of any road intersection.

### **17.03 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.

### **17.04 Sign Permit Review**

1. 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.
2. 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.

### **17.05 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:

1. Agricultural Signs pertaining to the sale of products on a farm and not exceeding thirty-two (32) square feet in area for anyone (1) farm.

2. Real Estate Signs not exceeding sixteen (16) square feet in area which advertise the sale, rental, or lease of the premises upon which said signs are temporarily located. Real Estate signs shall not be illuminated. Larger signs require a sign permit.
3. Name, home occupation, and warning signs not exceeding sixteen (16) square feet in area located on the premises. Home occupational signs shall not be illuminated.
4. Bulletin boards for public, charitable or religious institutions not exceeding thirty-two (32) square feet in area located on the premises.
5. 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.
6. Official signs, such as traffic control, parking restrictions, information, and notices.
7. Temporary signs or banners up to a maximum of six (6) months.

## **17.06 Signs Allowed in the Business, Industrial, and Agricultural Districts with a Sign Permit**

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

1. **Total Signage:** Each individual business is limited to a total of two (2) signs. This includes wall signs, projecting signs, and ground signs, but excludes interior window signs, awning signs and directional signs.
2. **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. Wall signs include lettering and images painted directly onto the exterior surface of the building. Individual signs shall not exceed 100 square feet in surface area.
3. **Projecting Signs:** Projecting signs fastened to, suspended from, or supported by structures 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. Projecting signs shall not exceed 60 square feet in area per sign face.
4. **Ground Signs:** Ground signs shall not exceed 30 feet height except for the BDR Overlay District which shall not exceed 50 feet in height. Elevated ground signs that are lit from an external light source shall utilize downward facing, shielded lighting. Ground signs are limited to 32 square feet of area per sign face.
5. **Directional Signs (On-Premise):** A sign under six (6) square feet which indicates only the name, logo (not to exceed one (1) 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.
6. **Window Signs:** 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.
7. **Awning Signs:** Awning signs shall be applied only on the surface of the awning and limited to no more than 25% of the awning surface area.
8. **Variation of Standards:** The Plan Commission may approve a permit for signs exceeding the above regulations based on unique circumstances. Signs exceeding the regulations, however, shall not compromise the general health, safety, and public welfare of the Town and public.
9. **Off-Premise Business Signs:** Off-Premise 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 sixty (60) square feet of display area.

## **17.07 Additional Sign Standards within the BDR Design Review Overlay District**

In addition to the provisions of Chapter 16 and 17 of this ordinance, sign requirements and standards as defined within the *Town of Newton Design Standards/Site Design Guidelines -2018* shall apply to the issuance of a Sign Permit in the BDR Overlay District.

## **17.08 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 therefore and are subject to the following regulations:

1. 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 forty eight (48) square feet.

## **17.09 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.

## **17.10 Facing a Residential District**

No sign except those permitted in Section 17.05 and 17.08 shall be permitted to face a residential district within one hundred (100) feet of such district boundary.

## **17.11 Color, Shape and Materials**

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.

Any sign within the Town of Newton must be constructed of materials that present a finished appearance. Rough-cut plywood is not acceptable. Sign lettering should be professionally painted, applied or presented. Hand painted or paint stenciled letters is not acceptable.

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

## **17.13 Sign Lighting, Movement and Video Display**

1. Flashing signs are prohibited other than official signs authorized by the appropriate granting authority of railroad or traffic control.
2. No sign shall contain, include or be illuminated by a flashing light.
3. No sign should contain moving or rotating mechanical parts.
4. All signs must meet the lighting requirements as defined in Chapter section 16.11 of this ordinance.
5. Video display signs may be incorporated within or used as signs in compliance with the following restrictions:
  - a. The sign must be located on the site of the use identified or advertised by the sign.
  - b. Video display signs shall only be permitted in commercial, industrial or agricultural zoning districts.
  - c. The sign area of the video display signs shall be no greater than 50 percent of the attached or free-standing sign area.
  - d. Video display signs shall not be utilized as a stand-alone sign and shall be incorporated into or attached to a primary business/quasi-public identification sign so that separation between the two signs is limited to one foot.

- e. The sign must not exceed a maximum illumination of 5,000 nits (candles per square meter) during daylight hours and a maximum of 500 nits (candles per square meter) between dusk to dawn as measured from the sign's face at maximum brightness.
- f. Video display signs must have an automatic dimmer control to produce a distinct illumination change from a higher illumination level to a lower illumination level for the time period of one-half hour before sunset and one half-hour after sunrise.
- g. No sign shall conflict with the visibility of any traffic signal as determined by a qualified traffic engineer.
- h. Video display sign messages shall not change more than six times per minute.
- i. Messages shall not repeat in intervals of less than four seconds nor have a single animation that last longer than ten seconds. Individual static messages may last longer than ten seconds.
- j. Audio speakers or any form of pyrotechnics are prohibited in association with video display signs.
- k. No video display sign shall be located within 100 feet or directly face a residentially-zoned property.
- l. No video display sign shall be located within 100 feet of another video display sign.

## **17.14 Construction and Maintenance**

- 1. 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.
- 2. 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.
- 3. 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.
- 4. Supporting Structure: 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.
- 5. 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.

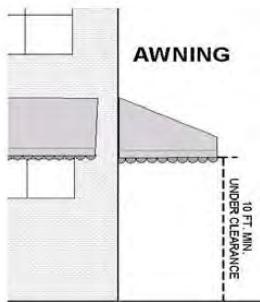
## **17.15 Existing Signs**

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

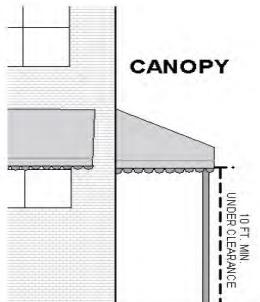
## **17.16 Sign Definitions**

For the purposes of clarification, discussion and permit review, the following definitions shall apply to this ordinance.

- 1. Animated sign: Any sign that utilizes movement, change of lighting, or electronic lettering to depict action, create messages, or special effects.
- 2. Awning: A roof-like shelter projecting from and supported wholly by the exterior wall of a building and constructed of non-rigid materials on a supporting framework. See the following graphic.



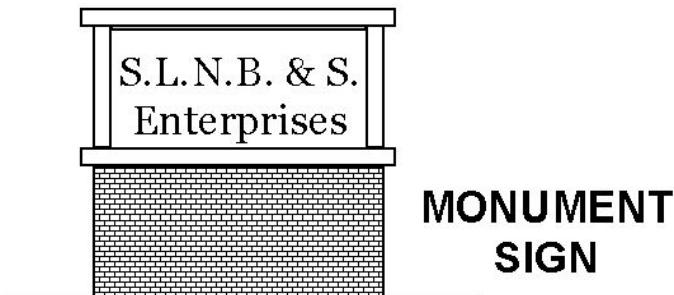
3. **Awning sign**: A sign incorporated into or attached to an awning or canopy.
4. **Billboard sign**: A sign which directs attention to a business, product, service, or activity not conducted, sold, or offered upon the premises where such sign is located. Also termed "off-premises advertising sign."
5. **Bulletin board sign**: A permanently anchored sign with changeable letters used to indicate upcoming events or programs, typically in association with a church, park, school, or other institutional building.
6. **Business flags**: A wall-mounted flag made of a durable fabric that contains graphics limited to business name, logo and advertising used to promote products and services for the premises.
7. **Business sign**: A sign that identifies the business, product, service, or activity that is sold or offered upon the premises where such sign is located. A business sign may be a wall sign, a free-standing sign, marquee sign, projecting sign, or other sign type.
8. **Canopy**: A structure, other than an awning, made of non-rigid material on a supporting framework attached to a building and supported by the ground. See the following graphic.



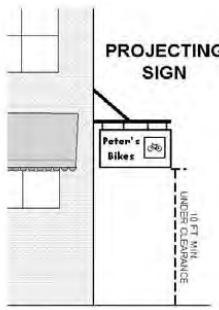
9. **Changeable copy sign**: Any on premise sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. Such sign shall not include any sign considered to be an animated sign. A readerboard sign is to be considered a changeable copy sign.
10. **Directional sign**: A sign which serves primarily to direct people to the location of a place, area, or activity.
11. **Directory sign**: A sign which serves as a common or collective identification for a group of businesses or occupations operating on the same property or planned development. See the following graphic.



12. **Flags:** Flags, symbols, or crests of nations or any organization of nations, states, and cities, fraternal, religious, and civic institutions.
13. **Flashing sign:** An illuminated sign, the illumination of which is not kept constant in intensity at all times when in use.
14. **Freestanding sign:** Any sign supported by uprights, poles, or braces placed upon the ground or a sign placed directly on the ground and not attached to any building. Freestanding signs include, but are not limited to, monument, pylon, and portable signs.
15. **Illuminated sign:** A sign having characters, letters, figures, designs, or outlines illuminated by electric lighting or luminous tubes as a part of the sign.
16. **Logo:** A name, symbol, or trademark or a company or establishment encompassed in one individual graphic.
17. **Marquee sign:** A permanent roof-like structure or canopy of rigid materials supported by and extended from the façade of a building.
18. **Monument sign:** A type of freestanding sign where at least three-fourths of the horizontal length of the sign is permanently fixed to a decorative base, the full horizontal length of which is anchored to the ground. See the following graphic.



19. **Multiple message signs:** A "billboard sign" or "off premise advertising sign" which automatically changes message or copy electronically or by the movement or rotation of panels or slats. This includes, but is not necessarily limited to, signs known as tri-vision billboards, electronic variable message signs, and digital billboards.
20. **Nameplate sign:** A sign which states the name and/or address of the occupant of the lot where the sign is located.
21. **Nit:** A luminance unit equal to one candle per square meter measured perpendicular to the rays from the source.
22. **Political sign:** A sign which announces a candidate as seeking public political office and/or which conveys political issues and expressions of noncommercial individual speech.
23. **Portable sign:** A type of temporary sign designed to be moved from one location to another and which is not permanently attached to the ground, sales display device, or structure. Portable signs include, but are not limited to:
  - a. Signs with chassis or support constructed without wheels.
  - b. Signs designed to be transported by trailer or wheels.
  - c. Menu- and sandwich-board signs.
  - d. Signs mounted or painted on a vehicle for advertising purposes, parked and visible from the public right-of-way (except for signs identifying the related business when the vehicle is being used in the normal day-to-day operations of that business).
24. **Projecting sign:** A sign which is attached to a building or structure and extends more than 18 inches beyond the line of the building or structure or that part of the building or structure to which it is attached. See the following graphic.



25. **Pylon sign:** A type of freestanding sign erected on shafts, posts, walls, or piers that are solidly affixed to the ground and not attached to a building. A pylon sign shall be considered as one sign though it may have two or more faces. See the following graphic.



26. **Revolving or rotating sign:** Any sign or portion of a sign which moves in a revolving 360-degree motion.

27. **Roof sign:** A sign which is mounted on the roof of a building or which projects above the top of the wall of a building with a flat, gambrel, gable, or hip roof or the deck line of a building with a mansard roof.

28. **Sandwich board:** A movable temporary sign that is self-supporting, A-shaped and freestanding with only two visible sides that are situated adjacent to a business, typically on a sidewalk.

29. **Sign:** A name, identification, description, display, illustration, or device which is affixed to or mounted on a building, a structure, or the ground and which directs attention to an object, product, place, activity, person, institution, organization, or business. The term "sign" includes sign supports.

30. **Sign area:** The size of the sign face.

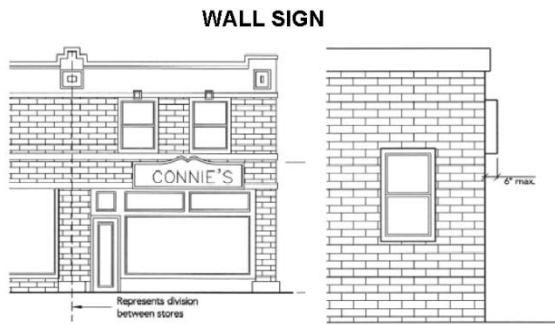
31. **Sign face:** The surface of the sign upon, against, or through which the message of the sign is exhibited.

32. **Sign structure:** A structure, including the supports, uprights, bracing, and framework that supports or is capable of supporting a sign.

33. **Temporary sign:** Any sign, balloon, banner, blimp, flag, free-standing sign, pennant, poster, readerboard, or advertising display which is intended to be displayed for a limited period of time.

34. **Video display sign:** An on premise sign that changes its message or background in a manner or method of display characterized by motion or pictorial imagery, which may or may not include text and depicts action or a special effect to imitate movement; the presentation of pictorials or graphics displayed in a progression of frames, which give the illusion of motion, including, but not limited to, the illusion of moving objects, moving patterns or band of light, or expanding or contracting shapes.

35. **Wall sign:** A sign which is attached to or painted on the wall of a building, with the sign face in a plane parallel to the plane of the building wall and extending no more than 18 inches from the face of such wall. See the following graphic.



36. **Window sign:** Any sign, lettering, pictures, symbols, or combination thereof designed to communicate information about a business, product, service, or activity which is placed upon a window and meant to be visible from the exterior of the building. See the following graphic.



## **18.00 LAND DIVISIONS**

### **ARTICLE I -GENERAL PROVISIONS**

#### **18.01 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.

#### **18.02 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 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 Plan, this Ordinance, and other plans and regulations adopted by the Town.
16. Avoid the inefficient and uneconomical extension of governmental services.

#### **18.03 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.

## **18.04 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.

## **18.05 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.

## **18.06 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.

## **18.07 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 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, i.e. 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.

## **18.08 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.

## **18.09 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.

## **18.10 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 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.

## **18.11 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.

## **18.12 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.

### **18.13 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:
    - i. Project: 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.
    - ii. 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.
    - iii. Third Party Fees and Costs: Fees and costs incurred by the Town of Newton for third party services.
  - d. Review Fee Requirements and Administration:
    - i. 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.
    - ii. 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.
    - iii. 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.
    - iv. 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)
    - v. 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 paid by the applicant.

## **ARTICLE II -LAND DIVISION APPLICATION, REVIEW AND ACTION**

### **18.14 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 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 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 subdivider 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 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 18.17.

### **18.15 Minor Land Divisions**

1. Applicability: Land divisions which create at least one but no more than four parcels or building sites within a consecutive 5-year period, 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 18.19 and 18.20.
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 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 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.

## 18.16 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 18.21.
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 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 thirty-six (36) 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 18.22.
  - 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 substantial compliance with the approved preliminary plat, any condition of approval of the preliminary plat, this Ordinance, the Comprehensive Plan, and all other Town laws, ordinances, rules, regulations and plans which may affect the plat.
7. 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.
8. 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 18.16(5)(b), the date thereof, and that no objections were filed within twenty (20) days or, if filed, have been met.
9. 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 Final Plat shall be recorded with the Register of Deeds within twelve (12) months from the date of last approval and within thirty-six (36) months of the first approval. The subdivider shall also submit two (2) copies of the final plat to the Town Clerk for filing with the Town Board and Plan Commission.
10. Replots:
  - 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 18.16.
  - 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

### 18.17 Sketch Plan

Minor and major land divisions require a pre-application meeting which includes 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. Reserved
14. An Area Development Plan (ADP) where the land division is proposed within a Preferred Land Use Management Area designated in the Town of Newton Comprehensive Plan as:
  - a. Agricultural Transition
  - b. Residential
  - c. Business/Industrial

The purpose of the plan is to ensure long-term coordination of the proposed development with surrounding and future development in areas where growth is planned. The ADP will include all information required of (and replace) the Sketch Plan, but shall include all areas surrounding the subject property within 1,320 feet (1/4 mile).

## **18.18 Development Impact Assessment**

Applications for major land divisions where the number of potential residential dwelling units exceeds ten (10) must include a Development Impact Assessment including the following

1. A traffic study for the proposed subdivision including the average daily and peak am/pm trips generated for weekdays and weekends on surrounding streets.
2. A utility/facility study detailing the anticipated municipal water/sewer usage (where applicable).
3. A public school impact assessment estimating the number of new school-aged children the proposed residential units will generate.

## **18.19 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.

## **18.20 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 include in each parcel excluding right of way.
7. Setbacks or vegetative buffers by any approving or reviewing agency.
8. Reserved.
9. Drainage and utility easements (if applicable).
10. Any other information required to be shown on the face of the CSM under this Ordinance.

## **18.21 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 unplatte 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. Reserved.
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.

## **18.22 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 18.21 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. Reserved.
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.

### **18.23 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 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 1,000 feet of property designated by the Comprehensive 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 18.28 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 16.00 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 anyone of the following criteria shall provide for stormwater management and prepare a Stormwater Management Plan as set forth in Section 16.00 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: conservation easement whereby the Subdivider (as applicable) intends to regulate the protection of natural resources feature 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 nonprofit 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**

### **18.24 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.

### **18.25 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 15.10 and 15.12.
  - 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.
2. Blocks: 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 exception..1topography 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 15.10 and 15.12 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 ;my 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.

## 18.26 Conservation Design

1. Intent: The Comprehensive 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 Section15.15.
3. Reserved.
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 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 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 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.

## 18.27 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 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. 15.01 Street Access
  - b. 15.02 Highway Construction Standards
  - c. 15.03 Road Alignment
  - d. 15.04 Street Names
  - e. 15.05 Intersection Design
  - f. 15.06 Traffic Visibility
  - g. 15.07 Minimum Sight Triangle at Intersections
  - h. 15.08 Structures Permitted Within lines and Within Minimum Sight Triangle
  - i. 15.09 Determination of Center line
  - j. 15.10 Loading Requirements
  - k. 15.11 Driveways
  - l. 15.13 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, Industrial and Agriculture-Related Use Development: Commercial and industrial zoning districts plus any agriculture-related uses within agriculture zoning 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 Plan.

## **18.28 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 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.

## **18.29 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.

### **18.30 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 physically or technically possible. 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.

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.

### **18.31 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.

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## **19.00 NONCONFORMING BUILDING OR STRUCTURE OR NONCONFORMING USE**

### **19.01 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. When a lawful non-conforming structure is damaged or destroyed by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation, and the nonconforming structure was damaged or destroyed on or after March 2, 2006, it may be reconstructed if the structure will be restored to the size, location, and use that it had immediately before the damage or destruction occurred, without limits on the costs of the repair, reconstruction, or improvement.
6. Any nonconforming building or structure or nonconforming use which has ceased by discontinuance or abandonment for a period of 12 months shall hereafter conform to the provisions of the ordinance.

A parcel existing as a separate parcel recorded in the Office of the Register of Deeds for Manitowoc County prior to June 20, 1972, being the first adoption and county board approval of a zoning ordinance for the Town of Newton, which parcel is in separate ownership from abutting lands, is a nonconforming lot and may be used for any use which is permitted in the district in which the lot is located. For purposes of this subsection, the definition of "lot" and "parcel" in Section 1.09 (29) and (46) are not applicable.

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## 20.00 A-3 FARMLAND PRESERVATION ZONING DISTRICT

### 20.01 Purpose

The purpose of this district is to promote areas for uses of a generally exclusive agricultural nature in order to protect farmland and to allow participation in the state's farmland preservation program. Land zoned under this district must comply with the following:

1. Permitted Uses

- a. Agricultural uses. See Section 20.04 for agricultural use definitions.
- b. Not including the specified accessory uses identified in Subsection (2), other accessory uses including the farm residence. See Section 20.04 for accessory use definition.
- c. Upon notification to the Town Board, any transportation, utility, communication, or other uses that are required under state or federal law to be located in a specific place or that are authorized to be located in a specific place under a state or federal law that preempts the requirement of a conditional use permit for those uses.
- d. [Subsection (C) acknowledges that state or federal law may sometimes preempt local authority to restrict the siting of certain facilities. It does not purport to determine which state or federal actions are preemptive. It merely says that IF state or federal action is preemptive, no local permit is required and there is no need to rezone the site out of the farmland preservation district. Uses covered by subsection (C) might include, for example, state and federal highways, federally-mandated pipelines, and energy generation and transmission facilities whose location and design are specifically mandated by the Wisconsin Public Service Commission pursuant to a certificate of convenience and necessity.]
- e. Undeveloped natural resource and open space areas.
- f. Non-Farm residences built prior to January 1, 2014.

(Please note, no new non-farm homes are allowed within the A-3 zoning district except to replace existing dwellings. Proposed new non-farm homes or residential type lots would require a rezoning from A-3 to A-1 at a maximum density of one lot (1 to 5 acres) for 35 acres of farmland owned whether or not the farmland parcels are contiguous). However, any rezone out of the A-3 zoning district must meet the conditions spelled out in Section 20.02)

2. Conditional Uses

- a. Agriculture-related uses. (See Section 20.04 for agricultural related use definition.)
- b. Upon Notification of the Town Board and approval by Manitowoc County, transportation, communication, pipeline, electric transmission, utility, or drainage uses, facilities for the generation from sunlight, wind, coal or natural gas, if all the following apply:
  - i. The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
  - ii. The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
  - iii. The use is reasonably designed to minimize conversion of land at and around the site of the use, from agricultural use or open space use.
  - iv. The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
  - v. Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.
- c. Governmental, institutional, religious, or nonprofit community uses, if all of the following apply:
  - i. The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.

- ii. The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
- iii. The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.
- iv. The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
- v. Construction damage to land remaining in agricultural use is minimized and repaired to the extent feasible.

d. Nonmetallic mineral extraction, if all of the following apply:

- i. The operation complies with Subchapter I of Chapter 295, Wisconsin Statutes, and rules promulgated under that subchapter, with applicable provisions of local ordinances under Wis. Stat. §295.14 (including all applicable provisions of this ordinance), and with any applicable requirements of the Wisconsin Department of Natural Resources concerning the restoration of nonmetallic mining sites.
- ii. The operation and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
- iii. The operation and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations outside the farmland preservation zoning district, or are specifically approved under state or federal law.
- iv. The operation is reasonably designed to minimize the conversion of land around the extraction site from agricultural use or open space use.
- v. The operation does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
- vi. The owner agrees to restore the land to agricultural use, consistent with any required reclamation plan, when extraction is completed.
- vii. Compliance with Section 14.08 (Non-Metallic Mining) of this ordinance.

e. Oil and gas exploration or production that is licensed by the Department of Natural Resources under Subchapter II of Chapter 295, Wisconsin Statutes.

f. Private airport or air strip qualifying as an accessory use under s. 91.01(1)

g. Dog kennels qualifying as an accessory use under s. 91.01(1)

h. Game farms/shooting preserves qualifying as an accessory use under s. 91.01(1) (b). To meet the definition of agricultural use, the game birds or cervids must be raised on the farm for release for hunting.

i. Shooting Ranges meeting the requirements in s. 91.01(1)(d).

j. Manure storage systems. (Please note that permits for manure storage systems are subject to S. ATCP 50.56 and Ch. ATCP 51, Wis Adm. Code.

k. Slaughtering of livestock from the A-3 District.

l. Processing agricultural by-products or wastes received directly from farms, including farms in the A-3 District.

The Planning Commission may issue a conditional use permit for a proposed land use identified in this section if the proposed land use meets applicable conditions under this section. Before issuing a conditional use permit, the Planning Commission shall determine in writing, that the proposed use meets applicable conditions under this section. The Planning Commission may issue the permit subject to conditions designed to carry out the purposes of this ordinance.

3. Area, Height and Yard Requirements:

- a. All Principal Structures shall be on a lot consistent with the principal use permitted on such lot by the regulations of the district in which it is located.
- b. No Zoning Permit shall be issued for a lot which abuts a public road dedicated to only a portion of its

proposed width and located on that site thereof from which the required dedication has not been secured.

c. Dimensions of Building Sites:

- i. Minimum Area and Width: Except as otherwise specifically required or permitted, the minimum lot area shall be 5.0 acres and a minimum lot width of 150 feet of road frontage.
- ii. Side and Rear Yards: There shall be a twenty five (25) foot minimum side and rear yard setback for structures such as farm houses, sheds for farm machines, crop storage facilities and other accessory structures. However, barns for livestock, shall have a fifty (50) foot minimum side and rear yard setback unless subject to more restrictive provisions of a livestock siting ordinance.
- iii. Road Setbacks: There shall be a minimum of sixty (60) feet from the centerline of a town road. There shall be a minimum of 100 feet from the centerline of a county or state highway unless more restrictive requirements have adopted by the county or state.
- iv. Height Limitations: The maximum height for all farm related residential and accessory residential structures shall be thirty five (35) feet. The maximum height for all farm buildings and agricultural structures shall be sixty (60) feet. Feed storage structures such as silos and grain storage elevators are exempt from height restrictions.

4. Loading, Driveways, Parking and Lighting Requirements:

Uses must comply with Sections 15.10, 15.11, 15.12, 15.13, 15.14 and 16.11 of this ordinance.

## **20.02 Rezoning Land out of the A-3 Farmland Preservation Zoning District**

Land may be rezoned out of the A-3 Farmland Preservation Zoning District if the Plan Commission through their review and recommendation, and after a public hearing, finds that all of the following apply:

1. The land is better suited for a use not allowed in the A-3 Farmland Preservation Zoning District.
2. The rezoning is consistent with the Town of Newton Comprehensive Plan.
3. The rezoning is substantially consistent with the Manitowoc County Farmland Preservation Plan, certified under ch. 91, Wis. Stats., which is in effect at the time of zoning.
4. The rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.

The above Section 20.02 (1-4) does not apply to any of the following situations:

5. A rezoning that is affirmatively certified by the Wisconsin Department of Agriculture, Trade and Consumer Protection under ch. 91, Wis. Stats.
6. A rezoning that makes the farmland preservation zoning ordinance map more consistent with the Manitowoc County farmland preservation plan map, certified under ch. 91, Wis. Stats., which is in effect at the time of the rezoning.

## **20.03 Certification of Ordinance and Amendments by DATCP**

1. This Zoning Ordinance must be certified by the State of Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) in order for owners of land that is zoned A-3 Farmland Preservation in the Town of Newton to be eligible to claim tax credits under the State of Wisconsin's Farmland Preservation Program.
2. The Town of Newton shall notify DATCP of any amendments as required by Wis. Stats. 91.36(8).
3. The Town of Newton shall notify DATCP and the Manitowoc County Planning Department, by March 1 annually, of any acres rezoned out of a farmland preservation zoning district during the previous year and a map that clearly shows the location of those acres as required by Wis. Stats. 91.48(2) and 91.48(3).

## **20.04 Farmland Preservation Definitions**

For the purposes of Section 20.00 of this Ordinance, the following definitions shall be used. Please see Section 1.09 for conventional zoning district definitions.

Accessory Use: Within the A-3 Zoning District means any of the following land uses on a farm:

1. A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use. This may include, for example:
  - a. A facility used to store or process raw agricultural commodities, all of which are produced on the farm.
  - b. A facility used to keep livestock on the farm.
  - c. A facility used to store or process inputs primarily for agricultural uses on the farm.
  - d. A facility used to keep or service vehicles or equipment primarily employed in agricultural uses on the farm.
  - e. A wind turbine or solar energy facility that collects wind or solar energy on the farm, and uses or transforms it to provide energy primarily for use on the farm.
  - f. A manure digester, bio-fuel facility, or other facility that produces energy primarily from materials grown or produced on the farm, primarily for use on the farm.
  - g. A waste storage or processing facility used to store or process animal waste produced solely from livestock kept on the farm.
2. An activity or business operation that is an integral part of or incidental to, an agricultural use.
3. A farm residence, including normal residential appurtenances.
4. A business, activity, or enterprise, whether or not associated with an agricultural use, which meets all of the following requirements:
  - a. It is conducted on a farm by an owner or operator of that farm.
  - b. It requires no buildings, structures, or improvements other than those described in par. (1) or (3).
  - c. It employs no more than 4 full-time employees annually.
  - d. It does not impair or limit the current or future agricultural use of the farm or other protected farmland.
5. Any other use that DATCP, by rule, identifies as an accessory use.

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

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

Agriculture-related use: An agricultural equipment dealership, facility providing agricultural supplies, facility for storing or processing agricultural products, or facility for processing agricultural wastes. In addition, any use that the Department of Agriculture, Trade and Consumer Protection identifies by rule as an agriculture-related use. An "agricultural related use" must be primary (not just incidentally) related to agriculture, and must have a direct connection to agriculture uses in the A-3 zoning district.

Animal Confinement Facility: Any animal, livestock or poultry operation with 500 or more animal units that are used in the production of food, fiber, or other animal products or that will be fed, confined, maintained, or stabled for a total of 45 days or more in any 12-month period.

Animal Unit: Animal Unit has the following meaning that was given in s. NR 243.03 (3) Wisconsin Administrative Code as of April 27, 2004: "Animal Unit" means a unit of measure used to determine the total number of single animal types or combination of animal types, as specified in s. NR 243.11, Wisconsin Administrative Code, which are fed, confined, maintained or stabled in an animal feeding operation. The total number of animal units for a given type of animal shall be calculated by multiplying the number of animals for each animal type by the appropriate equivalency factor from the following table, and summing the products. The number of combined animal units shall be the sum of the number of animal units for each animal type. For animal types not listed in the following table, the equivalency to animal units shall be based on live animal weights. In these cases, 1,000 pounds of live weight is equivalent to one animal unit.

**Animal Unit Calculation Table**

	<b>Number Equivalent to 500 Animal Units</b>	<b>Animal Type</b>	<b>Animal Equivalency Factor</b>
Dairy Cattle	350	Milking and Dry Cows	1.4
	455	Heifers (800 to 1200 lbs)	1.1
	835	Heifers (400 to 800 lbs)	0.6
	2,500	Calves (under 400 lbs)	0.2
Beef Cattle	500	Steers or Cows (600 lbs to Mkt.)	1
	1,000	Calves (under 600 lbs)	0.5
	350	Bulls	1.4
Swine	1,250	Pigs (55 lbs to Mkt.)	0.4
	5,000	Pigs (up to 55 lbs)	0.1
	1,250	Sows	0.4
	1,000	Boars	0.5
Sheep	5,000	Per Animal	0.1
Horses	250	Per Animal	2
Ducks	2,500	Per Bird (Wet Lot)	0.2
	50,000	Per Bird (Dry Lot)	0.01
Chickens	50,000	Layers	0.01
	100,000	Broilers	0.005
	50,000	Broilers (continuous over flow watering)	0.01
	15,000	Layers or Broilers (Liquid Manure System)	0.033
Turkeys	27,500	Per Bird	0.018
Combined Animal Units	500	Calculated Total	

Certified Farmland Preservation Plan: A farmland preservation plan that is certified as determined under Wis. Stats. 91.12.

Certified Farmland Preservation Zoning Ordinance: A zoning ordinance that is certified as determined under Wis. Stats. 91.32.

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

Land is deemed to be under "common ownership," for purposes of this ordinance, if it is all owned by the same individual, married couple, joint tenants, and tenants in common, corporation, LLC, partnership, estate or trust. If land parcels are owned by separate legal entities, but those legal entities are all wholly owned by exactly the same person or persons, those land parcels are deemed to be under "common ownership" for purposes of this ordinance.

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

Conditional Uses: Uses of a special nature as to make impractical their predetermination as a permitted use in a district. Conditional uses as used in the A-3 Farmland Preservation Zoning District must meet the requirements of Wis. Stats. 91.46.

Density: The number of dwelling units per acre allowable under the schedule of district regulations.

Farm: All land under common ownership that is primarily devoted to agricultural use. For the purpose of this definition, land is deemed to be primarily devoted to agricultural use if the following apply:

1. The land produces at least \$6,000 in annual gross farm revenues to its owner or renter, regardless of whether on a majority of the land area is in agricultural use; or,
2. A majority (greater than 50%) of the land is in agricultural use.

In determining whether land is in agricultural use for purposes of par. (2), a zoning authority may consider how the land is classified for property tax purposes. See ch. TAX 18, Wis. Adm. Code.]

Farm Residence: A single-family or two family residence that is the only residential structure on the farm or is occupied by any of the following:

1. An owner or operator of the farm.
2. A parent or child of an owner or operator of the farm.
3. An individual who earns more than 50 percent of his or her gross income from the farm.

To qualify as a "farm residence," a residence must be located on a "farm." If a farm owner deeds off a residential parcel to another person (even if that person is the farm owner's parent, child or employee), the separately-owned parcel is no longer part of the original "farm." A residence built on that parcel does not qualify as a "farm residence" unless the parcel qualifies as a "farm" in its own right.

Gross Farm Revenues: Means gross receipts from agricultural use of a farm, excluding rent receipts, less the cost or other basis of livestock or other agricultural items purchased for resale which are sold or otherwise disposed of during the taxable year. Gross farm revenue includes receipts accruing to a renter, but does not include rent paid to the land owner.

**Livestock:** Includes bovine animals, equine animals, goats, poultry, sheep, swine, farm raised deer, farm raised game birds, camelids, ratites and farm raised fish.

**Livestock Facilities with More Than 500 Animal Units:** Means facilities covered by Wis. Adm. Code ch. ATCP 51.

**Nonfarm Residence:** Any residence other than a farm residence.

**Nonfarm Residential Acreage:** Nonfarm residential acreage" means the combined total acreage of all parcels on which nonfarm residences are located, all parcels on which Plan Commission has approved nonfarm residences, all parcels of 10 acres or less that do not qualify as farms, and the parcel to which the conditional use permit application pertains. If a residence is located or proposed to be located on an undivided farm, but does not qualify as a farm residence, the size of the residential parcel is deemed to be 10 acres

Nonfarm residential acreage is defined ONLY for the purpose of calculating residential densities in connection with conditional use permit applications in the A-3 zoning district.

This ordinance counts, as "nonfarm residential acreage," parcels on which residences have been approved but not yet built, as well as "open space" parcels less than 10 acres. Larger "open space parcels" may be counted as "farm acreage" (see definitions of "farm acreage" and "open space parcel)."

**Nonconforming Uses or Structures:** Any structure, land, or water lawfully used, occupied, or erected at the time of the effective date of this Ordinance which does not conform to the regulations of this Ordinance. Any such structure conforming in respect to use, but not in respect to frontage, width, height, area, yard, parking, loading, or distance requirements shall be considered a nonconforming structure and not a nonconforming use.

**Open Space Parcel:** A parcel on which no buildings, other than hunting blinds or small sheds, have been constructed or approved for construction.

**Person:** An individual, corporation, partnership, limited liability company (LLC), trust, estate or other legal entity.

**Prime Farmland:** An area with a class I or II land capability classification as identified by the Natural Resources Conservation Service of the United States Department of Agriculture or land that is identified as prime farmland in a certified farmland preservation plan. Prime farmland soils are not necessarily associated with the boundaries of the A-3 Farmland Preservation Zoning District.

**Protected Farmland:** Land that is any of following:

1. Land that is located in the A-3 Farmland Preservation Zoning District certified under ch. 91, Wis Stats.
2. Covered by a farmland preservation agreement under ch. 91, Wis Stats.
3. Covered by an agricultural conservation easement under s. 93.73, Wis Stats.
4. Otherwise legally protected from nonagricultural development.

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## **21.00 SMALL WIND ENERGY SYSTEM**

### **21.01 Title**

This chapter may be referred to as the Small Wind Energy System Section.

### **21.02 Authority**

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

### **21.03 Purpose**

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

### **21.04 Applicability**

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

### **21.05 Definitions**

In this ordinance:

1. **Administrator**: The Town Zoning Administrator or his or her designee.
2. **Habitable Building**: A structure used for residential, commercial, civic, religious, or any other purpose.
3. **Met Tower**: 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**: 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**: 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**: The vertical distance from ground level to the tip of a wind generator blade when the tip is at its highest point.
7. **Tower**: 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**: The Town of Newton, Manitowoc, Wisconsin.
9. **Wind Energy System**: 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**: The mechanical and electrical conversion components mounted at the top of a tower in a wind energy system

## 21.06 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 must provide certification from a state licensed inspector showing that the small wind 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 20.08 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.

## **21.07 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).

## **21.08 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.
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. 7.02 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. 11.12.
4. Expiration: A permit 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.

## **21.09 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.

## **21.10 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.

## **21.11 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. 21.08.
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. 21.08.
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. 21.08.
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.

## **21.12 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.

## **21.13 Relationship to Other Ordinances**

This ordinance does not abrogate, annul, impair, interfere with, or repeal any existing ordinance.

## **21.14 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.

## **22.00 MOBILE TOWER SITING REGULATIONS**

### **22.01 Title**

This ordinance is entitled the Town of Newton Mobile Tower Siting Regulations.

### **22.02 Purpose**

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

### **22.03 Authority**

The town board has the specific authority under ss. 60.10(2)(c), 62.23, and 62.23, and 66.0404, Wis. Stats., to adopt and enforce this ordinance.

### **22.04 Adoption of Ordinance**

This ordinance, adopted by a majority of the town board on a roll call vote with a quorum present and voting and proper notice having been given, provides for the regulation by zoning permit (1) the siting and construction of any new mobile service support structure and facilities; (2) with regard to a class 1 collocation, the substantial modification of an existing support structure and mobile service facilities; and (3) with regard to a class 2 collocation, collocation on an existing support structure which does not require the substantial modification of an existing support structure and mobile service facilities.

### **22.05 Definitions In this Ordinance:**

1. All definitions contained in s. 66.0404(1), Wis. Stat., are hereby incorporated by reference.
2. Town: The Town of Newton, Manitowoc, County, Wisconsin.
3. Town Board: The town board of the Town of Newton, Manitowoc County, Wisconsin.

### **22.06 Siting and Construction of any New Mobile Service Support Structure and Facilities**

1. Application Process
  - a. A town zoning permit is required for the siting and construction of any new mobile service support structure and facilities. The siting and construction of any new mobile service support structure and facilities is a conditional use in the town obtainable with this permit.
  - a. A written permit application must be completed by any applicant and submitted to the town. The application must contain the following information:
    - i. The name and business address of, and the contact individual for, the applicant.
    - ii. The location of the proposed or affected support structure, including a Site Plan in a graphic scale not greater than 1 inch=200 feet, showing at a minimum the following: (a) the location of each proposed or affected support structure, parking area, driveway, and other improvement on the lot with the distance from each lot line indicated; (b) the location of the minimum setback lines; (c) the location of all nonparticipating dwelling units and the distance from each proposed or affected support structure indicated; (d) the location of existing public and private roads and highways adjacent to the lot. Ten (10) copies of the Site Plan shall accompany the application.

- iii. The location of the proposed mobile service facility shall also be included on the Site Plan under (b) (ii) above.
- iv. If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
- v. If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
- vi. If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.

- b. A permit application will be provided by the town upon request to any applicant.
- c. If an applicant submits to the town an application for a permit to engage in an activity described in this Sec. 22.06 which contains all of the information required under this ordinance, the town shall consider the application complete. If the town does not believe that the application is complete, the town shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
- d. Within 90 days of its receipt of complete application, the town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the town may agree in writing to an extension of the 90 day period:
  - i. Review the application to determine whether it complies with all applicable aspects of the town's building code and, subject to the limitations in this section, zoning ordinances.
  - ii. Make a final decision whether to approve or disapprove the application.
  - iii. Notify the applicant, in writing, of its final decision.
  - iv. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
- e. The town may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under paragraph 22.06 (1)(b)(vi).
- f. If an applicant provides the town with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the setback or fall zone area required in a zoning ordinance, that zoning ordinance does not apply to such a structure unless the town provides the applicant with substantial evidence that the engineering certification is flawed.
- h. The fee for the permit is \$3,000.00.

## **22.07 Class 1 Collocation**

- 1. Application Process
  - a. A town zoning permit is required for a class 1 collocation. A class 1 collocation is a conditional use in the town obtainable with this permit.
  - b. A written permit application must be completed by any applicant and submitted to the town. The application must contain the following information:
    - i. The name and business address of, and the contact individual for, the applicant

- ii. The location of the proposed or affected support structure, including all requirements of Section 22.06 1 (b) (ii) of this ordinance.
- iii. The location of the proposed mobile service facility shall also be included on the Site Plan pursuant to (b) (ii) above.
- iv. If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
- v. If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
- vi. If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.

- c. A permit application will be provided by the town upon request to any applicant.
- d. If an applicant submits to the town an application for a permit to engage in an activity described in this Sec. 22.07, which contains all of the information required under this ordinance, the town shall consider the application complete. If the town does not believe that the application is complete, the town shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
- e. Within 90 days of its receipt of a complete application, the town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the town may agree in writing to an extension of the 90 day period:
  - i. Review the application to determine whether it complies with all applicable aspects of the town's building code and, subject to the limitations in this section, zoning ordinances.
  - ii. Make a final decision whether to approve or disapprove the application.
  - iii. Notify the applicant, in writing, of its final decision.
  - iv. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
- f. The town may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under paragraph 22.07 (1)(b)(vi).
- g. If an applicant provides the town with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the setback or fall zone area required in a zoning ordinance, that zoning ordinance does not apply to such a structure unless the town provides the applicant with substantial evidence that the engineering certification is flawed.
- h. The fee for the permit is \$3,000.00.

## 22.08 Class 2 Collocation

- 1. Application Process
  - a. A town zoning permit is required for a class 2 collocation. A class 2 collocation is a permitted use in the town but still requires the issuance of the town permit

- b. A written permit application must be completed by any applicant and submitted to the town. The application must contain the following information:
  - i. The name and business address of, and the contact individual for, the applicant.
  - ii. The location of the proposed or affected support structure, including all requirements of Section 22.06 1 (b) (ii) of this ordinance.
  - iii. The location of the proposed mobile service facility shall also be included on the Site Plan pursuant to (b) (ii) above.
- c. A permit application will be provided by the town upon request to any applicant.
- d. A class 2 collocation is subject to the same requirements for the issuance of a building permit to which any other type of commercial development or land use development is subject under the town ordinances.
- e. If an applicant submits to the town an application for a permit to engage in an activity described in this Sec. 22.08, which contains all of the information required under this ordinance, the town shall consider the application complete. If any of the required information is not in the application, the town shall notify the applicant in writing, within 5 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
- f. Within 45 days of its receipt of a complete application, the town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the town may agree in writing to an extension of the 45 day period:
  - i. Make a final decision whether to approve or disapprove the application.
  - ii. Notify the applicant, in writing, of its final decision.
  - iii. If the application is approved, issue the applicant the relevant permit.
  - iv. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
- g. The fee for the permit is \$500.00.

## **22.09 Requirements**

The following requirements apply to all permits issued under this ordinance:

1. Surety for Decommissioning. The applicant shall provide a surety in the amount of \$20,000 prior to the issuance of a permit and maintain the surety as current throughout the duration of the permit to insure the performance of permittee and owner of decommissioning under Section 22.09 (2) of this ordinance. Such amount is deemed to be completely neutral, nondiscriminatory, and commensurate with the historical record for surety requirements for other facilities and structures in the town which fall into disuse.
2. Decommissioning. Notwithstanding the fact that a permit granted under this ordinance is not limited in duration, a mobile service support structure and mobile service facilities out of service for a continuous six (6) month period are deemed abandoned. In that case, the Zoning Administration may issue a Notice of Abandonment to the permittee or owner. The owner shall remove the mobile service structure and mobile service facilities within 90 days of the Notice of Abandonment. Such removal includes, but is not limited to, removal of all above ground structures and improvements; removal of all foundation, pads, underground electrical wires, fencing, and reclaim the site to a depth of four (4) feet below the surface of the ground. This decommissioning shall be secured by a surety pursuant to Section 22.09 (1) of this ordinance.
3. Construction. Any construction authorized under this ordinance shall comply with the applicable federal, state, county and town building codes.
4. Lighting. Any lighting of a structure shall be designed to cause the least disturbance.
5. Space for Town. The town board may require as a condition of approval the agreement of the facility owner to provide space on or near the structure for the use of or by the town at the fair market value rate, except as prohibited in Sec. 66.0404 (4)(w), Wis. Stats.
6. Site Security and Access. Any structure or facility site shall be secured with a chain link fence at least eight (8) feet high, with three strands of barbed wire on top, with a locked gate so as not to be accessible by the

general public. Only signs pertaining to equipment information, identity of operator or warning shall be located on any structure or facility. A minimum of two (2) parking spaces and a driveway constructed pursuant to the requirements of the Town of Newton Driveway Ordinance shall be provided at a facility site.

7. Setback Requirements. The setback requirements of Sections 13.01 and 13.02(17) of the Zoning Ordinance of the Town of Newton apply to a mobile service support structure.

## **22.10 Penalty Provisions**

Notwithstanding the provisions of Section 5.04 of the Town of Newton Zoning Ordinance, any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this ordinance shall, upon conviction, pay a forfeiture of \$200 plus the applicable surcharges, assessments, and costs for each violation. Each day a violation exists or continues constitutes a separate offense under this ordinance. In addition, the town board may seek injunctive relief from a court of record to enjoin further violations.

## **22.11 Appeal**

Any party aggrieved by the final decision of the town board under Sections 22.06(1) (e)(ii), 22.07 (1)(e)(ii), or 22.08 (1)(f)(i) may bring an action in Manitowoc County, Wisconsin circuit court.

## **22.12 Severability**

The provisions of this ordinance are severable. If any provision of this ordinance or its application to any person or circumstance is held invalid by a court of competent jurisdiction, such holding shall not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application.

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## 23.0 SOLAR ENERGY SYSTEMS (SES)

### 23.01 Purpose

The purpose of this Section is to provide a regulatory scheme through a Solar Energy System (SES) permit application process to review the construction and operation of all Solar Energy Systems in the Town of Newton, Manitowoc County, Wisconsin. All regulations contained herein are adopted to preserve and protect the public health and safety. The Town understands that local restrictions on Large-Scale Solar Energy Systems may be limited as they may be affected by State Statute provisions, project details, and necessary Wisconsin Public Service Commission project approvals.

### 23.02 Definitions

As used in this section, the following terms shall have the meanings indicated:

#### **AGRIVOLTAICS**

A solar energy system co-located on the same parcel of land as agricultural production, including crop production, grazing, apiaries, or other agricultural products or services.

#### **BATTERY ENERGY STORAGE SYSTEM**

A system of battery devices that enable energy from renewables, like solar and wind, to be stored and then released when customers need power most.

#### **COMMUNITY SOLAR GARDEN**

A solar energy system that provides retail electric power (or a financial proxy for retail power) to multiple community members or businesses residing or located off-site from the location of the solar energy system. Also referred to as shared solar.

#### **EXISTING SOLAR ENERGY SYSTEMS**

A solar energy system lawfully existing at the time of the adoption or amendment of this ordinance may be continued even if such a system does not conform to the provisions of this chapter. However, it shall be deemed a nonconforming use or structure, and the provisions of Section 19.0 Nonconforming Building or Structure or Nonconforming Use of this ordinance shall apply.

#### **GRID-INTERTIE SOLAR ENERGY SYSTEM**

A photovoltaic solar energy system that is connected to an electric circuit served by an electric utility company.

#### **MICROGRID**

A self-sufficient energy system that serves individual or multiple buildings and/or a discrete geographic footprint, such as a college campus, medical center, business center or neighborhood. Microgrids must be local, independent, and intelligent. Microgrids may include the use of Battery Energy Storage Systems.

#### **PASSIVE SOLAR ENERGY SYSTEM**

A solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.

#### **PHOTOVOLTAIC SYSTEM**

A solar energy system that converts solar energy directly into electricity.

#### **RENEWABLE ENERGY EASEMENT, SOLAR ENERGY EASEMENT**

An easement that limits the height or location, or both, of permissible development on the burdened land in terms of a structure or vegetation, or both, for the purpose of providing access for the benefited land to wind or sunlight passing over the burdened land, consistent with Wis. Stats.700.35.

#### **ROOF-MOUNT**

A form of building-mounted solar energy system in which solar panels are mounted on a rack that is fastened to or ballasted on a structure's roof. Roof-mount systems are accessory to the principal use.

#### **ROOF PITCH**

The final exterior slope of a roof calculated by the rise over the run, typically but not exclusively expressed in twelfths such as 3/12, 9/12, 12/12.

#### **SOLAR ACCESS**

Unobstructed access to direct sunlight on a lot or building through the entire year, including access across adjacent parcel air rights, for the purpose of capturing direct sunlight to operate a solar energy system.

**SOLAR CARPORT**

A solar energy system of any size that is installed on a carport structure that is accessory to a parking area, and which may include electric vehicle supply equipment or energy storage facilities.

**SOLAR COLLECTOR**

A device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy. The collector does not include frames, supports, or mounting hardware.

**SOLAR DAYLIGHTING**

Capturing and directing the visible light spectrum for use in illuminating interior building spaces in lieu of artificial lighting, usually by adding a device or design element to the building envelope.

**SOLAR ENERGY**

Radiant energy received from the sun which can be collected in the form of heat or light by a solar collector.

**SOLAR ENERGY SYSTEM (SES)**

A device, array of devices, or structural design feature, the purpose of which is to provide for generation or storage of electricity from sunlight, or the collection, storage and distribution of solar energy for space heating or cooling, daylight for interior lighting, or water heating. "Solar Energy Systems" are further defined in this section, but exclude the following which are permitted accessory uses in all districts:

- A. Solar powered light fixtures that are ground or wall mounted.
- B. Solar powered electric fences.

**SOLAR ENERGY SYSTEM, LARGE SCALE (100MW+)**

A commercial solar energy system that converts sunlight into electricity for the primary purpose of wholesale sales of generated electricity. A large-scale solar energy system is the principal land use for a parcel(s) generating 100MW or more and will require approval by the Wisconsin Public Service Commission.

**SOLAR ENERGY SYSTEM, MID-SCALE (30kW to 100MW)**

Either a privately owned solar energy system that converts sunlight into electricity for the purpose of providing power to structures and facilities on the same site, or a commercial solar energy system that converts sunlight into electricity for the primary purpose of wholesale sales of generated electricity. A mid-scale solar energy system can be a principal or accessory land use for a parcel(s) generating between 30kW to 100MW and does not require approval by the Wisconsin Public Service Commission. These may be allowed as an accessory use if a Conditional Use permit is granted.

**SOLAR ENERGY SYSTEM, SMALL-SCALE (Less than 30kW)**

A privately owned solar energy system that converts sunlight into electricity for the primary purpose of providing power to structures and facilities on the same site. A small-scale solar energy system is an accessory land use for a parcel(s) generating less than 30kW and does not require approval by the Wisconsin Public Service Commission. A small-scale SES may be ground-mounted or building mounted.

**SOLAR ENERGY SYSTEM, BUILDING INTEGRATED**

A solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems include but are not limited to photovoltaic or hot water solar energy systems that are contained within roofing materials, windows, skylights, and awnings.

**SOLAR ENERGY SYSTEM, BUILDING MOUNTED**

A form of small-scale or mid-scale SES considered as an accessory use which consists of the installation of equipment mounted on a building or incorporated into exterior building materials that uses sunlight to produce electricity or provide heat or water to a building. These systems require a building permit that shall be reviewed and issued by the Building Inspector.

**SOLAR ENERGY SYSTEM, GROUND-MOUNTED**

A form of SES mounted on a rack or pole that rests or is attached to the ground. Ground-mount systems can be either accessory or principal uses depending on its scale classification.

**SOLAR HOT AIR SYSTEM, SOLAR AIR HEAT, OR SOLAR FURNACE**

A solar energy system that includes a solar collector to provide direct supplemental space heating by heating and re-circulating conditioned building air. The most efficient performance includes a solar collector to preheat air or supplement building space heating, typically using a vertically mounted collector on a south-facing wall.

**SOLAR HOT WATER SYSTEM**

A system that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs, including residential domestic hot water and hot water for commercial processes.

**SOLAR MOUNTING DEVICES**

Racking, frames, or other devices that allow the mounting of a solar collector onto a roof surface or the ground.

**SOLAR RESOURCE**

A view of the sun from a specific point on a lot or building that is not obscured by any vegetation, building, or object for a minimum of four hours between the hours of 9:00 AM and 3:00 PM Standard time on all days of the year and can be measured in annual watts per square meter.

### **23.03 Permit Required**

No Solar Energy System (SES) may be installed or maintained in the Town of Newton without a building permit, granted pursuant to this ordinance based on the type of system as described below:

- (1) **Large-Scale SES (100 MW+).** The Town understands that local restrictions on Large-Scale Solar Energy Systems may be limited as they may be affected by State Statute provisions, project details, and necessary Wisconsin Public Service Commission project approvals. Given that, such systems are allowed as a conditional use in the A-1, A-2, A-3, B-1, and I-1 districts and requires a building permit from the Town. The Town will require a conditional use permit and/or developer's agreement as long as no conditions, in the opinion of the SES developer, inhibit or preclude the project, per Section 196.491(3)(i), Wis. Stats. A County Shoreland/Floodplain Zoning permit, if applicable, may also be required.
- (2) **Mid-Scale SES (< 100 MW and > 30 kW)** – Are subject to the permit conditions set forth in this ordinance and the requirements set forth in the Town's building permit requirements, the County's applicable Shoreland/Floodplain requirements, and any other applicable state or federal requirements. Such systems are allowed in the A-1, A-2, A-3, B-1, and I-1 districts with a conditional use permit.
- (3) **Small-Scale SES (30 kW or less)** – Are considered to be permitted accessory use in all districts, whether they be ground-mounted, building-integrated, or building-mounted systems. Such systems are allowed whether or not a principal structure exists on the parcel. A building permit from the Town is required, and a County Shoreland/Floodplain Zoning permit may also be required, if applicable.

### **23.04 Application Required**

Every building permit application for a Solar Energy System shall be made in writing and shall include the following information:

- (1) Name and address of the applicant and the name and contact information for a designated representative of the applicant.
- (2) Listing of affected parcel ID numbers and evidence that the applicant is the owner of the property involved or has the written permission of the owner to make such an application.
- (3) All materials identified in Section 7.0 Site Review.
- (4) Building permit applications for a Solar Energy System and associated fees must be submitted to the Town Zoning Administrator.
- (5) Applications for Small-Scale Building-Mounted or Building-Integrated systems meeting the design standards of this ordinance shall be granted administrative approval of their Solar Energy System building permit by the Zoning Administrator within 60 days of complete application submittal and shall not require Plan Commission review.

(6) Applications for Large-Scale Ground-Mounted and Mid-Scale SESs will be addressed by the Plan Commission within 60 days of complete application submittal.

## **23.05 Applicant Fees.** Application fees shall be paid consistent with the Town of Newton Fee Schedule.

(1) An application fee shall be charged as set in the Fee Schedule by the Town Board.

## **23.06 Site Plan Approval Required**

All solar energy systems require a building permit from the Town and shall provide a site plan for review in accordance with Section 7.0 Site Review.

(1) Site Plan Submittal Requirements:

- (a) Site layout maps and drawings which show the location of the system on the building or on the property for a ground-mount system, including: surrounding land uses, property lines, existing structures, the SES, as well as the total extent of system components, and the interconnection points with the electrical grid. For Mid-Scale and Large-Scale SESs, a map indicating neighboring lots within 1,000 feet of the perimeter of the subject site shall be provided.
- (b) To-scale horizontal and vertical (elevation) drawings illustrating the SES's dimensions, its height above ground level, orientation, and slope from horizontal.
- (c) For Mid-Scale and Large-Scale SESs, a landscape plan and/or agrivoltaics plan that includes proposed topography, grubbing and clearing along with plantings and final vegetation.
- (d) Solar energy system specifications, including the manufacturer and model, generating capacity, total height, collector square footage, wiring plan, means of interconnecting with the electrical grid, and any agreements with public utilities with regard to connecting to their systems.
- (e) Installers' qualifications and signatures certifying that the SES will be installed in compliance with all Town ordinances and any other applicable codes.
- (f) Calculations showing the percentage of land (lot) coverage by the SES when panels are in the position that has the largest horizontal area.
- (g) For Mid and Large-Scale Systems only, a decommissioning plan as established in Section 23.08.

(2) **Small-Scale Solar Uses & Design Standards.** Permitted accessory use Small-Scale SESs are subject to the requirements as set forth below. Solar carports and associated electric vehicle charging equipment are a permitted accessory use on surface parking lots in all districts regardless of the existence of another building.

(a) **Height.** Solar energy systems must meet the following height requirements:

- [1] Building or roof-mounted solar energy systems shall not exceed the maximum allowed height in any zoning district. For purposes of height measurement, solar energy systems other than building-integrated systems shall be given an equivalent exception to height standards as building-mounted mechanical devices or equipment.
- [2] Ground or pool-mounted solar energy systems shall not exceed 15 feet in height when oriented at maximum tilt.
- [3] Solar carports in non-residential districts shall not exceed 20 feet in height.

(b) **Setbacks.** Solar energy systems must meet the accessory structure setback for the zoning district and primary land use associated with the lot on which the system is located, except as allowed below:

[1] **Roof or Building-Mounted Solar Energy Systems.** The following setback requirements

apply:

- [i] Collector surface and mounting devices for roof-mounted solar energy systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built, unless the collector and mounting system has been explicitly engineered to safely extend beyond the edge, and setback standards are not violated.
- [ii] Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side-yard exposure. Solar collectors mounted on the sides of buildings and serving as awnings are considered to be building-integrated systems and are regulated as awnings.
- [iii] The panels of a system that are mounted on a flat roof may be either fixed or movable and may be placed at an angle to optimize efficiency of the system.
- [iv] A solar energy system may be mounted on the façade of a commercial building provided the installation does not project more than four feet from the face of a wall.

[2] **Ground-mounted Solar Energy Systems.** Ground-mounted solar energy systems may not extend into the side-yard or rear setback when oriented at minimum design tilt, except as otherwise allowed for by building mechanical systems.

(c) **Visibility.** Solar energy systems in residential districts shall be designed to minimize visual impacts from the public right-of-way, as described in this section to the extent that doing so does not affect the cost or efficacy of the system, consistent with WI Statute §66.0401.

(d) **Building Integrated Photovoltaic Systems.** Building integrated photovoltaic solar energy systems shall be allowed regardless of whether the system is visible from the public right-of-way, provided the building component in which the system is integrated meets all required setback, land use or performance standards for the district in which the building is located.

(e) **Aesthetic restrictions.** Roof-mount or ground-mount solar energy systems shall not be restricted for aesthetic reasons if the system is not visible from the closest edge of any public right-of-way other than an alley, or if the system meets the following standards:

- [1] Roof-mounted systems on pitched roofs that are visible from the nearest edge of the front right-of-way shall have the same finished pitch as the roof and be no more than ten inches above the roof.
- [2] Roof-mount systems on flat roofs that are visible from the nearest edge of the front right-of-way shall not be more than five feet above the finished roof and are exempt from any rooftop equipment or mechanical system screening.

(f) **Reflectors.** All solar energy systems using a reflector to enhance solar production shall minimize glare from the reflector affecting adjacent or nearby properties.

(g) **Lot Coverage.** Ground-mount systems total collector area shall not exceed half the building footprint of the principal structure.

- [1] Ground-mount systems shall be exempt from lot coverage or impervious surface standards if the soil under the collector is maintained in vegetation and not compacted.
- [2] Ground-mounted systems shall not count toward accessory structure limitations.
- [3] Solar carports in non-residential districts are exempt from lot coverage limitations.

(h) **Historic Buildings.** Solar energy systems on buildings within designated historic districts or on locally designated historic buildings (exclusive of State or Federal historic designation) must receive approval of the Town Board.

- (i) **Approved Solar Components.** All panels shall be certified by one of the following (or their equivalent as determined by the Town): Underwriters Laboratories, Inc.; National Renewable Energy Laboratory; Solar Rating and Certification Corporation. Solar hot water systems must have an SRCC rating.
- (j) **Compliance with Building Code.** All solar energy systems shall meet approval of local building code officials, consistent with the State of Wisconsin Building Code or the Building Code adopted by the local jurisdiction, and solar thermal systems shall comply with HVAC-related requirements of the Energy Code.
- (k) **Compliance with State Electric Code.** All photovoltaic systems shall comply with the Wisconsin State Electric Code.
- (l) **Compliance with State Plumbing Code.** Solar thermal systems shall comply with applicable Wisconsin State Plumbing Code requirements.
- (m) **Utility Notification.** All grid-intertie solar energy systems shall comply with the interconnection requirements of the electric utility. Off-grid systems are exempt from this requirement.

## 23.07 Mid-Scale and Large-Scale SES General Design Standards

Mid-Scale and Large-Scale SESs, whether a principal or accessory use shall be subject to the following requirements:

- (1) **Site Design**
  - (a) **Setbacks.** The SES must meet the following setbacks:
    - [1] Property line setback for buildings or structures in the district in which the system is located, except as otherwise determined in **Section 23.07(1)(a)[5]** below.
    - [2] Roadway setback of 150 feet from the ROW centerline of State highways and County highways, 100 feet for other roads, except as otherwise determined below.
    - [3] Housing unit setback of 150 feet from any existing dwelling unit, except as otherwise determined in **Section 23.07(1)(a)[5]** below.
    - [4] Setback distance should be measured from the edge of the solar energy system array, excluding security fencing, screening, or berm.
    - [5] All setbacks can be reduced by 50% if the array is fully screened from the setback point of measurement.
  - (b) **Screening.** SESs shall be screened from existing residential dwellings.
    - [1] A screening plan shall be submitted that identifies the type and extent of screening.
    - [2] Screening shall be consistent with Town standards typically applied for other land uses requiring screening.
    - [3] Screening shall not be required along property lines within the same zoning district, except where the adjoining lot has an existing residential use.
    - [4] The Town may require screening where it determines there is a clear community interest in maintaining a viewshed.
  - (c) **Ground cover and buffer areas.** The following provisions shall apply to preservation of existing vegetation and establishment of vegetated ground cover. Vegetated ground cover standards shall not apply if an agrivoltaics plan is approved as part of **Sub-section G (1) (c)**. Additional site-specific

conditions may apply as required by the Town.

- [1] Large-scale removal of mature trees on the site is discouraged. The Town may set additional restrictions on tree clearing or require mitigation for cleared trees.
- [2] The applicant shall submit a vegetative management plan prepared by a qualified professional or reviewed and approved by a natural resource agency or authority, such as the Wisconsin Department of Natural Resources, County Soil and Water Conservation District, Land and Water Conservation Department or Natural Resource Conservation Service. The plan shall identify:
  - [i] The natural resource professionals consulted or responsible for the plan.
  - [ii] The conservation, habitat, eco-system, or agricultural goals, which may include: providing habitat for pollinators such as bees and monarch butterflies, providing habitat for wildlife such as upland nesting birds and other wildlife, establishing vegetation for livestock grazing, reducing on-site soil erosion, and improving or protecting surface or ground-water quality.
  - [iii] The intended mix of vegetation upon establishment.
  - [iv] The management methods and schedules for how the vegetation will be managed on an annual basis, with particular attention given to the establishment period of approximately three years.
- [3] Soils shall be planted and maintained in perennial vegetation for the full operational life of the project, to prevent erosion, manage run off and build soil.
- [4] Vegetative cover should include a mix of perennial grasses and wildflowers that will preferably result in a short stature prairie with a diversity of forbs or flowering plants that bloom throughout the growing season. Blooming shrubs may be used in buffer areas as appropriate for visual screening. Perennial vegetation (grasses and forbs) are preferably native to Wisconsin, but where appropriate to the vegetative management plan goals, may also include other naturalized and non-invasive species which provide habitat for pollinators and wildlife and/or other ecosystem services (i.e., clovers).
- [5] Plant material must not have been treated with systemic insecticides, particularly neonicotinoids.

(d) **Foundations.** A qualified engineer shall certify that the foundation and design of the solar panel racking, and support is within accepted professional standards, given local soil and climate conditions.

(e) **Power and communication lines.** Running between banks of solar panels and to nearby electric substations or interconnections with buildings shall be buried underground. All above ground, exposed powerlines shall be placed in conduit. Exemptions may be granted by the Town in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines, or distance makes undergrounding infeasible, at the discretion of the Administrator.

(f) **Fencing.** Perimeter fencing for the site shall not include barbed wire or woven wire designs and shall preferably use wildlife-friendly fencing standards that include clearance at the bottom. Alternative fencing can be used if the site is incorporating agrivoltaics.

(g) **Stormwater and NPDES** – Mid-Scale SESs are subject to the County's stormwater management and erosion and sediment control provisions and NPDES permit requirements.

(h) **Other standards and codes.** All SESs shall follow all applicable local, state and federal regulatory codes, including the State of Wisconsin Uniform Building Code, as amended; and the National Electric Code, as amended.

- (i) **Agricultural Protection.** Mid-Scale and Large-Scale SESs must comply with site assessment or soil identification standards that are intended to identify agricultural soils. The Town may require mitigation for use of prime soils for solar array placement, including the following:
  - [1] Demonstrating co-location of agricultural uses (agrivoltaics) on the project site.
  - [2] Using a Joint Development Agreement (JDA), that requires the site to be returned to agriculture at the end of life of the solar installation.
  - [3] Placing agricultural conservation easements on an equivalent number of prime soil acres adjacent to or surrounding the project in a wellhead protection area for the purpose of removing agricultural uses from high-risk recharge areas.
- (j) **Decommissioning.** A decommissioning plan shall be required as spelled out in Section 23.08. to ensure that facilities are properly removed after their useful life.

## 23.08 Decommissioning

A decommissioning plan shall be required to ensure that facilities are properly removed after their useful life.

- (1) Decommissioning of the system must occur in the event the project reaches the end of its usable life or is inoperable for a continuous period of twelve months. If the Town determines that more than fifty percent of the panels (measured by total area) have not been operational for a continuous period of twelve months the Town shall order the removal of the inoperable panels.
- (2) Decommissioning shall consist of removal of the SES structures and subsurface foundations and equipment, disposal of all solid and hazardous waste in accordance with all applicable waste disposal regulations, and stabilization of soils and/or revegetation of the site as necessary to minimize erosion.
- (3) The decommissioning methods shall be established, and cost estimates shall be made by a competent party such as a professional engineer experienced in such matters, a contractor capable of decommissioning, or a party found by the Town to have suitable expertise or experience with decommissioning.
- (4) The Town may require the posting of a bond, letter of credit or the establishment of an escrow account to ensure proper decommissioning.
- (5) The Town Plan Commission shall review the decommissioning plan and request changes that may be needed to comply with the special exception permit or to protect the safety and welfare of the community and town properties.
- (6) The plan shall provide that decommissioning will begin within 180 days from the end of the SES useful life or if the SES is not in use for 12 consecutive months. Decommissioning shall be completed within 9 months from the start of decommissioning activities.

## 23.09 Review of Solar Energy System Permit Application

The Town will consider each SES Permit on a case-by-case basis following the procedures in Section 9, Conditional Use Permit when necessary except as modified in this Section.

- (1) In addition to the notice requirements set forth in Section 9.0 Conditional Use Permit, for Mid-Scale (principal use) and Large-Scale SESs, the Town shall provide written notice of its application to the owners and occupants of all properties located within 1,000 feet of any parcel upon which any portion of the proposed Mid-Scale or Large-Scale SES will be located.
- (2) Any Mid-Scale or Large-Scale Solar Energy System Permit must be approved by the Town Board. The Town Board may deny a permit for a Mid-Scale or Large-Scale Solar Energy System or may impose restrictions on a Mid-Scale or Large-Scale Solar Energy System if the Town finds that the denial or restrictions satisfy one of the following conditions:

- (a) The denial or restriction serves to preserve or protect the public health or safety.
- (b) The denial or restriction does not significantly increase the cost of the system or significantly decrease its efficiency.
- (c) The denial or restriction allows for an alternative system of comparable cost efficiency.

## **23.10 Solar Energy System Restrictions**

The Town may impose restrictions on a Solar Energy System relating to any of the following:

- (1) Location of the Solar Energy System if potentially impacting existing wetlands or other natural features of concern.
- (2) Setbacks from inhabited structures, property lines, public roads, communication and electrical lines, and other sensitive structures and locations.
- (3) Wiring and electrical controls of the Solar Energy System.
- (4) Reimbursement for emergency services required as a result of the Solar Energy System.
- (5) Solar Energy System ground clearance.
- (6) Solar Energy System height.
- (7) Shared revenue, payments in lieu of taxes and other financial matters. All financial matters shall be approved as part of a Joint Development Agreement (JDA).
- (8) Financial security, such as bonds, cash deposits, or letters of credit.
- (9) Decommissioning.
- (10) Compensation to affected property owners.
- (11) Any other matters that are measurable and based on substantial evidence the Town finds appropriate.

## **23.11 Revocation**

Any Solar Energy System Permit granted for the installation or maintenance of a Solar Energy System may be revoked by the Town if the permit holder, its heirs, or assigns, violates the provisions of this ordinance or the provisions of a permit granted pursuant to this ordinance.

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## **APPENDIX A**

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## **APPENDIX B**

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