
TOWN OF DAY ZONING CODE

ORDINANCE NO. 2026-02



Town of Day

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TABLE OF CONTENTS

SECTION 1

1.01	Title	3
1.02	Purpose	3
1.03	Authority	3
1.04	Effective Date	3
1.05	Jurisdiction	3
1.06	Severability	4

SECTION 2

RULES AND DEFINITIONS

2.01	General Interpretations	4
2.02	Definitions	5

SECTION 3

GENERAL REGULATIONS

3.01	Scope of Regulations	14
3.02	Sewage Disposal and Water Supply	15
3.03	Exemptions	15
3.04	Use Regulations	15
3.05	Non-conforming Structures and Uses	15
3.06	Accessory Uses and Structures	17
3.07	Area Regulations	17
3.08	Height Regulations and Exceptions	18
3.09	Street Setbacks	18
3.10	Reduced Building Setbacks	19
3.11	Visual Clearance Triangle	19
3.12	Structures Permitted Within Setback Lines	19
3.13	Radio Broadcast Service Facility Regulations	20
3.14	Mobile Tower Siting Regulations	27
3.15	Underground Utility Lines	33
3.16	Wind Energy Systems	34
3.17	Solar Energy Systems	41

SECTION 4

ADMINISTRATION AND ENFORCEMENT

4.01	Organization	55
4.02	Zoning Administrator	56
4.03	The Board of Appeals	56
4.04	The Town Plan Commission	57
4.05	Zoning Permits	58
4.06	-Reserved-	58
4.07	Variances	59
4.08	Appeals	61
4.09	Amendments	61
4.10	Conditional Uses	63
4.11	Fee Schedule	67
4.12	Penalties	67

SECTION 5

ZONING DISTRICTS

5.01	Establishment of Districts	67
5.02	District Boundaries	68
5.03	Single-Family Residential District (R-1)	68
5.04	Multiple Family Residential District (R-2)	70
5.05	General Agricultural (A)	72
5.06	Commercial (C)	77
5.07	Industrial (I)	80

SECTION 6

MOTOR VEHICLE, PARKING AND DRIVEWAY REGULATIONS

6.01	Loading Requirements	81
6.02	Parking Requirements	81
6.03	Driveways	83

SECTION 7 - 20

-Reserved-	84
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SECTION 1

1.01 TITLE:

This Code shall be known, cited, and referred to as: The Town of Day Zoning Code, hereinafter referred to as “*this Code*.”

1.02 PURPOSE:

The Zoning Code of the Town of Day is adopted for the following purposes: To protect and preserve valuable agricultural land; to prevent land use conflicts between incompatible agricultural and non-agricultural uses; and to space and shape future non-farm growth in rural areas. The further purpose of this Code is to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote and to protect the public health, safety, comfort, convenience, and general welfare; to provide adequate standards of light, air, and open space; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements; and to foster a more rational pattern of relationship between residential, business, commercial, agricultural, and manufacturing uses for the mutual benefit of all. It is further intended to provide for the administration and enforcement of this Code on a local level and to provide penalties for its violation.

1.03 AUTHORITY:

These regulations are adopted under the authority granted by sections [§60.22](#), [§60.61](#), [§60.62](#), [§61.35](#) and [§62.23](#) of the Wisconsin Statutes.

1.04 EFFECTIVE DATE:

This Code shall be effective after a public hearing, adoption by the Town Board, and publication of the same.

1.05 JURISDICTION:

- (1) The provisions of this Code shall apply to all structures, land, air space and surface and subsurface waters within the Town of Day, Marathon County, Wisconsin.
- (2) Lands within 1,000 feet of a lake or within 300 feet of a stream or to the landward side of a floodplain, whichever is greater, are also regulated by Marathon County relating to protected shorelands and flood lands. Wetlands falling within said shoreland jurisdiction of the County, as well as other wetlands, may also be regulated by the Wisconsin Department of Natural Resources or the U.S. Corps of Engineers or by both agencies.
- (3) The responsibility to determine whether such other agencies of Section 1.05(2) are asserting jurisdiction of their regulations, in addition to this Code, to a particular parcel of land rest with the land’s owner or agent. To satisfy Town administration, the Town may require a written declaration from such agencies whether their jurisdiction applies or not. Where both the regulation of this Code and those of

another such agency too apply, in accordance with Section 2.01, the more restrictive individual regulation shall apply.

1.06 SEVERABILITY:

It is hereby declared to be the intention of the Town Board of the Town of Day that the provisions of this Code are severable, in accordance with the following:

- (1) If any Court of competent jurisdiction shall adjudge any provision of this Code to be invalid, such judgment shall not affect any other provisions of this Code not specifically included in said judgment.
- (2) If any Court of competent jurisdiction shall adjudge invalid the application of any provision of this Code to a particular property, building, or other structure, such judgment shall not affect the application of said provision to any other property, building, or structure not specifically included in said judgment.

SECTION 2

RULES AND DEFINITIONS

2.01 GENERAL INTERPRETATIONS:

The following rules of construction apply to this Code: The particular shall control the general: in case of any difference of meaning or implication between the text of this Code and any caption or illustration, the text shall control; where there are conflicts between or among regulations within this Chapter, the regulations that are more restrictive or which impose higher standards or requirements shall prevail; the word “shall” is always mandatory whereas the word “may” is permissive; words used in the present tense shall include the future, and words used with singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary; “building” or “structure” includes any part thereof; the phrase “used for” includes “arranged for”, the word “person” includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity; unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction “and”, “or”, “either”... “or”, the conjunction shall be interpreted as follows: “and” indicates that all the connected items, conditions, provisions or events shall apply; “or” indicates that the connected items, conditions, provisions, or events may apply singly in any combination; “either...or” indicates that the connected items, conditions, provisions or events shall apply singly but not in combination; all measured distances shall be to the nearest integral foot, if a fraction is one-half foot or more, the integral foot next above shall be taken; the masculine gender includes the feminine and the neutral.

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

2.02 DEFINITIONS:

The following words, phrases, and terms wherever they occur in this Code, shall be interpreted as herein defined. Words not herein defined shall have their ordinary meaning.

Abut: To share a common boundary. Properties separated by a public right of way shall not be considered abutting.

Accessory Building, Nonresidential: A structure subordinate to the principal building which is located on the same nonresidential parcel.

Accessory Building Residential: A structure subordinate to the principal building which is located on the same residential parcel. Accessory residential structures included, but not limited to, garages, carports, other parking spaces, swimming pools, tennis courts, and tool sheds. Accessory structures in residential districts shall not involve the conduct of any business, trade or industry.

Accessory Use, Building or Structure: A use, building or structure on the same lot or parcel customarily incidental and accessory to the principal use of the lot or parcel, or building or structure as the principal use.

Agricultural Use: "Agricultural Use" means beekeeping; commercial feedlots; dairying; egg production; floriculture; fish or fur farming; forest and game management; grazing; livestock raising; orchards; plant greenhouses and nurseries; poultry raising; raising of grain, grass, mint and seed crops; raising of fruits, nuts and berries; sod farming; and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities. Placing land in federal programs in return for payments in kind; owning land, at least 35 acres of which is enrolled in the conservation reserve program under Title [16 USC 3831 to 3835](#); participating in the milk production termination program under Title [7 USC 1446\(d\)](#); and vegetable raising.

Airport: An "airport" is any area of land or water which is used or intended for use for the landing and taking off aircraft, and any appurtenant areas which are used or intended for airport buildings or other airport facilities or rights-of-way, including all necessary taxiways, aircraft storage and tie-down areas, hangars, and other necessary buildings and open spaces.

Animal Unit: A unit of measure used to determine the total number of single animal types or combination of animal types, as specified in [NR243.11](#), Table 2A and Table 2B, which are fed, confined, maintained or stabled. For the purposes of this Code, one animal unit includes by enumeration, without limitation, one sheep, cow, goat, horse, swine. A one-tenth (1/10) animal unit shall be assigned to poultry. Household pets shall not be considered an animal unit. The term animal unit means a unit of measurement for any animal feeding operation calculated by adding the following numbers: the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over (approximately 55 pounds) multiplied by 0.4, plus the

number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0. For animals not listed, the number of animal units shall be defined as the average weight of the animal divided by one thousand (1,000) pounds, excluding household pets.

Apartment House: An “apartment house” is a building containing accommodations for more than two (2) families living independently of each other.

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

Automobile Wrecking or Salvage Yard: An “automobile wrecking” or “salvage yard” includes any area of land where three or more vehicles, not in running condition, and/or accumulation of parts thereof are stored in the open and are not being restored to operation, or any land, building, or structure used for the wrecking or storing of such motor vehicles, or parts thereof, not in running condition.

Basement: A "basement" is that portion of a building the floor-line of which is below lot grade and the ceiling of which is not more than five (5) feet above lot grade.

Boarding House: A “boarding house” is a building other than a hotel or restaurant where meals or lodging are regularly furnished by prearrangement for compensation for five (5) or more persons not members of a family but not exceeding twenty (20) persons and not open to transient customers.

Building: A "building" is any structure built, used, designed, or intended for the support, shelter, protection, or enclosure of persons, animals, chattels, or property of any kind, and which is permanently affixed to the land. When a building is divided into separate parts by unpierced fire or party walls extending continuously from the ground through all stories to and above the roof, each part shall be deemed a separate building.

Building, Accessory: A subordinate or supplemental building, the use of which is incidental to that of the principal building on the same lot or incidental to the use of the premises on which it is located.

Building Height: The vertical distance from the average grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridges for gable, hip, and gambrel roofs.

Building, Principal: A “principal building” is a non-accessory building used for the protection of goods or chattels in which a principal use of the premises on which it is located is conducted.

Building Site Area: The ground area of a building or buildings, together with all open spaces required by this Code.

Campground: A “campground” is any premises established for overnight habitation by persons using equipment designed for temporary camping and for which a fee is charged.

Channel: A “channel” is a natural or artificial watercourse of perceptible extent, with definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow is that which is flowing within the limits of the defined channel.

Club: A “club” is an association for some common purpose, but not including a group organized for or which is engaged in rendering a service which is customarily carried on as a business. A roadhouse or tavern shall not be construed as a club.

Condominium: A “condominium” is a type of real estate property where a person owns a specific unit within a larger building or complex.

Day Care Centers: For this Code, day care or childcare centers shall have the same definition as contained in Wis. Stat. [§49.136\(1\)](#),

Development: Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or substantial improvements to buildings, structures or accessory structures; the placement of building or structures; mining, dredging, filling, grading, paving, excavation or drilling operations; and the storage, deposition or extraction of materials, public or private sewerage disposal systems or water supply facilities.

District: A designated area of the Town for which the regulations governing the use of the land and buildings are uniform.

Dog Kennel: A “dog kennel” is a structure used for the harboring of more than three (3) dogs that are more than six (6) months old

Dwelling: A building or portion thereof designed exclusively for residential occupancy, including one-family, two-family, and multiple-family dwellings, but not including hotels, boarding houses, and lodging houses.

Establishment, Business: A “business establishment” is a place of business carrying on operations, the ownership and management of which are separate and distinct from those of any other place of business located on the same zoning lot. Direct access to each “business establishment” shall be separate and distinct from direct access to any other business establishment, and in no case shall there be access to one such establishment from within another such establishment.

Family: A "family" consists of one or more persons each related to the other by blood, marriage, or adoption, who are living together in a single dwelling and maintaining a common household. A "family" includes any domestic servants and not more than one gratuitous guest residing with said "family".

Farm: An area of land devoted to the production of field or truck crops, livestock or livestock products, which constitute the major use of such property. This includes fur farms in which the animals are housed and fed under artificial conditions.

Farm Operator: An owner occupant of a parcel of 35 or more acres of contiguous land, which is devoted primarily to agricultural use, which during the year preceding application for a farmland preservation agreement produced gross farm profits, as defined in Wis. Stat. [§71.58\(4\)](#), of not less than \$6,000 or which during the 3 years preceding application produced gross farm profits, as defined in Wis. Stat. [§71.58\(4\)](#), of not less than \$18,000, or a parcel of 35 or more acres of which at least 35 acres, during part or all of the year preceding application, were enrolled in the conservation reserve program under Title [16 USC 3831 to 3835](#).

Feedlot: A feedlot shall be determined to be any of the following facilities, when they are a business and means of livelihood:

- (1) Any tract of land or structure wherein any type of fowl or the byproducts thereof are raised in close quarters for sale at wholesale or retail;
- (2) Any structure, pen, or corral wherein cattle, horses, sheep, goats, and swine are maintained in close quarters for fattening such livestock for final shipment to market.

Floor Area: The gross horizontal areas of the several stories within the outer lines of the exterior walls of a building or from the centerline of party walls; provided that the floor area of a dwelling shall not include space not usable for living quarters, such as attics, utility or unfinished basement rooms, garages, breezeways and unenclosed porches, or terraces.

Frontage: Frontage is the length of all the property fronting on one side of a street between the two nearest intersecting streets, measured along the line of the street, or if dead-ended, then all the property abutting on one side between an intersecting street and the dead end of the street.

Fur Farm: Any property comprising land or building or both, used for raising or harboring fur bearing animals, including those defined in Wis. Stat. [§29.001\(30\)](#), and including chinchillas and other fur bearing animals, whether the animals are kept for breeding or slaughtering or pelting purposes.

Grade: Grade is the average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.

Home Occupation: Any occupation for gain or support, when such occupation is incidental to the residential use of the premises and does not involve any external alteration that would effect a substantial change in the residential character of the building; provided further that no article is sold or offered for sale that is not produced by such home occupation, that no stock in trade is kept or sold, that no person other than a member of the resident family is employed on the premises, and that no more than 25% of the floor area of any floor of the residence or accessory building is used for the home occupation. A home occupation

includes uses such as babysitting, dressmaking, canning, laundering and crafts, but does not include the display of any goods nor such occupations as barbering, beauty shops, nonretail cabinet making, real estate brokerage or photographic studios.

Hotel: A “hotel” is a building in which board and lodging are provided to the transient public for compensation.

Junk Yard: A junk yard is an open area where waste or scrap materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber tires, and bottles. A junk yard includes an auto wrecking yard but does not include uses established entirely within enclosed buildings.

Lot of Record: A lot which is recorded in the office of the County Register of Deeds.

Lot: A parcel of land occupied or designed to be occupied by one building and its accessory buildings or uses, including the open spaces required by this Code, and abutting on a public street or other officially approved means of access. A lot may be a parcel designated in a plat or described in a conveyance recorded in the Office of the Register of Deeds, or any part of a larger parcel when such part complies with the requirements of this Code as to width and area for the district in which it is located. No land included in any street, highway, or railroad right of way shall be included in computing lot area.

Lot, Corner: A lot located at the intersection of two streets, any two corners of which have an angle of 120 degrees or less, or is bounded by a curved street, any two chords of which, on the inside of the curve, from an angle of 120 degrees or less.

Lot, Width: For this Code the width of a lot shall be the shortest distance between the side lines at the building setback line. Such building line may be the setback line, or a line designated on a plat, or in a conveyance of an unplatted parcel.

Manufactured Home: A home certified and labeled as a manufactured home under Title [42 USC 5401 to 5425](#) which is set upon a foundation constructed at a minimum to the requirements of Wis. Adm. Code [SPS 321.18](#), or a comparable foundation as approved by the local Zoning Administrator or Building Inspector, is installed according to manufacturer's instructions, and is properly connected to utilities. For purposes of this Code, a "manufactured home" shall be treated the same as a "single-family residence" and, where appropriate, a "two-family residence".

Mobile Home: Is a vehicle manufactured or assembled before June 15, 1976, designed to be towed as a single unit or in sections upon a highway by a motor vehicle and equipped and used, or intended to be used, primarily for human habitation, with walls of rigid uncollapsible construction, which has an overall length more than 45 feet. "Mobile home" includes the mobile home structure, its plumbing, heating, air conditioning and electrical systems, and all appliances and all other equipment carrying a manufacturer's warranty.

Manufactured Home Community: Means any plot or plots of ground upon which 3 or more manufactured homes that are occupied for dwelling or sleeping purposes are located. Manufactured home community does not include a farm where the occupants of the manufactured homes are the father, mother, son, daughter, brother or sister of the farm owner or operator or where the occupants of the manufactured homes work on the farm.

Migrant Housing: Temporary living quarters provided for migrant workers, particularly those employed in seasonal agricultural work.

Multi-Family Home: A dwelling divided into three (3) living units or residences, usually having separate entrances.

Non-Conforming Structure: Any structure conforming in respect to use but not in respect to frontage, width, height, area, yard, parking, or distance requirements shall be considered a non-conforming structure and not a non-conforming use.

Non-Conforming Use: A use, building or structure existing at the time of enactment of this Code and which does not conform to the requirements set by the District in which said use, building or structure exists.

Occupancy: Pertains to and is the purpose for which a building is used or intended to be used. A change of occupancy is not intended to include a change of tenants or proprietors.

Park: A “park” is a pleasure ground set apart for recreation of the public, to promote its health and enjoyment.

Park, Amusement: An “amusement park” is an area publicly or privately owned, containing amusement and recreational facilities and devices, whether operated for profit or not.

Parking Lot: A “parking lot” is a lot where automobiles are parked or stored temporarily, but not including the wrecking of automobile or other vehicles or storage for repair or wrecking.

Parties in Interest: The applicant and the subject property owner and adjoining property owners.

Permanent Foundation: A "foundation" as defined hereinabove, the minimum requirements of which shall be specified in Wisconsin Administrative Code [SPS 321.18](#).

Person: An individual, or group of individuals, corporation, partnership, association, municipality or state agency.

Planned Development: A “planned development” is a tract of land which contains or will contain two (2) or more principal buildings, developed under single ownership or control; the development of which is unique and of a substantially different character than that of

surrounding areas. A planned development allows for flexibility not available under normal zoning district requirements.

Poultry and Egg Operation: Any tract or structure wherein any type of fowl or the by-products thereof are raised in closed quarters for sale at wholesale or retail.

Professional Office: A “professional office” includes the office of a doctor, practitioner, dentist, minister, architect, landscape architect, professional engineer, lawyer, author, musician, or other recognized profession.

Property Lines: Property Lines are the lines bounding a zoning lot, as defined herein.

Protected Shorelands: “Protected shorelands” are those lands lying within the following distances from the normal high-water elevations of navigable waters as defined in Wis. Stat. [§281.31](#), i.e. one thousand (1,000) feet from a lake, pond or flowage, three hundred (300) feet from a river or stream or to the landward side of the floodplain, whichever distance is greater. If the navigable water is a glacial pot hole lake, the distance shall be measured from the high-water mark thereof.

Public Way: A “public way” is any sidewalk, street, alley, highway, or other public thoroughfare.

Quarrying: “Quarrying” is the removal of rock, gravel, decomposed granite, sand, top soil or other natural material from the earth by excavating, stripping, leveling or any other process.

Recreation or Youth Camp: A “recreational camp” or “youth camp” is an area containing one or more permanent buildings used occasionally or periodically for the accommodation of members of associations or groups for recreational purposes.

Rendering Plant: A plant for the reduction of dead animals, or slaughtered animals not suitable for human consumption, to by-products such as hide, skin, grease, bones, glue, and soap and for the storage of such by-products.

Riding Stable: A “riding stable” is a building or premises used for the rent or lease of horses or animals for hire.

Residence: A building designed or used exclusively as a permanent living quarters excluding single wide manufactured homes.

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

Setback: The shortest distance between the exterior of a building or structure and the nearest point on the reference lot line, waterline, or prospective line, excluding permitted intrusions.

Sign: A “sign” is any advertisement, announcement, direction, or communication produced in whole or in part by the construction, erection, affixing, or placing of a structure on any land or on any other structure, or produced by painting on or posting or placing any printed, lettered, pictured, figured, or colored material on any building, structure, or surface. Signs placed or erected by governmental agencies or nonprofit civic associations for a public purpose in the public interest shall not be included herein nor shall this include signs which are a part of the architectural design of the building.

Sign, Flashing: A “flashing sign” is any illuminated sign on which the artificial light is not maintained stationary, or constant in intensity and color at all times when such sign is in use.

Slaughter House: A “slaughter house” is any building or premises used for the killing or dressing of fowl, cattle, sheep, swine, goats or horses, and the storage, freezing and curing of meat and preparation of meat products.

Special Uses: “Special uses” are uses which may be permitted in a district through the granting of a Conditional Use Permit by the Town Board, upon recommendation by the Plan Commission and a finding that specified conditions are met.

Story: A “story” is the vertical distance between the surface of any floor in the floor next above it, or if there be no floor above it, the space between such floor and the ceiling next above it.

Street: A public or private thoroughfare which affords a primary means of access to abutting property. A driveway to a farm building shall not be considered a street for determining setback, even though such driveway may have been designated a town road for maintenance.

Structure: Anything constructed or erected, the use of which requires a permanent location in or on the premises, or any other attachment to something having a permanent location on the ground, which includes, but is not limited to, objects such as buildings, sheds, cabins, mobile homes, gas or liquid storage tanks, bridges, culverts, decks, satellite dishes or swimming pools.

Structural Alterations: Any change in the supporting members of a structure such as bearing walls, columns, beams or girders, footing, and piles.

Substantial Improvement: Any repair, reconstruction or improvement of a structure, the value of which equals or exceeds 50% of the present assessed value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. The term does not, however, include either any project for improvement of a structure to comply with existing state or local health,

sanitary or safety code specifications which are solely necessary to assure safe living conditions, or any alteration of a structure or site documented as deserving preservation by the State Historical Society or listed on the National Register of Historic Places. Ordinary maintenance repairs are not considered structural repairs, modifications or additions; such ordinary maintenance repairs include internal and external painting, decorating, paneling and replacement of doors, windows and other nonstructural components.

Temporary Structure: A movable structure not designed for human occupancy which may be used for the protection of goods and chattels.

Tent: A “tent” is any temporary structure or enclosure, the roof of which and/or one-half (1/2) or more of the sides, are constructed of silk, cotton, canvas, fabric, or similar pliable material.

Two-Family Home: A dwelling divided into two (2) living units or residences, usually having separate entrances.

Use, Conditional: A conditional use is a use which, because of its unique characteristics, cannot be properly classified as a permitted use in a particular district or districts. After due consideration, in each case, of the impact of such use upon neighboring land and of the public need for the particular use at the particular location, such conditional use may or may not be granted, subject to the terms of this Code. A conditional use permit may be granted only by the Town Board after public hearing and written recommendation by the Town Plan Commission.

Use, Permitted: A permitted use is a use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations, and standards of such district.

Use, Principal: A principal use is the main use of land or buildings as distinguished from a subordinate or accessory use. A principal use may be "permitted" or "conditional".

Variance: A departure from the terms of this Code as applied to a specific building, structure or parcel of land, which the Town Board may permit, contrary to the regulations of this Code for the district in which such building, structure or parcel of land is located.

Visual Clearance: A “visual clearance” is a triangular space which permits an unobstructed view at the intersection of highways or streets with other highways, streets or roads, or at the intersection of highways or streets with railroads.

Waterline: A “waterline” is the shortest straight line that lies wholly within a lake or stream lot, provided that not less than seventy-five (75) percent of any one hundred (100) feet of such line shall be on the landward side of, or upon, the ordinary high-water mark of such lake or stream.

Yard: An open space on a lot which is unoccupied and unobstructed from its lowest level to the sky. A yard extends along a line and at right angles to such lot line to a depth or width specified in the yard regulations for the zoning district in which such lot is located.

Yard, Front: A front yard is a yard extending along the full length of the front lot line between the side lot lines.

Yard, Rear: A rear yard is a yard extending along the full length of the rear lot line between the side lot lines.

Yard, Side: A side yard is a yard extending along a side lot line from the front yard to the rear yard.

Yard, Corner Side: A “corner side yard” is a side yard which adjoins a public street.

Zoning Administrator: A person appointed by the Town Board to administer and enforce this Code.

Zoning Permit: Zoning Permit as used in this Code is issued by the Zoning Administrator for use in compliance with the Town of Day Zoning Code.

SECTION 3

GENERAL REGULATIONS

3.01 SCOPE OF REGULATIONS:

These regulations shall conform to the following requirements:

- (1) All buildings erected hereafter, all uses of land or buildings established hereafter, and all structural alteration or relocation of existing building occurring hereafter shall be subject to all regulations of this Code which are applicable to the zoning districts in which such buildings, uses, or land shall be located.
- (2) However, where a building permit for a building or structure has been issued in accordance with law prior to the effective date of this Code, and provided that construction is begun within six (6) months of such effective date and diligently prosecuted to completion, said building or structure may be completed in accordance with the approved plans on the basis of which the building permit has been issued, and further, may upon completion be occupied under a certificate of occupancy by the use for which originally designated – subject thereafter to the provisions of this Code relating to Non-Conforming Buildings, Structures, and Uses.
- (3) Where the Zoning Administrator has issued a zoning permit, a conditional use permit, or a permit for a variance pursuant to the provisions of this Code, such

permit shall become null and void unless work thereon is substantially underway within six (6) months of the date of the issuance of such permit.

- (4) A conditional use permit shall be deemed to authorize only one particular conditional use and shall expire if the conditional use shall cease for more than twelve (12) months, for any reason.

3.02 SEWAGE DISPOSAL AND WATER SUPPLY:

Private Onsite Wastewater Treatment Systems (POWTS) setbacks are established by the State and outlined in [SPS Table 383.43-1](#). POWTS setbacks are regulated by the State and by the Marathon County Onsite Waste Specialist. A zoning application shall include the location of the POWTS on the plot plan. No zoning permit shall be issued for a structure requiring a POWTS without first obtaining a [SANITARY PERMIT](#) from the Marathon County Onsite Waste Specialist.

3.03 EXEMPTIONS:

The following uses are exempt by this Code and permitted in any zoning district: poles, towers, wires, cables, conduits, vaults, laterals, pipes, mains, valves or any other similar distributing equipment for telephone or other communications and electric power, gas, water and sewer lines.

3.04 USE REGULATIONS:

- (1) Uses Restricted:
In any district no building or land shall be used and hereafter no building shall be erected, structurally altered, or relocated except for one or more of the uses hereinafter stated for that district.
- (2) Temporary Uses:
Uses such as real estate sales field office or shelters for materials and equipment being used in the construction of a permanent structure, may be permitted by the Town Board.
- (3) Unclassified Uses:
In case of question as to the classification of a use, the question shall be submitted to the Town Board for determination, after a recommendation by the Plan Commission.

3.05 NON-CONFORMING STRUCTURES AND USES:

- (1) Continuation or Expansion:

Any non-conforming building, structure or use which existed lawfully at the time of the adoption of this Code or amendment thereto may be continued although such building or use does not conform with the provisions of the Code, but no non-

conforming building or premises may be expanded unless approved in writing by the Town Board after a public hearing before the Plan Commission. However, the repair, maintenance, renovation, rebuilding or remodeling of a non-conforming structure or any part of it is not prohibited or limited based on the cost of the same. The Zoning Board of Appeals shall have jurisdiction to permit the expansion of a non-conforming building or premises in those instances where the non-conformity of the building structure or use could be remedied by the issuance of a variance under the provisions of Section 4.07 of this Code.

(2) Limitations:

- (a) No non-conforming structure or use during its total lifetime shall be enlarged or expanded in excess of 50% of its assessed value at the time of it's becoming non-conforming, unless permanently changed to conform with the regulations of this Code.
- (b) When a non-conforming structure is damaged to the extent of more than 50% of its assessed value at the time it was damaged, as determined by the Town Board, it shall not be restored except in conformity with the regulations of the district in which it is located.
- (c) These regulations are not to be construed to prevent the necessary maintenance or repairs of buildings, utilities and property.

(3) Lot Lines:

The size and shape of a lot shall not be altered so as to increase the degree of nonconformity of a building or use.

(4) Discontinuance:

If the non-conforming use of a building or premises is discontinued for twelve (12) consecutive months, any future use of the structure or premises shall conform to the regulations of the district in which it is located.

(5) Change:

The Town Board, after investigation and public hearing by the Plan Commission, may authorize the change of one non-conforming use to another of the same classification provided that the Plan Commission shall find that the proposed change of use will be no more harmful to the character of the neighborhood than the existing non-conforming use. Whenever a non-conforming use has been changed to a more restricted non-conforming use or a conforming use, such use shall not thereafter be changed to a less restricted use.

3.06 ACCESSORY USES AND STRUCTURES:

In any district, accessory buildings and uses customarily incident to the permitted uses in that district shall be permitted subject to such requirements as may be designated for that district in which they are located. Accessory buildings, structures, and uses shall be compatible with the principal uses and shall not be established prior to the principal use unless otherwise approved by the Plan Commission.

(1) Location:

No accessory building or structure shall be erected or altered or moved to a location within the required area of a front or side yard. An accessory building, structure or use in a rear yard shall be not less than seven feet from any property line, except that on a corner lot or a through lot, such accessory building shall be subject to the same highway or street setback requirements as the principal building, unless otherwise provided herein for a specific permitted or special use.

3.07 AREA REGULATIONS:

(1) Lot Reduction:

After adoption of this Code, no lot area shall be so reduced that the dimensional and yard requirements required by this Code cannot be met.

(2) Existing Lot:

Lots existing and of record prior to adoption of this Code, but of substandard size, may be devoted to uses permitted in the district in which located, providing the requirements of Chapters [SPS 383](#) and [SPS 385](#) of the Wis. Adm. Code can be satisfied.

(3) Yard and Open Space Regulations:

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

The yard requirements stipulated elsewhere in this Code may be modified as follows:

- (a) Uncovered stairs, landings, patios, decks, open porches and fire escapes may project into any yard but not closer than five (5) feet to any lot line.

- (b) Marquees, awnings, and chimneys adjoining the principal building; overhanging roof eaves and architectural projections; may project into any required yard.
- (c) Ornamental light standards, flag poles, trees, and outdoor fuel-dispensing equipment is permitted in any yard.
- (d) Residential fences are permitted on the property lines in residential districts but shall not in any case exceed a height of six (6) feet and shall not exceed a height of four (4) feet in yards abutting streets and shall not be closer than two (2) feet to any public right-of-way. Security fences are permitted on the property lines in all districts except residential districts but shall not exceed ten (10) feet in height and shall be of an open type similar to woven wire or wrought iron fencing. All fences shall be installed with the finished side facing the adjoining property.

3.08 HEIGHT REGULATIONS AND EXCEPTIONS:

- (1) Heights of the following structures, except for those adjacent to airports, may exceed Code limits for the district in which they are located: cooling towers, stacks, barns, lookout towers, silos, windmills, water towers, church spires, radio and television towers and antennas, masts, antennas and similar mechanical appurtenances.
- (2) Churches, schools, hospitals, sanatoriums, and other public and quasi-public buildings may be erected to a greater height not exceeding sixty (60) feet, provided the front, side and rear yards required in the district in which such building is to be located are each increased at least one (1) foot for each foot of additional building height above the height limit otherwise established for the district in which such building is to be located.
- (3) Adjacent to airports the maximum height of any object, except for field crops and fences that meet the all of the requirements of this Code, located within five hundred (500) feet of either side of the centerline of a landing strip, and extended to a distance of two miles from the end of the runway shall be no higher than 1-50 of the distance of the object to the boundary of the airport as provided in [Wis. Stat. §114.136\(2\)\(b\).](#)

3.09 STREET SETBACKS:

For the purpose of determining the distance for buildings, other structures, and any feed storage and manure storage activities from the roads, streets, and highways within the Town, there shall be a setback from roads, streets, and highways, with the following to apply:

- (1) The setback from all roads, streets, and highways shall be eighty-three (83) feet from the centerline of such road, street, or highway.

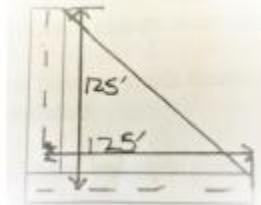
- (2) Corner lots shall conform to section 3.11.

3.10 REDUCED BUILDING SETBACKS:

- (1) A street/front yard setback less than the setback required for the appropriate class of street may be permitted where there are existing principal buildings within two hundred (200) feet of the proposed building site that are built to less than the required setback. In such cases the setback shall be no less than the average of the setbacks of the nearest principal building on each side of the proposed site or, if there is no principal building within two hundred (200) feet on one side, the average of the setback for the principal building on the one side and the setback required in Section 3.09. The average is not to include any buildings now within ten (10) feet of the right-of-way.
- (2) Any modification of other setbacks shall be pursuant to Section 4.07 of this Code.
- (3) Corner lots shall conform to Section 3.11.

3.11 VISUAL CLEARANCE TRIANGLE:

- (1) In each quadrant of every public street intersection or street-railroad intersection, there shall be a visual clearance triangle bounded by the street centerlines and a line connecting points on them one hundred and twenty-five (125) feet from a street intersection or street railroad intersection.



Within a visual clearance triangle, no structure or object of natural growth shall be constructed, maintained or permitted to grow between a height of two and a half (2½) feet and ten (10) feet above the elevation of the street or highway grade at the centerline, except as provided in Section 3.12.

3.12 STRUCTURES PERMITTED WITHIN SETBACK LINES:

- (1) Open fences.
- (2) Petroleum and gas transmission lines, telephone, telegraph and power transmission towers, poles and lines, and portable equipment both above and below ground that are readily removable in their entirety. Additions to and replacements of all such structures may be made, provided the owner will file with the Town Board an agreement in writing that the owner will move or remove all new construction additions and replacements erected after the adoption of this Code at his/her

expense, when necessary to the public interest. (i.e. highway construction, airport, sewer and water lines, etc.).

- (3) Underground structures not capable of being used as foundations for future prohibited over ground structures.
- (4) The planting and harvesting of field crops, shrubbery and trees, shrubbery or field crops, shall be planted so as to constitute no substantial obstruction to the view of motorists and pedestrians across the vision clearance triangle from one highway or street to another.
- (5) Access or frontage roads constructed by the public to plans approved by the Town Board.
- (6) Permitted signs and signs placed by the public authorities for the guidance or warning of traffic.

3.13 RADIO BROADCAST SERVICE FACILITY REGULATIONS:

- (1) Definitions:

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

- (a) ***Alternative Tower Structure:*** means manmade structures such as elevated tanks, electric utility transmission line towers, nonresidential buildings and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers. Freestanding signs are not considered to be alternative tower structures.
- (b) ***Antenna:*** means any exterior apparatus designed for radio, or television communications through the sending and/or receiving of electromagnetic waves.
- (c) ***FAA:*** means the Federal Aviation Administration.
- (d) ***FCC:*** means the Federal Communications Commission.
- (e) ***Governing Authority:*** means the governing authority of the Town.
- (f) ***Height:*** means, when referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if the highest point is an antenna.
- (g) ***Tower:*** means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting

lattice towers, guy towers or monopole towers. The term includes radio and television transmission towers, alternative tower structures and the like but does not include mobile towers covered in Section 3.14 of this Zoning Code.

- (h) The definitions contained within Wis. Stat. [§66.0406\(1\)](#) and as from time to time amended are hereby incorporated into this Zoning Code as if fully set forth herein.

(2) Public Health and Safety Objectives:

The purpose of this section is to establish general guidelines for the siting of towers and antennas. Pursuant to Wis. Stat. [§66.0406\(2\)](#) the regulations set forth herein are the minimum practical regulations that is necessary to accomplish the Town's public health and safety objectives. The public health and safety objectives of this section are to:

- (a) Encourage the location of towers in nonresidential areas and minimize the total number of towers throughout the Town;
- (b) Strongly encourage the joint use of new and existing tower sites;
- (c) Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the Town is minimal;
- (d) Encourages users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas;
- (e) Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively and efficiently.
- (f) This code shall reasonably accommodate radio broadcast services and does not prohibit or have the effect of prohibiting such services in the Town.

(3) Aesthetics and Lighting:

The guidelines set forth in this section shall govern the location of all towers, and the installation of all antennas;

- (a) Towers shall maintain a galvanized steel finish, or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
- (b) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend the tower facilities to the natural setting and built environment.

- (c) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- (d) Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the governing authority may review the available lighting, alternatives and approve the design that would cause the least disturbance to the surrounding views.
- (e) Towers and antennas shall not be used for displaying any advertising. If FCC rules require that the owner's name be shown on the tower or antenna, it shall be posted no more than six feet above ground on a placard no larger than one and one-half square feet.

(4) Federal Requirements:

All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this section shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna by the governing authority at the expense of the tower or antenna owner, or at the expense of the property owner in the case where the owner of the tower or antenna is leasing the property upon which the tower or antenna is installed.

(5) Building Codes; Safety Standards:

To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state and local building codes, and the applicable standards for towers that are published by the Electronic Industries Association as amended from time to time. If, upon inspection, the governing authority concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. If the owner fails to bring such tower into compliance within 30 days, the governing authority may remove such tower at the expense of the tower or antenna owner, or at the expense of the property owner in the case where the owner of the tower or antenna is leasing the property upon which the tower or antenna is installed.

(6) Height Limitations:

The requirements set forth in this section shall govern the location of towers that exceed, and antennas that are installed at, a height in excess of the height limitations specified for each zoning district. The height limitations applicable to buildings and structures shall not apply to towers and antennas; however, in no case shall any tower exceed the following height limitations:

- (a) For a single user, up to 90 feet in height;
- (b) For two users, up to 120 feet in height; and
- (c) For three or more users, up to 150 feet in height.

(7) Public Property:

Antennas located on property owned, leased, or otherwise controlled by the governing authority shall be exempt from the requirements of this article, provided a license or lease authorizing such antenna or tower has been approved by the governing authority.

(8) Amateur Radio, Receive-Only Antennas:

This section shall not govern any tower, or the installation of any antenna, that is under 70 feet in height and is owned and operated by a federally licensed amateur radio station operator or used exclusively as a receive only antenna.

(9) Pre-existing Towers and Antennas:

Any tower or antenna for which a permit has been properly issued prior to the effective date of the code from which this section is derived shall not be required to meet the requirements of this section. Any such towers or antennas shall be referred to in this article as pre-existing towers or pre-existing antennas.

(10) Removal of Abandoned Antennas and Towers:

Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove same within 90 days of receipt of notice from governing authority notifying the owner of such abandonment. If such antenna or tower is not removed within 90 days, the governing authority may remove such antenna or tower at the expense of the tower or antenna owner, or at the expense of the property owner in the case where the owner of the tower or antenna is leasing the property upon which the tower or antenna is installed. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

(11) Principal or Accessory Use:

Antennas and towers may be considered either principal or accessory uses and shall require a conditional use permit pursuant to Section 4.10 of this Code. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including, but not limited to, setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lots. Towers that are constructed and antennas that are installed, in accordance with the provisions of this section shall not be deemed to constitute the expansion of a non-conforming use of a structure.

(12) Inventory of Existing Sites:

Each applicant for an antenna and/or tower shall provide to the Plan Commission an inventory of its existing towers that are either within the jurisdiction of the governing authority, or within one mile of the border thereof, including specific information about the location, height, and design of each tower. The Plan Commission may share such information with other applicants applying for administrative approvals or conditional use permits under this section, or other organizations seeking to locate antennas within the jurisdiction of the governing authority; however, the Plan Commission is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

(13) Permitted Uses:

- (a) *Generally.* Notwithstanding Subsection (12), the uses listed in this subsection are deemed to be permitted uses and shall not require a conditional use permit. Nevertheless, all such uses shall comply with this subsection and all other applicable provisions.
- (b) *Specific permitted uses.* The following uses are specifically permitted:
 - i Installing an antenna on an existing alternative tower structure, so long as the additional antenna adds no more than 20 feet to the height of the existing structure; and
 - ii Installing an antenna on an existing tower of any height, including a pre-existing tower, and further including the placement of additional buildings or other supporting equipment used in connection with the antenna, so long as the addition of the antenna adds no more than 20 feet to the height of the existing tower.

(14) Conditional Use Permits:

- (a) *Generally.* The following provisions in addition to Section 4.10 of this Code shall govern conditional use permits for antennas and towers:
 - i If the tower or antenna is not a permitted use, then a conditional use permit shall be required prior to construction of any tower, or the placement of any antenna.
 - ii Towers and antennas may only be located in the Agricultural District.
 - iii If a conditional use permit is granted, the governing authority may impose conditions to the extent the governing authority concludes such conditions are necessary to minimize any adverse effect of the proposed tower or antenna on adjoining properties.
 - iv Any information of an engineering nature that the applicant submits, whether civil, mechanical or electrical shall be certified by a licensed professional engineer.
- (b) *Information required.* Each applicant requesting a conditional use permit under this section shall submit a scaled site plan and a scaled elevation view and other supporting drawings, calculations, and other documentation, signed and sealed by appropriate licensed professionals, showing the location and dimensions of all improvements, including information concerning topography coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses, and other information deemed by the governing authority to be necessary to assess compliance with this section.
- (c) *Factors considered in granting conditional use permits.* The governing authority shall consider the following factors in determining whether to issue a conditional use permit, although the governing authority may waive or reduce the burden on the applicant of one or more of these criteria if the governing authority concludes that the goals of this article are better served thereby:
 - i Height of the proposed tower.
 - ii Capacity of the tower structure for additional antenna equipment to accommodate expansion or to allow for co-location of another provider's equipment.
 - iii Proximity of the tower to residential structures and residential district boundaries.

- iv Nature of uses on adjacent and nearby properties.
- v Surrounding topography.
- vi Surrounding tree coverage and foliage.
- vii Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
- viii Proposed ingress and egress.
- ix Availability of suitable existing towers and other structures.

(15) Availability of Suitable Existing Towers or Other Structures:

No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the governing authority that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna may consist of any of the following:

- (a) No existing towers or structures are located within the geographic area required to meet applicant's engineering requirements.
- (b) Existing towers or structures are not of sufficient height to meet Applicant's engineering requirements.
- (c) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- (d) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
- (e) The fees, costs or contractual provisions required by the owner to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
- (f) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

(16) Setbacks and Separation:

The following setbacks and separation requirements shall apply to all towers and antennas for which a conditional use permit is required:

- (a) Towers must be set back a distance at least equal to one and a half times the height of the tower from any off-site residential structure, or any parcel of land zoned residential.
- (b) Towers, guys and accessory facilities must satisfy the minimum zoning district setback requirements.

(17) Denial of Placement, Construction, or Modification of Facilities:

If the Town denies a request by any person to place, construct, or modify radio broadcast service facilities the denial shall be based only on the Town's public health or safety concerns. The Town shall provide the requester with a written denial and shall provide the requester with substantial written evidence which supports the reasons for the Town's actions.

3.14 MOBILE TOWER SITING REGULATIONS

(1) Purpose.

The purpose of this code 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; (3) with regard to a class 2 collocation, collocation on an existing support structure which does not require the substantial modification of an existing support structure and mobile service facilities.

(2) Authority.

The Town Board has the specific authority under Wis. Stats. [§62.23](#) and [§66.0404](#) to adopt and enforce this code.

(3) Adoption of Ordinance.

A zoning permit shall be required for: (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; (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.

(4) Definitions.

The definitions contained within Wis. Stat. [§66.0404\(1\)](#) and as from time to time amended are hereby incorporated into this Zoning Code as if fully set forth herein.

(5) Siting and Construction of Any New Mobile Services Support Structure and Facilities.

(a) Application Process

- i 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 permit.
- ii A written permit application must be completed by any applicant submitted to the Town. The application must contain the following information.
 - 1. The name and business address of, and the contact individual for, the application.
 - 2. The location of the proposed or affected support structure.
 - 3. The location of proposed mobile service facility.
- iii If the application is to substantially modify any 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.
- iv If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and 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.
- v 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.

- vi A permit application will be provided by the Town upon request to any applicant.
- vii If an applicant submits to the Town an application for a permit to engage in an activity described in this code, which contains all of the information required under this code, the Town shall consider the application complete. If the Town does not believe that 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.
- viii Within 90 days of its receipt of a complete application, the Town shall complete all 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:
 - 1. Review the application to determine whether it complies with all applicable aspects of the political subdivision's building code and subject to the limitations in this section, zoning codes.
 - 2. Make a final decision whether to approve or disapprove the application.
 - 3. Notify the applicant, in writing, of its final decision.
 - 4. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
- ix 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 (5)(a)(v).
- x 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 set back or fall zone area required in a zoning code, that zoning code does not apply to such a structure unless the Town provides the

applicant with substantial evidence that the engineering certification is flawed.

xi Permit Fee; See [Town Fee Schedule](#).

(6) Class 1 collocation.

(a) Application Process

- i 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.
- ii A written permit application must be completed by an applicant and submitted to the Town. The application must contain the following information:
 - 1. The name and business address of, and the contact individual for the applicant.
 - 2. The location of the proposed or affected support structure.
 - 3. The location of the proposed mobile service facility.
 - 4. If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
 - 5. If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
 - 6. If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; it technically

infeasible; or is economically burdensome to the mobile service provider.

- iii A permit application will be provided by the Town upon request to any applicant.
- iv If an applicant submits to the Town an application for a permit to engage in an activity described in this code, which contains all of the information required under this code, 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.
- v 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:
 - 1. Review the application to determine whether it complies with all applicable aspects of the political subdivision's building code and, subject to the limitations in this section, zoning codes.
 - 2. Make a final decision whether to approve or disapprove the application.
 - 3. Notify the applicant, in writing, of its final decision.
 - 4. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
- vi 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 (6)(a)(ii)6.
- vii 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 set back or fall zone area required in a zoning code, that zoning code does not apply to such a structure unless the Town provides the

applicant with substantial evidence that the engineering certification is flawed.

viii Permit Fee; See [Town Fee Schedule](#).

(7) Class 2 collocation.

(a) Application Process

- i 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.
- ii A written permit application must be completed by any applicant and submitted to the Town. The application must contain the following information:
 - 1. Name and business address of, and the contact individual for, the applicant.
 - 2. The location of the proposed or affected support structure.
 - 3. The location of the proposed mobile service facility.
- iii A permit application will be provided by the Town upon request to any applicant.
- iv 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.
- v If an applicant submits to the Town an application for a permit to engage in an activity described in this code, which contains all of the information required under this code, 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.
- vi 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:
 - 1. Make a final decision whether to approve or disapprove the application

2. Notify the applicant, in writing, of its final decision.
 3. If the application is approved, issue the applicant the relevant permit.
 4. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
 5. Permit Fee; See [Town Fee Schedule](#).
- (8) If any provision of this code is invalid or unconstitutional or if the application of these Codes to any person or circumstances is found invalid or unconstitutional by a Court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the provision or application of these Codes which can be given effect without the invalid or unconstitutional provisions or applications.
- (9) All Codes and parts of codes in conflict herewith are hereby repealed.
- (10) These Codes shall be in full force and effect from and after its date of passage and notice to the public as required by law.

3.15 UNDERGROUND UTILITY LINES:

(1) Permits/Formal Notice:

Formal notice must be given of proposed installation and repairs to any buried lines, and/or cables, upon and along any right of way in the Town. This notice must be in writing and submitted to the Town Board for approval and a permit prior to any work being performed. Each written request shall contain detailed drawings, and plan specifications, of the proposed utility line, and shall be submitted in copies of three.

(2) Brush Disposal:

Any brush, trees, debris, and material that are cut will be disposed of and shall not be left in the ditch, the right of way, or the road. Rocks that may be dug up by a plow, trencher, tractor or any other equipment, must be disposed of properly. All services to be performed shall not interfere nor hinder the normal flow of traffic.

(3) Damages:

Any damages to the roadway right of way will be repaired to their original condition and to the satisfaction of the Town Board. The Town will not be responsible for any damages which occur to any buried utility lines within the right of way.

(4) Depth of Underground Lines:

The depth of underground lines shall be as specified by the Town Board for each type of utility. Where placements at such depths are impractical or where unusual conditions exist, the Town Board shall specify other protection as may be appropriate in lieu of the depth of bury required for the particular utility line. All buried utility lines will be placed at a minimum depth of 18". Any deviation from the specified depth must be requested in writing and approved by the Town Board.

(5) Location:

Utility lines shall be located to avoid or minimize the need for adjustment for future road improvements and to permit access to the utility lines for their maintenance with minimum interference to road traffic.

(6) Placement:

All lines shall be placed underground within the time frame set by the Town Board in the permit and in accordance with the directives of the Town Board and this Code.

(7) Penalty:

Failure to comply with the directives of the Town Board and this Code shall be subject to those penalties set forth in this Code.

3.16 WIND ENERGY SYSTEMS

(1) Purpose:

(a) The purpose of this Section is to incorporate the provisions of Wis. Stat. [§66.0401](#) and Wis. Adm. Code [PSC 128](#) as a Town ordinance and to establish Town regulations for the installation and use of large and small wind energy systems that are authorized by, compliant with, and no more restrictive than the rules promulgated by the Wisconsin Public Service Commission. This section is also intended to preserve and protect public health and safety, to not significantly increase the cost of the system or significantly decrease wind energy system efficiency, and to allow for an alternative system of comparable cost and efficiency.

(b) This Code requires an owner to obtain a zoning conditional use permit from the Town before:

- i construction of a wind energy system;
- ii expansion of an existing or previously-approved wind energy system; and/or

- iii a material change in the approved design, location or construction of a wind energy system.

(2) Adoption of State Laws:

Wis. Stat. [§66.0401](#) and Wis. Adm. Code [PSC 128](#), and as from time to time they are amended, are hereby adopted and incorporated into this Code by reference as if fully set forth herein.

(3) Definitions:

Terms used herein shall have the meanings described in Wis. Adm. Code [PSC 128.01](#). In addition, “large wind energy system” in this Code means all wind energy systems that are not small wind energy systems.

(4) Applicability:

This code applies to all lands within the boundaries of the town lying outside the limits of incorporated cities and villages. This code applies to wind energy systems only.

(5) Permit Requirements:

- (a) An owner shall obtain a permit from the Town before the installation, constructions, modification, or expansion of a wind energy system. No wind energy system shall be installed, constructed, modified, or expanded without complying with the provisions of this Code.
- (b) A wind energy system permit issued by the Town expires if construction of wind energy system is not commenced within twenty-four (24) months from the date the permit is issued.
- (c) A wind energy system permit is not required for the following:
 - i For private, residential use wind energy systems that consist of wind collectors mounted to buildings, provided the collectors do not extend more than twenty-four (24) inches from the original exterior perimeter of the building on which the collectors are mounted or built.
 - ii For minor alterations involving ordinary maintenance and repair of the system.
- (d) The Town adopts the permit requirements and process set forth in Wis. Stat. [§66.0401\(4\)](#) and Wis. Stat. [§66.0403\(3\) – \(11\)](#). Owner shall comply with such requirements and process.

- i Such requirements include, but are not limited to, the Town publishing a Wis. Stat. [§985.07\(1\)](#) class 1 notice after the submission of an application (Wis. Stat. [§66.0401\(4\)\(a\)1](#)) and the applicant providing notice to applicable property owners pursuant to Wis. Stat. [§66.0403\(3\)\(b\)](#).

(6) Permit Applications:

- (a) Applications for proposed wind energy systems shall be reviewed by the Town Plan Commission for a determination of completeness in accordance with the requirements of Wis. Adm. Code [PSC 128.31](#). Following a determination of completeness by the Town Plan Commission, the applicant shall provide 10 copies of the complete application to the Town. The Town Clerk shall forward one copy of a complete application to the Marathon County Public Library Stratford Branch, in accordance with Wis. Adm. Code [PSC 128.30\(6\)](#). One copy of the application shall be made available for public review at the Town Hall.
- (b) As soon as possible after receiving an application for a wind energy system, the Town Clerk shall cause to be published a Class 1 notice stating that an application has been filed, in accordance with Wis. Stat. [§66.0401\(4\)\(a\)](#). The notice shall include the information required by Wis. Adm. Code [PSC 128.30\(5\)\(b\)](#) and Wis. Adm. Code [PSC 128.30\(6\)\(b\)](#).
- (c) The Town reserves the right to request additional information necessary to understand the wind energy system. This provision still applies after a determination that an application is complete. An owner shall provide additional information to all reasonable Town requests in a timely, complete, and accurate manner.
- (d) The Town requires an owner to reimburse the Town for reasonable expenses relating to the review and processing of the application. The reimbursement shall be based on the actual and necessary cost of the review of the application and shall include the cost of services necessary to review an application that are provided by outside engineers, attorneys, planners, environmental specialists, and other consultants or experts. The Town requires an owner to submit fifty percent (50%) of the total estimated amount of the costs before the Town issues a written decision on the application. The Town shall give an owner written notice within ten (10) days of the date that the application is deemed complete with an estimate of the relevant reimbursement amounts.
- (e) Permit Fee; See [Town Fee Schedule](#).

(7) Criteria for All Wind Energy Systems:

- (a) Wind energy systems shall comply with all applicable State and Federal laws, including but not limited to Wis. Stat. [§66.0401](#) and Wis. Adm. Code [PSC 128](#).
- (b) Wind energy systems are exempt from Town height and setback requirements except as is provided in [Table 1 \(PSC 128.13\)](#) for large wind energy systems and [Table 2 \(PSC128.61\)](#) for small wind energy systems in Wis. Adm. Code. However, an applicant may utilize larger setbacks as necessary to meet other standards contained in Wis. Adm. Code [PSC 128](#), including but not limited to: noise, shadow flicker, signal interference, and stray voltage limitations.
- (c) An owner shall design a wind energy system to reasonably minimize the conversion of land from agricultural use.
- (d) The Town reserves the right to establish a decommissioning review process to determine when a wind energy system has reached the end of its useful life.
- (e) Owners shall submit to the Town a copy of all necessary State and Federal permits and approvals.

(8) Additional Criteria Applicable Only to Large Wind Energy Systems

- (a) Pursuant to Wis. Stat. [§66.0401\(4\)\(f\)2](#), the Town may deny an application if a wind energy system has a nominal capacity of at least one megawatt and the proposed site of the wind energy system is in an area primarily designated for future residential or commercial development, as shown in a map that is adopted as part of a comprehensive plan pursuant to Wis. Stat. [§66.1001](#).
- (b) The Town reserves the right to establish reasonable requirements designed to minimize soil compaction, topsoil mixing, and damage to drainage systems on agricultural land.
- (c) Owners shall use shielding or control systems approved by the federal aviation administration to reduce the visibility of wind energy system lighting to individuals on the ground.
- (d) Owners shall provide annual training for all applicable fire, police, or other first responder agencies that provide such services to the Town, as required by the Fire Chief, Chief of Police or their designee. An owner shall provide at least eight hours of training during each calendar year and is responsible for all direct training costs.

- (e) Owners shall provide information about whether the owner has consulted with and received any non-binding recommendations for construction, operating, or decommissioning the wind energy system from any Federal or State agency and whether the owner has incorporated the non-binding recommendation(s) into the design of the wind energy system.
- (f) Owners shall cooperate with any study of the effects of wind energy systems coordinated by a state agency.
- (g) Monetary Compensation:
 - i Owners shall offer an agreement to the owner of a nonparticipating residence, if the residence is located within one-half mile of a constructed wind turbine, that includes an initial annual monetary compensation of \$600 for one turbine located within one-half mile of a nonparticipating residence, \$800 for two turbines located within one-half mile of a nonparticipating residence, and \$1,000 for three or more turbines located within one-half mile of a nonparticipating residence.
 - ii The initial annual monetary compensation under this subsection shall furthermore be calculated by the application of increases since the year 2012 of the greater of either two percent (2%) or the increase in the Consumer Price Index as described in Wis. Stat. [§196.374\(5\) \(bm\)2](#), for each year since 2012, to arrive at the initial amounts applicable to the year that any agreements are created. Such agreements shall also provide for such further increases to apply during the term of the agreement.
 - iii An agreement offered under this subsection shall specify in writing any waiver of a requirement or right under Wis. Adm. Code [PSC 128](#) and whether acceptance of payment by the owner of the nonparticipating residence will establish it as a participating property pursuant to Wis. Adm. Code [PSC 128](#).
- (h) Aerial Spraying. An owner shall offer an agreement that includes monetary compensation to a farm operator farming on a nonparticipating property located within one-half mile of a constructed wind turbine if the farm operator demonstrates all of the following:
 - i Substantial evidence of a history, before the wind energy system owner gives notice under Wis. Adm. Code [PSC 128.105\(1\)](#), of using aerial spraying for pest control or disease prevention for growing on all agricultural crops and on all or part of the farm field located within one-half mile of a constructed wind turbine.

- ii A material reduction in all agricultural crop production or a material increase in application costs on all or part of a farm field located within one-half mile of a constructed wind turbine as a result of the wind energy system's effect on aerial spraying practices.

(i) Reports and Reviews:

- i An owner of a wind energy system within the Town shall submit an annual report to the Town Plan Commission by January 31 of each year documenting the operation and maintenance of the wind energy system during the previous calendar year.
- ii The Town Plan Commission shall conduct a review of the annual reports submitted, in part to determine if a wind energy system has reached the end of its useful life.
- iii The Town reserves the right to establish a procedure to monitor compliance by the owner with any condition on an approved wind energy system or to assess when wind energy systems facilities are not maintained in good repair and operating condition. This procedure may include timelines, payment by the owner of reasonable fees to conduct assessments, and notification to the public.
- iv The Town may require the owner to pay a reasonable fee for a third-party inspector to monitor and report regarding an owner's compliance with permit requirements during construction.
- v An owner shall monthly provide the Town with a copy of the owner's complaint log.

(j) Financial Responsibility:

- i An owner with a nameplate capacity of one megawatt or larger shall provide the Town with financial assurance of the owner's ability to pay the actual and necessary cost to decommission the wind energy system before commencing major civil construction activities.
- ii An owner shall provide the Town with three estimates of the actual and necessary cost to decommission the wind energy system. The cost estimates shall be prepared by third parties agreeable to the owner and the Town. The amount of financial assurance required by the Town will be the average of the three estimates.
- iii An owner shall establish financial assurance that is acceptable to the Town and that places the Town in a secured position. The financial assurance must provide that the secured funds may be used for

decommissioning the wind energy system, or at such time as the Town determines that the wind energy system has been decommissioned, as provided for in Wis. Adm. Code [PSC 128.19\(5\)\(b\)](#), or the Town approves the release of the funds, whichever occurs first. The financial assurance must also provide that the Town may access the funds for the purpose of decommissioning the wind energy system if the owner does not decommission the system when decommissioning is required.

- iv The Town may periodically request information from the owner regarding industry costs for decommissioning the wind energy system. If the Town finds that the future anticipated cost to decommission the wind energy system is at least 10 percent more or less than the amount of financial assurance provided under this section, the Town may correspondingly increase or decrease the amount of financial assurance required. The Town shall not adjust the financial assurance under this paragraph more often than once in a 5-year period.
- v The Town may require an owner to submit a substitute financial assurance of the owner's choosing if an event occurs that raises material concern regarding the viability of the existing financial assurance.

(k) Signal Interference:

An owner shall, under a protocol established by Wis. Adm. Code [PSC 128.50\(2\)](#), implement a new technology solution that becomes commercially available before the wind energy system is decommissioned to address interference for which mitigation is required under Wis. Adm. Code [PSC 128.16\(2\) and \(3\)](#) and for which the original mitigation solution is only partially effective.

(9) Review Process:

- (a) The Town Plan Commission shall have 90 days from the date that the Zoning Administrator notifies the owner that the application is complete in which to approve or disapprove the application, unless the time is extended in accordance with Wis. Stat. [§66.0401\(4\)\(e\)](#).
- (b) The Town Plan Commission shall hold a public hearing on the proposed wind energy system in accordance with the Town Zoning Code Sec. 4.10. Any written comments submitted shall be considered at the public hearing. A record of the hearing shall be created either by stenographer or an electronic recording.

- (c) Following the public hearing, the Town Board shall issue a written decision to grant or deny a zoning conditional use permit for a wind energy system and any conditions of approval. The written decision shall include findings of fact supported by evidence in the record. If an application is denied, the decision must specify the reason for the denial.
- (d) The Town Clerk shall provide a duplicate original of the Town Plan Commission written decision to the applicant.
- (e) The Town shall maintain a record of the permit review and decision as required by Wis. Adm. Code [PSC 128.34](#). If any provision of this Code is invalid or unconstitutional or if the application of this Code to any person or circumstance is found invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the provision or application of this Code which can be given effect without the invalid or unconstitutional provisions or applications.

3.17. SOLAR ENERGY SYSTEMS

(1) Purpose:

- (a) The purpose of this Section is to incorporate the provisions of Wis. Stat. [§66.0401](#) and Wis. Stat. [§66.0403](#) as a Town ordinance and to establish Town regulations for the installation and use of solar energy systems for the production of electricity and/or conversion of energy for uses on-site and those systems which produce electricity for off-site use and distribution authorized by, compliant with, and no more restrictive than the rules promulgated by the Wisconsin Public Service Commission. This Section is also intended to preserve and protect public health and safety, to not significantly increase the cost of the system or significantly decrease solar energy system efficiency, and to allow for an alternative system of comparable cost and efficiency.
- (b) This Code requires an owner to obtain a zoning conditional use permit from the Town before:
 - i Construction of a solar energy system. See residential section 3.17 (5)(c).
 - ii Expansion of an existing or previously-approved solar energy system; and/or
 - iii A material change in the approved design, location or construction of a solar energy system.

(2) Adoption of State Laws:

These regulations are adopted pursuant to the authority granted in Wis. Stat. [§60.61](#), [§60.62](#), [§66.0401](#), and [§66.0403](#) and as from time to time they are amended, are hereby adopted and incorporated into this Code by reference as if fully set forth herein.

(3) Definitions:

Terms used herein shall have the meanings described in Wis. Stat [§66.0403\(1\)](#) and all the following:

- (a) ***Applicant:*** means the owner who submits an application for a solar energy system.
- (b) ***Collector Use Period:*** means 9:00 AM to 3:00 PM standard time daily.
- (c) ***Commercial Use:*** means a solar energy system that is not an accessory use to existing parcels, structures, or uses and is designed for providing energy to off-site uses and/or to export to the wholesale market.
- (d) ***Commission:*** Means State of Wisconsin Public Service Commission (PSC).
- (e) ***Committee:*** means the Town of Day Board.
- (f) ***County:*** means Marathon County, Wisconsin.
- (g) ***Owner:*** means a person and/or entity with direct ownership interest in a solar energy system.
- (h) ***Permit:*** means a solar energy system permit issued by the Town of Day Board.
- (i) ***Private Use:*** means a solar energy system that is an accessory use (private or commercial) to existing parcels, structures, or uses and is designed for providing energy to existing parcels or structures.
- (j) ***Solar Collector:*** means a manmade device which is part of a solar energy system providing the surface on which sunlight energy is collected.
- (k) ***Solar Energy:*** means radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.
- (l) ***Solar Energy System:*** means a manmade system that transforms solar energy into another form of energy or transfers heat from a solar collector to another medium using mechanical, electrical, or chemical means.

(m) ***Town:*** means Town of Day Board.

(n) ***Town Administrator:*** means Administrator appointed by the Town Board.

(4) Applicability:

This code applies to all lands within the boundaries of the town lying outside the limits of incorporated cities and villages. This code applies to solar energy systems only.

(5) Permit Requirements:

(a) An owner shall obtain a permit from the Town before the installation, constructions, modification, or expansion of a solar energy system. No solar energy system shall be installed, constructed, modified, or expanded without complying with the provisions of this Code.

(b) A solar energy system permit issued by the Town expires if construction of solar energy system is not commenced within twenty-four (24) months from the date the permit is issued.

(c) A solar energy system permit is not required for the following:

i For private, residential use solar energy systems that consist of solar collectors mounted to buildings, provided the collectors do not extend more than twenty-four (24) inches from the original exterior perimeter of the building on which the collectors are mounted or built.

ii For minor alterations involving ordinary maintenance and repair of the system.

(d) The Town adopts the permit requirements and process set forth in Wis. Stat. [§66.0401\(4\)](#) and Wis. Stat. [§66.0403\(3\) – \(11\)](#). Owner shall comply with such requirements and process.

i Such requirements include, but are not limited to, the Town publishing a class 1 notice under Wis. Stat. [§985.07\(1\)](#) after the submission of an application ([Wis. Stat. §66.0401\(4\)\(a\)1](#)) and the applicant providing notice to applicable property owners ([Wis. Stat. §66.0403\(3\)\(b\)](#)).

(6) Application Submittal:

(a) Owner shall file a completed application for a permit with the Town Plan Commission, along with the applicable fee as set forth in the Town fee schedule as approved by the Town of Day Board. Owner shall use the

Town-provided application form. The Town may require the owner to pay additional fees/costs (i.e. outside attorneys, engineers, environmental specialists, planners, and other consultants and experts) to cover actual and necessary fees/costs to review and process the application.

- (b) The application for permit shall contain the following information at a minimum:
 - i Name, address, and phone number of all persons having an ownership in the property where the solar energy system is intended to be installed;
 - ii The location, total size, and parcel identification number of the lot or lots including a legal description;
 - iii Relative location of any and all nearby public and private streets;
 - iv The existing and intended use of the lot or lots;
 - v A site plan (which shall be required to be drawn to scale horizontally and vertically) shall include the following:
 - 1. The dimensions and configuration of the lot;
 - 2. (either right-of-way lines or centerlines), septic system components, access easements, and unique site features such as wetlands and waterways;
 - 3. The location of all existing, temporary, and proposed building(s) or structure(s);
 - 4. The location of all existing public and /or private streets abutting the lot;
 - 5. Existing and/or proposed private onsite wastewater treatment system(s);
 - 6. Open space(s) and parking area(s);
 - 7. All projects/developments within the shoreland, wetland, and/or floodplain areas shall adhere to all applicable site plan standards and requirements of county shoreland-wetland and floodplain zoning;
 - 8. Any applicable easements (access, utility, etc.).

- vi Approximate/estimated value of the development, construction, or project;
 - vii On residential parcels, the number of dwelling units contained within each building and proposed number of bedrooms;
 - viii Location and dimensions of all buildings or structures to be erected, structurally altered, or moved;
 - ix Such other information concerning the lot or adjacent lots as may be necessary as determined by the Town to determine conformance with this Code.
 - x All applicable permit fees. See [Town Fee Schedule](#).
- (c) The owner shall submit the number of copies of the application as determined by the Town and a letter of intent to the clerk of each adjoining political subdivision.

(7) Application Review:

- (a) An application is complete if it complies with the filing requirements of this Code and payment of all application fees and costs.
- (b) The Town shall determine the completeness of an application and shall notify the owner in writing of the completeness determination no later than forty-five (45) days after the day the application is filed.
- (c) If the Town determines that the application is incomplete, the owner shall provide additional information requested and an additional forty-five (45) day completeness review period will begin the day after the Town receives responses to all required items identified in the notice.
- (d) If the owner fails to provide additional information specified in the notice of an incomplete application within ninety (90) days from the date of the written notice, the application will be deemed abandoned and the forfeiture of any application fee and/or costs. The owner may refile the application at a later date subject to payment of a new application fee and any other costs set forth in this Code. There is no limit to the number of times that an owner may refile an application.
- (e) If the Town does not make a completeness determination within the applicable review period as set forth above, the application is considered to be complete.
- (f) The Town shall have ninety (90) days from the date that it notifies the owner that the application is complete in which to approve or disapprove the

application. The time for approval may be extended by the Town depending on the complexity of the proposed system.

- (g) The owner shall record a copy of a written decision approving an application with the Marathon County Register of Deeds within thirty (30) days of the written decision date for all applicable property as stated in Wis. Stat. [§66.0403\(6\)\(a\)](#). If the owner does not timely record such decision, the Town shall record the decision at the owner's expense.
 - (h) The Town shall post in a conspicuous place on the property for which a permit is issued attesting to the fact that activity has been permitted pursuant to the provisions of this Code and the permit itself.
- (8) Application and Permit Conditions:
- (a) Unless otherwise stated, any condition or requirement set forth in this Code is a condition for approval of an application and permit for a solar energy system (for private or commercial use).
 - (b) An owner shall submit a copy of all necessary state and federal permits and approvals to the Town.
 - (c) All applications and permits regulated by this Code may be subject to additional conditions and restrictions as determined by the Town that are consistent with but not more restrictive than those set forth in Wis. Stat. [§66.0401\(1m\)](#). Where such conditions are considered and applied on a case-by-case basis, the condition or restriction shall satisfy one of the following:
 - i Serves to preserve or protect the public health or safety.
 - ii Does not significantly increase the cost of the system or significantly decrease its efficiency.
 - iii Allows for an alternative system of comparable cost and efficiency.
- (9) Private Use Application and Permit Requirements:
- (a) Unless otherwise stated, any condition or requirement set forth in this section is a condition for approval of an application and permit for a solar energy system for private use only.
 - (b) Solar energy systems for private use shall meet the following requirements:
 - i Solar energy systems mounted on buildings or roofs shall not exceed the maximum allowed height that may apply pursuant to other zoning regulations (i.e. shoreland zoning).

- ii Solar energy systems installed directly into the ground or on a pole shall not exceed fifteen (15) feet in height when oriented at maximum tilt.
- iii Solar energy systems shall meet the accessory structure setbacks for applicable zoning regulations that may apply where the system is located.
- iv Solar energy systems shall be designed to blend into the architecture of the building or structure.
- v Solar energy systems using a reflector to enhance solar production shall minimize reflected light from the reflector affecting adjacent or nearby properties. Measures to minimize reflected light include selective placement of the system, screening on the north side of the solar array, modifying the orientation of the system, reducing use of the reflector system, and/or other remedies that limit reflected light.
- vi Roof or building mounted solar energy systems, excluding building-integrated systems, shall allow for adequate roof access for fire-fighting purposes to the south-facing or flat roof upon which the panels are mounted.

(10) Commercial Use Application and Permit Requirements:

- (a) Unless otherwise stated, any condition or requirement set forth in this section is a condition for approval of an application and permit for a solar energy system for commercial use only.
- (b) Solar energy systems for commercial use shall meet the following requirements:
 - i In addition to the application requirements stated above, the system application shall also include the following:
 - 1. Proposed ingress and egress to system.
 - 2. System's proximity to transmission lines to link the system to the electric power grid.
 - 3. Nature of land use on adjacent and nearby properties.
 - 4. Proximity of system to neighboring residential structures.
 - ii Solar energy systems shall meet setbacks for applicable zoning regulations that may apply where the system is located.

- iii Solar energy systems installed directly into the ground or on a pole shall not exceed fifteen (15) feet in height when oriented at maximum tilt.
- iv Solar energy systems (excluding power and communication lines from the solar energy system to the electric power grid) shall be enclosed by a fence with controlled access.
- v Solar energy systems shall be subject to and comply with the [Wisconsin DNR stormwater management, erosion, sediment control provisions](#) as well as [NPDES permit requirements](#). An owner shall utilize all applicable best practices in the placement, construction, operation, and maintenance of its solar energy facilities in order to minimize soil compaction, protect the topsoil, prevent topsoil mixing, and avoid and repair any damage to drainage systems on agricultural land.
- vi The following provisions shall be met related to the clearing of existing vegetation and establishment of vegetated ground cover. Additional requirements and standards may apply as required by the Town Administrator.
 - 1. Large-scale removal of trees will require a Town approved mitigation plan.
 - 2. The top soil shall not be removed during development unless approved by the Town.
 - 3. If top soil is removed it must be stock piled and remain on site for site reclamation. Top soil removal will require an issuance of a [Marathon County Nonmetallic Mine Permit](#). This permit will require obtaining financial assurance for the disturbed acreage and be subject to annual fees for that acreage.
 - 4. Seed mixes and maintenance practices shall be consistent with those recommendations made by the Town and/or Wisconsin DNR.
 - 5. The applicant shall submit financial assurance in the form of a letter of credit, cash deposit, or bond in favor of the Town equal to one hundred twenty-five (125) percent of the costs to meet the ground cover and buffer area standard. The financial assurance shall remain in effect until vegetation is sufficiently established.

- vii The system application shall include a decommissioning plan to ensure the solar energy system is properly removed after its useful life as well as sufficient financial assurance for decommissioning in an amount to cover the actual and necessary costs to decommission the solar energy system and form (i.e. bond, letter of credit, escrow account) determined by the Town.
1. Decommissioning of solar energy systems must occur in the event they are not in use for twelve (12) consecutive months. Decommissioning shall be completed within 180 days after the end of useful life or as determined by the Town. The plan shall include provisions for removal and disposal of all structures, foundations, storage, and hazardous materials; restoration of soil and vegetation; and a plan ensuring financial resources will be available to fully decommission the system. All structures/facilities and/or foundations shall be disposed of at a licensed solid waste disposal facility and/or otherwise in a manner consistent with federal, state, and local regulations.
 2. If the owner fails to remove a solar energy system and reclaim the site, the Town may remove or cause the removal of the solar energy system and the reclamation of the site. The Town may recover the cost of removal and reclamation from any financial assurance provided by the owner. Any removal or reclamation cost incurred by the Town that is not recovered from the owner may be collected by any lawful means.
 3. An owner shall file a notice of decommissioning completion with the Town and any political subdivision within which its solar energy systems facilities are located when a system approved by the Town has been decommissioned and removed.
 4. The Town shall conduct a decommissioning review to determine whether the system has reached the end of its useful life and whether the owner has decommissioned and removed the system and whether the owner has complied with its site restoration obligation.
 5. The owner shall cooperate with the Town by participating in the decommissioning review process.
- viii An owner shall, on or before January 31 of each year, file an annual report with the Town documenting the operation and maintenance of the solar energy system during the previous calendar year.

- ix An owner shall establish and maintain a liaison with the Town within which its solar energy systems facilities are located and with the fire, police, and other appropriate first responders serving the area in which the solar energy systems facilities are located and create and implement effective emergency plans with such personnel.
- x An owner shall distribute a copy of its emergency plans to the following:
 - 1. Marathon County Emergency Management, Attn: Emergency Management Director, 500 Forest Street, Wausau, WI 54403
 - 2. Marathon County Sheriff's Office, Attn: Marathon County Sheriff, 500 Forest Street, Wausau, WI 54403
 - 3. Clerk for any city, town or village within which its solar energy systems facilities are located or that are within one-half mile of any of its solar energy systems facilities.
 - 4. Any fire, police, or other first responder identified by the county's emergency management director or the clerk of any city, town, or village who has received a copy of the owner's emergency plans as set forth above.
- xi An owner shall, within thirty (30) days of consulting with any federal or state agency about the construction, operation, or decommissioning of the solar energy system, provide the Town with information about the reason for the consultation.
- xii An owner shall provide the Town with notice of any change in ownership of the solar energy system on or before the effective date of the change. A notice of change in ownership of the solar energy system shall include information showing that the financial assurance requirements set forth in this Code will be met following the change in ownership.
- xiii An owner shall submit a copy of all necessary state and federal permits and approvals to the Town within thirty (30) days of the owner's receipt of any permit or approval that was not provided with the owner's application.
- xiv An owner, at the owner's sole expense, shall maintain and provide the Town each month a maintenance log for the solar energy system. The log must contain the following information regarding any maintenance performed: 1) date and time maintenance was

performed; 2) nature of the maintenance performed; and 3) reason(s) for the maintenance. The Town may retain such consultants or experts as it deems necessary to assess and determine whether the solar energy system facilities are compliant and/or to assess whether the solar energy system facilities are being maintained in good repair and operating condition. An owner shall pay for all costs incurred by the town in connection with monitoring compliance during construction and assessing when solar energy facilities are maintained in good repair and operation condition.

- xv Within ninety (90) days of the date a solar energy system commences operation, the owner shall file with the Town an as-built description of the solar energy system, an accurate map of the solar energy system showing the location of all solar energy system facilities, including unique identification for each system component; geographic information; system information showing the location of all system facilities including the location of power and communication lines from the solar energy system to the electric power grid; and current information identifying the owner of the energy system.

(11) Appeals:

- (a) A decision by the Town that the application is incomplete, to approve or disapprove the application, or to impose a restriction on a large solar energy system may be appealed to the commission pursuant to Wis. Stat. [§66.0401](#) or Wis. Adm. Code [PSC 128.51](#).
- (b) An appeal shall be filed within thirty (30) days after the date of the decision or the start of the enforcement action that is being appealed.
- (c) Judicial review of the commission's decision or order is available pursuant to Wis. Stat. [§66.0401\(5\)](#).

(12) Complaint Notice Requirements:

- (a) An owner shall comply with the notice requirements set forth in Wis. Adm. Code [PSC 128.42\(1\)](#).
- (b) An owner shall, before construction of a large solar energy system begins, provide the Town with a copy of the notice issued pursuant to Wis. Adm. Code [PSC 128.42\(1\)](#) along with a list of the name and address of each person and each political subdivision to which the notice was sent.
- (c) An owner shall, before construction of a large solar energy system begins, file with the Town the name and telephone number of the owner's contact person for receipt of complaints or concerns during construction, operation,

maintenance, and decommissioning. The owner shall keep the name and telephone number of the contact person on file with the Town current.

(13) Complaint Monitoring

- (a) An owner shall maintain a complaint log as required by Wis. Adm. Code [PSC 128.40\(2\)\(d\)](#).
- (b) An owner shall, at the owner's sole expense, provide the Town with a copy of the complaint log for each month within five (5) calendar days after the end of each month.
- (c) An owner shall, before construction of a large solar energy system begins, provide the Town with a written copy of the owner's complaint resolution process. An owner shall provide the Town with a written copy of any changes to the complaint resolution process at least thirty (30) days prior to implementing the change.

(14) Complaint Process

- (a) An aggrieved person may make a complaint to the owner regarding the failure by the owner to comply with Wis. Adm. Code [PSC 128](#) or this Code.
- (b) An owner shall use reasonable efforts to resolve complaints and shall investigate complaints regarding a solar energy system at the owner's expense.
- (c) Upon receipt of a complaint, an owner shall provide the complainant with a copy of the notice described in Wis. Adm Code [PSC 128.42\(1\)](#). Within thirty (30) days of receiving a complaint, an owner shall provide an initial response to the complainant.
- (d) An owner shall make a good faith effort to resolve complaints within forty-five (45) days of receiving a complaint. An owner shall notify the Town and applicable political subdivisions of complaints that have not been resolved within forty-five (45) days of the date the owner received the original complaint.
- (e) An aggrieved person who has made a complaint to an owner pursuant to Wis. Adm. Code [PSC 128.40](#) may petition the Town for review of the complaint if the complaint has not been resolved within forty-five (45) days of the owner receiving the original complaint.
- (f) The petition for review must be filed with the Town within ninety (90) days of the date of the original complaint.
- (g) The petition must include the following:

- i name, address, and telephone number of the person filing the petition;
 - ii copy of the original complaint to the owner;
 - iii copy of the owner's initial response;
 - iv statement describing the unresolved complaint;
 - v statement describing the desired remedy;
 - vi any other information the complainant deems relevant to the complaint; and
 - vii notarized signature of the person filing the petition.
- (h) The Town shall forward a copy of the petition to the owner by certified mail within ten (10) days of the Town's receipt of the petition.
- (i) The owner shall file an answer to the petition with the Town and provide a copy of its answer to the complainant within thirty (30) days of the owner's receipt of the petition.
- (j) The owner's answer must include all of the following:
- i name, address, and telephone number of the person filing the answer;
 - ii statement describing the actions taken by the owner in response to the complaint;
 - iii reasons why the owner believes that the complaint has been resolved or why the complaint remains unresolved;
 - iv statement describing any additional action the owner plans or is willing to take to resolve the complaint;
 - v any other information the owner deems relevant to the complaint; and
 - vi notarized signature of the person filing the answer.
- (k) The complainant and the owner may, within thirty (30) days following the owner's filing of its answer, file such additional information with the Town as each deems appropriate.
- (l) The Town may request such additional information from the complainant and the owner as it deems necessary to complete its review.

- (m) The Town may retain such consultants or experts as it deems necessary to complete its review and invoice the owner for such costs.
 - (n) The Town shall issue a written decision and may take such enforcement action as it deems appropriate with respect to the complaint.
 - (o) The Town's decision and enforcement action is subject to review under Wis. Stat. [§66.0401\(5\)](#).
- (15) Violations
- (a) No person or entity shall do any of the following:
 - i Violate any provision of this Code;
 - ii Knowingly provide false information; make a false statement; and/or fail to provide or misrepresent any material fact to the Town, Town employee, agent, or Town governing body; and/or
 - iii Disobey, fail, neglect, resist, or refuse to comply with a permit or order issued pursuant to this Code.
 - (b) A separate offense is deemed committed on each day that a violation occurs or continues.
- (16) Enforcement:
- (a) The Town shall enforce this Code and may conduct inspections and investigate complaints relating to compliance with this Code.
 - (b) The Town may request permission to inspect, at a reasonable time and date, any premises or structure for which is subject to a permit or order to determine compliance with this Code. Refusal to grant permission is grounds for denial or revocation of a permit. If permission is not given, the Town may apply for, obtain, and execute a special inspection warrant pursuant to Wis. Stat. [§66.0119](#).
 - (c) If the Town determines a violation of any provision of this Code has occurred, the Town may issue a written notice stating the conditions of non-compliance, specifying the action required to come into compliance, and specifying a reasonable amount of time when compliance is required.
 - (d) The Town may revoke a permit for substantial noncompliance with any provision of this Code, refusal to permit inspection of solar energy systems facilities for which a permit has been granted, or failure to comply with the action required contained in a notice of noncompliance.

- (e) Any person or entity who violates this Code may be subject to any of the following:
 - i Issuance of a citation; or
 - ii Commencement of legal action including, but not limited to, issuance of a summons and complaint and/or seeking injunctive relief.
- (f) A separate offense is deemed committed on each day that a violation occurs or continues.
- (g) The Town is not required to issue a notice of noncompliance or take any other action prior to enforcing violations of this Code as set forth above.
- (h) Proceeding under any other Code or law relating to the same or any other matter shall not preclude enforcement under this Code.
- (17) Penalties
 - (a) A person or entity that violates this Code is subject to a forfeiture of not less than \$500 and not more than \$10,000 for each violation plus court costs.
 - (b) The forfeiture thresholds set forth above are doubled for repeated violations of this Code that occur within any twelve (12) month period.

SECTION 4

ADMINISTRATION AND ENFORCEMENT

4.01 ORGANIZATION:

The administration of this Code is hereby vested in the following:

Zoning Administrator
 Board of Appeals
 Town Plan Commission
 Town Board

This section shall first set out the authority and then describe the procedure and substantive standards with respect to the following administrative functions:

- (1) Issuance of zoning permits.
- (2) Variances.
- (3) Appeals.

- (4) Amendments.
- (5) Conditional uses.
- (6) Fees.
- (7) Penalties.

4.02 ZONING ADMINISTRATOR:

The Zoning Administrator of the town and such deputies or assistants that have been, or shall be, duly appointed by the Town Board shall enforce this Code, and in addition, thereto, and in furtherance of such authority shall:

- (1) Issue all zoning permits and make and maintain records thereof;
- (2) Conduct inspection of buildings, structures, and use of land to determine compliance with the terms of this Code;
- (3) Maintain permanent and current records of this Code, including, but not limited to, all maps, amendments, conditional uses, variances, appeals, and applications therefor;
- (4) Provide and maintain a public information service relative to all matters arising out of this Code;
- (5) Forward to the Town Plan Commission all applications for conditional uses and for amendments to this Code that are initially filed with the office of the Zoning Administrator;
- (6) Forward to the Board of Appeals applications for appeals, variances, or other matters on which the Board of Appeals is required to pass under this Code;
- (7) Initiate, direct, and review, from time to time, a study of the provisions of this Code, and to make reports of its recommendations to the Town Plan Commission not less frequently than once a year.

4.03 THE BOARD OF APPEALS:

The Board of Adjustment as provided for under the provisions of Wis. Stat. [§60.65](#), for Towns, shall be referred to as the Board of Appeals in this Code.

- (1) Jurisdiction:

The Board of Appeals is hereby vested with the following jurisdiction and authority:

- (a) To hear and decide appeals from any order, requirement, decision, or determination made by the Zoning Administrator under this Code;
- (b) To hear and pass upon the applications for variances from the terms provided in this Code in the manner prescribed by and subject to the standards established herein;
- (c) To hear and decide all matters referred to it or upon which it is required to pass under this Code, as prescribed by Wis. Stat. [§60.65](#).

(2) Meetings and Rules:

All meetings of the Board of Appeals shall be held at the call of the Chairman, and at such times as the Board of Appeals may determine. All hearings conducted by said Board shall be open to the public. Any person may appear and testify at a hearing either in person or by duly authorized agent or attorney. The Chairman, or in his absence the Acting Chairman, may administer oaths and compel the attendance of witnesses. The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall also keep records of its hearing and other official actions. A copy of every rule or regulation, order, requirement, decision, or determination of the Board of Appeals shall be filed immediately in the office of the Zoning Administrator and shall be a public record. The Board shall adopt its own rules and procedures, not in conflict with this Code or with the applicable Wisconsin Statutes, and select or appoint such officers as it deems necessary.

(3) Finality of Decisions of the Board of Appeals:

All decisions and findings of the Board of Appeals on appeals or upon application for a variance, after a hearing, shall, in all instances, be final administrative decisions and shall be subject to judicial review as by law may be provided.

4.04 THE TOWN PLAN COMMISSION:

There shall be created pursuant to Wis. Stat. [§60.62](#) a Town Plan Commission consisting of five members that shall be appointed by the town board chairperson one of whom shall be a citizen of the Town of Day and not a town official as provided in Wis. Stat. [§60.62\(4\)\(a\)](#). All appointments to the Plan Commission shall be approved by the town board. The chair of the Plan Commission shall be selected by the chairperson of the town board. Other than the creation of the Plan Commission as set forth herein, all other provisions of Wis. Stat. [§61.35](#) and [§62.23](#) shall apply to the Town Plan Commission.

(1) Jurisdiction:

The Town Plan Commission shall discharge the following duties under this Code:

- (a) Hear all applications for conditional uses and amendments to this Code and report said findings and recommendations to the Town Board in the manner prescribed in this section for Amendments and Conditional Uses;
- (b) Receive from the Zoning Administrator his recommendations as related to the effectiveness of this Code and report its conclusions and recommendations to the Town Board not less frequently than once a year;
- (c) To hear and decide all matters upon which it is required to pass under this Code.

4.05 ZONING PERMITS:

- (1) Except as hereinafter provided, no permit pertaining to the use of land or buildings shall be issued by any officer, department, or employee of the Town unless the application for such permit has been examined by the Zoning Administrator and has affixed to it a certificate of the Zoning Administrator, indicating that the proposed building or structure complies with all the provisions of this Code. Any permit or certificate of occupancy, issued in conflict with the provisions of this Code, shall be null and void.
- (2) **Permit Application:** Zoning Permit and Conditional Use Permit applications can be obtained by clicking [here](#).
- (3) **Plats:** Every application for a zoning permit shall be accompanied by:
 - (a) A plat, in duplicate, of the piece or parcel of land, lot, lots, block or blocks, or parts or portions thereof, drawn to scale showing the actual dimensions, as certified by a “registered land surveyor” or a “registered professional engineer,” registered with the State of Wisconsin, as a true copy of the piece or parcel, lot, lots, block or blocks, or portions thereof, according to the registered or recorded plat of such land; and
 - (b) A plat, in duplicate, drawn to a scale in such form as may, from time to time, be prescribed by the Zoning Administrator, showing the ground area, height, and bulk of the building or structure, the building lines in relation to lot lines, the use to be made of the building, structure, or land, and such other information as may be required by the Zoning Administrator for the proper enforcement of this Code.

4.06 RESERVED:

4.07 VARIANCES:

(1) Purpose:

The Board of Appeals, after a public hearing, may determine and vary the regulations of this Code in harmony with their general purpose and intent, only in the specific instances hereinafter set forth, where the Board of Appeals makes findings of fact in accordance with the standards hereinafter prescribed and further, finds that there are practical difficulties or particular hardships in the way of carrying out the strict letter of the regulations of this Code.

(2) Application for Variance and Notice of Hearing:

An application for a variance shall be filed in writing with the Zoning Administrator. The application shall contain such information as the Board of Appeals may, by rule, require. Notice of the time and place of such public hearing shall be published at least once in a newspaper of general circulation in the Town and also by mailing notice thereof to the parties in interest, said publication and mailing to be made at least ten (10) days prior to the date of the hearing. The Board shall thereafter reach its decision within ninety (90) days from the filing of the application.

(3) Standards for Variances:

The Board of Appeals shall not vary the regulations of this Code, as authorized in Section 4.07(2) above, unless it shall make findings based upon the evidence presented to it in each specific case that:

- (a) Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience if the strict letter of the regulations were to be carried out;
- (b) The conditions upon which a petition for a variance is based are unique to the property for which the variance is sought, and are not applicable, generally, to other property within the same zoning classification;
- (c) The purpose of the variance is not based exclusively upon a desire to make more money out of the property;
- (d) The alleged difficulty or hardship is caused by this Code and has not been created by any persons presently having an interest in the property;

- (e) The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located; and
- (f) The proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.

The Board of Appeals may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards established in this Section.

(4) Authorized Variances:

Variances from the regulations of this Code shall be granted by the Board of Appeals only in accordance with the standards established in Section 4.07(3) above, and may be granted only in the following instances and in no others:

- (a) To permit any yard or setback less than a yard or a setback required by the applicable regulations;
- (b) To permit the use of a lot or lots for a use otherwise prohibited solely because of the insufficient area or width of the lot or lots, but in no event shall the respective area and width of the lot or lots be less than eighty (80) percent of the required area and width;
- (c) To permit the same off-street parking facility to qualify as required facilities for two or more uses, provided that substantial use of such facility by each user does not take place at approximately the same hours of the same days of the week;
- (d) To reduce the applicable off-street parking or loading facilities required by not more than one parking space or loading space, or twenty (20) percent of the applicable regulations, whichever number is greater;
- (e) To increase by not more than twenty-five (25) percent the maximum distance that required parking spaces are permitted to be located from the use served;
- (f) To increase by not more than ten (10) percent the maximum gross floor area of any use so limited by the applicable regulations; and
- (g) To permit a reasonable variation in the height restrictions on fences.

If a quorum is present, the Board of Appeals may take action under this section by a majority of the members present. No order of the Board of Appeals granting a variance shall be valid for a period longer than six (6) months from the date of such order unless the building permit is obtained within such period and the erection or alteration of a building is started or the use is commenced within such period.

4.08 APPEALS:

(1) Scope of Appeals:

An appeal may be taken to the Board of Appeals by any person, firm, or corporation, or by any office, department, board, or bureau aggrieved by a decision of the Zoning Administrator. Such an appeal shall be taken within thirty (30) days after the decision or the action complained of, by filing with the Zoning Administrator a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board of Appeals all of the papers constituting a record upon which the action appealed from was taken.

(2) Findings on Appeals:

An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board of Appeals, after the notice of the appeal has been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property, in which case the proceedings shall not be stayed unless otherwise by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice of the Zoning Administrator and on due cause shown.

The Board of Appeals shall select a reasonable time and place for the hearing of the appeal and give due notice thereof to the parties by one publication in a newspaper of general circulation in the Town and also by mailing notice thereof to the parties in interest, said publication and mailing to be made at least ten (10) days prior to the date of hearing. The Board shall thereafter reach its decision within ninety (90) days from the filing of the appeal. The Board of Appeals may affirm or may, upon the concurring vote of three members, reverse, wholly or in part, or modify the order, requirement, decision, or determination that, in its opinion, ought to be done – and to that end, shall have all the powers of the officer from whom the appeal is taken. The Zoning Administrator shall maintain records of all actions of the Board of Appeals relative to appeals.

4.09 AMENDMENTS:

(1) Authority:

For the purpose of promoting the public health, safety, morals, comfort, and general welfare, conserving the value of property throughout the Town, and lessening or avoiding congestion in the public streets and highways, the Town Board may, from time to time, in the manner hereinafter set forth, amend the regulations imposed in the districts created by this Code, provided that in all amendatory Codes adopted under the authority of this Section, due allowance shall be made for existing conditions, the conservation of property values, the direction of building development to the best advantage of the entire community, and the uses to which property is devoted at the time of the adoption of such amendatory Code.

(2) Initiation of Amendment:

Amendments may be proposed by the Town Board, the Town Plan Commission or by any interested person or organization.

(3) Application for Amendment:

An application for an amendment shall be filed with the Zoning Administrator in such form and accompanied by such information as required by the Building Inspector. Such application shall be forwarded to the Town Plan Commission with the request to hold a public hearing on said application for amendment.

(4) Hearing on Application:

The Town Plan Commission shall hold a public hearing on each application for an amendment at such time and place as shall be established by the Town Plan Commission. The hearing shall be conducted, and a record of such proceedings shall be preserved in such manner as the Town Plan Commission shall, by rule, prescribe from time to time.

(5) Notice of Hearing:

- (a) For a zoning map amendment, a notice of time and place of such hearing shall be published as a Class 2 notice under Wis. Stat. [§985](#), in a newspaper of general circulation in the Town and sent to parties in interest.
- (b) For a zoning code amendment, a notice of time and place of such hearing shall be published as a Class 2 notice under Wis. Sta. [§985](#), in a newspaper of general circulation in the Town.

(6) Findings of Fact and Recommendation of the Town Plan Commission:

Within thirty (30) days after the close of the hearing on a proposed amendment, the Town Plan Commission shall make written findings of fact and shall submit the same together with its recommendations to the Town Board. Where the purpose and effect of the proposed amendment is to change the zoning classification of

particular property, the Town Plan Commission shall make findings based upon the evidence presented to it in each specific case with respect to the following matters:

- (a) Consistent with the Town Comprehensive plan.
- (b) Existing use of property within the general area of the property in question.
- (c) The zoning classification of property within the general area of the property in question.
- (d) The suitability of the property in question to the uses permitted under the existing zoning classification.
- (e) The trend of development, if any, in the general area of the property in question, including changes if any which have taken place since the day the property in question was placed in its present zoning classification.
- (f) Minimum size of parcel: A lot, lots, or parcel of land shall not qualify for a zoning amendment unless it possesses two hundred (200) feet of frontage or contains twenty-five thousand (25,000) square feet of area, or adjoins a lot, lots, or parcel of land which bears the same zoning district classification as the proposed zoning amendment.

The Town Plan Commission shall not recommend the adoption of a proposed amendment unless it finds that the adoption of such amendment is consistent with the public interest. The Town Plan Commission may recommend the adoption of an amendment changing the zoning classification of the property in question to any higher classification than that requested by the applicant. For the purpose of this paragraph, the R-1 District, shall be considered the highest classification and the I District shall be considered the lowest classification.

(7) Action by the Town Board:

- (a) The Town Board shall not act upon a proposed amendment to this Code until it shall have received a written report and recommendation from the Town Plan Commission on the proposed amendment.
- (b) The Town Board may grant or deny any application for an amendment upon a favorable vote of a majority of a quorum of the members-elect, however, pursuant to Wis. Stat. [§66.10015\(3\)\(b\)](#) a down zoning ordinance may only be enacted if the ordinance is approved by at least two-thirds of the members-elect, except that if the down zoning ordinance is requested, or agreed to, by the person who owns the land affected by the proposed ordinance, the ordinance may be enacted by a simple majority of the members-elect.

- (c) If an application for a proposed amendment is not acted upon finally by the Town Board within ninety (90) days of the date upon which such application is received by the Town Board, it shall be deemed to have been denied.

4.10 CONDITIONAL USES:

(1) Purpose:

The development and execution of this Code is based upon the division of the Town into districts, within which districts the use of land and buildings, and the bulk and location of buildings and structures in relation to the land, are substantially uniform. It is recognized, however, that there are certain uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts, without consideration, in each case, of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location. Such conditional uses fall into two categories:

- (a) Uses publicly operated or traditionally affected with a public interest.
- (b) Uses entirely private in character, but of such an unusual nature that their operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities.

(2) Initiation of Conditional Use:

Any person having a freehold interest in land, or a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest of an exclusive possessory interest, and which is specifically enforceable, may file an application to use such land for one or more of the conditional uses provided for in this Code in the zoning district in which the land is located.

(3) Application for Conditional Use:

An application for a conditional use shall be filed with the Zoning Administrator on a form prescribed by the Building Inspector. The application shall be accompanied by such plans and/or data prescribed by the Town Plan Commission and shall include a statement in writing by the applicant and adequate evidence showing that the proposed conditional use will conform to the standards set forth in Section 4.10(6), hereinafter. Such application shall be forwarded from the Zoning Administrator to the Town Plan Commission with a request for a public hearing and report relative thereto.

(4) Hearing on Application:

Upon receipt in proper form of the application and statement referred to in Section 4.10(3) above, the Town Plan Commission shall hold at least one public hearing on the proposed conditional use. A notice of time and place of such hearing shall be published as a Class 2 notice under Wis. Stat. [§985](#), in a newspaper of general circulation in the Town and mailed to the applicant.

(5) Authorization:

For each application for a conditional use, the Town Plan Commission shall report to the Town Board its findings and recommendations, including the stipulations of additional conditions and guarantees that such conditions will be complied with when they are deemed necessary for the protection of the public interest.

(6) Standards:

The Town Plan Commission shall review the particular facts and circumstances of each proposed conditional use in terms of the following standards and based on substantial evidence:

- (a) Compatibility with Adjacent Uses. The proposed conditional use shall be designed, constructed, operated and maintained to be compatible with uses on surrounding land. The site design shall minimize the impact of site activity on surrounding properties. In determining whether this requirement has been met, consideration shall be given to:
 - i The location and screening of vehicular circulation and parking areas in relation to surrounding development.
 - ii The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding development.
 - iii The hours of operation of the proposed use. Approval of a conditional use may be conditioned upon operation within specified hours considered appropriate to ensure minimal impact on surrounding uses.
 - iv The bulk, placement, and materials of construction of the proposed use in relation to surrounding uses.
- (b) Comprehensive Plan. The proposed conditional use will be harmonious with and in accordance with the general objectives or with any specific objective of the town and county comprehensive plan.

- (c) Compliance with Applicable Regulations. The proposed conditional use shall be in compliance with all applicable federal, state and local laws and Codes.
- (d) Use of Adjacent Property. The proposed conditional use shall not interfere with the use and enjoyment of adjacent property.
- (e) Public Services. The proposed conditional use will be served adequately by essential public facilities and services including but not necessarily limited to utilities, highways, streets, police and fire protection, drainage structures, refuse disposal, and school(s); unless the project proposal contains an acceptable plan for providing necessary services or evidence that such services will be available by the time the conditional use is completed.
- (f) Impact of Traffic. The location of the proposed conditional use shall, within the zoning district, minimize the impact of traffic generated by the proposed use. In determining whether this requirement has been met, consideration shall be given to the following:
 - i Proximity and access to major thoroughfares.
 - ii Estimated traffic generated by the proposed use.
 - iii Proximity and relation to intersections.
 - iv Adequacy of driver sight distances.
 - v Location of and access to off-street parking.
 - vi Required vehicular turning movements.
 - vii Provision of pedestrian traffic (if applicable).
- (g) Impact on Surrounding Environment. The proposed conditional use shall not unreasonably interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value. In determining whether this requirement has been met, consideration must be given to:
 - i The provision of landscaping and other site amenities. Provision of additional landscaping over and above the specific requirements of this Code may be required as a condition of approval of a conditional use.
 - ii The bulk, placement and materials of construction of proposed structures in relation to surrounding uses.

- (h) Impact on Public Health, Safety and Welfare. The proposed conditional use shall not involve any activities, processes, materials, equipment, or conditions of operation, and shall not be located or designed in a manner that is detrimental to public health, safety and welfare. In determining whether this requirement has been met, consideration shall be given to the production of traffic, noise, vibration, smoke, fumes, odors, dust, glare, light and environmental impact.
- (i) Isolation of Existing Uses. The location of the proposed conditional use shall not result in a small residential area being substantially surrounded by non-residential development, and further, the location of the proposed conditional use shall not result in a small non-residential area being substantially surrounded by incompatible uses.

(7) Effect of Denial of a Conditional Use:

No application for a conditional use which has been denied wholly or in part by the Town Board, shall be resubmitted for a period of one year from the date of said order of denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the Town Plan Commission and the Town Board.

(8) Revocation:

In any case where a conditional use has not been established within one year after the date of granting thereof, then, without further action by the Town Plan Commission or the Town Board, the conditional use or authorization shall be null and void.

4.11 FEES FOR APPLICATIONS AND PERMITS: See [Fee Schedule](#)

The Town Board shall from time to time set a fee schedule for all Permits and Applications in this Zoning Code which shall be posted in the Town Hall.

4.12 PENALTIES:

Any person, firm, or corporation, or agent, employee, or contractor of such, who violates, disobeys, omits, neglects, or refuses to comply with, or who resists enforcement of any provision of this Code, shall, upon conviction, forfeit not less than \$10.00 nor more than \$200.00 for each offense, together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the County jail of Marathon County until said forfeiture and costs are paid, but not to exceed thirty (30) days for each violation. Each day that a violation continues to exist shall constitute a separate offense.

SECTION 5

5.01 ESTABLISHMENT OF DISTRICTS

There are hereby established five (5) district classifications: Single-Family residential, Multiple-Family residential, Agricultural, Commercial and Industrial.

- (1) Single-Family Residential (R-1)
- (2) Multiple-Family Residential (R-2)
- (3) Agricultural District (A)
- (4) Commercial District (C)
- (5) Industrial District (I)

5.02 DISTRICT BOUNDARIES

- (1) Established. The boundaries of the zoning districts are hereby established as shown on the map entitled, “Zoning Map, Town of Day, Marathon County, Wisconsin”, as adopted as part this ordinance and amended subsequent to adoption of this ordinance. All notations and references shown on the zoning map are as much a part of this ordinance as though specifically described herein.
- (2) The district boundaries are highway, road or street center lines, section, quarter section, or quarter-quarter section lines, or other such lines as may be indicated on the map, and, where the designation on the district map indicates that the various districts are approximately bounded by a highway, road, or street center line, section, quarter section, or quarter-quarter section line, such line shall be construed to be the district boundary line, such dimension shall be construed to be the distance of feet along such boundary line from its intersection with another district boundary line to its intersection with the center line of an adjacent highway, road or street.
- (3) Where the district boundaries are not otherwise indicated and where the property has been or may be hereafter divided into blocks and lots, the district boundaries shall be construed to be lot lines, and where the designations on the district map are approximately bounded by lot lines, said lot lines shall be construed to be the district boundaries.
- (4) In unplatted areas less than ten (10) acres in area, the district boundaries, where not otherwise designated, shall be determined by the use of the scale shown on the district map.

5.03 SINGLE-FAMILY RESIDENTIAL DISTRICT (R-1)

- (1) Principle Permitted Uses by Right.

(a) One-Family and Two-Family Dwellings

- i Mobile Homes. A temporary, renewable, six-month permit may be issued by the Town Board, allowing a mobile home to be used on a lot during the construction of a permanent dwelling. Application for this permit shall be by written request to the Town Board by the person to whom the zoning permit was issued for the permanent dwelling.
- ii Mobile Home. Where an existing mobile home is sited, a replacement mobile home may be allowed if it was produced on or after April 1, 2007 and approved by the Town Board. A zoning permit is required for the replacement.

(2) Conditional Uses (see Section 4.10).

- (a) Churches and adjacent cemeteries of less than one acre in size.
- (b) Public and parochial graded schools.
- (c) Colleges and vocational schools.
- (d) Hospitals and medical clinics.
- (e) Day Care Centers.
- (f) Home occupations and professional offices, and customary home occupation and professional signs as defined in Section 2.
- (g) Libraries, museums and art galleries.
- (h) Funeral Homes.
- (i) Boarding Houses.
- (j) Truck Gardening, nurseries and greenhouses only for the propagation of plants, provided that greenhouse heating plants shall be setback not less than seventy-five (75) feet from every lot line.
- (k) Municipal Buildings, except sewage disposal plants, garbage incinerators, public garages, public shops and storage yards, and penal or correctional institutions.
- (l) Water Storage facilities and accessory structures.
- (m) Public recreation and community center buildings and grounds.

- (n) Telephone buildings, exchanges and lines, and static transformer stations, provided there is no service garage or storage yard. This regulation shall not apply to microwave radio relay structures unless and until the location thereof shall first have been approved by the Town Board.
 - (o) Other similar and compatible uses which are determined by the Zoning Committee to be in accord with the purpose of this district.
- (3) Accessory Uses Permitted by Right.
 - (a) One Private Detached Garage.
 - (b) Accessory Building, Residential.
 - (c) In-Home Daycare (4-8 children).
- (4) Standards
 - (a) Maximum Building Height. 35 Ft. or two and one-half (2-1/2) stories, except as provided in Section 3.08.
 - (b) Setbacks.
 - i Minimum Front Yard Setback Street Side. See Section 3.09 and 3.10
 - ii Minimum Rear Yard Setback....30 ft.
 - iii Minimum Side Yard Setback....7 ft.
 - iv Minimum Corner Side Yard Setback...30 ft.
 - v Accessory Building Side Setback.....3 ft.
 - vi Accessory Building Rear Setback.....5 ft.
 - (c) Minimum Lot Area..... 1 acre.
 - (d) Minimum Frontage..... 150 Feet.
 - (e) Motor Vehicle, Parking and Driveway Requirements. (See Section 6)

5.04 MULTIPLE FAMILY RESIDENTIAL DISTRICT (R-2)

- (1) Principle Permitted Uses by Right.
 - (a) Multiple-family Dwellings.
 - (b) Two-family Dwellings.
- (2) Conditional Uses (See Section 4.10).
 - (a) Single-family Dwellings.
 - (b) Home occupations and professional offices.
 - (c) Day care centers and congregate homes.
 - (d) Boarding Houses.
 - (e) Churches and their affiliated uses.
 - (f) Public and parochial graded schools.
 - (g) Colleges and vocational schools.
 - (h) Hospitals and medical clinics.
 - (i) Libraries, museums and art galleries.
 - (j) Funeral Homes.
 - (k) Charitable institutions, rest homes, convalescent homes, nursing homes, homes for the care of the indigent, and similar facilities.
 - (l) Truck gardening, nurseries and greenhouses only for the propagation of plants, provided that greenhouse heating plants shall be setback not less than seventy-five (75) feet from every lot line.
 - (m) Municipal buildings, except sewage disposal plants, garbage incinerators, public garages, public shops and storage yards, and penal or correctional institutions.
 - (n) Water storage facilities and their accessory structures.
 - (o) Public recreation and community center buildings and grounds.
 - (p) Telephone buildings, exchanges and lines, and static transformer stations, provided there is no service garage or storage yard. This regulation shall

not apply to microwave radio relay structures unless and until the location thereof shall first have been approved by the Town Board.

- (q) Mobile home courts, unless otherwise allowed, are restricted by this Code. Mobile homes and mobile home courts are subject to applicable provisions and regulations of the Wisconsin Statutes and Wisconsin Administrative Code. Section 5.05(4)(f) of this Code shall apply to all mobile homes where more restrictive than state and county statutes and codes.
- (r) Other similar and compatible uses which are determined by the Zoning Committee to be in accord with the purpose of this district.

(3) Accessory Uses permitted by Right.

- (a) Accessory Buildings, Residential.
- (b) Garages or parking spaces incident to the above uses, provided that garages incident to multiple-family residences must be at least 75 feet away from the front lot line and 30 feet away from the side lot lines; and provided that there must be at least 2,000 square feet of lot area for each vehicle space.

(4) Standards.

- (a) Maximum Building Height.....45 ft., except as provided in Section 3.08
- (b) Setbacks
 - i Minimum Front Yard Setback Street Side. See Section 3.09 and 3.10
 - ii Minimum Rear Yard Setback..... 30 ft.
 - iii Minimum Side Yard Setback.....7 ft.
 - iv Minimum Corner Side Yard Setback.....30 ft.
 - v Accessory Building Side Setback.....3 ft.
 - vi Accessory Building Rear Setback.....5 ft.
- (c) Minimum Lot Area.....1 Acre
- (d) Minimum Frontage.....150 feet
- (e) Motor Vehicle, Parking and Driveway Requirement. (See Section 6)

5.05 GENERAL AGRICULTURAL (A)

- (1) Principle Permitted Uses by Right.
 - (a) Agriculture, dairying and general farming.
 - (b) Livestock and poultry raising.
 - (c) Barns, Animal Shelters and Farm Related Structures.
 - (d) Roadside stands for the sale of farm products produced on the premises.
 - (e) Truck farming.
 - (f) Horticulture.
 - (g) Forestry.
 - (h) Wild crop harvesting, including marsh hay, ferns, berries, fruit trees, and seeds.
 - (i) Hatcheries.
 - (j) Stables.
 - (k) Fishing and Wildlife preserve.
 - (l) Water retention.
 - (m) Paddocks.
 - (n) Nursery.
 - (o) Single-Family residence, provided it meets the density requirements set forth in Section 5.05 (4)(e).
 - (p) One mobile home used for habitation, which is not the primary place of residence, shall be permitted as an accessory building on any operating farm. The occupant of the mobile home shall be either a father or mother of the owner or owner's spouse or a child or grandchild of the owners or be employed by the owner in agricultural labor on the premises. Placement of the mobile home shall, however, conform to the provisions of Section 5.05 (4)(f).
 - (q) Professional office or home occupation.

- (r) Public park and recreation facilities.
 - (s) Campgrounds.
 - (t) Greenhouses.
- (2) Conditional Uses (4.10).
- (a) Single-family dwellings in excess of the density requirements set forth in Section 5.03 (4)(e), provided such construction is found by the Plan Commission, and agreed upon by the Town Board, to be in accord with the intent of this Code and the purpose and function of the Agricultural district.
 - (b) Day care centers and congregate homes.
 - (c) Boarding Houses.
 - (d) Migrant Employee Housing.
 - (e) Churches and their affiliated uses.
 - (f) Public and parochial graded schools, colleges, and vocational schools.
 - (g) Hospitals and medical clinics.
 - (h) Libraries, museums, art galleries, clubs, and lodges.
 - (i) Farm equipment sales and/or service.
 - (j) Livestock feeding pens or yards (more than 500 animal capacity).
 - (k) Trap or skeet shooting facilities, gun clubs, and gun and archery shooting ranges.
 - (l) Riding stables and riding schools.
 - (m) Airports.
 - (n) Funeral homes and cemeteries.
 - (o) Charitable institutions, rest homes, convalescent homes, nursing homes, homes for the care of the indigent, and similar facilities.
 - (p) Radio or TV broadcasting tower and/or studio.

- (q) Municipal buildings, including sewage disposal plants, garbage incinerators, public garages, public shops and storage yards, and penal or correctional institutions.
 - (r) Water storage facilities and their accessory structures.
 - (s) Hot mix plants for road construction purposes.
 - (t) Quarrying.
 - (u) Christmas tree plantations and sales.
 - (v) Telephone buildings, exchanges and lines, and static transformer stations, provided there is no service garage or storage yard. This regulation shall not apply to microwave radio relay structures unless and until the location thereof shall first have been approved by the Town Board.
 - (w) Uses listed in other districts in Section 5 of this Code (1) which are determined by the Plan Commission to be compatible with surrounding land uses after analyzing the potential conflicts, nuisances, and incompatibilities, and listing those findings in committee minutes, (2) which are determined by the Plan Commission to be in accord with the purpose of this Code and the intent of the agricultural district, and (3) which can meet the standards of the district in which the use is normally located.
- (3) Accessory Uses Permitted by Right.
- (a) Accessory Buildings.
- (4) Standards.
- (a) Maximum Building Height.
 - i Agricultural Buildings. No Maximum.
 - ii Residential Buildings. For single-family residential buildings, see Section 5.03 (4)(a). For multiple-family buildings, see Section 5.04 (4)(a).
 - iii Commercial Buildings. See Section 5.06 (4)(a)
 - iv Industrial Buildings. See Section 5.07 (2)(a)
 - (b) Setbacks

- i Minimum Front Yard Setback Street Side. See Section 3.09 and 3.10.
- ii Minimum Rear Yard Setback.....30 ft.
- iii Minimum Side Yard Setback..... 30 ft.
- iv Minimum Corner Yard Setback..... 30 ft.
- v Minimum Water Setback.....75 ft.*
- vi Accessory Building Side Setback.....3 ft.
- vii Accessory Building Rear Setback.....5 ft.

*NOTE: The Marathon County Floodplain and Shoreland Zoning Ordinances require permits for some activities within 300 feet of a stream and 1,000 feet of a lake or flowage.

- (c) Minimum Lot Area.....1 acre.
- (d) Minimum Frontage.....150 feet.
- (e) Density. Not more than five (5) homes per section side, provided a minimum of 500 feet spacing is maintained, between the nearest point of any primary or accessory structure of adjoining property regarding either side of a road. Any one-mile road within a section will be subject to the same density as section side. Fractional roads will be rounded to the nearest quarter mile, 500 foot spacing remains the same as previously stated.

Example:

- i Density for $\frac{3}{4}$ mile road-max 7 homes Four on one side-three on the other side.
- ii Density for $\frac{1}{2}$ mile road – max 5 homes Three on one side – two on the other side
- iii Density for $\frac{1}{4}$ mile road – max 3 homes Two on one side – one on the other side

*Note: Considerations for above examples will be on a first come first served basis.

- (f) Specifications for Mobile Homes.

- i Each Application for a mobile home permit shall include the size of the mobile home, the year it was built, and the purchase price.
 - ii Mobile homes shall conform to all other requirements of the R-1 Residential district.
 - iii Issuance of the permit shall be subject to approval of the Zoning Administrator or the Plan Commission.
- (g) Motor Vehicle, Parking and Driveway Requirement. (See Section 6)

5.06 COMMERCIAL (C)

(1) Principle Permitted Uses by Right.

- (a) Animal hospital and pet shop.
- (b) Antique store.
- (c) Art shop.
- (d) Bakery (retail).
- (e) Barbershop; beauty parlor.
- (f) Book and stationary stores.
- (g) Bowling alley; pool and billiard room; gymnasium; dancing school or studio; skating rink; theater, except drive-in theater.
- (h) Candy store; confectionary store.
- (i) Clinic.
- (j) Clothing, dress, dry goods, hosiery, notion and shoe store, department store, tailor shop, shoe repair shop.
- (k) Convenience store.
- (l) Drug store; pharmacy.
- (m) Florist Shop.
- (n) Financial institution.

- (o) Feed mill or saw mill.
 - (p) Gift Shop.
 - (q) Greenhouse; nursery.
 - (r) Grocery store (retail); meat and fish market; fruit and vegetable market; tea and coffee store.
 - (s) Hardware and paint store.
 - (t) Household appliance store; furniture store; plumbing, heating and electric shop; crockery store.
 - (u) Hotel; motel.
 - (v) Ice cream store; soda fountain; soft drink stand.
 - (w) Jewelry store.
 - (x) Music, radio and television store; radio and television broadcast studio.
 - (y) Motor vehicle service and repair.
 - (z) Newsstand.
 - (aa) Office: business, professional, government, utility, travel agent, office equipment store.
 - (bb) Optical Store.
 - (cc) Photographic equipment and supply store.
 - (dd) Restaurant, cafeteria, lunch room, refreshment stand, caterer, tavern, lounge.
 - (ee) Specialty shop.
 - (ff) Sporting and athletic shop.
 - (gg) Tobacco and pipe store.
 - (hh) Undertaking establishment.
- (2) Conditional Uses (see Section 4.10).
- (a) Motor vehicle sales, body shops, car wash, public/municipal garage.

- (b) Convention and exhibition hall.
 - (c) Dry cleaning and dyeing establishments.
 - (d) Gasoline filling stations, provided that all gasoline pumps, storage tanks and accessory equipment must be located at least 30 feet from any existing or officially proposed street right-of-way line.
 - (e) Transportation terminals and depots.
 - (f) Veterinary office and animal sales stores.
 - (g) Outdoor amusement, such as miniature golf course, outdoor theater, circuses, carnivals; musical or theatrical performances; public lectures; religious or evangelistic meetings; or similar functions.
 - i Drive-in theaters shall be approved only if there is no direct entrance to or exit from the drive-in theater within 1,000 feet of any state trunk highway or county trunk highway.
 - (h) Trailer sales or rental equipment.
 - (i) Campgrounds/resorts, when such campgrounds/resorts provide not less than 1,200 square feet or lot area for each cabin, trailer, tent or mobile home, and when such campground is clearly bounded by a fence or hedge and is located not less than 1,000 feet from the boundary of any residential district; provided further, that no person or party other than the owner shall occupy such campground/resort for more than 90 days in one year.
 - (j) Other similar and compatible uses which are not listed but are determined by the Plan Commission to be in accord with the purpose of this district.
- (3) Accessory Uses Permitted by Right.
- (a) Accessory Building, Non-Residential.
- (4) Standards.
- (a) Maximum Building Height. Thirty-five (35) feet or two and one half (2 ½) stories, except as provided in Section 3.08.
 - (b) Setbacks.
 - i Minimum Front Yard Street Side Setback. See Section 3.09 and 310.

- ii Minimum Rear Yard Setback.....30 ft.
 - iii Minimum Side Yard Setback.....30 ft.
 - iv Minimum Corner Side Yard Setback....30 ft.
 - v Accessory Building Side Setback.....3 ft.
 - vi Accessory Building Rear Setback.....5 ft.
- (c) Minimum Lot Area. Sufficient to provide on-site sewage disposal as per [Wisconsin Administrative Code SPS 383.](#)
 - (d) Motor Vehicle, Parking and Driveway Requirement. (See Section 6)

5.07 INDUSTRIAL (I)

- (1) Conditional Uses (see Section 4.10). All uses in the Industrial District shall be conditional uses. The following are permitted as conditional uses and are subject to the procedures established in Section 4.10, and shall be reviewed on a case-by-case basis with regard to such matters as the creation of nuisance conditions for the public or for the users of nearby areas, the creation of health hazards, the potential for environmental damage, and other factors.
 - (a) Manufacturing establishments in which raw materials are transformed into finished products and establishments engaged in assembling component parts of manufactured products.
 - (b) Other industrial or commercial activities which possess the special problem characteristics described in paragraph 5.07 (1) relating to creation of hazards or nuisance conditions.
 - (c) The outdoor storage of industrial products, machinery, equipment or other materials, provided that such storage be enclosed by a suitable fence or other manner of screening.
 - (d) Railroads, railroad yards and structures normally incident to the operation of railroads, not including warehouses owned by establishments other than railroad companies.
 - (e) Stockyards, or any establishment providing facilities for receiving, shipping weighing, or feeding of livestock temporarily held either pending sale or while in transit.

- (f) A dwelling unit provided for a caretaker or superintendent, in the case of an industrial use which requires constant supervision.
- (g) Facilities for the production, mining, processing or storage of concrete, blacktop, asphalt, or other paving or road-surfacing materials.
- (h) Garbage, rubbish or waste disposal.
- (i) Creameries, cheese factories, milk processing plants,
- (j) Gravel pits and quarries.
- (k) Other similar and compatible uses which are not listed, but are determined by Plan Commission and Town Board to be in accord with the purpose of this district.

(2) Standards.

- (a) Maximum Building Height. Forty-five (45) feet, except as provided in Section 3.08.
- (b) Setbacks.
 - i Minimum Front Yard Street Side Setback. See Section 3.09 and 3.10.
 - ii Minimum Rear Yard Setback.....30 ft.
 - iii Minimum Side Yard Setback.....30 ft.
 - iv Minimum Corner Side Yard Setback.....30 ft.
- (c) Minimum Lot Area. Sufficient to provide on-site sewage disposal as per [Wisconsin Administrative Code SPS 383](#).
- (d) Motor Vehicle, Parking and Driveway Requirement. (See Section 6)

SECTION 6

MOTOR VEHICLE, PARKING AND DRIVEWAY REGULATIONS

6.01 LOADING REQUIREMENTS:

In all districts adequate loading areas shall be provided so that all vehicles loading, maneuvering or unloading are completely off the public ways and so that all vehicles need not back onto any public way.

6.02 PARKING REQUIREMENTS:

(1) In all districts and in connection with every use, there shall be provided at the time any use or building is erected, enlarged, extended, or increased, off-street parking stalls for all vehicles in accordance with the following:

- (a) Adequate access to a public street shall be provided for each parking stall. See Section 6.03(4)
- (b) Each parking stall shall not be less than nine (9) feet in width and not less than one hundred eighty (180) square feet in area exclusive of the space required for ingress and egress.
- (c) No parking stall or driveway except in residential districts shall be closer than twenty-five (25) feet to a residential district lot line or a street line opposite a residential district.

(2) Number and parking stalls required:

Single-family dwellings and mobile homes:	2 stalls for each dwelling unit
Two-family and multi-family dwellings:	2 stalls for each dwelling unit
Hotels, motels	1 stall for each guest room plus 1 stall for each 3 employees
Hospitals, clubs, lodges, sororities, dormitories, lodging and boarding houses	1 stall for each 2 beds plus 1 stall for each 3 employees
Sanitariums, institutions, rest and nursing homes	1 stall for each 5 beds plus 1 stall for each 3 employees
Medical and dental clinics	4 stalls for each doctor plus 1 stall for each employee
Churches, theaters, auditoriums, community centers, vocational and night schools, and other places of public assembly	1 stall for each 5 seats

In the case of	Colleges, secondary and elementary schools	1 stall for each 2 employees plus a reasonable number of stalls for student and other parking
	Restaurants, bars, places of entertainment, repair shops, retail and service stores	1 stall for each 150 square feet of floor area
	Manufacturing and processing plants, laboratories, and warehouses	1 stall for each 2 employees during any 12-hour period
	Financial institutions, business, governmental and professional offices	1 stall for each 300 square feet of floor area
	Funeral Homes	1 stall for each 4 seats
	Bowling Alleys	3 stalls for each bowling lane

structures or uses not mentioned, the provision for a use which isn't a similar use, the Plan Commission shall establish the parking requirements. Combinations of any of the above uses shall provide the total of the number of stalls required for each individual use during such periods of time as the various uses are reasonably likely to be simultaneously requiring parking for employees, customers and other persons.

Parking lots containing ten (10) or more stalls which are located in the Residence District or adjoin residential lots shall be screened along the side or sides of such lots which abut the lot lines of residential lots by a solid wall, fence, evergreen planting of equivalent capacity or other equally effective means, built or maintained at a minimum height of four (4) feet. If parking lots so located are lighted, the lights shall be so shielded as to prevent glare or illumination of adjoining residential property.

6.03 DRIVEWAYS:

- (1) No direct access shall be permitted to the existing or proposed right-of-way of: expressways, freeways or interstate highways; nor to any other road, street, or highway without permission of the authority maintaining the facility.
- (2) Vehicle entrances and exits to drive-in theaters, banks and restaurants; motels, funeral homes, vehicular sales, service, washing and repair stations; garages, or parking lots shall be not less than two hundred (200) feet from any pedestrian entrance or exit to a school, college, university, church, hospital, park, playground, library, public emergency shelter or place of public assembly.
- (3) Vehicle entrances or exits to drive-in or outdoor theaters, race tracks or other forms of open space facilities shall be subject to the following:

- (a) That there be no direct entrance to or exit from any of the above to any federal, state or county highway.
- (4) Driveway Requirements;
 - (a) Minimum Width of a Residential Driveway.....20ft.
 - (b) Minimum Width of a Non-Residential Driveway.....30ft.
 - (c) Maximum Width of Any Driveway.....40ft
 - (d) Minimum Culvert Size and material used within Street right-of-way. (See Town Board)

SECTIONS 7-20 Reserved